

# 2021 Updated Louisiana Children’s Code Articles

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### **Art. 603. Definitions**

As used in this Title:

(1) "Abortion" means that procedure as defined in R.S. 40:1061.9.

(2) "Abuse" means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

(b) The exploitation or overwork of a child by a parent or any other person, including but not limited to commercial sexual exploitation of the child.

(c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:

(i) Any sexual act with any other person.

(ii) Pornographic displays.

(iii) Any sexual activity constituting a crime under the laws of this state.

(d) A coerced abortion conducted upon a child.

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

(3) "Administrative review body" means a panel of appropriate persons, at least one of whom is not responsible for the case management of or delivery of services to either the child or the parents who are the subject of the review, including the citizen review boards, state hearing examiners, special department reviewers, or department personnel.

(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 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.

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

(5) "Case review hearing" means a review hearing by a court or administrative review body for the purpose of determining the continuing necessity for and appropriateness of the child's placement, to determine the extent of compliance with the case plan, to determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and to project a likely date by which the child may be permanently placed.

(6) "Child" means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 366 or emancipated by marriage under Civil Code Article 367.

(7) "Child care agency" means any public or private agency exercising custody of a child.

(8) "Child pornography" means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(9) "Coerced abortion" means the use of force, intimidation, threat of force, threat of deprivation of food and shelter, or the deprivation of food and shelter by a parent or any other person in order to compel a female child to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

(9.1) "Commercial sexual exploitation" means involvement of the child activity prohibited by the following statutes: R.S. 14:46.2, 46.3, 81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

(10) "Concurrent planning" means departmental efforts to preserve and reunify a family, or to place a child for adoption or with a legal guardian which are made simultaneously.

(11) "Court-appointed or court-approved administrative body" means a body appointed or approved by a court and subject to the court's supervision for the purposes of assisting the court with permanency hearings, including magistrates or other court or noncourt personnel. This body shall not be a part of the Department of Children and Family Services or the Department of Public Safety and Corrections, nor subject to the supervision or direction of either department.

(12) "Crime against the child" shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:

- (a) Homicide.
- (b) Battery.
- (c) Assault.
- (d) Rape.
- (e) Sexual battery.
- (f) Kidnapping.
- (g) Criminal neglect.
- (h) Criminal abandonment.
- (i) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.
- (j) Carnal knowledge of a juvenile.
- (k) Indecent behavior with juveniles.
- (l) Pornography involving juveniles.
- (m) Molestation of a juvenile.
- (n) Crime against nature.
- (o) Cruelty to juveniles.
- (p) Contributing to the delinquency or dependency of children.
- (q) Sale of minor children.
- (r) Human trafficking.
- (s) Trafficking of children for sexual purposes.
- (t) Female genital mutilation.

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

(14) "Foster care" means placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the department's custody. Such placement shall not include a detention facility.

(15) "Foster parent" means an individual who provides residential foster care with the approval and under the supervision of the department for a child in its custody.

(16) "Institutional abuse or neglect" means any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education.

(17) "Mandatory reporter" is any of the following individuals:

(a) "Health practitioner" is any individual who provides healthcare services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, an outpatient abortion facility staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

(b) "Mental health/social service practitioner" is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family. Notwithstanding any other provision of law to the contrary, when representing a child, as defined in this Code, in a case arising out of this Code, a mental health/social service practitioner shall not be considered a mandatory reporter under the following limited circumstances: (i) when the practitioner is engaged by an attorney to assist in the rendition of professional legal services to that child, (ii) when the information that would serve as the basis for reporting arises in furtherance of facilitating the rendition of those professional legal services to that child, and (iii) when the information that would serve as the basis for reporting is documented by the mental health/social service practitioner. The documentation shall be retained by the mental health/social service practitioner until one year after the child has reached the age of majority.

(c) "Member of the clergy" is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) "Teaching or child care provider" is any person who provides or assists in the teaching, training, and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, bus driver, coach, professor, technical or vocational instructor, technical or vocational school staff member, college or university administrator, college or university staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child in a voluntary or professional capacity.

(e) Police officers or law enforcement officials.

(f) "Commercial film and photographic print processor" is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(h) A parenting coordinator appointed pursuant to R.S. 9:358.1 et seq.

(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 4 of Title IV.

(j) "Organizational or youth activity provider" is any person who provides organized activities for children, including administrators, employees, or volunteers of any day camp, summer camp, youth center, or youth recreation programs or any other organization that provides organized activities for children.

(k) School coaches, including but not limited to public technical or vocational school, community college, college, or university coaches and coaches of intramural or interscholastic athletics.

