

2020 Regular Session

HOUSE BILL NO. 453

BY REPRESENTATIVE HILFERTY

JUVENILE PROCEDURE: Provides relative to motions to modify disposition

1 AN ACT

2 To amend and reenact Children's Code Article 910, relative to modification of dispositions;
3 to provide relative to a motion to modify a disposition; to require the motion to be
4 served upon all parties; to provide relative to the circumstances under which a
5 contradictory hearing is required; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Article 910 is hereby amended and reenacted to read as
8 follows:

9 Art. 910. Modification procedure; generally applicable

10 A. Except as specially provided ~~hereinafter~~ in Articles 911 through 916, a
11 motion for modification may be filed by the district attorney, the child, his parents,
12 the custodian of the child, a probation officer, or the court. A motion for
13 modification shall be in writing and shall set forth in plain and concise terms the
14 facts supporting the modification. A motion for modification shall be served upon
15 all parties at least three days prior to the hearing unless waived by the parties.

16 B. Any motion ~~to modify~~ for modification may be denied without a hearing.

17 C. ~~Except as provided in Article 897.1, when the motion to modify seeks the~~
18 ~~imposition of less restrictive conditions, the court may modify a judgment without~~
19 ~~a contradictory hearing.~~ Except as provided by Paragraph B of this Article, a motion

1 for modification shall be tried at a contradictory hearing unless waived by the
 2 parties.

3 ~~D. When the motion to modify seeks the imposition of more restrictive~~
 4 ~~conditions, the court shall conduct a contradictory hearing, except upon the waiver~~
 5 ~~of the parties.~~

6 ~~E.~~ A judgment of disposition shall not be modified to release a child from
 7 the custody of a public or private mental institution or an institution for persons with
 8 mental illness without three days prior notice to the district attorney and the
 9 institution.

10 ~~F.E.~~ If a judgment of disposition is modified, a copy of the minute entry
 11 reflecting the modification shall be served upon the district attorney, the child, his
 12 parent, and any person, institution, or agency to whom custody of the child is
 13 assigned.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 453 Reengrossed

2020 Regular Session

Hilferty

Abstract: Requires all motions for modification to be tried contradictorily except under certain circumstances and requires motions for modification to be served upon all parties at least three days prior to the hearing unless waived by the parties.

Present law provides that a motion for modification may be filed by the district attorney, the child, his parents, the custodian of the child, a probation officer, or the court.

Proposed law requires all motions for modification to be served upon all parties at least three days prior to the hearing except upon waiver by the parties.

Present law provides that a motion to modify may be denied without a hearing and that a hearing is not required if the motion to modify seeks the imposition of less restrictive conditions. Present law further provides that when the motion to modify seeks the imposition of more restrictive conditions, the court shall conduct a contradictory hearing, except upon the waiver of the parties.

Proposed law retains the present law provision authorizing the court to deny a motion for modification without a hearing. Proposed law amends present law to require all motions for modification to be tried at a contradictory hearing unless waived by the parties.

(Amends Ch.C. Art. 910)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Change the time period within which a motion for modification is required to be served upon all parties from at least 10 to at least three days prior to the hearing.
2. Remove the present law provision which authorizes the court to deny a motion to modify without a contradictory hearing.
3. Provide that any motion for modification shall be tried contradictorily against the district attorney.
4. Restore the present law provision which requires the court to conduct a contradictory hearing when the motion to modify seeks the imposition of more restrictive conditions, except upon the waiver of the parties.

The House Floor Amendments to the engrossed bill:

1. Restore the present law provision authorizing the court to deny a motion for modification without a contradictory hearing.
2. Provide that all motions for modification shall be tried at a contradictory hearing unless waived by the parties.
3. Provide that service of the motion for modification required by proposed law may be waived by the parties.