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JAMES H. "Jim" BROWN
Secretary of State

Baton Rouge, Louisiana
1984
By: Mr. Jefferson.

To amend and reenact R.S. 13:1580 and 1583.1, R.S. 36:258(G), 36:408(H), R.S. 46:1251, the introductory paragraph of 1253, 1255, 1256, 1901, 1921, 1909, 1923, and Code of Juvenile Procedure Arts. 83(A)(5) and (6) and (C), 85(B), 86(B), 87(A)(2), 89(B)(1), 90(A), 91(A), (D), and (E), and 128(A), and to enact R.S. 15:901(F), R.S. 36:409(J), R.S. 46:1257, 1258, 1259, 1906.1 and 1906.2 and to repeal R.S. 46:1901, 1903(5), 1905(3), 1906(3), 1907.1, 1912, 1916, 1920, and Code of Juvenile Procedure Art. 84(B), all relative to services for children adjudicated delinquent or in need of supervision; to transfer the division of youth services from the office of the human development of the Department of Health and Human Resources to the office of juvenile services of the Department of Public Safety and Corrections; to include in such transfer services for intake, probation, aftercare, programs for delinquency prevention, and all other services for children adjudicated delinquent or in need of supervision; to change the name of the division of evaluation and services to the division of children, youth and family services and delineate its functions; to create the Juvenile Corrections Board; to provide for expiration of the provisions of the Act; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:258(G), 408(H) are hereby amended and reenacted to read as follows:

§258. Offices; purposes and functions

* * *

(G)(1) The office of human development shall perform the functions of the state which are designed to meet social, community, and rehabilitation needs of Louisiana residents.
(b) The office of human development shall administer a process of placement for the clients of the department. All programs and units within the department shall assist the office of human development in administering the placement process for clients by making available, on request, needed information, services, and resources.

(2)(a) Within the office of human development there shall be established a division of children, youth, and family services (formerly known as the division of evaluation and services), which shall perform the functions of the office relating to the provision of comprehensive social services programs to children and adults, including but not limited to foster care, day care, adoption, and protective services, and shall provide related services for persons dependent, neglected, abused, disabled, blind, and elderly, with the exception of those programs and services assigned to the office of elderly affairs in the office of the governor. It shall also provide services relating to the prevention of abuse and neglect of children and adults, and the care and treatment of children who are alleged to be or adjudicated in need of care.

(b) The division shall also have the responsibilities and authority including, but not limited to the following:

(i) To assess or arrange for the assessment of the needs of each client.

(ii) To provide or arrange for the provision of comprehensive diagnosis and evaluation services as the needs of each client warrant.

(iii) To develop comprehensive service plans for each client.

(iv) To assign responsibilities for providing services and for providing funding for such services.

(v) To place clients in the setting most appropriate to the client's needs including any nonresidential, community based residential, and institutional programs operated by the Department of Health and Human Resources, as well as programs operated by other public or private agencies with which the Department of Health and Human Resources enters into contractual or purchase of services arrangements.

(vi) To periodically review the progress of clients and modify the client's service plan as warranted.

(vii) To terminate services to the client, except that in the case of clients who have been placed in the custody of the Department of Health and Human Resources by judicial commitment or order, the court of proper jurisdiction shall retain the authority to terminate custody by the Department of Health and Human Resources and to vest or revest such custody in an individual or agency.
(3) Within the office of human development, there shall be a division of blind services which shall perform the functions of the office relating to the delivery and administration of social, rehabilitative, and adjustment services for Louisiana's blind citizens in accordance with federal and state law. The division of blind services shall be responsible for the coordination, administration, and delivery of specialized services for the blind. There shall be appointed an administrator of the division from the civil service rolls and his qualifications shall include experience in services to the blind and demonstrated knowledge of the problems, programs, and functions of the division.

(4) Within the office of human development, there shall be a division of rehabilitation services which shall perform the functions of the office relating to the delivery and administration of rehabilitation services for Louisiana's physically and mentally handicapped citizens. The division shall also help them prepare for employment.

