

BY REPRESENTATIVES BACALA, ADAMS, AMEDEE, BAGLEY, BOURRIAQUE, BRYANT, CORMIER, COX, CREWS, DAVIS, DEVILLIER, DUPLESSIS, ECHOLS, EDMONDS, EDMONSTON, EMERSON, FIRMENT, FONTENOT, FREIBERG, GADBERRY, GREEN, HILFERTY, HODGES, HORTON, HUGHES, ILLG, JAMES, MIKE JOHNSON, TRAVIS JOHNSON, MARCELLE, MCCORMICK, MCKNIGHT, GREGORY MILLER, MOORE, CHARLES OWEN, PRESSLY, ROMERO, SCHAMERHORN, STAGNI, THOMAS, THOMPSON, VILLIO, WHITE, AND WRIGHT AND SENATORS FOIL AND LAMBERT

1 AN ACT

2 To amend and reenact Children's Code Articles 1213(A) and (B), 1233, and 1235 and to
3 enact Children's Code Articles 1213(D), 1217.1, and 1239.1, relative to adoptions;
4 to provide for post-placement functions for agency and private adoptions; to provide
5 for visits prior to finalization; to provide for assistance to the families and children;
6 to provide for reporting and statistical requirements; to provide relative to a final
7 decree of private adoption; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Articles 1213(A) and (B), 1233, and 1235 are hereby
10 amended and reenacted and Children's Code Articles 1213(D), 1217.1, and 1239.1 are
11 hereby enacted to read as follows:

12 Art. 1213. Continuing duties of the department; home study report

13 A. After an interlocutory decree has been entered, the department shall
14 maintain contact with the proposed adoptive home directly or through another
15 agency in accordance with Paragraph B D of this Article. ~~The number of visits to~~
16 ~~the home and the time for them shall be within the discretion of the department.~~
17 ~~However, no less than two visits shall be made to the home, one of which shall occur~~
18 ~~within thirty days before the final decree of agency adoption.~~

19 B. ~~The department may delegate the performance of this investigation to a~~
20 ~~licensed private adoption agency, but the department remains responsible for~~

1 ~~ensuring the accuracy and thoroughness of the resulting report and for licensed~~
 2 ~~private adoption placing agency, or the department for children in department~~
 3 ~~custody, maintains responsibility for the safety and welfare of the child. The~~
 4 ~~department is responsible for submission of a confidential court report that ensures~~
 5 ~~the accuracy and thoroughness of the resulting reports.~~ The department shall adopt,
 6 promulgate, and enforce such rules and regulations as are necessary and appropriate
 7 to implement this authorization in accordance with the Administrative Procedure
 8 Act.

9 * * *

10 D. Prior to the final decree of the adoption, the licensed private adoption
 11 placing agency, or the department, if the child is in custody of the department, shall
 12 ensure that all of the prerequisites for adoption that are listed in this Paragraph are
 13 completed. The licensed private adoption agency or the department shall complete
 14 the list of prerequisites by utilizing a social worker in the employ of a licensed
 15 adoption agency, licensed social worker, licensed professional counselor, licensed
 16 psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and
 17 family therapist; or, if the child is in the custody of the department, by a department
 18 employee or designee. The prerequisites that must be completed are all of the
 19 following:

20 (1) Conduct an initial in-home, in-person visit with the child and one
 21 adoptive parent within seven calendar days of the child's placement. The next in-
 22 home, in-person visit shall occur within thirty days of the initial in-home, in-person
 23 visit.

24 (2) Conduct an in-home visit with one adoptive parent at least once every
 25 month after the visits provided for in Subparagraph (1) of this Paragraph are
 26 completed. The child shall be observed in the home during the monthly visit.

27 (3) Conduct a private visit without the presence of the adoptive parents with
 28 each child age one year and above every other month with at least a segment of the
 29 visit occurring in the adoptive home.

1 (4) Conduct an in-home visit with both adoptive parents and child within
2 thirty days prior to the final decree.

3 (5) Prepare a report that documents information obtained from the visits
4 conducted pursuant to Subparagraphs (1) through (4) of this Paragraph which shall
5 contain all of the following:

6 (a) The date and time of the visit.

7 (b) The individuals present at the time of the visit.

8 (c) The location of the visit.

9 (d) The duration of the visit.

10 (e) An assessment of adjustment of both the child and the adoptive parent.

11 (f) An assessment of the attachment and bonding between the child and the
12 adoptive parent.

13 (g) An assessment of the child's health.

14 (h) A description of changes since last contact.

15 (i) A summary of the visit.

16 (j) The signature of a person conducting the visit or phone contact.

17 (6) Conduct at least three of the visits prior to adoption finalization including
18 the visit prior to the final decree which shall include both adoptive parents and all
19 other members of the household.

20 (7) Report observations made during the visits which shall be used in making
21 recommendations for the finalization of the adoption. If problems are identified, the
22 family shall be assisted directly and referred to a resource to address the concerns.

23 (8) The child and adoptive parent shall be provided assistance, consultation,
24 and emotional support with situations and problems encountered in permanent
25 placement through finalization.

26 (9) The adoptive family shall be provided with access to twenty-four hour
27 crisis intervention services through finalization.

28 (10) A confidential report concerning requirements set forth in
29 Subparagraphs (1) through (9) of this Paragraph must be presented to the department

1 upon completion and to the court prior to the hearing on the final decree of agency
2 adoption.

3 * * *

4 Art. 1217.1. Reporting requirement; statistical availability

5 A. For each adopted child, the court shall ensure that the department receives
6 all of the following information:

7 (1) Whether either of the adopted parents are related to the child.

8 (2) The age of the child at placement.

9 (3) The age of the child at the time of finalization.

10 (4) The gender of the child.

11 (5) The race of the child.

12 (6) The location of placement.

13 (7) Other non-identifying information the department requests in order to
14 maintain statistical records of adoption finalizations.

15 B. The department shall release yearly statistics on adoptions and placements
16 of children in Louisiana. These statistics shall be made available to the public.

17 * * *

18 Art. 1233. Final decree at first hearing

19 Notwithstanding Article 1238, upon due consideration of the factors
20 enumerated in Article 1230(B), the court may render a final decree of private
21 adoption at the first hearing, without the necessity of first entering an interlocutory
22 decree, only if the rights of the child's parents have been terminated pursuant to Title
23 X or XI and the child has lived in the petitioner's home for ~~one year~~ six months.

24 * * *

25 Art. 1235. Continuing duties of the department; home study report

26 A. After an interlocutory decree has been entered, ~~the department shall if~~
27 ordered by the court, the attorney arranging the private adoption shall ensure that a
28 licensed professional tasked with ensuring the safety and health of the child in the
29 adoptive placement shall maintain contact with the proposed adoptive home directly
30 or through another agency in accordance with Paragraph ~~B~~ C of this Article. ~~The~~

1 number of visits to the home and the time for them shall be within the discretion of
2 the department. However, no less than two visits shall be made to the home, one of
3 which shall occur within thirty days before the final decree of agency adoption.

