YOUTH SERVICES
POLICY

Title: Youth Sentence Computation	**Type:** B. Classification, Sentencing and Service Functions **Sub Type:** 4. Sentencing **Number:** B.4.1
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References: La. Children's Code Title I, Arts. 114, 730, 804 (3), 897, 897.1, 898, 899, 900, 915; Title VII; La. Civil Code Art. 29; La. C.Cr.P Arts. 883, 900 (5), 901 (C); ACA Standards 2-CO-1E-05 (Administration of Correctional Agencies); 4-JCF-3A-21 and 4-JCF-3A-23 (Performance-Based Standards for Juvenile Correctional Facilities); 2-7195 (Probation and Aftercare Services); YS Policies B.3.1 "Secure Care Youth Records; Composition and Maintenance", D.5.1 "Community Based Services Youth Records: Composition and Maintenance"	
STATUS: Approved	
Approved By: *E. Dustin Bickham, JD, Interim Deputy Secretary*	**Date of Approval:** 06/30/2020

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To ensure that judges and youth in YS custody shall be provided a prompt, accurate sentence computation showing the youth's scheduled discharge date.

III. APPLICABILITY:

Deputy Secretary, Assistant Secretary, Chief of Operations, Executive Management Advisor, General Counsel, Director of Rehabilitation and Treatment, Regional Directors, Facility Directors, Regional Managers, Facility Treatment Directors, all employees involved in the preparation of youth time computation, and all employees whose duties relate to programming which can be affected by a youth's scheduled discharge date.

IV. DEFINITIONS:

Adjudication - After the presentation of evidence, or the entering of a plea, the entering of a judgment by the court which indicates whether the facts as alleged in the petition forming the basis of the action have been proven, i.e. whether the family is in need of services or the child committed the delinquent act.

Beginning Date - The day of disposition for the initial time computation and for additional dispositions that are to run concurrent. For additional commitments that run consecutive, the beginning date is the discharge date of the judgment to which the additional commitment is to run consecutive.

Concurrent Commitments - Sentences that run simultaneously, i.e., at the same time. They do not have to start or end at the same time but are running together at some point.

Confirmed Escape - When a youth departs from either the grounds of a secure facility, or from the custody and control of custody/security staff during an escorted absence, or when he fails to return to the facility from a furlough.

Consecutive Commitments - Sentences that begin to run at the conclusion of the disposition specified in the order or, if none specified, to any disposition the youth is presently serving.

Date of Commitment - The date the judgment is rendered in court regardless of the date it is signed. The term “commitment” applies to youth adjudicated Families in Need of Services (F.I.N.S.) or Delinquent and placed in the custody of YS.

Detention Credit - Credit given toward the term of the commitment for the time spent in secure detention, prior to the imposition of disposition (La. Children's Code Arts. 898 A and 900 A). This may also be referred to as jail credit and credit for time served. Detention credit covers time spent in detention prior to being sentenced only. After the disposition is rendered, the sentence has begun to run and time served is counted as part of the sentence. (See exception described in Section VI.F.1.)

Discharge - The termination either by a court order or expiration of a court order of YS' legal responsibility for a youth (i.e. custody or supervision).

Discharge Date - The day following the last inclusive date of custody of a youth as ordered by a court and reflected in the original commitment/disposition document, or a subsequent modification, signed minute entry or court order. If all factors remain constant a youth’s discharge date will not change; events such as escapes, new charges or time in jail on new charges may affect the date.

Disposition (also known as Judgment of Disposition) – The written order of the court, following adjudication, which assigns custody/supervision and the terms thereof.

Family In Need of Services (F.I.N.S.) Adjudication - A court finding based primarily on a child engaging in self-injurious but non-criminal misconduct (status offenses). The adjudication may also be based on parent participation in the child’s misconduct or failing to attend to a child’s educational needs, incompetency to stand trial and cyberbullying.

Felony - A criminal offense that may be punished by imprisonment at hard labor.

Inclusive Date - The last day that must be served in custody.

Juvenile Electronic Tracking System (JETS) - The centralized database used to track all youth under OJJ supervision or in OJJ custody and to record all case record activity.