§408. Offices; purposes and functions

H. The office of juvenile services shall, in accordance with law, have responsibility for the care, custody, security and treatment of children adjudicated delinquent or in need of supervision. The office shall consist of:

(1) An evaluation division which shall include (a) the Juvenile Reception and Diagnostic Center and (b) client placement services.

(2) A division of institutions, under the direct authority and responsibility of the assistant secretary, which shall have responsibility for the operation and maintenance of the branches of the Louisiana Training Institutes and other juvenile correctional institutions which may be created.

(3) The division of youth services (R.S. 46:1901 through R.S. 46:1926) which shall perform the functions of the office as they relate to providing intake, probation, parole, aftercare services, and other programs for children adjudicated delinquent or in need of supervision, or both. In addition, it shall provide programs and services relating to the prevention of juvenile delinquency. The appointment of the director of the division of youth services shall be made on the sole basis of his recognized interest in and knowledge of the problems, programs, and functions of the division and his ability to administer the same.

(4) The Juvenile Corrections Board which shall advise the assistant secretary on the advisability of modifying judgments of dispo-
sition for children adjudicated delinquent or in need of supervision and committed to the Department of Public Safety and Corrections.

The office shall participate in programs for the purchase of care and treatment of children taken into custody under the provisions of Code of Juvenile Procedure Art. 25(1) and (4) pending adjudication, disposition, placement, or any or all of the above.

Section 2. R.S. 46:1251, the introductory paragraph of 1253, 1255, 1256, 1901, 1909, 1921, and 1923 are hereby amended and reenacted to read as follows:

§1251. Juvenile probation; aftercare and intake services

A. The Department of Public Safety and Corrections shall provide a minimum basic juvenile probation and aftercare service to any court of the state with juvenile jurisdiction upon request of the court and shall provide a minimum basic juvenile intake service to any district attorney of the state upon request of the district attorney.

B. The intake service provided hereunder shall be limited to examining and evaluating complaints that a child is a delinquent or is a child in need of supervision and advising the district attorney whether the best interests of the child would be served by the initiation of proceedings under the Code of Juvenile Procedure, the signing of an informal adjustment agreement, referral to the Department of Health and Human Resources, referral to a public or private agency for assistance, or any other legally permissible course of action. The personnel assigned to perform these duties shall not assume any prosecutorial functions except for the filing of a petition as authorized by Code of Juvenile Procedure Art. 45.

§1253. Duties

It shall be the duty of the secretary of the Department of Public Safety and Corrections to:

§1255. Funds

The Department of Public Safety and Corrections is hereby authorized to expend whatever funds that may be necessary to carry out the provisions of this Chapter.

§1256. Additional personnel

Nothing in this Chapter shall be construed as preventing a court or district attorney from employing personnel in addition to that furnished by the Department of Public Safety and Corrections.
§1901. Definitions

A. For purposes of this Chapter, “department” shall mean the Department of Public Safety and Corrections.

B. When used in this Chapter, unless the context otherwise requires, the terms used herein shall have the meaning ascribed to them by R.S. 13:1569 or Code of Juvenile Procedure Article 13.

* * *

§1921. Receipt of federal funds

The secretary of the Department of Public Safety and Corrections shall, where consistent with the requirements of federal laws and regulations, enter into arrangements with the federal government for the receipt of federal funds to carry out the purposes of this Chapter. For the achievement of that objective, the department may enter into contracts and agreements with and submit such plans and reports to the federal government as may be required.

* * *

§1909. Program planning and development; coordination

A. The department shall collect and analyze data, initiate research, or review research otherwise conducted, and develop comprehensive plans and specific programs for preventing and reducing juvenile delinquency in the state. In this regard, it shall conduct studies and surveys involving delinquency prevention and treatment and make recommendations thereon to the secretary. In addition, it shall evaluate the effectiveness of existing and proposed programs.

B. The department shall assist in developing community services and programs concerned with delinquency prevention, community-based treatment, and constructive communications with law enforcement agencies.

