

SENATE BILL NO. 102

BY SENATOR MORRELL

1 AN ACT

2 To amend and reenact R.S. 15:901(D)(1) and 906 and Children's Code Articles
3 116(introductory paragraph) and (24.2), 801, 897.1, 901(A), (B), (C)(introductory
4 paragraph), (D)(introductory paragraph), (E), and (F), and 910(C), and to repeal
5 Children's Code Article 901(G), relative to juvenile justice; to provide relative to
6 disposition in delinquency cases; to provide relative to disposition after adjudication
7 of certain felony-grade delinquent acts; to provide relative to modification of
8 dispositions; to provide relative to parole for certain juveniles; to provide relative to
9 the duration of dispositions; to provide relative to applicability; to provide for
10 exceptions; to provide for technical changes; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 15:901(D)(1) and 906 are hereby amended and reenacted to read as
13 follows:

14 §901. Juvenile reception and diagnostic center; establishment, commitment of
15 juveniles, substance abuse inpatient program, order, report, fact of
16 commitment

17 * * *

18 D.(1) Upon commitment to the Department of Public Safety and Corrections,
19 the department shall have sole custody of the child and, except as provided for in
20 Children's Code Article 897.1, shall determine the child's placement, care, and
21 treatment, and the expenditures to be made therefor, through appropriate
22 examinations, tests, or evaluations conducted under the supervision of the
23 department. The department shall comply with ~~Chapter 2 of Title VII-A and~~ **the**
24 **provisions of** Chapter 17 of Title VIII of the Children's Code for any modification
25 of the original disposition when the adjudicated juvenile has been placed in the
26 custody of the department. ~~The department shall not modify any disposition under~~
27 ~~Children's Code Article 897.1.~~

* * *

§906. Release from commitment

A.~~(1)~~ Except as provided for in Children's Code Article 897.1, the Department of Public Safety and Corrections may recommend to the committing court the release of any juvenile committed to its care, who, in the opinion of the department, is ready to be returned to his own home, or to a substitute home. Such juvenile may be discharged by the court without supervision or may be placed under supervision until further orders of the court.

~~(2)~~B. ~~Except as provided for in Subsection B of this Section, it~~ It is hereby declared to be the public policy of this state that commitment of a juvenile to the care of the department is not punitive nor is it in anywise way to be construed as a penal sentence, but as a step in the total treatment process toward rehabilitation of the juvenile and that, therefore, the recommendations of the department should be given careful consideration by the court in determining what is to the best interest of the juvenile. If, after release from the care of the department, but while the juvenile is still under the supervision of the court, the court deems it advisable to return the juvenile to the care of the department, a recommitment order shall be furnished the department.

~~B-C.~~ B-C. In cases governed by Children's Code Article 897.1, it is hereby declared to be the public policy of this state that commitment of a juvenile to the custody of the Department of Public Safety and Corrections for confinement in secure placement without benefit of parole, probation, suspension of imposition or execution of sentence, or modification of sentence, is necessary and proper because for these very serious offenses the protection of society is the primary objective. The goal of such confinement is rehabilitative, as rehabilitation furthers public safety.

Section 2. Children's Code Articles 116(introductory paragraph) and (24.2), 801, 897.1, 901(A), (B), (C)(introductory paragraph), (D)(introductory paragraph), (E), and (F), and 910(C) are hereby amended and reenacted to read as follows:

Art. 116. Definitions

1 Except where the context clearly indicates otherwise, these definitions apply
2 for the following terms used throughout this Code:

3 * * *

4 (24.2) "Secure placement" means a placement characterized by a range of
5 moderate to high security level facilities that include construction, fixtures, and staff
6 supervision designed to restrict the movements and activities of the residents, and to
7 control, on a twenty-four-hour basis, the ability of the residents to enter and leave the
8 premises, and which are intended for the treatment and rehabilitation of children who
9 have been adjudicated delinquent. Secure placements shall include but are not
10 limited to secure correctional centers for children and may include community-based
11 secure detention facilities. However, no placement of a child to a community-based
12 secure detention facility shall occur when a child has been adjudicated for the
13 commission of a crime listed in Article ~~901(E)~~ **897.1** unless notice of such placement
14 is provided to the committing judge and the district attorney.