Louisiana Code of Criminal Procedure - In delinquency matters if there are no procedures provided in the delinquency title (Title VII) of the Children's Code to govern a particular issue, procedures in this code are controlling. Cited as La.C.Cr.P.

Misdemeanor - A criminal offense other than a felony, and includes the violation of an ordinance providing a penal sanction.

Reassignment - The change of a youth's placement between a non-secure facility, secure care facility, or community placement.

Release - The process by which a youth is removed from a secure care facility to a less secure setting or returns to the community under supervision.

Runaway - When a youth in YS custody placed in a community based program leaves the grounds of the program without authorization; if he fails to return to the program within two hours from the time specified and authorized by the program; or there is reason to believe that the youth does not intend to return. A F.I.N.S. youth may be a runaway from any assigned location.

Secure Care Center for Youth – A residential facility intended for the treatment and rehabilitation of children who have been adjudicated delinquent, characterized by a range of moderate to high security level features designed to restrict the movements and activities of the residents, and to continuously control the ability of the residents to enter and leave the premises.

For the purposes of this policy, Ware Center for youth is included.

The secure care centers operated by YS are as follows:

- Acadiana Center for Youth (ACY)
- Bridge City Center for Youth (BCCY)
- Swanson Center for Youth (SCY)
- Swanson Center for Youth @ Columbia (SCYC)
- Ware Center for Youth

Time Intervals -

Month - Actual days in a specific calendar month. Example: A youth is adjudicated, proceeds to disposition on July 31st, and receives a sentence of one month. The last inclusive date of confinement would be August 30th with a discharge date of August 31st.

Year - Actual calendar year. Example: A youth is adjudicated, proceeds to disposition on February 1st, and receives a sentence of one year. The last inclusive date of confinement would be January 31st of the next calendar year with a discharge date of February 1st.

V. POLICY:

It is Deputy Secretary's policy that an accurate record of sentence-related information shall be established for each youth committed to the custody of YS. This information shall be maintained in the youth's master record under Clip VIII for Secure Care, pursuant to YS Policy No. B.3.1., and in Section 1 of the case record for field services, pursuant to YS Policy No. D.5.1. The date of discharge or expiration of the commitment shall be based on the written documentation received from the court. Such documentation includes, but is not limited to, orders, judgments, signed court minutes and extracts.

The disposition date and the discharge date shall be entered into the Juvenile Electronic Tracking System (JETS). A hard copy of the time computation document created electronically in JETS shall be part of the youth's master record, filed under Clip VIII for Secure Care and Section 1 of the case file for field services.

VI. PROCEDURES:

A. Examination of Commitment Documents

Immediately following receipt, the court documents shall be thoroughly examined for clarity to ensure compliance with appropriate statutes and YS Policies. If clarification is needed, the appropriate Probation and Parole Officer - Juvenile from the regional office will be responsible for contacting the court to obtain additional information. Any questions regarding the legality of commitment shall be directed to Legal Services at YS Central Office.

B. Consideration of Variables

In computing time, at a minimum, the following variables shall be considered:

1. Date youth was committed to YS;
2. Age when offense was committed;

3. Date of 18th and 21st birthdays;
4. Type of offense (felony/misdemeanor, La. Children's Code Art. 897.1 offense);
5. Commitment type:
   a. Delinquent; or
   b. F.I.N.S.;
6. Type of sentence:
   a. Concurrent; or
   b. Consecutive;
7. Special conditions specified by the court;
8. Length of sentence; and
9. Detention credit.

C. Verification of Time Computation

Each youth's time computation shall be computed by one staff member and verified for accuracy by a supervisory staff member. Both employees shall sign or initial the computation document indicating agreement on the discharge date.

D. Time Computation System/Forms

JETS shall be used for calculating all discharge dates of youth in YS custody.

Initial/Concurrent Commitment - Initial/Concurrent computation is to be completed by regional office staff using the Time Comp - Initial/Concurrent form in JETS. Each disposition requires completion of a separate Time Computation document, resulting in a Scheduled Closure Date for the disposition entered into JETS.

