

2018 Regular Session

SENATE BILL NO. 102

BY SENATOR MORRELL

CHILDREN'S CODE. Provides relative to disposition of children after adjudication of certain felony-grade delinquent acts. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 15:901(D)(1) and 906, and the introductory paragraph of
3 Children's Code Articles 116 and 116(24.2), 801, 897.1, 901(B), the introductory
4 paragraph of (D), (E), and (F), to enact Children's Code Article 897.1(D) and (E),
5 and to repeal Children's Code Article 901(G), relative to juvenile justice; to provide
6 relative to disposition in delinquency cases; to provide relative to disposition after
7 adjudication of certain felony-grade delinquent acts; to provide relative to
8 modification of dispositions; to provide relative to parole for certain juveniles; to
9 provide relative to the duration of dispositions; to provide relative to applicability;
10 to provide for exceptions; to provide for technical changes; and to provide for related
11 matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 15:901(D)(1) and 906 are hereby amended and reenacted to read as
14 follows:

15 §901. Juvenile reception and diagnostic center; establishment, commitment of
16 juveniles, substance abuse inpatient program, order, report, fact of
17 commitment

* * *

1

2 D.(1) Upon commitment to the Department of Public Safety and Corrections,

3 the department shall have sole custody of the child and, except as provided for in

4 Children's Code Article 897.1, shall determine the child's placement, care, and

5 treatment, and the expenditures to be made therefor, through appropriate

6 examinations, tests, or evaluations conducted under the supervision of the

7 department. The department shall comply with ~~Chapter 2 of Title VII-A and~~ **the**

8 **provisions of** Chapter 17 of Title VIII of the Children's Code for any modification

9 of the original disposition when the adjudicated juvenile has been placed in the

10 custody of the department. ~~The department shall not modify any disposition under~~

11 ~~Children's Code Article 897.1.~~

* * *

12

13 §906. Release from commitment

14 A.~~(1)~~ Except as provided for in Children's Code Article 897.1, the

15 Department of Public Safety and Corrections may recommend to the committing

16 court the release of any juvenile committed to its care, who, in the opinion of the

17 department, is ready to be returned to his own home, or to a substitute home. Such

18 juvenile may be discharged by the court without supervision or may be placed under

19 supervision until further orders of the court.

20 ~~(2)B.~~ ~~Except as provided for in Subsection B of this Section, it~~ **It** is hereby

21 declared to be the public policy of this state that commitment of a juvenile to the care

22 of the department is not punitive nor **is it** in anywise **way** to be construed as a penal

23 sentence, but as a step in the total treatment process toward rehabilitation of the

24 juvenile and that, therefore, the recommendations of the department should be given

25 careful consideration by the court in determining what is to the best interest of the

26 juvenile. If, after release from the care of the department, but while the juvenile is

27 still under the supervision of the court, the court deems it advisable to return the

28 juvenile to the care of the department, a recommitment order shall be furnished the

29 department.

1 ~~B. In cases governed by Children's Code Article 897.1, it is hereby declared~~
 2 ~~to be the public policy of this state that commitment of a juvenile to the custody of~~
 3 ~~the Department of Public Safety and Corrections for confinement in~~
 4 ~~secure placement without benefit of parole, probation, suspension of imposition or~~
 5 ~~execution of sentence, or modification of sentence, is necessary and proper because~~
 6 ~~for these very serious offenses the protection of society is the primary objective.~~

7 Section 2. The introductory paragraph of Children's Code Articles 116 and 116(24.2),
 8 801, 897.1, and 901(B), the introductory paragraph of (D), (E), and (F) are hereby amended
 9 and reenacted and Children's Code Article 897.1(D) and (E) are hereby enacted to read as
 10 follows:

11 Art. 116. Definitions

12 Except where the context clearly indicates otherwise, these definitions apply
 13 for the following terms used throughout this Code:;

14 * * *

15 (24.2) "Secure placement" means a placement characterized by a range of
 16 moderate to high security level facilities that include construction, fixtures, and staff
 17 supervision designed to restrict the movements and activities of the residents, and to
 18 control, on a twenty-four-hour basis, the ability of the residents to enter and leave the
 19 premises, and which are intended for the treatment and rehabilitation of children who
 20 have been adjudicated delinquent. Secure placements shall include but are not
 21 limited to secure correctional centers for children and may include community-based
 22 secure detention facilities. However, no placement of a child to a community-based
 23 secure detention facility shall occur when a child has been adjudicated for the
 24 commission of a crime listed in Article ~~901(E)~~ **897.1** unless notice of such placement
 25 is provided to the committing judge and the district attorney.

