

1 months, including credit for time spent in secure detention prior to the imposition of
2 the disposition unless all of the following conditions are met:

3 (a) The child is brought in person before the court for a contradictory
4 modification hearing, pursuant to Article 909 et seq., before the lapse of the
5 maximum duration of the initial nine-month commitment. **The hearing date shall**
6 **be set by the court at the time of disposition.**

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

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

19 * * *

20 **(4) The provisions of this Paragraph shall apply to all children in the**
21 **custody of the office of juvenile justice on and after August 1, 2018. If a child in**
22 **the custody of the office of juvenile justice on August 1, 2018 has not had a**
23 **hearing scheduled pursuant to this Paragraph, the court shall schedule a**
24 **hearing no later than September 30, 2018, and, if a child is eligible for a hearing,**
25 **the hearing shall take place no later than October 30, 2018.**

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

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

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

5 * * *

6 (2) If probation is continued beyond eighteen months, a contradictory
 7 modification hearing shall occur not less than every six months from the disposition.
 8 At any such hearing, if the court determines **by clear and convincing evidence that**
 9 extending the child's probation is not necessary to complete treatment, the child shall
 10 be released. The total duration of disposition shall not exceed the maximum provided
 11 in this Article.

12 * * *

13 Art. 906. Required review hearings

14 * * *

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

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

22 * * *

23 **(4) The provisions of this Paragraph shall apply to all children in the**
 24 **custody of the office of juvenile justice on and after August 1, 2018. If a child in**
 25 **the custody of the office of juvenile justice on August 1, 2018 has not had a**
 26 **hearing scheduled pursuant to this Paragraph, the court shall schedule a**
 27 **hearing no later than September 30, 2018, and, if a child is eligible for a hearing,**
 28 **the hearing shall take place no later than October 30, 2018.**

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

DIGEST

SB 106 Engrossed 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.

Proposed law provides that the provisions of proposed law apply to the children in the custody of OJJ on August 1, 2018 and that if a child in OJJ custody on August 1, 2018 has not had a hearing as required by present law, the court shall schedule a hearing no later than September 30, 2018. Further provides that if a child is eligible for a hearing, the hearing shall take place no later than October 30, 2018.

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.

Proposed law provides that the provisions of proposed law apply to the children in the custody of OJJ on August 1, 2018 and that if a child in OJJ custody on August 1, 2018 has not had a hearing as required by present law, the court shall schedule a hearing no later than September 30, 2018. Further provides that if a child is eligible for a hearing, the hearing shall take place no later than October 30, 2018.

Effective August 1, 2018.

(Amends Ch.C. Arts. 898(B)(1) and (2) and (C)(1)(a) and (2) and 906(B)(1); adds Ch.C. Arts. 898(B)(4) and 906(B)(4))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Adds that the provisions of proposed law regarding children adjudicated for a felony-grade offense that is not a crime of violence and whose commitment is continued beyond nine months applies to children in the custody of OJJ on and after August 1, 2018.
2. Requires the court to schedule the hearing contradictory modification required by present law by September 30, 2018 for all children in the custody of OJJ on August 1, 2018 that have been adjudicated for a felony-grade offense that is not a crime of violence and whose commitment is continued beyond nine months.
3. Requires the contradictory modification hearing required by present law for children in the custody of OJJ on August 1, 2018 that have been adjudicated for a felony-grade offense that is not a crime of violence and whose commitment is continued beyond nine months to take place no later than October 30, 2018.
3. Adds that the provisions of proposed law regarding the required in-person review hearing for all children in the custody of OJJ applies to children in the custody of OJJ on and after August 1, 2018.
4. Requires the court to schedule the review hearing required by present law by September 30, 2018 for all children in the custody of OJJ on August 1, 2018.
5. Requires the review hearing required by present law to take place no later than October 30, 2018 for all children in the custody of OJJ on August 1, 2018 that are eligible for such hearing.