(18) "Neglect" means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Neglect includes prenatal neglect. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

(19) "Newborn" means a child who is not more than thirty days old, as determined within a reasonable degree of medical certainty by an examining physician.

(20) "Other suitable individual" means a person with whom the child enjoys a close established significant relationship, yet not a blood relative, including a neighbor, godparent, teacher and close friend of the parent. "Relative" for the purpose of this Title means an individual with whom the child has established a significant relationship by blood, adoption, or affinity.

(21) "Permanency hearing" means a hearing for the purpose of determining the permanent plan for the child.

(22) "Permanent placement" means:

(a) Return of the legal custody of a child to his parent or parents.

(b) Placement of the child with adoptive parents pursuant to a final decree of adoption.

(c) Placement of the child with a legal guardian.

(23) "Person" means any individual, partnership, association, agency, or corporation, and specifically shall include city, parish, or state law enforcement agencies, and a parish or city school board or a person employed by a parish or city school board.

(24) "Prenatal neglect" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by R.S. 40:961 et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or functioning.

(25) "Reasonable efforts" means the exercise of ordinary diligence and care by department caseworkers and supervisors and shall assume the availability of a reasonable program of services to children and their families.

(26) "Removal" means placing a child in the custody of the state or with someone other than the parent or caretaker during or after the course of an investigation of abuse and neglect to secure the child's protection and safeguard the child's welfare.

(27) "Safety plan" means a plan for the purpose of assuring a child's health and safety by imposing conditions for the child to safely remain in the home, or, after a child has been removed from the home, for the continued placement of the child with a custodian and terms for contact between the child and his parents or other persons.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1995, No. 444, §1, eff. June 17, 1995; Acts 1999, No. 449, §§1, 2, eff. July 1, 1999; Acts 1999, No. 769, §1, eff. July 2, 1999; Acts 1999, No. 894, §1; Acts 2001, No. 567, §1; Acts 2003, No. 567, §1; Acts 2003, No. 1187, §1; Acts 2004, No. 398, §1, eff. June 23, 2004; Acts 2005, No. 148, §1; Acts 2005, No. 338, §1; Acts 2006, No. 157, §1; Acts 2006, No. 278, §1; Acts 2007, No. 119, §1, eff. June 25, 2007; Acts 2007, No. 265, §1; Acts 2007, No. 334, §1; Acts 2007, No. 396, §1, eff. when funds are appropriated by the legislature; Acts 2008, No. 394, §1, eff. June 21, 2008; Acts 2012, No. 268, §2, eff. May 25, 2012; Acts 2012, No. 380, §1; Acts 2012, No. 446, §6; Acts 2012, No. 614, §2, eff. June 7, 2012; Acts 2013, No. 260, §1; Acts 2014, No. 486, §1; Acts 2014, No. 564, §7; Acts 2014, No. 569, §1; Acts 2014, No. 602, §7, eff. June 12, 2014; Acts 2015, No. 217, §1; Acts 2017, No. 359, §§1, 3, 4; Acts 2018, No. 458, §2; Acts 2019, No. 280, §1; Acts 2021, No. 158, §1; Acts 2021, No. 367, §1.

### **CHAPTER 3. GROUNDS; CHILD IN NEED OF CARE**

#### **Art. 606. Grounds; child in need of care**

A. Allegations that a child is in need of care shall assert one or more of the following grounds:

(1) The child is the victim of abuse perpetrated, aided, or tolerated by the parent or caretaker, by a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or by a person living in the same residence with the parent or caretaker as a spouse whether married or not, and his welfare is seriously endangered if he is left within the custody or control of that parent or caretaker.

(2) The child is a victim of neglect.

(3) The child is without necessary food, clothing, shelter, medical care, or supervision because of the disappearance or prolonged absence of his parent or when, for any other reason, the child is placed at substantial risk of imminent harm because of the continuing absence of the parent.

(4) As a result of a criminal prosecution, the parent has been convicted of a crime against the child who is the subject of this proceeding, or against another child of the parent, and the parent is now unable to retain custody or control or the child's welfare is otherwise endangered if left within the parent's custody or control.

(5) The conduct of the parent, either as principal or accessory, constitutes a crime against the child or against any other child.

(6) - (8) Repealed by Acts 2021, No. 158, §7.



B. A child whose parent is unable to provide basic support, supervision, treatment, or services due to inadequate financial resources shall not, for that reason alone, be determined to be a child in need of care.

