



Friday, November 15, 2024

## **An Open Letter to the Louisiana Legislature Regarding *Senate Bill 2***

Dear Honorable Senators and Representatives,

I have read and considered the text of Senator Heather Cloud's *Senate Bill 2 (SB2)* of the 2024 Third Extraordinary Session and wish to share my concerns that the proposed "minor tweak" is actually large and risky for Louisiana's children and families and if history repeats, for the State of Louisiana. I suggest a solution.

As members of the Louisiana Legislature, please remember the painful lessons of our state's Juvenile Justice crises during the 1980s and '90s. Today, **SB2** threatens to send Louisiana back to that era of harm and high costs.

This is a given: Louisiana's child well-being infrastructure is still insufficient, and our ability to properly care for our children remains inadequate—a situation with deep historical roots. **SB2** is not a solution.

### **Historical Context:**

During the '80s and '90s, the U.S. Justice Department intervened in Louisiana's juvenile justice system, labeling state facilities as dangerous, poorly staffed, and physically inadequate. Children in state custody faced daily harm. It was not until 2000 that Louisiana settled the federal case with "over 100 pages of detailed obligations and responsibilities that the State of Louisiana has agreed to, with timetables and mechanisms to make sure they are taken care of." [Bill Lann Lee, the assistant attorney general for civil rights, about the case's closing.]

### **A History of Failure Not to Be Repeated:**

In the '90s, due to inadequate juvenile facilities, the Department of Public Safety and Corrections (DPSC) proposed moving juveniles into adult prisons. On September 9, 1997, a House panel approved emergency rules proposed by DPSC to permit the transfer of older children into adult prisons to make room for younger children.

The courts quickly stepped in and blocked the transfer of children to adult prisons. The rationale? Society recognizes that children are fundamentally different from adults.

Children are not adults. While our state *Constitution* already allows adult incarceration for truly heinous acts, these enumerated exceptions are specific and grounded in public safety.

## **SB2 Repeats and Codifies Past Mistakes:**

Even now, Louisiana has failed to develop the necessary infrastructure for child well-being. We lack sufficient facilities and designs to detain juvenile offenders safely for their sake. But even this cannot be justification for incarcerating children in adult prisons. Anyone who requires evidence that Louisiana struggles with facilities for children needs only to consider that at least one Louisiana juvenile detention center located in Jackson Parish has set up converted shipping containers as cells. Only a licensing quirk (not a prohibition) prevents their use for children.

But even this failure does not justify exposing children to adult prisons. We must never solve one failure by creating another, especially if the outcomes harm children even more.

## **SB2 Poses Real Dangers for Children and Families:**

If passed, **SB2** could make adult incarceration possible for all children, regardless of the offense. So, consider real-world scenarios: Should a 12-year-old face adult prison for being caught with marijuana, or a 13-year-old be imprisoned with adults for a foolish joyride taken under peer pressure? Even if he were only an accomplice in the back seat? Of course not.

## **The Horrors of Adult Prisons for Children**

Adult prisons are horrific for children. Even in the '90s, as court records indicate, the teens who were transferred to adult prisons were legitimately fearful of sexual abuse by adult prisoners. Of course, they were. Children, who by federal law must be kept isolated from adults, may be placed in solitary confinement “for their protection” because adult prisons are not designed to separate children from adults.

Adult prisons struggle to keep adults safe. They cannot keep children safe.

## **The Truth Behind SB2:**

Introduced by Senator Heather Cloud, **SB2** seeks to give the Louisiana Legislature routine power to legislate children of any age to adult prisons for “**any crime specified by act of the legislature**.” This clause, bolded and underlined on page 2 of the bill, is a significant change.

Oddly, however, there is no apparent reason for **SB2**. Even Senator Cloud indicated that her amendment was only a minor adjustment that would not change the law. But it is not minor. And it will change the law. Bills only exist to make or change laws.

Current Louisiana law regarding charging children for certain adult crimes has been sufficient for over 30 years. The *Louisiana Constitution's Article V: Judicial Branch, Paragraph 19. Special Juvenile Procedures* was last changed on October 1, 1994. Before that, *Paragraph 19* was first amended on October 27, 1979.

See: <https://law.justia.com/constitution/louisiana/Article5.html>

If current laws have served us well for over 30 years, why alter them?

**What *SB2* Really Does:**

It opens the door for any future legislature to expand adult prison sentencing for children arbitrarily. This undermines decades of research and policy informed by child psychology and public safety. Upon the momentary agenda of the Legislature, any child of any age for any crime may be put at risk of adult prison. Surely, this is not the Legislature's desire.

**A Simple Truth:**

Bills *do* change laws. We learn this in high school Civics.

If, as its author suggests, *SB2* will not change the law, why does it exist? *SB2* is not a "modest tweak." Whatever the motive of the moment, *SB2* will erode constitutional protections for our children far into the future.

I fear that, as in the past, Louisiana will waste decades and millions defending what follows should *SB2* pass. If passed, *SB2* will return Louisiana to a time when our children were unprotected and faced severe and unjust consequences. This bill is wrong for Louisiana, wrong for our children, and wrong for the future of our great State.

**Solution:**

Future Legislatures may rue the passage of *SB2* because it will create annual opportunities to reconsider specific crimes committed by Louisiana's children that lead to adult prison. This unnecessary future work may not reflect well on the Louisiana Legislature's honor.

Amending *SB2* as written by removing the proposed "any crime specified by act of the legislature" and adding to the list of enumerated crimes leading to adult imprisonment that is already in the *Constitution* only the specific crime(s) that current Legislators wish would keep this matter from becoming a perennial reconsideration of the Legislature.

I appreciate your work to improve conditions for Louisiana's children and families and your consideration of these ideas regarding the dangers of *SB2* in its current form.

Sincerely,



Rick Wheat  
President/CEO  
Louisiana United Methodist Children and Family Services  
rick.wheat@LMCH.org