

Regular Session, 2010

SENATE BILL NO. 736

BY SENATOR DORSEY

CRIMINAL JUSTICE. Provides relative to certain adults charged for crimes committed as a child. (8/15/10)

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AN ACT

To amend and reenact the Code of Criminal Procedure Article 876 and to enact the Children's Code Article 857(D), relative to criminal procedure; to provide for sentencing of adults for certain crimes committed as a child; to provide for certain adults charged for crimes committed as a child; to provide for requirements of sentencing; to provide for terms, conditions, and procedures; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 857 (D) is hereby enacted to read as follows:

Art. 857. Transfers for criminal prosecution; authority

* * *

D.(1) An adult who is charged with an offense committed at the time he was a child for which the time limitation for the institution of prosecution pursuant to Code of Criminal Procedure Article 571 has not lapsed and for which he was subject to prosecution as an adult due to his age at the time the offense was committed shall be prosecuted as an adult in the appropriate court exercising criminal jurisdiction when evidence of deoxyribonucleic acid is

1 **offered to establish the identity of the offender in accordance with R.S. 15:441.1.**

2 **If convicted, he shall be punished as an adult as provided by law.**

3 **(2) An adult who is charged with an offense committed at the time he was**
4 **a child for which the time limitation for the institution of prosecution pursuant**
5 **to Code of Criminal Procedure Article 571 has not lapsed and for which he was**
6 **not subject to prosecution as an adult due to his age at the time the offense was**
7 **committed shall be prosecuted as an adult in the appropriate court exercising**
8 **criminal jurisdiction when evidence of deoxyribonucleic acid is offered to**
9 **establish the identity of the offender in accordance with R.S. 15:441.1. If**
10 **convicted, he shall be committed to the custody of the Department of Public**
11 **Safety and Corrections to be confined in secure placement for a period of time**
12 **as determined by the court not to exceed the maximum amount of confinement**
13 **he could have been ordered to serve had he been adjudicated for the offense as**
14 **a child at the time the offense was committed.**

15 Section 2. Code of Criminal Procedure Article 876 is hereby amended and reenacted
16 to read as follows:

17 Art. 876. Sentence for crime committed as a child

18 A.**(1)** An adult who is charged with an offense committed at the time he was
19 a child for which the time limitation for the institution of prosecution pursuant to
20 Code of Criminal Procedure Article 571 has not lapsed and for which he was subject
21 to prosecution as an adult due to his age at the time the offense was committed may
22 be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If
23 convicted, he shall be punished as an adult as provided by law.

24 **(2) When evidence of deoxyribonucleic acid is offered to establish the**
25 **identity of the offender in accordance with R.S. 15:441.1, the offender shall be**
26 **prosecuted as an adult in the appropriate court exercising criminal jurisdiction.**
27 **If convicted, he shall be punished as an adult as provided by law.**

28 B.**(1)** An adult who is charged with an offense committed at the time he was
29 a child for which the time limitation for the institution of prosecution pursuant to

1 Code of Criminal Procedure Article 571 has not lapsed and for which he was not
 2 subject to prosecution as an adult due to his age at the time the offense was
 3 committed may be prosecuted as an adult in the appropriate court exercising criminal
 4 jurisdiction. If convicted, he may be committed to the custody of the Department of
 5 Public Safety and Corrections to be confined in secure placement for a period of time
 6 as determined by the court not to exceed the maximum amount of confinement he
 7 could have been ordered to serve had he been adjudicated for the offense as a child
 8 at the time the offense was committed.

9 **(2) When evidence of deoxyribonucleic acid is offered to establish the**
 10 **identity of the offender in accordance with R.S. 15:441.1, the offender shall be**
 11 **prosecuted as an adult in the appropriate court exercising criminal jurisdiction.**
 12 **If convicted, he shall be committed to the custody of the Department of Public**
 13 **Safety and Corrections to be confined in secure placement for a period of time**
 14 **as determined by the court not to exceed the maximum amount of confinement**
 15 **he could have been ordered to serve had he been adjudicated for the offense as**
 16 **a child at the time the offense was committed.**

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Michael Bell.

DIGEST

Dorsey (SB 736)

Present law provides that an adult who is charged with an offense committed at the time he was a child may be prosecuted as an adult in the appropriate court exercising criminal jurisdiction.

Proposed law provides that an adult who is charged with an offense committed at the time he was a child will be prosecuted as an adult in the appropriate court exercising criminal jurisdiction when evidence of DNA is offered to establish the identity of the offender.

Proposed law maintains present law that provides if the offender is convicted, he will be committed to the custody of the Department of Public Safety and Corrections to be confined in secure placement for a period of time as determined by the court not to exceed the maximum amount of confinement he could have been ordered to serve had he been adjudicated for the offense as a child.

Proposed law maintains present law that if the offender is convicted, he will be punished as an adult as provided by law.

Effective August 15, 2010.

(Amends C.Cr.P. Art. 876; adds Ch.C. Art. 857(D))