2018 Regular Session

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.

Page 1 of 6 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

1 2 §906. Release from commitment A.(1) Except as provided for in Children's Code Article 897.1, the 3 4 Department of Public Safety and Corrections may recommend to the committing 5 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 6 7 juvenile may be discharged by the court without supervision or may be placed under supervision until further orders of the court. 8 9 (2)<u>B. Except as provided for in Subsection B of this Section, it It</u> is hereby 10 declared to be the public policy of this state that commitment of a juvenile to the care 11 of the department is not punitive nor is it in anywise way to be construed as a penal 12 sentence, but as a step in the total treatment process toward rehabilitation of the 13 juvenile and that, therefore, the recommendations of the department should be given 14 careful consideration by the court in determining what is to the best interest of the 15 juvenile. If, after release from the care of the department, but while the juvenile is 16 still under the supervision of the court, the court deems it advisable to return the 17 juvenile to the care of the department, a recommitment order shall be furnished the 18 department. 19 B.C. In cases governed by Children's Code Article 897.1, it is hereby 20 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 21 22 secure placement without benefit of parole, probation, suspension of imposition or 23 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 24 goal of such confinement is rehabilitative, as rehabilitation furthers public 25 26 <u>safety.</u> 27 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 28 29 910(C) are hereby amended and reenacted to read as follows: 30 Art. 116. Definitions

*

*

Page 2 of 6 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

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

Page 3 of 6 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

SB NO. 102

ENROLLED

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	$\underline{\mathbf{C}}$. 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	(2) The recommendation of the office of juvenile justice.
2	(3) A reentry plan that includes an appropriate placement to conduct
3	supervision and achieve aftercare goals.
4	(4) Any additional evidence provided by the child, the state, or the office
5	<u>of juvenile justice.</u>
6	C. F. At least six months prior to the release of the child, the department shall
7	prepare an individualized and thorough transitional plan that identifies the
8	techniques, programs, personnel, and facilities that will be used to assist the child in
9	achieving a successful return to his family and the community. A copy of the
10	transitional plan shall be mailed to the court that ordered the disposition of
11	commitment.
12	G. The provisions of this Article shall apply to all children in the custody
13	of the Department of Public Safety and Corrections, office of juvenile justice,
14	on or after August 1, 2018.
15	* * *
16	Art. 901. Disposition guidelines; generally
17	A. In Except as provided in Article 897.1, in considering dispositional
18	options, the court shall not remove a child from the custody of his parents unless his
19	welfare or the safety and protection of the public cannot, in the opinion of the court,
20	be adequately safeguarded without such removal.
21	B. The Except as provided in Article 897.1, the court should impose the
22	least restrictive disposition authorized by Articles 897 through 900 of this Title
23	which the court finds is consistent with the circumstances of the case, the needs of
24	the child, and the best interest of society.
25	C. Commitment Except as provided in Article 897.1, commitment of the
26	child to the custody of the Department of Public Safety and Corrections may be
27	appropriate if any of the following exists:
28	* * *
29	D. The Except as provided in Article 897.1, the following grounds, while
30	not controlling the discretion of the court, shall be accorded weight in its

Page 5 of 6 Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

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: _____