

Regular Session, 2012
HOUSE BILL NO. 982

ACT No. 814

BY REPRESENTATIVE BARROW

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AN ACT

To enact R.S. 15:1110(F), 1110.1, and 1110.2, relative to juvenile detention facilities; to provide for annual licensing fees; to provide for fines, sanctions, and penalties; to provide for the Juvenile Detention Licensing Trust Fund and for its uses; to require and provide relative to the disclosure of recordation on the state central registry for the abuse or neglect of children for certain persons associated with the juvenile detention facility; to provide for a process of appeal; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:1110(F), 1110.1, and 1110.2 are hereby enacted to read as follows:

§1110. Detention standards; licensing; fees

* * *

F. There shall be an annual license fee for any license issued to a detention facility as follows:

(1) For a detention facility authorized to care for six or fewer juveniles, the license fee shall be four hundred dollars.

(2) For a detention facility authorized to care for at least seven but not more than fifteen juveniles, the license fee shall be five hundred dollars.

(3) For a detention facility authorized to care for sixteen or more juveniles, the license fee shall be six hundred dollars.

§1110.1. Operating without or in violation of license or regulations; penalties

A. Whoever operates a juvenile detention facility without a valid license issued by the Department of Children and Family Services pursuant to R.S. 15:1110

1 shall be fined one thousand dollars for each day of operation without the valid
2 license. In addition to seeking civil fines imposed pursuant to the provisions of this
3 Section, if any juvenile detention facility operates without a valid license issued by
4 the department, the department may file suit in the district court in the parish in
5 which the facility is located for injunctive relief, including a temporary restraining
6 order, to restrain the institution, society, agency, corporation, person or persons, or
7 any other group operating the facility, from continuing the violation.

8 B.(1) No person shall operate any juvenile detention facility in violation of
9 any provision of R.S. 15:1110, or any other state or federal statute, regulation, or any
10 department rule adopted pursuant to the Administrative Procedure Act that governs
11 the ownership or operation of juvenile detention facilities.

12 (2) In lieu of revocation of the facility's license, the department may issue
13 a written warning that includes a corrective action plan to any person or entity
14 violating these requirements when the violation creates a condition or occurrence
15 relating to the operation and maintenance of a juvenile detention facility that does
16 not pose an imminent threat to the health, safety, rights, or welfare of a child.
17 Failure to implement a corrective action plan issued pursuant to the provisions of this
18 Section may result in either the assessment of a civil fine or license revocation or
19 may result in both actions being taken by the department. Such civil fines shall not
20 exceed two hundred fifty dollars per day for each fine assessment; however, the
21 aggregate fines assessed for violations determined in any consecutive twelve-month
22 period shall not exceed two thousand dollars.

23 (3) The department shall adopt rules in accordance with the Administrative
24 Procedure Act that provide specific factors for determining the type of sanction to
25 be imposed including severity of risk, actual harm, failure to implement a written
26 corrective action plan, mitigating circumstances, the history of noncompliance and
27 an explanation of the treatment of continuing noncompliance, an explanation of the
28 treatment of continuing repeat deficiencies, evidence of good faith effort to comply,
29 and any other relevant factors. The department shall develop and adopt rules and
30 regulations required by this Paragraph with input and guidance from the Louisiana

1 Juvenile Detention Association. The authority to impose sanctions pursuant to this
2 Section shall commence on the effective date of the rules promulgated pursuant to
3 this Section.

4 C.(1) The department shall adopt rules and regulations in accordance with
5 the Administrative Procedure Act to provide for notice to the juvenile detention
6 facility of any violation, for a departmental reconsideration process for sanctions
7 issued, and for an appeal procedure, including judicial review.

8 (2) An appeal of any department decision for a violation of any provision of
9 this Part shall be suspensive. All appeals filed pursuant to the provisions of this
10 Section shall be heard by the division of administrative law pursuant to Chapter 13-B
11 of Title 49 of the Louisiana Revised Statutes of 1950. The division shall furnish the
12 facility or agency a copy of the decision, together with notice of the procedure for
13 requesting judicial review.

14 D. The department may institute all necessary civil court actions to collect
15 finer imposed that are not timely appealed. No juvenile detention facility may claim
16 imposed fines as reimbursable. Interest shall begin to accrue at the current judicial
17 rate on the day following the date on which any fines become due and payable. All
18 costs of any successful action to collect such fines, including travel expenses and
19 reasonable attorney fees, shall be awarded to the department in addition to the fines.

20 E.(1) Civil fines collected pursuant to the provisions of this Section shall be
21 deposited immediately into the state treasury.

22 (2) After compliance with the requirements of Article VII, Section 9(B) of
23 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
24 and prior to the monies being placed in the state general fund, an amount equal to the
25 amount deposited as provided in Paragraph (1) of this Subsection shall be credited
26 to a special fund hereby created in the state treasury to be known as the "Juvenile
27 Detention Licensing Trust Fund". The monies in the fund shall be subject to annual
28 appropriation and shall be available exclusively for use by the Department of
29 Children and Family Services for the education and training of employees, staff, or
30 other personnel of juvenile detention facilities.

1 (3) The monies in the fund shall be invested by the treasurer in the same
2 manner as the monies in the state general fund, and all interest earned from the
3 investment of monies in the fund shall be deposited in and remain to the credit of the
4 fund. All unexpended and unencumbered monies remaining in the fund at the end
5 of the fiscal year shall remain in the fund.

6 (4) The secretary of the Department of Children and Family Services may
7 promulgate rules and regulations in accordance with the Administrative Procedure
8 Act to provide for the administration of the fund.

9 §1110.2. Disclosure requirements; penalties

10 A. Any owner, operator, current or prospective employee, or volunteer of a
11 juvenile detention facility licensed by the Department of Children and Family
12 Services shall report annually and at any time upon the request of the department, on
13 the state central registry disclosure form promulgated by the department, whether or
14 not his name is currently recorded on the state central registry for a justified finding
15 of abuse or neglect and that he is the named perpetrator.

16 B. All such completed state central registry disclosure forms shall be
17 maintained in accordance with the department licensing regulations. Any state
18 central registry disclosure form that is maintained in a juvenile detention facility
19 licensing file shall be confidential and subject to the confidentiality provision of R.S.
20 46:56(F) pertaining to the investigations of abuse and neglect.

21 C. Any owner, operator, current or prospective employee, or volunteer of a
22 juvenile detention facility licensed by the department who knowingly falsifies the
23 information on the state central registry disclosure form shall be fined not more than
24 five hundred dollars, imprisoned for not more than six months, or both.

25 D. Any owner, operator, current or prospective employee, or volunteer of a
26 juvenile detention facility licensed by the department who discloses that he is
27 currently recorded on the state central registry for a justified finding of abuse or
28 neglect shall be entitled to a risk assessment evaluation provided by the department
29 to determine that the individual does not pose a risk to children and shall have the
30 right to file an appeal in accordance with R.S. 49:992 of the Administrative

1 Procedure Act. Any such determination by the risk evaluation panel shall be kept
2 on file at all times by the department.

3 E. The department shall promulgate rules and regulations to implement the
4 provisions of this Section. The rules and regulations shall include but not be limited
5 to establishing criteria for risk evaluation requests, the composition of the risk
6 evaluation panel, and establishing criteria for risk evaluation determinations.

7 Section 2. This Act shall become effective on July 1, 2013.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____