* * *

§1923. Restrictions on use of records

A. With respect to any child for whom care and treatment services are either directly or indirectly provided by the department pursuant to this Chapter to a child alleged or found to be delinquent or in need of supervision, it shall be unlawful, except for purposes directly connected with the administration of this Chapter or upon the consent of such child or the attorney for such child, or upon the specific order of the court pursuant to the provisions of Code of Criminal Procedure Art. 875 and R.S. 13:1561 through R.S. 13:1809, both inclusive, for any individual agency, organization, or facility to knowingly solicit, disclose, receive, or make use of, or authorize,
permit, participate in, or acquiesce in the use of any information in or derived from such child's legal, social, medical, or psychological records, or obtained, directly or indirectly, from the records, papers, files, or communication by or to the department or any individual, agency, organization, or facility utilized by the department for the provision of such care and treatment services for such child.

B. Nothing in this Section shall prohibit the interchange of records, reports, or any other information among the various offices of the department and among the various personnel thereof. Additionally, nothing in this Section shall prohibit any judge serving on a court with juvenile jurisdiction from access to all of the records of any child before that court.

Section 3. Code of Juvenile Procedure Art. 83(A)(5) and (6) and (C), 85(B), 86(B), 87(A)(2), 89(B)(1), 90(A), 91(A), (D), and (E), and 123(A) are hereby amended and reenacted to read as follows:

Art. 83. Disposition; adjudication of delinquency
A. In cases in which a child has been adjudicated a delinquent the court may:

* * *

(5) Commit a child thirteen years of age or older to the custody of the Department of Public Safety and Corrections. Such commitment order may be accompanied by a court recommendation that the child be placed in alternative care facilities through the department's client placement process or referred to appropriate resources in the Department of Health and Human Resources.

(6) Commit a child under thirteen years of age adjudged a delinquent for the commission of any act which if committed by an adult would constitute a felony to the custody of the Department of Public Safety and Corrections. Such commitment order may be accompanied by a court recommendation that the child be placed in alternative care facilities through the department's client placement process or referred to appropriate resources in the Department of Health and Human Resources.

* * *

C. A child may be committed to a juvenile detention center or other suitable facility or, if no such facility is available, to the Department of Public Safety and Corrections for a direct contempt of court or for construction contempt due to repeated failure to comply with a judgment of disposition. However, no child committed under this provision shall be physically housed in the same dormitory, room, or area used to house children adjudicated delinquent for behavior other than direct or constructive contempt. Commitment for each contempt shall not exceed fifteen days. The contempt order may be rescinded if the attempted prior to disposition.

Art. 85. Disposition
B. A child in need of correction shall be committed to a child in need of correction by the court as follows:

Art. 86. Disposition
B. If the court determines that it shall order that the child shall be committed to a foster care parent, foster care, or another person, institution, organization, or facility, the court may commit the child to some of the department, the child's guardian, or the court's judge.

Art. 87. Judicial Disposition
A. The court shall order the disposition specified in the order of commitment.

(2) The maximum term of imprisonment for the commission of the crime to which the child has been adjudged and the period of commitment.

Art. 89. Duration of Commitment
B. (1) If the court orders the child to be placed in the custody of the Department of Social Services, the child shall be considered committed for the minimum term of imprisonment of one year for the crime for which the child was adjudicated.

Art. 90. Transitional review following commitment
A. If a child is
not exceed fifteen days, including time spent in detention for the contempt prior to adjudication for contempt.

* * *

Art. 85. Disposition; children in need of care

* * *

B. A child in need of care shall not be committed to the Department of Public Safety and Corrections, nor shall such department accept a child in need of care.

Art. 86. Disposition; generally

* * *

B. If the court commits a child to a private institution or agency, it shall select one that has been licensed under state law. Where no institution, social agency, or association so licensed for care or placement of children is available to the court, the court may commit the child to some other institution, social agency, or association which in the court's judgment is suitable for such child.

* * *

Art. 87. Judgment of disposition

A. The court shall enter into the record a written judgment of disposition specifying the following:

* * *

(2) The maximum duration of the disposition and, if committed to the Department of Public Safety and Corrections, the maximum term of the commitment.

