

Regular Session, 2010

SENATE BILL NO. 55

BY SENATOR MORRELL

JUVENILE JUSTICE. Provides for prosecution of nonviolent offenses by persons age 17 or under by juvenile court unless judicial waiver is granted to be tried as an adult. (8/15/10)

1 AN ACT

2 To amend and reenact the Children's Code Article 857 (B) and (C) and to enact (D), relative

3 to transfers for criminal prosecution; to provide for the authority to transfer a child

4 for prosecution; to provide for certain procedures; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Children's Code Article 857 (B) and (C) are amended and reenacted and

7 (D) is enacted to read as follows:

8 Art. 857. Transfers for criminal prosecution; authority

9 * * *

10 **B. The court on its own motion or on motion of the district attorney may**

11 **conduct a hearing to consider whether to transfer a child for prosecution to the**

12 **appropriate court exercising criminal jurisdiction if a delinquency petition has**

13 **been filed which alleges that a child who is seventeen years of age or younger at**

14 **the time of the commission of the alleged offense but is not otherwise subject to**

15 **the original jurisdiction of a court exercising criminal jurisdiction has**

16 **committed a crime other than those listed in Paragraph A of this Section.**

17 ~~B C.~~ Notwithstanding any other provision of law to the contrary, a fourteen-

1 year-old who is transferred pursuant to ~~this Article~~ **Paragraph A of this Section** and
2 subsequently convicted shall not be confined for such conviction beyond his thirty-
3 first birthday.

4 € D.(1) An adult who is charged with an offense committed at the time he
5 was a child for which the time limitation for the institution of prosecution pursuant
6 to Code of Criminal Procedure Art. 571 has not lapsed and for which he was subject
7 to prosecution as an adult due to his age at the time the offense was committed may
8 be prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If
9 convicted, he shall be punished as an adult as provided by law.

10 (2) An adult who is charged with an offense committed at the time he was a
11 child for which the time limitation for the institution of prosecution pursuant to Code
12 of Criminal Procedure Art. 571 has not lapsed and for which he was not subject to
13 prosecution as an adult due to his age at the time the offense was committed may be
14 prosecuted as an adult in the appropriate court exercising criminal jurisdiction. If
15 convicted, he shall be committed to the custody of the Department of Public Safety
16 and Corrections to be confined in secure placement for a period of time as
17 determined by the court not to exceed the maximum amount of confinement he could
18 have been ordered to serve had he been adjudicated for the offense as a child at the
19 time the offense was committed.

20 Section 2. This Act shall become effective on August 15, 2010; if vetoed by the
21 governor and subsequently approved by the legislature, this Act shall become effective on
22 August 15, 2010, or on the day following such approval by the legislature, whichever is
23 later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

DIGEST

Proposed law maintains present law and provides for the prosecution of nonviolent offense by persons age 17 or younger by juvenile courts unless judicial waiver is granted to be tried as an adult.

Effective August 15, 2010.

(Amends Ch.C.Art. 857(B) and (C); adds Ch.C.Art. 857(D))