Discharge Date Revisions for Escapes/Runaways - Revisions to discharge dates are to be completed by regional office staff using the Time Comp - Escape/Runaway Re-computation form in JETS. The youth's master record shall immediately be modified to reflect revisions to discharge dates in JETS.

Consecutive Commitments - Time computation for consecutive commitments are completed by regional office staff on the Time Comp - Consecutive Commitment form in JETS. The youth's master record shall immediately reflect the new discharge date in JETS.

E. Distribution of Time Computation

For secure care facilities, the Initial Time Computation spreadsheet is filed in the youth's master record in Clip 1 under the face sheet. The committing court, youth, parent/guardian and counsel for the youth shall receive a copy of the Initial Time Computation document and thereafter as revisions are made.

For non-secure programs, the Initial Time Computation document is filed in the youth's case record in Section 1 under the JETS master form. The committing court, youth, parent/guardian and the counsel for the youth shall receive a copy of the Initial Time Computation document then and thereafter as revisions are made.

F. Factors in Calculating Time

1. Detention Credit

It is important to know the exact number of days spent in detention prior to disposition. Any portion of a day served in detention is counted as a whole day.

La. Children's Code Arts. 898 A and 900 A require that credit be given for time served in detention regardless of the way in which the court has expressed the sentence. The sentence may be expressed in years, months, days or birthday (the 18th or other birthday), or a specific date (10/1/17).

a. <u>Effect of credits on the term of custody</u>

If a youth is adjudicated for commission of an offense enumerated in La. Children's Code Art. 897.1 (A), or is sentenced until his 21st birthday the time computation shall show detention credit but it will not decrease the length of the sentence. Commitments for commission of armed robbery are eligible for detention credit that decreases the term unless the length of the disposition is expressed as the 21st birthday.

b. <u>Courts using OJJ Custody Orders</u>

OJJ custody orders contain the following language which orders credit for time served and allows the court to select whether the credit will decrease the term.

"Credit for time served is hereby ordered in accordance with Ch.C. art. 898(A) and 900(A).
Such credit shall decrease the term of custody; or
Such credit shall not decrease the term of custody."

If the court does not indicate its preference regarding decreasing the term of custody, the OJJ Sentence Computation will be the authorized time computation in the case.

c. Courts using non-OJJ custody orders

Upon receipt of custody/commitment orders or judgments that do not include credit for time served, including decreasing the term language, the court will be provided three (3) documents to ensure accurate detention credits. The probation officer will give the committing court the Credit for Time Served Letter [See attachment B.4.1(a)], a supplemental judgment for the court's signature [See attachment B.4.1(b)], which contains the language outlined in the Credit for Time Served Letter to the court, and OJJ's Initial or Additional Commitment Time Computation.

The Time Computation shall reflect the court's signed Supplemental Judgment. If the court fails to complete and sign the Supplemental Judgment, the OJJ Time Comp will be the authorized time computation in the case.

2. Movement between OJJ Programs

Once a youth is committed to YS' custody, time begins to run on the commitment, regardless of the placement. For instance, if a youth is assigned to a non-secure program, remains there for two months, then is reassigned to a secure facility, the discharge date will remain the same (if there are no breaks in time, such as for escape or runaway).

3. Age - (see La. Children's Code Arts. 804 (3), 897.1, 898 C (1), 899 and 900):

a. If the youth is F.I.N.S., a judgment of disposition shall not remain in force after the youth reaches their 18th birthday.

b. A juvenile must be at least 10 years of age in order to be adjudicated a delinquent.

c. The disposition of a juvenile who is less than thirteen years of age at the time of commitment to the custody of the Department, based on a felony-grade adjudication, terminates upon reaching age eighteen.

d. A youth 14 years of age or older at the time he commits an offense enumerated in Ch.C. Art. 897.1 (except for armed robbery) at age 14 or older must be committed until their twenty-first birthday. At age 13 or younger, Ch.C. 897.1 does not apply.

e. A juvenile must be thirteen years or older at the time of commission of a misdemeanor in order to be placed into the custody of the department.