4 ~~B. The department may delegate the performance of this investigation to a~~
5 ~~licensed private adoption agency, but the department remains responsible for~~
6 ~~ensuring the accuracy and thoroughness of the resulting report and for the safety and~~
7 ~~welfare of the child. The department shall adopt, promulgate, and enforce such rules~~
8 ~~and regulations as are necessary and appropriate to implement this authorization in~~
9 ~~accordance with the Administrative Procedure Act.~~

10 ~~C. B.~~ A second confidential report ~~must~~ shall be presented to the court
11 preceding the hearing on the final decree of ~~agency~~ private adoption. The findings
12 of this report shall be based upon the same considerations as prescribed in Article
13 1229 and shall disclose any changed conditions and all new pertinent information.

14 C. Prior to the final decree of adoption, the attorney arranging the adoption
15 shall ensure that all of the prerequisites for adoption listed in this Paragraph are
16 completed. The list shall be completed by utilizing a social worker in the
17 employment of a licensed adoption agency, licensed social worker, licensed
18 professional counselor, licensed psychologist, medical psychologist, licensed
19 psychiatrist, or licensed marriage and family therapist. The prerequisites that must
20 be completed are all of the following:

21 (1) Conduct an initial in-home, in-person visit with the child and one
22 adoptive parent within seven calendar days of the child's placement. The next in-
23 home, in-person visit shall occur within thirty days of the initial in-home, in-person
24 visit.

25 (2) Conduct an in-home visit with one adoptive parent at least once every
26 month after the visits provided for in Subparagraph (1) of this Paragraph are
27 completed. The child shall be observed in the home during the monthly visit.

28 (3) Conduct a private visit without the presence of the adoptive parents with
29 each child age one year and above every other month with at least a segment of the
30 visit occurring in the adoptive home.

- 1 (4) Conduct an in-home visit with both adoptive parents and child within
- 2 thirty days prior to the final decree.
- 3 (5) Prepare a report that documents information obtained from the visits
- 4 conducted pursuant to Subparagraphs (1) through (4) of this Paragraph which shall
- 5 contain all of the following:
- 6 (a) The date and time of the visit.
- 7 (b) The individuals present at the time of the visit.
- 8 (c) The location of the visit.
- 9 (d) The duration of the visit.
- 10 (e) An assessment of adjustment of both the child and the adoptive parent.
- 11 (f) An assessment of the attachment and bonding between the child and the
- 12 adoptive parent.
- 13 (g) An assessment of the child's health.
- 14 (h) A description of changes since last contact.
- 15 (i) A summary of the visit.
- 16 (j) The signature of a person conducting the visit or phone contact.
- 17 (6) Conduct at least three of the visits prior to adoption finalization including
- 18 the visit prior to the final decree which shall include both adoptive parents and all
- 19 other members of the household.
- 20 (7) Report observations made during the visits which shall be used in making
- 21 recommendations for the finalization of the adoption. If problems are identified, the
- 22 family shall be assisted directly and referred to a resource to address the concerns.
- 23 (8) Ensure that the child and adoptive parent shall be provided assistance,
- 24 consultation, and emotional support with situations and problems encountered in
- 25 permanent placement through finalization.
- 26 (9) Ensure that the adoptive family shall be provided with access to twenty-
- 27 four hour crisis intervention services through finalization.
- 28 (10) Prepare a confidential report concerning the requirements set forth in
- 29 Subparagraphs (1) through (9) of this Paragraph and present the report to the

1 department upon completion and to the court prior to the hearing on the final decree
2 of agency adoption.

3 * * *

4 Art. 1239.1. Reporting requirement, statistical availability

5 A. For each adopted child, the court shall ensure that the department receives
6 all of the following information:

7 (1) Whether either of the adopted parents are related to the child.

8 (2) The age of the child at placement.

9 (3) The age of the child at the time of finalization.

10 (4) The gender of the child.

11 (5) The race of the child.

12 (6) The location of placement.

13 (7) Other non-identifying information the department requests in order to
14 maintain statistical records of adoption finalizations.

15 B. The department shall release yearly statistics on the adoptions of children
16 in Louisiana and placement of those children. These statistics shall be made
17 available to the public.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 9

BY SENATOR PRICE (On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1

AN ACT

2

To amend and reenact Children's Code Articles 603(2)(e), 680, 1022, and 1226, R.S.

3

13:1139 and 1587.1(C), R.S. 15:1082, 1098.1(A), and 1099.1, R.S. 24:175(B) and

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176(B), R.S. 44:3(A)(6), and R.S. 46:1251(B), 1901(B), 2411, and 2417(C), and to

5

repeal Children's Code Article 606(A)(6), (7), and (8), relative to the continuous

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revision of the Children's Code; to provide for definitions; to provide for the grounds

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for a child in need of care; to provide for the rights of the parties in a disposition

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hearing; to provide for service of nonresident parents; to provide for references to the

9

Children's Code; to provide for Comments; and to provide for related matters.

10

Be it enacted by the Legislature of Louisiana:

11

Section 1. Children's Code Articles 603(2)(e), 680, 1022, and 1226 are hereby

12

amended and reenacted to read as follows:

13

Art. 603. Definitions

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As used in this Title:

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* * *

16

(2) "Abuse" means any one of the following acts which seriously endanger

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the physical, mental, or emotional health and safety of the child:

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* * *

19

(e) Female genital mutilation as defined by R.S. 14:43.4 **of the child or of**

20

a sister of the child.

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* * *

22

Comments - 2021

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This revision incorporates the substance of Subparagraphs (A)(6), (7), and (8) of Article 606 within the definition of "abuse" in this Article. "Commercial sexual exploitation" as referenced in Subparagraph (2)(b) is defined in Paragraph (9.1) and already incorporates human trafficking (R.S. 14:46) and trafficking of children for sexual purposes (R.S. 14:46.3), which had previously been duplicated in Article 606(A)(6) and (7). Subparagraph (2)(e) is revised to include language from Article 606(A)(8) with regard to female genital mutilation of a sister of the child.

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Art. 680. Disposition hearing; rights of parties; evidence

A. All parties have the right to testify, the right to confront and cross-examine adverse witnesses, the right to present evidence and witnesses, and the right to counsel.

B. The court shall consider the report of the predisposition investigation, the case plan, any reports of mental evaluation, and all other evidence offered by the ~~child or the state~~ parties relating to the proper disposition. The court may consider evidence which would not be admissible at the adjudication hearing.

