

2018 Regular Session

SENATE BILL NO. 106

BY SENATOR MORRELL

CHILDREN'S CODE. Provides relative to the duration of a disposition on a felony-grade adjudication. (8/1/18)

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AN ACT

To amend and reenact Children's Code Art. 898(B)(1) and (2) and (C)(1)(a) and (2) and 906(B)(1), relative to juvenile justice; to provide relative to the duration of a disposition based on a felony-grade adjudication; to provide relative to modification of dispositions; to provide for hearings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Art. 898(B)(1) and (2) and (C)(1)(a) and (2) and 906(B)(1) are hereby amended and reenacted to read as follows:

Art. 898. Duration of a disposition based on a felony-grade adjudication

\* \* \*

B. If a child is adjudicated delinquent for a felony-grade offense that is not a crime of violence as defined in R.S. 14:2 and is committed to the custody of the Department of Public Safety and Corrections pursuant to Article 897(D):

(1) The total duration of the commitment served shall not exceed nine months, including credit for time spent in secure detention prior to the imposition of the disposition unless all of the following conditions are met:

(a) The child is brought in person before the court for a contradictory

1 modification hearing, pursuant to Article 909 et seq., before the lapse of the  
 2 maximum duration of the initial nine-month commitment. **The hearing date shall**  
 3 **be set by the court at the time of disposition.**

4 (b) The court finds by clear and convincing evidence that ~~continued out-of-~~  
 5 ~~home placement is necessary for completion of the child's treatment~~ **the child's**  
 6 **treatment cannot be accessed and completed in a less restrictive setting.**

7 (2) If the child's commitment is continued beyond ~~eighteen~~ **nine** months, a  
 8 contradictory modification hearing shall occur ~~not less than every six months from~~  
 9 ~~the date of the disposition~~ **on the date of the hearings scheduled as required by**  
 10 **Article 906(B)(1).** At any such hearing, ~~if~~ **the child shall be released unless** the  
 11 court determines ~~extending the child's out-of-home placement is not necessary to~~  
 12 ~~complete treatment, the child shall be released~~ **by clear and convincing evidence**  
 13 **that the child's treatment cannot be accessed and completed in a less restrictive**  
 14 **setting.** The total duration of disposition shall not exceed the maximum provided in  
 15 this Article.

16 \* \* \*

17 C. If a child is adjudicated delinquent for a felony-grade offense that is not  
 18 a crime of violence as defined in R.S. 14:2 and is placed on probation:

19 (1) The duration of the probation shall not exceed eighteen months unless all  
 20 of the following conditions are met:

21 (a) The child is brought in person before the court for a contradictory  
 22 modification hearing, as provided in Article 909 et seq., before the lapse of the  
 23 maximum duration of the initial eighteen-month probationary period. **The hearing**  
 24 **date shall be set by the court at the time of disposition.**

25 \* \* \*

26 (2) If probation is continued beyond eighteen months, a contradictory  
 27 modification hearing shall occur not less than every six months from the disposition.  
 28 At any such hearing, if the court determines **by clear and convincing evidence that**  
 29 extending the child's probation is not necessary to complete treatment, the child shall

1 be released. The total duration of disposition shall not exceed the maximum provided  
2 in this Article.

3 \* \* \*

4 Art. 906. Required review hearings

5 \* \* \*

6 B. Children in the custody of the office of juvenile justice.

7 (1) Any child committed by a court to the custody of the office of juvenile  
8 justice must be physically transported to the committing court for an in-person  
9 review hearing not more than six months after the child's commitment, and at least  
10 every six months thereafter, unless such an in-person hearing is waived by counsel  
11 for the child and by the committing court. **The date of the initial review hearing**  
12 **shall be set by the court at the time of disposition.**

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

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DIGEST

SB 106 Original

2018 Regular Session

Morrell

Present law provides that if a child is adjudicated delinquent for a felony-grade offense that is not a crime of violence and is committed to the custody of the Department of Public Safety and Corrections (DPSC), the total duration of the commitment cannot exceed nine months unless certain conditions are met.

Proposed law retains present law.

Present law provides that the total duration of a child's commitment can exceed nine months only if:

- (1) The child is brought before the court for a contradictory modification hearing before the end of the initial nine month commitment.
- (2) The court finds by clear and convincing evidence that the continued out-of-home placement is necessary for completion of the child's treatment.

Proposed law requires that the court set the date of the contradictory modification hearing at the time of disposition.

Proposed law changes the court's determination required to extend a child's detention from that continued out-of-home placement is necessary for completion of the child's treatment to that the child's treatment cannot be accessed and completed in a less restrictive setting.

Present law provides that if a child's commitment is continued beyond 18 months a hearing must occur at least every six months from the date of disposition and if the court determines

extending the out-of-home placement is not necessary to complete treatment the child must be released.

Proposed law requires that a hearing must occur every six months and on the same date as the child's review hearings if the child's commitment is extended beyond nine months.

Proposed law changes the court's determination required to release a child from that extending the child's out-of-home placement is not necessary to complete treatment to a determination by clear and convincing evidence that the child's treatment cannot be accessed and completed in a less restrictive setting.

Present law requires that if a child is adjudicated delinquent for a felony-grade offense that is not a crime of violence and placed on probation the duration of the probation cannot exceed 18 months unless the child is brought before the court for a contradictory modification hearing before the lapse of the initial 18 months.

Proposed law requires that the contradictory modification hearing date be set by the court at the time of disposition and otherwise retains present law.

Present law provides that if probation is continued beyond 18 months, a contradictory modification hearing must occur not less than every six months from the disposition.

Present law provides that at such hearing, if the court determines extending the child's probation is not necessary to complete treatment, the child shall be released.

Proposed law provides that the court's determination be made by clear and convincing evidence and otherwise retains present law.

Present law requires that all children in the custody of the office of juvenile justice be transported to the committing court for a review hearing within six months of the child's commitment.

Proposed law requires that the initial review hearing date be set at the time of disposition and otherwise retains present law.

Effective August 1, 2018.

(Amends Ch.C. Arts. 898(B)(1) and (2) and (C)(1)(a) and (2) and 906(B)(1))