4. Concurrent and Consecutive Sentences

Consecutive sentences may only be computed on dispositions of the same type - that is, F.I.N.S. or Delinquent (unless otherwise ordered by the Court). For example, if there are three dispositions on the same youth, two are delinquencies and one F.I.N.S., the two delinquent dispositions may be run consecutive to one another but not to the F.I.N.S. disposition. The F.I.N.S. disposition must be computed as if the delinquent dispositions do not exist.

a. Concurrent - When a disposition is received on a youth currently serving a commitment and the court orders the second judgment to run concurrently with the first, the beginning date shall be the date as specifically ordered by the court. If the court is silent concerning the beginning date, then the day that the judgment is rendered is the beginning date of the concurrent sentence.

b. Consecutive - When the court orders a second or additional commitment to run consecutive with the first commitment, the second sentence begins after the first sentence is finished. The discharge date from the first judgment becomes the beginning date for the second judgment. This is also true if the second order is from a different court. The time begins to run on the second disposition after the first sentence is finished.

The La. Children's Code does not address the issue of concurrent and consecutive sentencing. The La.C.Cr.P. Art. 883, however, states, "If the defendant is convicted of two or more offenses based on the same act or transaction, or constituting parts of a common scheme or plan, the terms of imprisonment shall be served concurrently unless the court expressly directs that some or all be served consecutively. Other sentences of imprisonment shall be served consecutively unless the court expressly directs that some or all of them be served concurrently. In the case of the concurrent sentence, the judge shall specify, and the court minutes shall reflect, the date from which the sentences are to run concurrently."

5. Probation Violations

Time spent in detention does not lessen the time to be spent on probation. If a youth spends 30 days in detention, is adjudicated and sentenced to serve six months, suspended, and then is put on probation for two years, the youth’s probation expires on "Date of Commitment plus two years".

Any time within the probationary period, the probation may be revoked and the suspended sentence imposed. If this occurs, the detention credit would apply toward the youth’s actual sentence of confinement.

Time spent on probation serves only to satisfy probation. It cannot be credited towards a later-imposed sentence of confinement, unless the court so orders (La. Ch. C. Art. 915).

6. Escape

An escape or runaway interrupts the time served. Any part of a day on escape or runaway will be considered as a whole day (i.e., if a youth is gone from noon on one day until the evening of the following day, the youth will have two days escape time to be computed).

However, if a youth who escapes or runs away has a discharge date specified by the court, such as the 18th birthday, it will be necessary to contact the court prior to recalculating a new discharge date to determine if the court will allow the discharge date to be extended to add the time while on escape. If the specified date of discharge is age 21, no additional time can be added to the discharge date.

7. Jail or Parish Prison Status

If a youth's time is interrupted because the youth commits another offense and is sentenced to a period of confinement in jail or parish prison, the time spent in jail or parish prison is not in satisfaction of the youth's initial juvenile commitment, and is not to be given as credit. However, the juvenile judge shall be informed of this occurrence and may order credit for the time served in jail or parish prison against the juvenile sentence.

8. Youth Committed based on a Misdemeanor Grade Offense

If a youth committed to OJJ custody based on a misdemeanor grade offense commits a felony and is convicted or pleads guilty to a felony as an adult, the youth adjudication and disposition terminate.

9. Youth Committed based on a Felony Grade Offense; Subsequent Adult Felony Conviction

If a youth committed to OJJ custody based on a felony grade offense commits and is convicted or pleads guilty to a felony as an adult, YS may keep the youth in custody in accordance with the terms of the juvenile disposition, or may transfer the youth to serve the adult felony sentence.

When a Facility Director becomes aware that a youth housed at the facility has pled guilty or been convicted as an adult of a felony, the Facility Director must make a recommendation to the Regional Director regarding the youth remaining in YS custody as a juvenile or transferred to adult custody to begin serving the adult sentence on the "Youth to Adult Transfer Recommendation Form" pursuant to Ch.C Art 898 E (3) [see Attachment B.4.1 (c)]. Factors to be considered when making the recommendation include:

a. Time remaining on juvenile sentence;
b. Length of adult sentence;
c. The youth's potential for rehabilitation; and
d. Age at the time of conviction.