* * *

Art. 1022. Service; nonresident parent

If a parent against whom a proceeding is instituted does not reside within this state, service of citation shall be made by registered or certified mail to the address indicated in the petition, return receipt required, not less than five days prior to commencement of the hearing on the matter.

* * *

Art. 1226. Service; nonresident parent

If a parent upon whom service is required under Article 1224 does not reside within this state, service shall be made by registered or certified mail to the address indicated in the petition, return receipt required, not less than thirty days prior to commencement of the hearing on the petition.

Section 2. R.S. 13:1139 and 1587.1(C) are hereby amended and reenacted to read as follows:

§1139. Transfer of cases

~~A. Repealed by Acts 2011, No. 340, §3, eff. June 29, 2011.~~

~~B.~~ It is the express intent of this Section that the jurisdiction conferred by law, particularly the ~~Louisiana Code of Juvenile Procedure~~ Children's Code, upon; Orleans Parish Juvenile Court shall be the same as it was prior to the enactment of Act 620 of 1976 and shall remain unchanged, except as otherwise provided in the ~~Louisiana Code of Juvenile Procedure~~ Children's Code. Said ~~The~~ court shall

1 continue to be known as Orleans Parish Juvenile Court, notwithstanding its change
2 of name effected by Act 620 of the Regular Session of the Legislature of 1976 and
3 the subsequent repeal of the provisions of ~~said~~ **that** Act shall not be construed or
4 interpreted to change its jurisdiction, its powers, its duties, its various departments
5 or its personnel, except as herein set forth and provided.

6 * * *

7 §1587.1. Juvenile Court of the parish of Orleans; clerk of court; bailiffs; minute
8 clerks; stenographers and other personnel; probation officers

9 * * *

10 C. All employees of the probation department and probation services for the
11 Juvenile Court for the Parish of Orleans on and after the effective date of this Act
12 shall be transferred to and provided by the Louisiana Department of Health ~~and~~
13 ~~Human Resources~~ in accordance with existing statutes, subject to the rules and
14 regulations of the Louisiana civil service system or its successor. The duties of
15 probation officers shall be fixed in accordance with the provisions of the Children's
16 ~~Code of Juvenile Procedure~~ and of R.S. 46:1251 through ~~R.S. 46:1256~~. The salaries,
17 related benefits, and operational expenses incurred in the provision of probation
18 services shall be at the expense of the state and sufficient funds therefor shall be
19 budgeted by the legislature.

20 * * *

21 Section 3. R.S. 15:1082, 1098.1(A), and 1099.1 are hereby amended and reenacted
22 to read as follows:

23 §1082. Definitions

24 The definitions provided in ~~R.S. 13:1569 and in Article 13 of the code of~~
25 ~~juvenile procedure~~ the Children's Code shall be applicable to this Part, unless the
26 context clearly indicates otherwise.

27 * * *

28 §1098.1. Construction of Subpart; controlling law

29 A. To the extent that the provisions of this Subpart are inconsistent with any
30 other statutory law, the provisions of this Subpart shall be ~~deemed~~ considered

1 controlling, except that all provisions of the Children's Code of Juvenile Procedure
2 relative to the placement of juveniles in shelter care facilities and detention centers
3 shall be ~~deemed~~ **considered** controlling.

4 * * *

5 §1099.1. Construction of Subpart; controlling law

6 To the extent that the provisions of this Subpart are inconsistent with any
7 other statutory law, the provisions of this Subpart shall be ~~deemed~~ **considered**
8 controlling, except that all provisions of the Children's Code of Juvenile Procedure
9 relative to the placement of juveniles in shelter care facilities and detention centers
10 shall be ~~deemed~~ **considered** controlling.

11 Section 4. R.S. 24:175(B) and 176(B) are hereby amended and reenacted to read as
12 follows:

13 §175. Severability

14 * * *

15 B. This Section shall apply to acts of the legislature affecting general, and
16 local and special laws, and statutes of the state, including the Louisiana Revised
17 Statutes of 1950, the Civil Code ~~of the state of Louisiana~~, the ~~Louisiana~~ Code of
18 Civil Procedure, the ~~Louisiana~~ Code of Criminal Procedure, the ~~Louisiana~~ Code of
19 Evidence, and the ~~Louisiana~~ Children's Code of Juvenile Procedure.

20 §176. Repeal

21 * * *

22 B. This Section shall apply to acts of the legislature affecting general, and
23 local and special laws, and statutes of the state, including the Louisiana Revised
24 Statutes of 1950, the Civil Code ~~of the state of Louisiana~~, the ~~Louisiana~~ Code of
25 Civil Procedure, the ~~Louisiana~~ Code of Criminal Procedure, the ~~Louisiana~~ Code of
26 Evidence, and the ~~Louisiana~~ Children's Code of Juvenile Procedure.

27 Section 5. R.S. 44:3(A)(6) is hereby amended and reenacted to read as follows:

28 §3. Records of prosecutive, investigative, and law enforcement agencies and
29 communications districts

30 A. Nothing in this Chapter shall be construed to require disclosures of

1 records, or the information contained therein, held by the offices of the attorney
 2 general, district attorneys, sheriffs, police departments, Department of Public Safety
 3 and Corrections, marshals, investigators, public health investigators, correctional
 4 agencies, communications districts, intelligence agencies, Council on Peace Officer
 5 Standards and Training, Louisiana Commission on Law Enforcement and
 6 Administration of Criminal Justice, or publicly owned water districts of the state,
 7 which records are:

8 * * *

9 (6) Records concerning status offenders as defined in the Children's Code
 10 ~~of Juvenile Procedure.~~

11 * * *

12 Section 6. R.S. 46:1251(B), 1901(B), 2411, and 2417(C) are hereby amended and
 13 reenacted to read as follows:

14 §1251. Juvenile probation; parole and intake services

15 * * *

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

26 * * *

27 §1901. Definitions

28 * * *

29 B. When used in this Chapter, unless the context otherwise requires, the
 30 terms used herein shall have the meaning ascribed to them by ~~R.S. 13:1569~~ or the

1 Children's Code of Juvenile Procedure Article 13.

2 * * *

3 §2411. Definitions

4 Except where the context clearly indicates otherwise in this Chapter:

5 (1) "~~Case permanency plan~~" means the plan specified by R.S. 46:2418.

6 (2) "~~Case progress report~~" means the report specified by R.S. 46:2419.

7 (3) "Court" means any court which is exercising juvenile jurisdiction

8 pursuant to the Louisiana constitution and Code of Juvenile Procedure Constitution

9 of Louisiana and the Children's Code. If any court is comprised of separate

10 divisions or sections, each such division or section shall be deemed a court for the

11 purposes of this Chapter. Where applicable, "court" shall refer to the particular court

12 which exercises juvenile jurisdiction over the child whose case is to be reviewed.

13 (4)(2) "Department" means the Department of Children and Family Services.

