

**ORDINANCE**

**CITY OF NEW ORLEANS**

**CITY HALL: July 27, 2017**

**CALENDAR NO. 31,954**

**NO. \_\_\_\_\_ MAYOR COUNCIL SERIES**

**BY: COUNCILMEMBERS GUIDRY, CANTRELL, AND WILLIAMS**

**AN ORDINANCE** to amend and reordain Section 102-1 of the Code of the City of New Orleans relative to juvenile warning notices and summonses and definitions thereof; and to provide otherwise with respect thereto.

1           **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**  
2 **ORDAINS**, That Section 102-1 of the Code of the City of New Orleans is hereby amended and  
3 reordained to read as follows:

4           **“Sec. 102-1. Juvenile Warning Notice and Summons**

5           (a) The purpose of this section is to provide officers of the New Orleans Police Department  
6 (NOPD) with guidelines and expectations regarding when and whether to take juveniles  
7 into custody, and when they shall issue a warning or summons only. When a law  
8 enforcement officer can lawfully take a juvenile into custody, based upon the officer’s  
9 finding of probable cause or pursuant to an order of the court, the officer should,  
10 whenever possible, rely on the least restrictive and most reasonable alternative consistent  
11 with preserving public safety, order, and individual liberty.

12           (b) The following words, terms, and phrases, when used in this section, shall have the  
13 meanings ascribed to them in this Subsection, except where the context clearly indicates a  
14 different meaning:

15 (1) *Custodial arrest* means an arrest of a juvenile followed by transporting the person  
16 to juvenile booking.

17 (2) *Delinquent offense* means an offense committed by a juvenile, which would also  
18 be a violation of the law if committed by an adult.

19 (3) *Guardian* means a person currently designated by the court or by operation of law  
20 as being responsible for a child in the same manner as a parent.

21 (4) *Juvenile* means one of the following:

22 (i) Before July 1, 2018, *juvenile* means any person under the age of twenty-  
23 one, including an emancipated minor, who is stopped on reasonable  
24 suspicion of committing a delinquent offense on or before June 30, 2018,  
25 where the person was under seventeen years old at the time of the  
26 suspected offense.

27 (ii) After June 30, 2018, *juvenile* means any person under the age of twenty-  
28 one, including an emancipated minor, who is stopped on reasonable  
29 suspicion of committing a delinquent offense on or after July 1, 2018,  
30 when the act is not a crime of violence as defined in La. R.S. 14:2 and  
31 occurs before the person attains eighteen years of age.

32 (iii) After June 30, 2020, *juvenile* means any person under the age of twenty-  
33 one, including an emancipated minor, who is stopped on reasonable  
34 suspicion of committing a delinquent offense on or after July 1, 2020,  
35 where the person was under eighteen years old at the time of the suspected  
36 offense.

37 (5) *Juvenile Warning Notice* means a notice issued to a juvenile, following an  
38 officer's finding of probable cause, in lieu of taking the juvenile into custody and  
39 referring the juvenile for prosecution.

40 (6) *Status offense* means an offense committed by a juvenile, which would not be a  
41 violation of the law if committed by an adult. Status offenses are provided in La.  
42 Ch. Code article 730.

43 (7) *Summons* means to counsel and release a juvenile to the care of his parents or  
44 guardian upon their written promise to bring the juvenile to court at such time as  
45 may be fixed by the court, pursuant to La. Ch. Code article 814(B)(1).

46 (8) *Taking into custody* means as provided in La. Ch. Code articles 812 – 815.

47 (c) Status offenses

48 (1) Upon an officer's finding of probable cause, a juvenile shall not be taken into  
49 custody for a status offense, and instead shall be issued a Juvenile Warning Notice  
50 and released as appropriate, including to his school, parent, guardian, or to the  
51 appropriate intervention center.

52 (d) Delinquent offenses

53 (1) A juvenile who has not been arrested or received a Juvenile Warning Notice for a  
54 delinquent offense in the prior 365 days shall be issued a Juvenile Warning Notice  
55 when an officer finds probable cause for any of the following misdemeanor-grade  
56 delinquent offenses or attempts thereof, and shall be released as appropriate:

57 (i) Criminal mischief;

58 (ii) Criminal trespass;

59 (iii) Disturbing the peace;

- 60 (iv) Minor traffic violations;
- 61 (v) Misdemeanor illegal possession of stolen things;
- 62 (vi) Misdemeanor obstruction of justice;
- 63 (vii) Misdemeanor theft or theft of goods;
- 64 (viii) Obstructing public passages;
- 65 (ix) Simple assault;
- 66 (x) Simple battery; or
- 67 (xi) Simple possession of marijuana.

68 (2) Officer discretion: When an officer finds probable cause for any of the  
69 enumerated offenses in Subsection (d)(1), and the juvenile has previously been  
70 arrested or already received a Juvenile Warning Notice for any delinquent offense  
71 in the prior 365 days, the officer may exercise his discretion to issue a Juvenile  
72 Warning Notice or summons in lieu of custodial arrest.

73 (i) In exercising the discretion afforded under this Subsection, an officer shall  
74 not take into consideration the race, ethnicity, gender, gender identity,  
75 gender expression, sexual orientation, economic status, or national origin  
76 of the juvenile.

77 (ii) In exercising the discretion afforded under this Subsection, an officer shall  
78 consider the best interest of the juvenile and the safety of the public.