15 * * *

16 Art. 801. Purpose

17 The purpose of this Title is to accord due process to each child who is
18 accused of having committed a delinquent act and, ~~except as provided for in Article~~
19 ~~897.1, to insure~~ **ensure** that he shall receive, preferably in his own home, the care,
20 guidance, and control that will be conducive to his welfare and the best interests of
21 the state and that in those instances when he is removed from the control of his
22 parents, the court shall secure for him care as nearly as possible equivalent to that
23 which the parents should have given him.

24 * * *

25 Art. 897.1. Disposition after adjudication of certain felony-grade delinquent acts

26 A. After adjudication of a felony-grade delinquent act based upon a violation
27 of R.S. 14:30, first degree murder; ~~or R.S. 14:30.1, second degree murder; R.S.~~
28 ~~14:42, aggravated or first degree rape; or R.S. 14:44, aggravated kidnapping,~~ the
29 court shall commit the child who is fourteen years or older at the time of the
30 commission of the offense to the custody of the Department of Public Safety and

1 Corrections to be confined in secure placement until the child attains the age of
2 twenty-one years without benefit of parole, probation, suspension of imposition or
3 execution of sentence, or modification of sentence.

4 **B. After adjudication of a felony-grade delinquent act based upon a**
5 **violation of R.S. 14:42, first degree rape, or R.S. 14:44, aggravated kidnapping,**
6 **the court shall commit the child who is fourteen years or older at the time of the**
7 **commission of the offense to the custody of the Department of Public Safety and**
8 **Corrections to be confined in secure placement until the child attains the age of**
9 **twenty-one years without benefit of probation or suspension of imposition or**
10 **execution of sentence.**

11 **C.** After adjudication of a felony-grade delinquent act based upon a violation
12 of R.S. 14:64, armed robbery, the court shall commit the child who is fourteen years
13 of age or older at the time of the commission of the offense to the custody of the
14 Department of Public Safety and Corrections to be confined in secure placement ~~for~~
15 ~~the length of the term imposed by the court at the disposition hearing~~ without benefit
16 of ~~parole~~; probation; ~~or~~ suspension of imposition or execution of sentence; ~~or~~
17 ~~modification of sentence.~~

18 **D. Juveniles in secure care for an adjudication for a violation of R.S.**
19 **14:42 or R.S. 14:44 shall be eligible for modification after serving thirty-six**
20 **months of the disposition. Juveniles in secure care for an adjudication for a**
21 **violation of R.S. 14:64 shall be eligible for modification after serving thirty-six**
22 **months of the disposition or, if the disposition is less than thirty-six months,**
23 **two-thirds of the disposition.**

24 **E. A motion for modification of a disposition shall be filed pursuant to**
25 **Article 910 et seq. and a contradictory hearing shall be set no sooner than thirty**
26 **days from the date of notice to the district attorney. To grant a motion for**
27 **modification of disposition, the court must find that the child poses a reduced**
28 **risk to the community based on the following considerations:**

29 **(1) The most recent risk assessment conducted by the office of juvenile**
30 **justice.**

1 determination of suspension of the disposition or probation:

2 * * *

3 E. ~~The general disposition guidelines set forth in Paragraphs A through D of~~
4 ~~this Article do not apply when a child has been adjudicated a delinquent for the~~
5 ~~violation of R.S. 14:30, first degree murder; R.S. 14:30.1, second degree murder;~~
6 ~~R.S. 14:42, aggravated or first degree rape; R.S. 14:44, aggravated kidnapping; or~~
7 ~~R.S. 14:64, armed robbery in accordance with Article 897.1.~~

8 F. State agencies shall fully cooperate with any court which has authority
9 with respect to the placement of a child in foster care for the purpose of locating a
10 parent of the child. Such cooperation shall include making available all information
11 obtained from the Federal Parent Locator Service.

12 ~~G.F.~~ The court shall notify the child in writing of the expungement and
13 sealing procedures set forth in Article 917 et seq.

14 * * *

15 Art. 910. Modification procedure; generally applicable

16 * * *

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

20 * * *

21 Section 3. Children's Code Article 901(G) is hereby repealed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____