

Regular Session, 2010

HOUSE BILL NO. 482

BY REPRESENTATIVE ROSALIND JONES

JUVENILE PROCEDURE: Provides with respect to the disposition of juvenile offenders

1 AN ACT

2 To amend and reenact Children's Code Articles 893(B), 901(D), and 903(B)(6) and to enact
3 Children's Code Article 905.1, relative to juvenile delinquency; to provide with
4 respect to the disposition of juvenile offenders; to provide for the periodic evaluation
5 of the disposition; to provide for the modification of the judgment of disposition; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Articles 893(B), 901(D), and 903(B)(6) are hereby
9 amended and reenacted and Children's Code Article 905.1 is hereby enacted to read as
10 follows:

11 Art. 893. Disposition hearing; evidence

12 * * *

13 B.(1) All evidence helpful in determining the proper disposition, including
14 oral and written reports, the report of the predisposition investigation, any reports of
15 mental evaluation, and all other evidence offered by the child or the state shall be
16 received by the court and may be relied upon to the extent of its probative value even
17 though not admissible at the adjudication hearing. Upon motion of the district
18 attorney or the child, the court may hear testimony from the victim of the offense.

19 (2) At the disposition hearing, the office of juvenile justice shall provide a
20 written report to the court containing a brief statement as to the child's needs for or

1 rehabilitation, the resources available in the community which could provide needed
 2 assistance to the child, and any recommendations for disposition, including, if
 3 applicable, special conditions of supervision.

4 * * *

5 Art. 901. Disposition guidelines; generally

6 * * *

7 D.(1) In its determination of the proper disposition for the child, the court
 8 shall review and consider any report or information provided by the office of
 9 juvenile justice pursuant to Article 893. If the court deviates from the
 10 recommendations of the office of juvenile justice, the court shall provide written
 11 reasons for deviating from those recommendations.

12 (2) The following grounds, while not controlling the discretion of the court,
 13 shall be accorded weight in its determination of suspension of the disposition or
 14 probation:

15 ~~(1)~~(a) The child's delinquent conduct neither caused nor threatened serious
 16 harm.

17 ~~(2)~~(b) The child did not contemplate that his delinquent conduct would cause
 18 or threaten serious harm.

19 ~~(3)~~(c) The child acted under strong provocation.

20 ~~(4)~~(d) There were substantial grounds tending to excuse or justify the child's
 21 delinquent conduct, though failing to establish a defense.

22 ~~(5)~~(e) The victim of the child's delinquent conduct induced or facilitated its
 23 commission.

24 ~~(6)~~(f) The child or his family has compensated or will compensate the victim
 25 of his delinquent conduct for the damage or injury that the victim sustained.

26 ~~(7)~~(g) The child has no history of prior delinquency or has led a law-abiding
 27 life for a substantial period of time before the commission of the instant delinquent
 28 act.

- 1 (2) The agency, institution, or person to whom the child is assigned.
- 2 (3) The conditions of probation, if applicable.
- 3 (4) Any other applicable terms and conditions regarding the modified
- 4 disposition.
- 5 (5) The modified minimum and maximum duration of the disposition, and
- 6 if committed to the custody of the Department of Public Safety and Corrections, the
- 7 minimum and maximum term of commitment.
- 8 (6) The date the modified judgment of disposition or commitment was
- 9 entered into the record.
- 10 C. Pursuant to the provisions of this Article, if the court, the district attorney,
- 11 and the office of juvenile justice unanimously agree that the child has been
- 12 successfully rehabilitated, the court shall order the release of the child.

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)]

Rosalind Jones

HB No. 482

Abstract: Provides with respect to the disposition of juvenile offenders.

Present law provides that the court shall receive, and may rely upon, all evidence helpful in determining the proper disposition.

Proposed law amends present law and requires office of juvenile justice (OJJ) to provide a written report to the court containing a brief statement as to the child's needs for rehabilitation, the resources available in the community which could provide needed assistance to the child, and any recommendations for disposition.

Proposed law provides that the court, in its determination of the proper disposition for the child, shall review and consider any report or information provided by OJJ, and shall provide written reasons for any deviations from OJJ's recommendations.

Present law provides that the court shall enter into the record a written judgment of disposition specifying the maximum duration of the disposition and, if committed to the custody of DPS&C, the maximum term of the commitment.

Proposed law amends present law providing that the court shall also specify the minimum duration of disposition or, if committed to DPS&C, the minimum term of commitment.

Proposed law provides for the periodic evaluation of the status of the child's disposition by the court, district attorney, and OJJ, beginning no later than six months after the minimum duration, or modified minimum duration, ordered by the court. Further provides that any changes to the child's disposition must be reflected in an amended judgment which contains

the following information: the nature of the modified disposition; the agency, institution, or person to whom the child is assigned; the conditions of probation, if applicable; any other applicable terms and conditions regarding the modified disposition; the modified minimum and maximum duration of the disposition, and if committed to the custody of DPS&C, the minimum and maximum term of commitment; and the date the modified judgment of disposition or commitment was entered into the record.

Proposed law provides for procedures for the release of the child.

(Amends Ch.C. Arts. 893(B), 901(D), and 903(B)(6); Adds Ch.C. Art. 905.1)