26 * * *

27 Art. 801. Purpose

28 The purpose of this Title is to accord due process to each child who is
 29 accused of having committed a delinquent act and, ~~except as provided for in Article~~

1 ~~897.1, to insure~~ **ensure** that he shall receive, preferably in his own home, the care,
2 guidance, and control that will be conducive to his welfare and the best interests of
3 the state and that in those instances when he is removed from the control of his
4 parents, the court shall secure for him care as nearly as possible equivalent to that
5 which the parents should have given him.

6 * * *

7 Art. 897.1. Disposition after adjudication of certain felony-grade delinquent acts

8 A. After adjudication of a felony-grade delinquent act based upon a violation
9 of R.S. 14:30, first degree murder; **or** R.S. 14:30.1, second degree murder; ~~R.S.~~
10 ~~14:42, aggravated or first degree rape, or R.S. 14:44, aggravated kidnapping,~~ the
11 court shall commit the child who is fourteen years or older at the time of the
12 commission of the offense to the custody of the Department of Public Safety and
13 Corrections to be confined in secure placement until the child attains the age of
14 twenty-one years without benefit of parole, probation, suspension of imposition or
15 execution of sentence, or modification of sentence.

16 B. **After adjudication of a felony-grade delinquent act based upon a**
17 **violation of R.S. 14:42, first degree rape or R.S. 14:44, aggravated kidnapping,**
18 **the court shall commit the child who is fourteen years or older at the time of the**
19 **commission of the offense to the custody of the Department of Public Safety and**
20 **Corrections to be confined in secure placement until the child attains the age of**
21 **twenty-one years without benefit of probation or suspension of imposition or**
22 **execution of sentence.**

23 C. After adjudication of a felony-grade delinquent act based upon a violation
24 of R.S. 14:64, armed robbery, the court shall commit the child who is fourteen years
25 of age or older at the time of the commission of the offense to the custody of the
26 Department of Public Safety and Corrections to be confined in secure placement ~~for~~
27 ~~the length of the term imposed by the court at the disposition hearing~~ without benefit
28 of ~~parole,~~ probation; **or** suspension of imposition or execution of sentence, ~~or~~
29 ~~modification of sentence.~~

1 ~~C.D.~~ At least six months prior to the release of the child, the department shall
2 prepare an individualized and thorough transitional plan that identifies the
3 techniques, programs, personnel, and facilities that will be used to assist the child in
4 achieving a successful return to his family and the community. A copy of the
5 transitional plan shall be mailed to the court that ordered the disposition of
6 commitment.

7 **E. The provisions of this Article shall apply to all children in the custody**
8 **of the Department of Public Safety and Corrections, office of juvenile justice,**
9 **on or after August 1, 2018.**

10 * * *

11 Art. 901. Disposition guidelines; generally

12 * * *

13 B. **The Except as provided in Article 897.1, the** court should impose the
14 least restrictive disposition authorized by Articles 897 through 900 of this Title
15 which the court finds is consistent with the circumstances of the case, the needs of
16 the child, and the best interest of society.

17 * * *

18 D. **The Except as provided in Article 897.1, the** following grounds, while
19 not controlling the discretion of the court, shall be accorded weight in its
20 determination of suspension of the disposition or probation:

21 * * *

22 ~~E. The general disposition guidelines set forth in Paragraphs A through D of~~
23 ~~this Article do not apply when a child has been adjudicated a delinquent for the~~
24 ~~violation of R.S. 14:30, first degree murder; R.S. 14:30.1, second degree murder;~~
25 ~~R.S. 14:42, aggravated or first degree rape; R.S. 14:44, aggravated kidnapping; or~~
26 ~~R.S. 14:64, armed robbery in accordance with Article 897.1.~~

27 F. State agencies shall fully cooperate with any court which has authority
28 with respect to the placement of a child in foster care for the purpose of locating a
29 parent of the child. Such cooperation shall include making available all information

1 obtained from the Federal Parent Locator Service.