* * *

Art. 89. Duration of disposition

* * *

B.(1) If the child is adjudicated a delinquent and assigned to the custody of the Department of Public Safety and Corrections, the judgment shall not remain in force for a period exceeding the maximum term of imprisonment for the offense forming the basis for the adjudication.

* * *

Art. 90. Transmission of reports and other information; dispositional review hearing

A. If a child is assigned to the custody of the Department of Public
Safety and Corrections or to the custody of a public or private institution or agency, the court shall transmit with the judgment of disposition all relevant reports concerning the child.

* * *

Art. 91. Motion to modify judgment of disposition

A. The court may modify a judgment of disposition on its own motion or on the motion of the district attorney, the child, or his parents. It may also modify a judgment of disposition on motion of the Department of Public Safety and Corrections.

* * *

D. In delinquency proceedings, a judgment of disposition shall not be modified to release a child from the custody of a public or private mental institution or an institution for the mentally defective or from the custody of the Department of Public Safety and Corrections without three days prior notice to the district attorney and the Department of Public Safety and Corrections or other institution.

E. Except as provided in Subsection C, the motion shall be in writing and set forth in plain and concise terms the facts supporting the modification. A motion filed by the Department of Public Safety and Corrections whereby the conditions of the disposition are sought to be made less restrictive shall be tried contradictorily against the district attorney, unless the district attorney shall file in the record an affidavit avowing that he expresses no opposition to the motion.

* * *

Art. 123. Records and reports; disclosure

A. Reports and records concerning matters or proceedings under the juvenile jurisdiction of the court may be released to a peace officer, probation officer, district attorney, or employee of the division of children, youth and family services or office of juvenile services in connection with the performance of his duties.

* * *

Section 4. R.S. 13:1580 and 1583.1 are hereby amended and reenacted to read as follows:

$1580. Decree

A. Notwithstanding any provision of law to the contrary, including but not limited to any provision of the Code of Juvenile Procedure, when a child is referred to the Department of Health and Human Resources or the Department of Public Safety and Corrections for care and treatment and when such care and treatment are to be provided in a setting other than the child’s own home or the home of a relative or guardian thereof, the child shall be committed to the care of the Department for the period provided by this section.

B. This provision shall not apply to a child who is committed by the respective departments for an indefinite period.

C. The Department of Public Safety and Corrections shall have authority to provide for the recreation of the child’s need

D. The Department of Public Safety and Corrections shall within thirty days after the child’s commitment complete an extension

$1583.1. Uniform child custody jurisdiction

The Department of Health and Human Resources, the Department of Public Safety and Corrections, and the Department of Juvenile Justice are available to provide for the care and recreation of children in such a way as to provide for the best interest of the child. Public Safety and Corrections and the Department of Juvenile Justice shall be jointly responsible for the care and recreation of children in such a way as to provide for the best interest of the child.

Section 409.2. Uniform child custody jurisdiction

J. The Department of Health and Human Resources and the Department of Public Safety and Corrections shall be jointly responsible for the care and recreation of children in such a way as to provide for the best interest of the child.

As it appears
a relative, the child shall be assigned to the custody of the department rather than to a particular institution or facility.

B. This provision for the assignment of custody shall apply regardless of whether the care and treatment are provided directly by the respective departments or through purchase of service arrangements for which the respective departments provide funding.

C. The Department of Health and Human Resources or the Department of Public Safety and Corrections, as the case may be, shall have authority to select the types of services and service setting from the resources that are available which are most appropriate to the child's needs.

D. The respective department shall place the child in that setting within thirty days after the necessary evaluations have been completed and submitted to the appropriate department unless the court after written notification and for good cause shown grants an ex parte extension of time to place the child.

* * *

§1583.1. Diagnostic psychiatric center and facilities for delinquent juvenile examinations at charity hospital

The Department of Public Safety and Corrections in conjunction with the Department of Health and Human Resources, through the Charity Hospital of Louisiana at New Orleans, shall as soon as funds are available establish a diagnostic* psychiatric center for delinquent children at the Charity Hospital of Louisiana at New Orleans and shall provide temporary facilities for them when a juvenile judge issues an order for their examination and/or treatment, at the institution, as provided for in R.S. 13:1583. Upon request of the Department of Public Safety and Corrections a court may order such treatment for a juvenile pursuant to R.S. 15:907.