14 (5)(3) "Foster care" means the provision of temporary twenty-four hour care

15 for a child for a planned period of time, when the child is placed away from his

16 parents or other person acting as his parent, and when the child is placed in a foster

17 family home, group home, or other child caring facility, but remains under the

18 supervision of the department.

19 (6)(4) "Mature child" means a child who is able to understand the

20 circumstances and implications of the situation in which he is involved and is able

21 to participate in the decision-making process without excessive anxiety or fear. A

22 child who is fourteen years of age or older is presumed to be a mature child.

23 (7)(5) "Parent" means the biological or adoptive parent whose parental rights

24 toward the child have not been terminated.

25 (8)(6) "Records" means any information in written form, pictures,

26 photographs, charts, graphs, recordings, or documents pertaining to the case being

27 reviewed.

28 * * *

29 §2417. Notification to local citizen review board of new cases

30 * * *

1 C. Whenever a child has been placed in the custody of the department,
 2 voluntarily and not through a court proceeding, for reasons other than delinquency
 3 or need of supervision, as defined in ~~Article 13 of the~~ **Children's Code of Juvenile**
 4 ~~Procedure~~, the department shall, within ten days, forward a copy of the placement
 5 agreement to the clerk of court in the judicial district where the child is located. The
 6 clerk of the court shall forward the placement agreement to a local citizen review
 7 board appointed by the court. If a judicial proceeding is subsequently commenced
 8 in another court, the citizen review board shall forward to the court where
 9 proceedings are pending all documents, records, and written information in its
 10 possession relative to the case. The receiving court shall make and retain additional
 11 copies of the case permanency plan, case progress reports, and observations and
 12 recommendations of the local citizen review board and shall assign the case and
 13 forward all documents, records, and written information to a new local board.

14 Section 7. Children's Code Article 606(A)(6), (7), and (8) are hereby repealed in their
 15 entirety.

16 Section 8. The Louisiana State Law Institute is hereby directed to print the following
 17 Comment to Children's Code Article 606:

18 Comments - 2021

19 This revision removes Subparagraphs (A)(6), (7), and (8) as separate grounds that
 20 a child is in need of care and incorporates the substance of those provisions within the
 21 definition of "abuse" in Article 603.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 70

ACT No. 270

BY REPRESENTATIVE THOMAS

1 AN ACT

2 To amend and reenact Children's Code Articles 635(A) and (B), 750(B), (C), and (D), and
3 846(A) and (B) and to enact Children's Code Articles 635(C), 750(E), and 846(D),
4 relative to certain juvenile proceedings; to provide relative to petitions and summons
5 of certain juvenile proceedings; to provide relative to the amendment of certain
6 juvenile proceeding petitions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Articles 635(A) and (B), 750(B), (C), and (D), and
9 846(A) and (B) are hereby amended and reenacted and Children's Code Articles 635(C),
10 750(E), and 846(D) are hereby enacted to read as follows:

11 Art. 635. Amendment of petition

12 A. ~~With leave of court, the~~ The petitioner may amend the petition at any time
13 to cure defects of form, imperfection, omission, or uncertainty.

14 B. ~~With leave of court, prior~~ Prior to the adjudication hearing, the petitioner
15 may amend the petition to include new allegations of fact or requests for
16 adjudication. ~~However, if such leave is granted, the child or parent may request a~~
17 ~~continuance of the adjudication hearing. A continuance may be granted for such~~
18 ~~period as is required in the interest of justice.~~

19 C. On motion of the child or parent that he has been prejudiced in his
20 defense on the merits by defect of form, imperfection, omission, or uncertainty, the
21 court may grant a continuance for a reasonable time. In determining whether the
22 child or parent has been prejudiced in his defense upon the merits, the court shall
23 consider all circumstances of the case and the entire course of the proceedings.

24 * * *

1 Art. 750. Amendment of petition

2 * * *

3 B. ~~With leave of court, the~~ The petitioner may amend the petition at any time
4 to cure defects of form, imperfection, omission, or uncertainty.

5 C. ~~With leave of court, prior~~ Prior to the adjudication hearing, the petitioner
6 may amend the petition to include new allegations of fact or requests for
7 adjudication. ~~However, if such leave is granted, the child or parent may request a~~
8 ~~continuance of the adjudication hearing. A continuance may be granted for such~~
9 ~~period as is required in the interest of justice.~~

10 D. ~~With leave of court, prior~~ Prior to the adjudication hearing, the petitioner
11 may dismiss the family in need of services petition and instead file a petition which
12 alleges delinquency pursuant to Title VIII or that a child is in need of care pursuant
13 to Title VI.

14 E. On motion of the child or parent that he has been prejudiced in his defense
15 on the merits by defect of form, imperfection, omission, or uncertainty, the court
16 may grant a continuance for a reasonable time. In determining whether the child or
17 parent has been prejudiced in his defense upon the merits, the court shall consider
18 all circumstances of the case and the entire course of the proceedings.

19 * * *

20 Art. 846. Amendment of petition

21 A. ~~With leave of court, the~~ The petitioner may amend the petition at any time
22 to cure defects of form, imperfection, omission, or uncertainty.

23 B. ~~With leave of court, prior~~ Prior to the adjudication hearing, the petitioner
24 may amend the petition to include new allegations of fact or requests for
25 adjudication. ~~However, if such leave is granted, the child may request a continuance~~
26 ~~of the adjudication hearing. A continuance may be granted for such period as is~~
27 ~~required in the interest of justice.~~

28 * * *

29 D. On motion of the child that he has been prejudiced in his defense on the
30 merits by defect of form, imperfection, omission, or uncertainty, the court may grant

1 a continuance for a reasonable time. In determining whether the child has been
2 prejudiced in his defense upon the merits, the court shall consider all circumstances
3 of the case and the entire course of the prosecution.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 143

BY SENATORS MCMATH, ABRAHAM, ALLAIN, BARROW, BERNARD, BOUDREAUX, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, FIELDS, HENRY, HEWITT, JACKSON, LAMBERT, LUNEAU, MILLIGAN, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, REESE, SMITH AND WOMACK AND REPRESENTATIVES ADAMS, AMEDEE, BAGLEY, BRASS, BRYANT, BUTLER, GARY CARTER, ROBBY CARTER, CORMIER, COX, CREWS, DUBUISSON, DUPLESSIS, ECHOLS, EDMONDS, FARNUM, FIRMENT, FREEMAN, FREIBERG, GAINES, GLOVER, GOUDEAU, GREEN, HARRIS, HILFERTY, HORTON, HUGHES, ILLG, JAMES, JEFFERSON, TRAVIS JOHNSON, JONES, LANDRY, LARVADAIN, LYONS, MARCELLE, MARINO, MCFARLAND, MCKNIGHT, MCMAHEN, MOORE, NELSON, NEWELL, ORGERON, ROBERT OWEN, PRESSLY, RISER, ROMERO, SELDERS, THOMPSON, TURNER, WHEAT, WHITE, WILLARD AND WRIGHT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact Children's Code Article 702(D) and to enact Children's Code Article
3 672.3, relative to permanent placement of children in custody of the state; to provide
4 for a diligent search for relatives; to provide for notice to relatives; to provide for
5 priorities of placement; to provide for continuation of care in certain circumstances;
6 to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Article 702(D) is hereby amended and reenacted and
9 Children's Code Article 672.3 is hereby enacted to read as follows:

10 **Art. 672.3. Diligent search for relatives; notice; failure to respond**

11 **A. Whenever custody of a child is assigned to the Department of**
12 **Children and Family Services, the department shall conduct a diligent search**
13 **for adult relatives of the child and for persons who have a significant**
14 **relationship with the child. The diligent search shall be completed no later than**
15 **thirty days from the date the child was taken into custody and include, at a**
16 **minimum, all of the following:**

17 **(1) Interviews with the child's parent during the course of an**
18 **investigation, while child protective services are provided, and while the child**

1 is in care.

2 (2) Interviews with the child.

3 (3) Interviews with identified relatives throughout the case.

4 (4) Interviews with any other person who is likely to have information
5 about the identity or location of adult relatives of the child or persons who have
6 a significant relationship with the child.

7 (5) Comprehensive searches of databases and other resources available
8 to the Department of Children and Family Services, which may include searches
9 of schools, employment, residence, utilities, vehicle registration, child support
10 enforcement, law enforcement, and corrections records or any other records
11 likely to result in identifying and locating adult relatives of the child or persons
12 who have a significant relationship with the child.

13 (6) Appropriate inquiry during the course of hearings in the case in
14 accordance with Article 625(D).

15 (7) Any other reasonable means that are likely to identify relatives or
16 other persons who have demonstrated an ongoing commitment to the child.

17 B. The Department of Children and Family Services shall file with the
18 court information regarding attempts made pursuant to Paragraph A of this
19 Article ten days before any scheduled disposition, case review, permanency
20 hearing, or as otherwise required by the court. Any additional information
21 obtained by the department subsequent to the initial filing shall be disclosed to
22 the court during the hearing.

23 C. All relatives of the child identified in the diligent search required by
24 this Article, subject to exceptions due to family or domestic violence or other
25 safety concerns, shall be provided with a notice that does all of the following:

26 (1) Specifies that the child has been or is being removed from parental
27 custody.

28 (2) Explains the options that a relative has to participate in the care and
29 placement of the child and any options that may be lost by failing to respond to
30 the notice.

1 report submitted to the court, and that it would be detrimental to the child's
 2 well-being if the child is removed from the current caregiver. Upon such
 3 finding, the department shall not make any change in placement absent prior
 4 written notice to the court. Prior notice for a placement change is not required
 5 when necessary to ensure the safety of the child, when the current caregiver
 6 requests that the child be removed, or when a child is moving to the home of a
 7 parent for the purpose of a trial placement.

8 (b) In the event of removal from a placement with a current caregiver
 9 pursuant to Subparagraph (a) of this Paragraph, upon motion of the court,
 10 motion of the current caregiver, or motion of the child, which is filed within
 11 fifteen days of the change in placement, a contradictory hearing shall be held
 12 to determine whether removal was in the best interest of the child.

13 (c) For the purposes of Subparagraph (a) of this Paragraph, a foster
 14 parent, relative, or other suitable individual with whom a child under the age
 15 of six has resided continuously for nine months or more is a person who has a
 16 significant relationship with the child. Nothing in this Subparagraph shall be
 17 construed to interfere with any rights afforded to biological parents.

18 * * *

19 Section 2. This Act shall become effective upon signature by the governor or, if not
 20 signed by the governor, upon expiration of the time for bills to become law without signature
 21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 22 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 23 effective on the day following such approval.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 170

BY SENATORS JOHNS, ABRAHAM, ALLAIN, BARROW, BERNARD, BOUDREAUX, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, FIELDS, FOIL, HARRIS, HENRY, HENSGENS, HEWITT, JACKSON, LUNEAU, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, REESE, SMITH, TALBOT, TARVER, WARD, WHITE AND WOMACK AND REPRESENTATIVES ADAMS, BUTLER, CARRIER, WILFORD CARTER, COX, DAVIS, FARNUM, HARRIS, HORTON, TRAVIS JOHNSON, LYONS, MCKNIGHT, MOORE, NEWELL, CHARLES OWEN, SCHEXNAYDER, THOMPSON AND WRIGHT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 46:2161(C), 2161.1(A) and (C), 2165(A) and (B)(2) and (6), 2166(D), 2167(D), and Children's Code Art. 725.2(A)(1) and (B), to enact R.S. 36:4(J) and R.S. 46:2166(A)(18) and Part III of Chapter 28-B of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:2169-2169.1, and to repeal R.S. 46:62, relative to human trafficking; to create the governor's office of human trafficking prevention; to provide for powers and duties; to provide for an executive director and other staff; to provide for budget oversight; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:4(J) is hereby enacted to read as follows:

§4. Structure of executive branch of state government

* * *

J. The office of human trafficking prevention, as provided for in R.S. 46:2169 et seq., shall be placed within the office of the governor and shall exercise its powers, duties, and functions as provided by law. The Louisiana Human Trafficking Prevention Commission and Advisory Board, as provided for in R.S. 46:2165 et seq., shall be placed within the office of human trafficking prevention.

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Section 2. R.S. 46:2161(C), 2161.1(A) and (C), 2165(A) and (B)(2) and (6), 2166(D), and 2167(D) are hereby amended and reenacted and R.S. 46:2166(A)(18) and Part III of Chapter 28-B of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:2169-2169.1, are hereby enacted to read as follows:

§2161. Human trafficking victims services plan; **children**

* * *

C.**(1)** Each private entity that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including information on the services offered, geographic areas served, the number of persons served, and individual status updates on each person served. This information shall not include the name, address, or other identifying information of the person served. The ~~Department of Children and Family Services~~ **governor's office of human trafficking prevention** shall compile the data from all the reports submitted pursuant to the provisions of this Subsection and shall provide this information to the legislature on or before the first day of February each year.

(2) Each statewide and local law enforcement entity that investigates cases of human trafficking or related sexual offenses and that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including information on type of investigation, outcome of the investigation, and any services offered to victims, and demographic information related to the case and services offered.