2 ~~G.F.~~ The court shall notify the child in writing of the expungement and

3 sealing procedures set forth in Article 917 et seq.

4 Section 3. Children's Code Article 901(G) is hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley E. Menou.

DIGEST

SB 102 Engrossed

2018 Regular Session

Morrell

Present law provides that upon commitment of a juvenile to Department of Public Safety and Corrections (DPSC), DPSC has sole custody of the child and the child's care, placement, and treatment.

Present law requires DPSC to comply with any modifications made to a child's disposition while in its custody and prohibits DPSC from modifying the dispositions of juveniles adjudicated for first degree murder, second degree murder, first degree rape, aggravated kidnapping, or armed robbery.

Proposed law retains present law compliance requirement, but allows modification of dispositions for first degree rape, aggravated kidnapping, and armed robbery.

Present law provides that in cases involving certain felony-grade delinquent acts, the public policy of the state is that commitment of a juvenile to DPSC without benefit of parole, probation, suspension of imposition or execution of sentence, or modification of sentence is necessary because of the serious nature of the offenses.

Proposed law provides that public policy of the state is that commitment of a juvenile to DPSC is not punitive nor a penal sentence, but a step toward rehabilitation and recommendations from DPSC should be given careful consideration by the court.

Present law provides that a child 14 years of age or older adjudicated for first degree murder, second degree murder, first degree rape, or aggravated kidnapping shall be committed to DPSC in secure placement until reaching the age of 21 without benefit of parole, probation, suspension of imposition or execution of sentence, or modification of sentence.

Proposed law provides that a child 14 years of age or older adjudicated for first degree murder or second degree murder shall be committed to DPSC in secure placement until reaching the age of 21 without benefit of parole, probation, suspension of imposition or execution of sentence, or modification of sentence.

Proposed law further provides that a child 14 years of age or older adjudicated for first degree rape or aggravated kidnapping shall be committed to DPSC in secure placement until reaching the age of 21 with eligibility for parole or modification of sentence, but without benefit of probation or suspension of imposition or execution of sentence.

Present law provides that a child 14 years or age or older adjudicated for armed robbery shall be committed to DPSC in secure placement for the length of the term imposed by the court at the disposition hearing without benefit of parole, probation, suspension of imposition or execution of sentence, or modification of sentence.

Proposed law provides that a child 14 years of age or older adjudicated for armed robbery shall be committed to DPSC in secure placement with eligibility for parole or modification

of sentence, without benefit of probation or suspension of imposition or execution of sentence.

Proposed law provides that the provisions of proposed law regarding disposition after adjudication of certain felony-grade offenses shall apply to all children in the custody of DPSC on or after August 1, 2018.

Present law provides that the general disposition guidelines for juveniles do not apply when a child has been adjudicated a delinquent for first degree murder, second degree murder, first degree rape, aggravated kidnapping, or armed robbery.

Proposed law provides that only the following general disposition guidelines do not apply when a child has been adjudicated a delinquent for first degree murder, second degree murder, first degree rape, aggravated kidnapping, or armed robbery:

- (1) The court impose the least restrictive disposition if it is consistent with the circumstances of the case, the needs of the child, and the best interest of society.
- (2) The court consider and accord weight to certain grounds in determining suspension of the disposition or probation.

Proposed law makes technical changes.

Effective August 1, 2018.

(Amends R.S. 15:901(D)(1) and 906, Ch.C. Arts 116(intro para) and 116(24.2), 801, 897.1, 901(B), (D)(intro para), (E), and (F); adds Ch.C. Art. 897.1(D) and (E); repeals Ch.C. Art. 901(G))