Section 5. R.S. 36:409(J) is hereby enacted to read as follows:

§409. Transfer of agencies to Department of Public Safety and Corrections

* * *

J. The Juvenile Corrections Board (R.S. 46:1257) is placed within the Department of Public Safety and Corrections and shall exercise and perform its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with the provisions of Part III of Chapter 22 of this Title.

Section 6. R.S. 15:901(F) is hereby enacted to read as follows:

*As it appears in the enrolled bill.
§901. Juvenile reception and diagnostic center; establishment; commitment of juveniles; substance abuse inpatient program; order; report;

F.(1) Client placement services within the juvenile reception and diagnostic center shall have authority and responsibilities for children adjudicated delinquent or in need of supervision, including, but not limited to the following:

(a) To assess or arrange for the assessment of the needs of each child.

(b) To provide or arrange for the provision of comprehensive diagnosis and evaluation services as the needs of each child warrant.

(c) To develop comprehensive service plans for each child.

(d) To assign responsibilities for providing services, and for providing funding for such services.

(e) To place children in the setting most appropriate to their needs including any nonresidential, community based residential, and institutional programs operated by the Department of Public Safety and Corrections, as well as programs operated by other public or private agencies with which the Department of Public Safety and Corrections enters into contractual or purchase of services arrangements.

(f) To periodically monitor and review the progress of each child, and modify the child's service plan as warranted, through a multidisciplinary panel.

(2) The following rules shall be followed with regard to client placement functions:

(a) No program or unit shall be required to provide services to a client if the provision of such services would place the program in violation of any state or federal statute or court order.

(b) The secretary of the department may overrule a decision of the client placement unit upon appeal by any program or unit on grounds that such placement would be inconsistent with the child's needs. For all cases which are appealed to the secretary, a notation shall be made in the child's file indicating the grounds for such appeal, the decision made by the secretary, and the secretary's reasons for upholding or failing to uphold the original placement decision.

(c) No public or private agency operating under contractual or purchase of service arrangements with the department shall be required to provide services to a child if the provision of such services is contradictory to the terms of the contractual or purchase of service arrangement.

Arrangement of decisions of its board.

Section 7. Repeal and Reenactment.

§1257. Juvenile

A. Within the Department of Public Safety and Corrections Board shall assist the member jurisdiction to evaluate the advisability and appropriateness for a child adjudicated delinquent or committed to the department, in the disposition of the case in the alternative setting or program as determined by the board, as opposed to represent [i.e., represent] the right to a public hearing to contest this placement.

B. The board shall:

(1) One judge from the Family Court.

(2) One assis-

(3) One mem-

(4) One psy-

(5) One attorney at law for at least two years.

(6) One pro-

C. The as-
arrangement or is in conflict with the policies of the agency or the decisions of its governing authority.

Section 7. R.S. 46:1257, 1258, 1259, 1906.1 and 1906.2 are hereby enacted to read as follows:

$1257. Juvenile corrections board

A. Within the office of juvenile services, there shall be a Juvenile Corrections Board, which shall be advisory only, and which shall assist the members of the judiciary and the assistant secretary of the advisability and desirability of modifying a judgment of disposition for a child adjudicated delinquent or in need of supervision and committed to the department requesting a modification of judgment of disposition to a (1) less restrictive alternative, or (2) a more restrictive alternative. If a more restrictive placement is to be considered by the board, counsel shall be appointed by the assistant secretary to represent the child, and the child shall have the opportunity to contest this placement.

B. The board shall be composed of:

(1) One judge, appointed by the chairman of the Juvenile and Family Court Judges Association.

(2) One assistant district attorney, who has tried cases in a juvenile court for at least two years.

(3) One member of the staff of the juvenile reception and diagnostic center.

(4) One psychologist with a specialty in a field relating to forensic juvenile medicine.

(5) One attorney who has represented children in Louisiana for at least two years, to be appointed by the assistant secretary.

(6) One probation officer.