Upon review and approval, the Regional Director shall forward the recommendation to the Deputy Secretary for approval or denial.

YS retains the authority to transfer the youth to the adult system until the juvenile sentence expires. If not transferred prior to the expiration of the youth's juvenile sentence, the youth will be released to the adult system at the completion of the juvenile sentence.

10. Contempt time only satisfies the contempt, not an on-going custody disposition.

Previous Regulation/Policy Number: B.4.1
Previous Effective Date: 05/11/2020
Attachments/References: B.4.1 (a) Sentence Computation Letter to Judges Nov.2017.docx
B.4.1 (b) Supplemental Judgement-Credit for Time Served Nov.2017.docx
B.4.1 (c) Youth to Adult Recommendation May 2020

Letter to Judges
Re: Credit for Time Served

As you are aware La. Ch.C. articles 898(A) and 900(A) require a court to give a child credit for time spent in detention prior to imposition of sentence. One of the services the Office of Juvenile Justice provides to the juvenile courts is calculation of credit for time served. As part of recent changes to OJJ policy, language was added to OJJ Custody/Probation Orders to include language that credit for time served is ordered and allows the judge to indicate whether the credit for time served is intended or not intended to decrease the term of custody.

The specific credit for time served language is:

Credit for time served is hereby ordered In accordance with Ch. C. art. 898(A) and 900(A).
_____Such credits shall decrease the term of custody; or
_____Such credit shall not decrease the term of custody.

This change was brought about by concerns about plea deals and armed robbery adjudications under Ch.C. art. 897.1, as well as a recent Second Circuit Court of Appeal decision regarding credit for time served, State in the Interest of K.S., 188 So.3rd 1113 (La.App. 2 Cir 2/24/2016). The Court in K.S. held that credit for time served must be given to a youth adjudicated for aggravated rape, a Ch. C. art 897.1 offense mandating secure care until age 21, even though the credit did not decrease the term of the custody.

Without specific written instructions from the court the agency cannot ensure OJJ time computations meet the requirements of law and reflect the wishes of the court. We ask that those Courts who do not use OJJ Custody/Probation Orders consider adding credit for time served language to their documents.

Courts not having a credit for time served statement in the Custody Order will receive the time computation sheet we currently send which indicates the credit for time served and discharge date. A Supplemental Judgment containing the credit for time served language above for the court's completion and signing will be included with the time computation. If the Supplemental Judgment is not signed by the court OJJ will proceed to give credits as shown on the OJJ time computation form.

Thank you for your consideration of this matter.

November 2017

STATE OF LOUISIANA

IN THE INTEREST OF

R/S

Age At Time of Offense

JUVENILE (Docket)

JUVENILE COURT FOR THE

PARISH OF

STATE OF LOUISIANA

SUPPLEMENTAL JUDGMENT

This case having previously come up for disposition with Youth having been placed in the custody of the Office of Juvenile Justice on the ____, day of _____, _____ is hereby supplemented as follows:

The Court not having yet ordered credit for time served.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Youth receive credit for time served in detention prior to sentencing in Docket Number.

_____ Such credit shall decrease the term of custody.

_____ Such credit shall not decrease the term of custody.

SUPPLEMENTAL JUDGMENT SIGNED on this ___day of _____, _____.

_____

Judge,

Children's Code Article 898 (E) (3)

Youth to Adult Transfer Recommendation Form

Youth _____, Client ID#_____, who is in custody and currently assigned to _____, has been convicted as an adult for the felony offense of _____.

The Custody Secure Delinquent time remaining on the juvenile disposition(s) for this youth at the time of the youth's adult conviction is _____.

The adult sentence of _____ will result in a shorter or less restrictive sentence if carried out immediately.

Check the appropriate statement:

☐ It is my recommendation that this youth remain in physical custody to continue serving the juvenile commitment; or

☐ It is my recommendation that this youth be transferred to adult custody for the following reasons:

REASONS:

_____ ☐ **Approved** ☐ **Denied**
Facility Director Date

_____ ☐ **Approved** ☐ **Denied**
Regional Director Date

_____ ☐ **Approved** ☐ **Denied**
Deputy Secretary Date