§2161.1. Human trafficking victims services plan; adults

A. With respect to ~~persons~~ **any person** referred to the Department of Children and Family Services who ~~are~~ **is** eighteen years of age or older and who ~~are~~ **is** found to be ~~victims~~ **a victim** of human trafficking in which the ~~services include~~

1 **trafficking activity included** commercial sexual activity or any sexual conduct
 2 constituting a crime under the laws of this state, the department shall refer the person
 3 to the appropriate department, agency, or entity to provide the person with the
 4 following:

5 (1) ~~Assist the victim~~ **Assistance** in applying for federal and state benefits and
 6 services to which the victim may be entitled.

7 (2) ~~Coordinate~~ **Coordination of** the delivery of health **care**, mental health
 8 **care**, housing, education, job training, child care, victims' compensation, legal, and
 9 other services available to victims of human or sex trafficking.

10 (3) ~~Refer the victim~~ **Referral** to the appropriate community-based services
 11 to the extent that such services are available.

12 (4) ~~Assist the victim~~ **Assistance** with family reunification or returning to the
 13 victim's place of origin, if the victim so desires.

14 * * *

15 C.**(1)** Each private entity that provides services to victims pursuant to the
 16 provisions of this Section shall submit to the **governor's office of human**
 17 **trafficking prevention and to the** Department of Children and Family Services an
 18 annual report on their operations including information on the services offered,
 19 **training or certifications received specific to human trafficking**, geographic areas
 20 served, the number of persons served, and individual status updates on each person
 21 served. This information shall not include the name, address, or other identifying
 22 information of the person served. The ~~Department of Children and Family Services~~
 23 **governor's office of human trafficking prevention** shall compile the data from all
 24 the reports submitted pursuant to the provisions of this Subsection and shall provide
 25 this information to the legislature on or before the first day of February each year.

26 **(2) Each statewide and local law enforcement entity that investigates**
 27 **cases of human trafficking or related sexual offenses and that provides services**
 28 **to victims pursuant to the provisions of this Section shall submit to the**
 29 **governor's office of human trafficking prevention and to the Department of**
 30 **Children and Family Services an annual report on their operations including**

1 information on the type of investigation, outcome of the investigation, and any
2 services offered to victims, and demographic information related to the case and
3 services offered.

4 * * *

5 §2165. Louisiana Human Trafficking Prevention Commission

6 A. The Louisiana Human Trafficking Prevention Commission is hereby
7 created within the office of the governor and placed within the office of human
8 trafficking prevention.

9 B. The commission shall do the following:

10 * * *

11 (2) Conduct a continuing comprehensive review of all existing public and
12 private human trafficking victim assistance programs to identify gaps in prevention
13 and intervention services.

14 * * *

15 (6) Establish a method to transition human trafficking victim assistance
16 service providers toward evidence-based national best practices focusing on outreach
17 and prevention.

18 * * *

19 §2166. Composition of the commission

20 A. The commission shall be composed of the following members:

21 * * *

22 (18) The executive director of the governor's office of human trafficking
23 prevention.

24 * * *

25 D.(1) Each member shall be entitled to designate a single individual ~~to serve~~
26 as his proxy for the duration of the member's term to serve on any occasion that the
27 member is unable to attend a meeting of the commission. The term of the designated
28 proxy shall be the same as that of the member. A member appointing a designated
29 proxy shall make his appointment known to the chairperson and to the secretary of
30 the commission.

1 (2) The proxy appointed by a member shall not be subject to the same
2 nominating and appointment procedures ~~as is~~ **that are** required for the member for
3 whom he is serving.

4 (3) ~~An~~ **No** individual shall ~~not~~ serve as proxy pursuant to the provisions of
5 this Subsection for more than one member of the commission.

6 * * *

7 §2167. Meetings

8 * * *

9 D. The office of human trafficking prevention within the office of the
10 governor shall provide to the commission such clerical, administrative, and technical
11 assistance and support as may be necessary to enable the commission to accomplish
12 its goals.

13 * * *

14 PART III. OFFICE OF HUMAN TRAFFICKING PREVENTION

15 §2169. Office of human trafficking prevention

16 A. The office of human trafficking prevention is hereby created within
17 the office of the governor for the purpose of coordinating resources of public
18 and private entities that develop, manage, operate, and support services and
19 programs for human trafficking victims. The office shall exercise the powers
20 and duties provided in this Part or otherwise provided by law.

21 B. The office shall be administered by an executive director who shall be
22 appointed by the governor, subject to confirmation by the Senate, to serve at his
23 pleasure.

24 C. The executive director shall employ necessary staff to carry out the
25 duties and functions of the office as provided in this Part or as otherwise
26 provided by law.

27 §2169.1. Powers and duties

28 The office shall have the following powers and duties:

29 (1) To collect all relevant information including facts and statistics
30 related to human trafficking.

1 **(2) To conduct studies of human trafficking activity in Louisiana.**

2 **(3) To identify and make available to state agencies and other**
3 **stakeholders the information on the best practices related to human trafficking**
4 **activities and the prevention thereof in Louisiana and throughout the nation.**

5 **(4) To develop and implement a comprehensive strategic plan to prevent**
6 **human trafficking and address the needs of human trafficking victims, which**
7 **shall be provided to the legislature, the Department of Children and Family**
8 **Services, and any entity required to submit a report under the provisions of R.S.**
9 **46:2161(C) and Children's Code Article 725.2(B) by February 1, 2022.**

10 **(5) To assist state agencies in reducing duplication of effort in the**
11 **prevention of human trafficking and the provision of services to human**
12 **trafficking victims.**

13 **(6) To monitor availability of funds from federal and other sources for**
14 **financing the provision of services to and programs for human trafficking**
15 **victims and seek funding where appropriate.**

16 **(7) To assist state departments and agencies and other stakeholders in**
17 **drafting plans to maximize the impact of the use of such funds.**

18 **(8) To maintain a current list of public and private stakeholders**
19 **providing services to and programs for human trafficking victims.**

20 **(9) To monitor and evaluate the effectiveness and efficiency of programs**
21 **that provide services to and programs for human trafficking victims, and**
22 **annually report its findings and recommendations to the legislature, the**
23 **Department of Children and Family Services, and any entity required to submit**
24 **a report under the provisions of R.S. 46:2161(C) and Children's Code Article**
25 **725.2(B).**

26 **(10) To provide the leadership and clerical, administrative, and technical**
27 **assistance and support necessary for the Louisiana Human Trafficking**
28 **Prevention Commission and the Human Trafficking Prevention Commission**
29 **Advisory Board to fulfill their duties.**

30 **(11) To create and submit reports as required by law.**

1 (12) To compile and submit data to the legislature as provided by law.

2 (13) To perform all functions reasonably necessary to accomplish the
3 purposes for which the office is created.