C. The assistant secretary shall designate the chairman of the board, and the members shall elect a vice chairman. The board shall adopt procedural guidelines for transacting its business.

D. The board shall meet at least four times a year, or more often as requested by the assistant secretary. The board shall advise the assistant secretary with respect to the development of rules for the protection of the confidentiality of information of children whose cases are submitted for consideration. Members of the board who are not department employees shall be reimbursed for reasonable expenses related to membership on the board.

E. (1) On recommendation of the staff of the evaluation division and the applicable superintendent or director of a residential facility,
where appropriate, that the child would benefit from a modification of dispositional provisions or that a less restrictive placement is indicated, the child's present environment, the child's abilities and needs, the child's progress in treatment programs, including individual counseling, drug therapy, and vocational training, and any other relevant factors shall be considered before a less restrictive placement is scheduled.

(3) Final recommendations shall be submitted to the department, which may move for a modification of dispositional provisions of Code of Juvenile Procedure Act. § 917.4.
benefit from a modification of the placement, including: (a) the child's progress in a proposed environment; (b) the proposed environment; (c) if a more restrictive placement is recommended by the judge making the original placement, the judge makes the decision and notifies the board of the decision; (d) if a more restrictive placement is recommended by the judge making the original placement, the judge makes the decision and notifies the board of the decision.

§1906.1 Assistance services for children in need of supervision

The Department of Public Safety and Corrections, the Department of Health and Human Resources, the Juvenile Court Judges Association, and the United States shall cooperate to develop specific alternatives to detention-based, probation-monitored, and delinquency associated programs for children in need of supervision. These programs shall reflect state of the art knowledge of methods to encourage children to follow their treatment programs and may include foster care, family counseling, small residential facilities, group counseling, and other programs designed to help children deemed ungovernable.

§1906.2 Continuum of care; plan to develop; interdepartmental cooperation

The Department of Public Safety and Corrections, the Department of Health and Human Resources, and the Juvenile Court Judges Association shall consult and cooperate to develop a plan for treatment and a continuum of care for children alleged to be, or adjudicated delinquent, in need of care or supervision. The purpose of such consultation shall include the goal of early intervention by the components of the juvenile justice system to assist children in receiving proper treatment so that they will be less likely to enter the system again.

Section 8. Any probation office which is not subject to the jurisdiction of the division of youth services on the effective date of this Act, and which is on that date operating as a component of any court with juvenile jurisdiction, shall not be affected by the provisions of this Act.

Section 9. All laws in conflict herewith and especially R.S. 46:1902,
functions of each of the agencies of the Department of Health and Human Resources and the deputy secretary for corrections services of the Department of Public Safety and Corrections.

D. The governor may transfer funds appropriated to or from agencies amended by this Act to assist such agencies in accomplishing the purposes of this Act.

E. All employees heretofore engaged in the performance of their
functions of each agency, the provisions for which are amended by this Act, are hereby transferred to the agency to which their functions are transferred, as determined by the secretary of health and human resources and the secretary for public safety and corrections. Such employees shall continue to perform their functions or similar duties to the extent practicable, subject to applicable state civil service laws, rules, and regulations.

F. All rules and regulations adopted or orders issued by any agency amended by this Act shall continue in full force and effect until revoked, repealed, amended, modified, or terminated by the agencies acceding to the functions of the agency adopting such rules or regulations, or issuing such orders.

Approved by the Governor: July 12, 1984.
Published in the Official Journal of the State: August 9, 1984.

A true copy:

JAMES H. “Jim” BROWN
Secretary of State.

ACT No. 568

Senate Bill No. 201. By: Mr. Kelly.

AN ACT
To amend and reenact the introductory paragraph of R.S. 14:43.2(A); relative to aggravated sexual battery; to delete the provision exempting the spouse of the victim from criminal responsibility for such acts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of R.S. 14:43.2(A) is hereby amended and reenacted to read as follows:

§43.2. Aggravated sexual battery
A. Aggravated sexual battery is the intentional engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:

Approved by the Governor: July 12, 1984.
Published in the Official Journal of the State: August 9, 1984.

A true copy:

JAMES H. “Jim” BROWN
Secretary of State.