

## SENATE SUMMARY OF HOUSE AMENDMENTS

SB 102

2018 Regular Session

Morrell

**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

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

**SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL**

1. Restores current law which provides a statement of public policy relative to the commitment and confinement of a juvenile and provides that the goal of confinement is rehabilitative.
2. Adds provisions relative to the modification of dispositions for juveniles adjudicated delinquent for a violation of rape, aggravated kidnapping, and armed robbery.
3. Adds requirement that motions for modification of disposition be filed pursuant to current law procedures and requires a contradictory hearing to be set no sooner than 30 days from the date of notice to the district attorney.
4. Provides factors for the court to consider in determining whether to modify disposition.
5. Adds that provisions of present and proposed law regarding the choice of custody of the child do not apply to adjudications for felony grade delinquent acts based upon first or second degree murder, first degree rape, aggravated kidnapping, and armed robbery. Custody in these cases is governed by current law provisions specific to these offenses.

**DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE**

SB 102 Engrossed

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

Present law requires that DPS&C comply with any modifications made to a child's disposition while in its custody and prohibits DPS&C 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 current law compliance requirements, but allows modification of dispositions for first degree rape, aggravated kidnapping, and armed robbery.

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

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 DPS&C 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 retains present law and adds that the goal of confinement is rehabilitative.

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 DPS&C 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 removes from the application of current law a child adjudicated for first degree rape and aggravated kidnapping, but provides that the child shall be committed to DPS&C 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 DPS&C 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 shall be committed to DPS&C in secure placement with eligibility for parole or modification of sentence, but without benefit of probation or suspension of imposition or execution of sentence.

Proposed law provides that a child in secure care for an adjudication for first degree rape or kidnapping shall be eligible for modification after serving 36 months of the disposition and provides that a child in secure care for an adjudication for armed robbery shall be eligible for modification after serving 36 months of the disposition or, if the disposition is less than 36 months, two-thirds of the disposition.

Proposed law requires motions for modification of disposition to be filed pursuant to present law procedures and requires a contradictory hearing to be set no sooner than 30 days from the date of notice to the district attorney.

Proposed law provides that to grant a motion for modification of disposition, the court must find that the child poses a reduced risk to the community based on the following considerations:

- (1) the most recent risk assessment conducted by the office of juvenile justice;
- (2) the recommendation of the office of juvenile justice;
- (3) a reentry plan that includes an appropriate placement to conduct supervision and achieve aftercare goals; and
- (4) any additional evidence provided by the child, the state, or the office of juvenile justice.

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 DPS&C on or after August 1, 2018.

Present law provides for the following relative to disposition and custody determinations:

- (1) In considering dispositional options, the court shall not remove a child from the custody of his parents unless his welfare or the safety and protection of the public cannot, in the opinion of the court, be adequately safeguarded without such removal.
- (2) The court should impose the least restrictive disposition authorized by present law which the court finds is consistent with the circumstances of the case, the needs of the child, and the best interest of society.
- (3) Commitment of the child to the custody of DPS&C may be appropriate if certain conditions provided in present law exist.

- (4) Certain grounds provided in present law, while not controlling the discretion of the court, shall be accorded weight in its determination of suspension of the disposition or probation

Proposed law provides that these provisions of present law do not apply for adjudications for first or second degree murder, first degree rape, aggravated kidnapping, and armed robbery. In such cases, custody and disposition determinations are made pursuant to the provisions of present law specific to these offenses.

Effective August 1, 2018.

(Amends R.S. 15:901(D)(1) and 906, Ch.C. Arts. 116(intro. para.) and (24.2), 801, 897.1, 901(A), (B), (C)(intro. para.), (D)(intro. para.), (E), and (F) and 910(C); Repeals Ch.C. Art. 901(G))

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