4 Section 3. Children's Code Art. 725.2(A)(1) and (B) are hereby amended and
5 reenacted to read as follows:

6 Art. 725.2. Safe house for sexually exploited children

7 A.(1) The department shall identify and maintain a current listing of safe
8 houses which are licensed residential homes that specialize in the provision of
9 services to sexually exploited children, regardless of whether those facilities receive
10 taxpayer funding. This listing shall be made available to the governor's office of
11 human trafficking prevention and to courts, prosecutors, and other stakeholders
12 involved in proceedings pertaining to an exploited child.

13 * * *

14 B. Each safe house listed with the department to provide services to sexually
15 exploited children pursuant to the provisions of this Article shall submit to the
16 governor's office of human trafficking prevention and to the department an
17 annual report on their operations including information on the services offered, a
18 listing of credentials, training, and licenses specific to survivor-centered and
19 trauma-informed services for human trafficking survivors, geographic areas
20 served, number of children served, and individual status updates on each child
21 served. This information shall not include the name, address, or other identifying
22 information of the child served. The ~~department~~ governor's office of human
23 trafficking prevention shall compile the data from all the reports submitted by each
24 safe house pursuant to the provisions of this Article and shall provide this
25 information in an annual report to the legislature on or before the first day of
26 February each year.

27 Section 4. R.S. 46:62 is hereby repealed.

28 Section 5. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 383
BY REPRESENTATIVE STAGNI

ACT No. 367

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AN ACT

To amend and reenact Children's Code Article 603(4), relative to child in need of care proceedings; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Article 603(4) is hereby amended and reenacted to read as follows:

Art. 603. Definitions

As used in this Title:

* * *

(4)(a) "Caretaker" means any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee ~~of a public or private day care center~~ or an operator of an early learning center as defined in R.S. 17:407.33, an operator or employee of a registered family child day care home, an operator or employee of a restrictive care facility, or other person providing a residence for the child. "Caretaker" also means an adult who occupies a residence of a child and has a consistent and continuing responsibility for the care of a child. "Caretaker" shall not include an operator or employee of a correctional facility, detention facility, or nonresidential school.

1 (b) For the purposes of this Subparagraph, "restrictive care facility" means
 2 a public or private licensed or unlicensed child care facility, group home, emergency
 3 shelter facility, maternity home, psychiatric hospital, or a psychiatric unit located in
 4 a state-owned or state-contracted general hospital.

5 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

BY REPRESENTATIVES FREEMAN, BUTLER, CARPENTER, ECHOLS, FREIBERG, GREEN, HILFERTY, JENKINS, MIKE JOHNSON, LARVADAIN, MARCELLE, MARINO, MOORE, NELSON, NEWELL, PIERRE, STAGNI, AND WHITE AND SENATORS BARROW, JACKSON, MIZELL, AND PETERSON

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 3603(A), Children's Code Article
3 1568(D), and R.S. 46:2134(D) and to enact Code of Civil Procedure Article
4 3603.1(C)(3), relative to the issuance of protective orders; to provide for
5 complainants seeking protection from domestic abuse, dating violence, stalking, or
6 sexual assault; to provide for the signature of the petitioner; to provide for the
7 affirmation of the petitioner; to provide for a witness; to provide for the crime of
8 perjury; to provide for the penalty of perjury; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Civil Procedure Article 3603(A) is hereby amended and
11 reenacted and Code of Civil Procedure Article 3603.1(C)(3) is hereby enacted to read as
12 follows:

13 Art. 3603. Temporary restraining order; affidavit or affirmation of irreparable injury
14 and notification efforts

15 A. A temporary restraining order shall be granted without notice when all of
16 the following occur:

17 (1) It clearly appears from specific facts shown by a verified petition ~~or~~, by
18 supporting affidavit, or by affirmation as provided in Article 3603.1(C)(3) that
19 immediate and irreparable injury, loss, or damage will result to the applicant before
20 the adverse party or his attorney can be heard in opposition, ~~and~~.

1 (2) The applicant's attorney certifies to the court in writing the efforts which
2 have been made to give the notice or the reasons supporting his claim that notice
3 should not be required.

4 * * *

5 Art. 3603.1. Governing provisions for issuance of protective orders; grounds;
6 notice; court-appointed counsel

7 * * *

8 C.

9 * * *

10 (3) When a complainant is seeking a temporary restraining order for
11 protection from domestic abuse, dating violence, stalking, or sexual assault, it is
12 sufficient for the petition to contain a written affirmation signed and dated by the
13 complainant that the facts and circumstances contained in the complaint are true and
14 correct to the best knowledge, information, and belief of the complainant, under
15 penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a
16 witness who shall sign and print his name.

17 Section 2. Children's Code Article 1568(D) is hereby amended and reenacted to read
18 as follows:

19 Art. 1568. Petition

20 * * *

21 D. If the petition requests the issuance of an ex parte temporary restraining
22 order, the petition shall contain ~~an affidavit~~ a written affirmation signed and dated
23 by each petitioner that the facts and circumstances contained in the petition are true
24 and correct to the best knowledge, information, and belief of the petitioner, under
25 penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a
26 witness who shall sign and print his name. ~~Any false statement under oath contained~~
27 ~~in the affidavit shall constitute perjury and shall be punishable by a fine of not more~~
28 ~~than one thousand dollars or by imprisonment with or without hard labor for not~~
29 ~~more than five years, or both.~~

30 * * *

1 Section 3. R.S. 46:2134(D) is hereby amended and reenacted to read as follows:

2 §2134. Petition

3 * * *

4 D. If the petition requests the issuance of an ex parte temporary restraining
5 order, the petition shall contain ~~an affidavit~~ a written affirmation signed and dated
6 by each petitioner that the facts and circumstances contained in the petition are true
7 and correct to the best knowledge, information, and belief of the petitioner, under
8 penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a
9 witness who shall sign and print his name. ~~Any false statement under oath contained~~
10 ~~in the affidavit shall constitute perjury and shall be punishable by a fine of not more~~
11 ~~than one thousand dollars, or by imprisonment, with or without hard labor, for not~~
12 ~~more than five years, or both.~~

13 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2021 Regular Session
HOUSE BILL NO. 218
BY REPRESENTATIVE HUVAL

ACT No. 421

1 AN ACT

2 To amend and reenact Children's Code Articles 1151 and 1152(A), (C)(1), (F)(introductory
3 paragraph), (G), and (H), relative to laws providing for safe and anonymous
4 relinquishment of an infant to the state known as the Safe Haven Law; to authorize
5 the installation of newborn safety devices at certain places for infant relinquishment
6 known as designated emergency care facilities; to provide that a parent may
7 relinquish an infant into a newborn safety device; to provide requirements and
8 specifications for newborn safety devices; to provide for responsibilities of certain
9 facilities with respect to the installation and maintenance of newborn safety devices;
10 to provide for promulgation of healthcare facility licensing rules by the Louisiana
11 Department of Health regarding newborn safety devices installed in hospitals; to
12 make technical corrections; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Children's Code Articles 1151 and 1152(A), (C)(1), (F)(introductory
15 paragraph), (G), and (H) are hereby amended and reenacted to read as follows:

16 Art. 1151. Relinquishment of infants; defense to prosecution

17 A.(1) If a parent wishes to relinquish his infant, he may leave the infant in
18 the care of any employee of a designated emergency care facility: or in a newborn
19 safety device that meets the specifications provided in Subparagraph (2) of this
20 Paragraph and is physically located inside of a facility which is licensed as a hospital
21 in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq., and has an
22 emergency department that is staffed twenty-four hours per day.