79 (e) Juvenile Summons

80 (1) This Subsection shall apply to the following violations:

81 (i) Juveniles engaged in misdemeanor-grade delinquent offenses not  
82 enumerated in Subsection (d)(1), upon an officer's finding of probable  
83 cause;

84 (ii) Juveniles engaged in misdemeanor-grade delinquent offenses enumerated  
85 in Subsection (d)(1), pursuant to Subsection (d)(2);

86 (iii) Juveniles with outstanding warrants for misdemeanor-grade delinquent  
87 offenses, including but not limited to those offenses listed in Subsection  
88 (d)(1), or for failure to appear, unless a judge has ordered that the juvenile  
89 be detained; and

90 (iv) Juveniles engaged in traffic violations for which an officer deems a  
91 Juvenile Warning Notice is inappropriate, including but not limited to hit  
92 and run driving or reckless operation of a vehicle.

93 (2) When citing a juvenile solely for one of the violations listed in Subsection (e)(1),  
94 an officer shall issue a summons and may not make a custodial arrest, except  
95 when one of the following circumstances exists:

96 (i) The juvenile's parent or guardian cannot be located, after reasonable  
97 efforts have been made;

98 (ii) The juvenile's parent or guardian does not possess identification issued by  
99 any municipal, state, territorial, federal, or other governmental authority;

100 (iii) The juvenile's parent or guardian makes a statement that indicates an  
101 intent to disregard the summons, or his parent or guardian refuses to sign  
102 the summons;

103 (iv) The juvenile acts in a violent or destructive manner or makes a statement  
104 indicating that he intends to inflict injury to self or another or damage to  
105 property;

106 (v) The juvenile is a habitual offender, defined as an individual with a  
107 criminal history of two or more felony convictions or five or more felony  
108 or misdemeanor arrests for any offense;

109 (vi) The offense for which the officer stopped the juvenile is one involving  
110 weapons;

111 (vii) The offense for which the officer stopped the juvenile is one involving  
112 domestic violence, pursuant to La. R.S. 14:35.3, and the officer deems that  
113 the child poses a threat to another household member or family member;  
114 or

115 (viii) Based on the circumstances, an officer determines that it is absolutely  
116 necessary to make a custodial arrest.

117 (3) When an officer determines that one of the factors enumerated in Subsection  
118 (e)(2) applies, the officer may use his or her discretion to issue a summons instead  
119 of making a custodial arrest for a violation of Subsection(e)(1).

120 (f) Record keeping

121 (1) When a Juvenile Warning Notice or summons is issued to a juvenile, the issuing  
122 officer and the police department shall cause a record of the issuance of the  
123 Juvenile Warning Notice or summons, along with the offense for which it was  
124 issued, to be recorded and to be retained in such a fashion as to be accessible to  
125 officers in the future.

- 126 (2) When an officer effectuates a custodial arrest in accordance with Subsection  
127 (d)(2), the officer must document and report details of the incident, describing  
128 with specificity the circumstances necessitating custodial arrest, as provided in  
129 La. Ch. Code article 814(D) and (E).
- 130 (3) When an officer effectuates a custodial arrest in accordance with Subsection  
131 (e)(2), the officer shall appropriately document all information, including  
132 specifying the circumstances falling within Subsection (e)(2), at the time of arrest  
133 in a form to be promulgated by the New Orleans Police Department.
- 134 (4) The New Orleans Police Department shall prepare quarterly reports, which shall  
135 include the following data from the preceding quarter:
- 136 (i) The number of juvenile custodial arrests and reasons for those arrests;
  - 137 (ii) The number of unique juveniles under custodial arrest;
  - 138 (iii) The number of Juvenile Warning Notices and reasons for those Notices;
  - 139 (iv) The number of unique juveniles issued a Juvenile Warning Notice;
  - 140 (v) The number of juvenile summonses and reasons for those summonses;
  - 141 (vi) The number of unique juveniles issued a summons;
  - 142 (vii) The number of juvenile custodial arrests made in instances where the  
143 juvenile was eligible to receive a Juvenile Warning Notice, pursuant to  
144 Subsection (d), and the reasons for those custodial arrests;
  - 145 (viii) The number of juvenile summonses issued in instances where the juvenile  
146 was eligible to receive a Juvenile Warning Notice, pursuant to Subsection  
147 (d), and the reasons for those summonses;

148 (ix) The number of juvenile custodial arrests made in instances where the  
149 juvenile was eligible to receive a juvenile summons, pursuant to  
150 Subsection (e), and the reasons for those custodial arrests; and

151 (x) The number of juveniles under custodial arrest who previously received a  
152 Juvenile Warning Notice or juvenile summons.

1 **SECTION 2.** This ordinance shall become effective sixty days from the date the  
2 ordinance becomes law, as provided in Section 3-113 of the Home Rule Charter.

**ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS** \_\_\_\_\_

\_\_\_\_\_  
**PRESIDENT OF THE COUNCIL**

**DELIVERED TO THE MAYOR ON** \_\_\_\_\_

**APPROVED:**  
**DISAPPROVED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**RETURNED BY THE MAYOR ON** \_\_\_\_\_ **AT** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COUNCIL**

**ROLL CALL VOTE:**

**YEAS:**

**NAYS:**

**ABSENT:**