23 (2) Each newborn safety device shall meet all of the following specifications:

1 (a) The device has been voluntarily installed by the designated emergency
 2 care facility.

3 (b) The device is installed in a location that ensures the anonymity of the
 4 relinquishing parent and has a climate-controlled environment.

5 (c) The device is installed by a licensed contractor.

6 (d) The access door to the device locks automatically upon closure when a
 7 newborn is in the device.

8 (e) The supporting frame of the device is anchored so as to align the bed
 9 portion of the device directly beneath the access door and prevent movement of the
 10 unit as a whole.

11 (f) The device features a safe sleep environment which includes a firm, flat
 12 bassinets mattress and a sheet that fits snugly on and overlaps the mattress and is free
 13 of pillows, bumpers, blankets, and other bedding.

14 (3) Each designated emergency care facility that installs a newborn safety
 15 device shall post department-approved signage at the site of the device that clearly
 16 identifies the device and provides both written and pictorial instruction to the
 17 relinquishing parent to open the access door, place the infant inside the device, and
 18 close the access door to engage the lock. The signage shall also clearly indicate all
 19 of the following:

20 (a) The maximum age of an infant who may be relinquished in accordance
 21 with this Chapter.

22 (b) That the child must not have been previously subjected to abuse or
 23 neglect.

24 (c) That by placing an infant in the newborn safety device, a parent is
 25 foregoing all parental responsibilities with respect to the infant and is giving consent
 26 for the state to take custody of the infant.

27 B. If the parent is unable to travel to ~~such~~ a designated emergency care
 28 facility, he may call "911", and a ~~fireman~~ firefighter, a law enforcement officer, or
 29 an emergency medical service provider shall immediately be dispatched to meet the

1 parent and transport the child to a hospital, and to ensure that all requirements listed
 2 in Article 1152(D) through (I) have been met.

3 ~~B. C.~~ Relinquishment of an infant in accordance with this Chapter is not a
 4 criminal act of neglect, abandonment, cruelty, or a crime against the child.

5 Art. 1152. Designated emergency care facility, emergency medical service provider,
 6 ~~fireman~~ firefighter, and law enforcement officer responsibilities; newborn
 7 safety devices authorized

8 A.(1) Every designated emergency care facility shall appoint as its
 9 representative one or more employees on duty during regular business hours who is
 10 knowledgeable about the requirements of this Chapter. In addition, at other times
 11 each facility shall designate a representative who can be reached by emergency
 12 telephone service or post instructions to contact "911" for a safe haven
 13 relinquishment if outside of normal operating hours.

14 (2)(a) A designated emergency care facility that is a hospital licensed in
 15 accordance with the Hospital Licensing Law, R.S. 40:2100 et seq., which has an
 16 emergency department that is staffed twenty-four hours per day may install on its
 17 premises a newborn safety device in accordance with the requirements and
 18 specifications of Article 1151(A).

19 (b) A designated emergency care facility that installs a newborn safety
 20 device as authorized by this Paragraph shall be responsible for the cost of the
 21 installation.

22 (c) Each designated emergency care facility that installs a newborn safety
 23 device as authorized by this Paragraph shall install an adequate dual alarm system
 24 connected to the physical location of the newborn safety device. The facility shall
 25 ensure all of the following with respect to the alarm system:

26 (i) The system generates an audible alarm at a central location within the
 27 facility sixty seconds after the opening of the access door to the newborn safety
 28 device.

29 (ii) The system generates an automatic call to 911 if the alarm is activated
 30 and not turned off from within the facility less than sixty seconds after the
 31 commencement of the initial alarm.

1 (iii) The alarm system is tested at least one time per week to ensure that it
2 is in working order.

3 (iv) The alarm system is visually checked at least two times per day to
4 ensure that it is in working order.

5 (d) Each designated emergency care facility that installs a newborn safety
6 device as authorized by this Paragraph shall ensure that the device is checked at least
7 daily for debris and is cleaned and sanitized with a hospital-quality disinfectant at
8 least weekly and after any newborn relinquishment into the device.

9 (e) Each designated emergency care facility that installs a newborn safety
10 device as authorized by this Paragraph shall maintain documentation of the testing
11 of the alarm system required by Subsubparagraph (c) of this Subparagraph and the
12 cleaning and sanitation of the device required by Subsubparagraph (d) of this
13 Subparagraph.

14 (f) Each designated emergency care facility that installs a newborn safety
15 device as authorized by this Paragraph shall install adjacent to the device a card
16 holder and shall keep the card holder stocked with safe haven informational cards
17 supplied by the department pursuant to Paragraph D of this Article and other safe
18 haven informational materials produced in accordance with Article 1160.

19 (g) Each designated emergency care facility that installs a newborn safety
20 device as authorized by this Paragraph shall adopt written policies for receiving, in
21 accordance with the applicable requirements of this Chapter and applicable licensing
22 rules, a newborn who has been relinquished into the newborn safety device.

23 (3) The Louisiana Department of Health may promulgate hospital licensing
24 rules, in accordance with the Administrative Procedure Act, regarding newborn
25 safety devices installed in hospitals. Such rules shall require compliance with the
26 provisions of this Chapter and may include but not be limited to adequate alarms,
27 testing, cleaning, documentation, policies, procedures, and training of staff.

28 * * *

29 C. Instruction by a designated emergency care facility on safe haven
30 relinquishment procedures may:

1 (1) Be provided in any manner that is deemed appropriate and sufficient by
2 the facility, subject to any applicable healthcare facility licensing requirements.

3 * * *

4 F. The representative, emergency medical service provider, ~~fireman~~
5 firefighter, or law enforcement officer shall provide to the parent written information
6 about:

7 * * *

8 G. In the event that an infant is relinquished to a designated emergency care
9 facility other than a hospital, or to an emergency medical service provider, ~~fireman~~
10 firefighter, or law enforcement officer, the staff of the facility, the provider, the
11 ~~fireman~~ firefighter, or the law enforcement officer shall immediately transfer ~~him~~ the
12 infant to a hospital.

13 H. The representative, provider, ~~fireman~~ firefighter, or law enforcement
14 officer shall immediately notify the department of the relinquishment.

15 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____