C. A diagnosis of factitious disorder imposed on another, formerly known as "Munchausen syndrome by proxy", shall not constitute grounds, either entirely or partially, for a determination that a child is in need of care unless that diagnosis is made in accordance with the provisions of R.S. 37:1745.2.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1995, No. 1095, §2; Acts 1999, No. 1178, §1, eff. July 9, 1999; Acts 2012, No. 446, §6; Acts 2012, No. 730, §1; Acts 2014, No. 564, §§8, 10; Acts 2017, No. 376, §1; Acts 2018, No. 193, §2; Acts 2018, No. 458, §2; Acts 2021, No. 158, §7.

#### **Art. 635. Amendment of petition**

A. The petitioner may amend the petition at any time to cure defects of form, imperfection, omission, or uncertainty.

B. Prior to the adjudication hearing, the petitioner may amend the petition to include new allegations of fact or requests for adjudication.

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

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 2021, No. 270, §1.

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

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

(1) Interviews with the child's parent during the course of an investigation, while child protective services are provided, and while the child is in care.

(2) Interviews with the child.

(3) Interviews with identified relatives throughout the case.

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

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

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

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

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

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

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

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

(3) Describes the process for becoming a licensed foster family home and the additional services and supports available for children placed in approved foster homes.

(4) Describes any financial assistance for which a relative may be eligible.

D. After the completion of the diligent search required by this Article, the Department of Children and Family Services shall have a continuing duty to search for relatives or other persons who have demonstrated an ongoing commitment to a child and with whom it may be appropriate to place the child until the relatives or persons are located, the court excuses the department from conducting a diligent search, or permanency is achieved.

E. If a relative entitled to notice pursuant to this Article fails, after ninety days from the date the relative receives the required notice, to demonstrate an interest in and willingness to provide a permanent home for a child, the court may excuse the Department of Children and Family Services from considering the relative as a placement.

Acts 2021, No. 350, §1, eff. June 17, 2021.

#### **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 parties relating to the proper disposition. The court may consider evidence which would not be admissible at the adjudication hearing.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2021, No. 158, §1.



**Art. 702. Permanency hearing**

A. The court shall conduct a permanency hearing, which shall consider in-state and out-of-state permanent placement options for the child, within thirty days of a judicial determination pursuant to Article 672.1 that reunification efforts are not required.

B. The court shall conduct a permanency hearing within nine months after the disposition hearing if the child was removed prior to disposition or within twelve months if the child was removed at disposition, but in no case more than twelve months after the removal. Permanency reviews shall continue to be held at least once every twelve months thereafter until the child is permanently placed or earlier upon motion of a party for good cause shown or on the court's own motion.

C. The court shall determine the permanent plan for the child that is most appropriate and in the best interest of the child in accordance with the following priorities of placement:

(1) Return the child to the legal custody of the parents within a specified time period consistent with the child's age and need for a safe and permanent home. In order for reunification to remain as the permanent plan for the child, the parent must be complying with the case plan and making significant measurable progress toward achieving its goals and correcting the conditions requiring the child to be in care.

(2) Adoption.

(3) Placement with a legal guardian.

(4) Placement in the legal custody of a relative who is willing and able to offer a safe, wholesome, and stable home for the child.

(5)(a) Placement in the least restrictive, most family-like alternative permanent living arrangement. The department shall document in the child's case plan and its report to the court the compelling reason for recommending this plan over the preceding higher priority alternatives.

(b) The permanent plan provided for in this Paragraph may be considered only if the child is sixteen years of age or older.

D.(1) The court shall consider a child's need for continuing contact with any relative by blood, adoption, or affinity with whom the child has an established and significant relationship in accordance with Article 1269.2 as one of several factors in determining the permanent plan that is most appropriate and in the best interest of the child.

(2)(a) In the case of a child under the age of six, the court may find that continuation of the child's placement with the current caregiver is in the child's best interest if the child is in a stable home environment where the child's physical and emotional needs are met by a person who has a significant relationship with the child, that no relative or other suitable caregiver has been identified as a concurrent plan caregiver as part of the child's case plan or report submitted to the court, and that it would be detrimental to the child's well-being if the child is removed from the current caregiver. Upon such finding, the department shall not make any change in placement absent prior written notice to the court. Prior notice for a placement change is not required when necessary to ensure the safety of the child, when the current caregiver requests that the child be removed, or when a child is moving to the home of a parent for the purpose of a trial placement.

(b) In the event of removal from a placement with a current caregiver pursuant to Subsubparagraph (a) of this Subparagraph, upon motion of the court, motion of the current caregiver, or motion of the child, which is filed within fifteen days of the change in placement, a

contradictory hearing shall be held to determine whether removal was in the best interest of the child.

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

E. Except as otherwise provided in Article 672.1, the court shall determine whether the department has made reasonable efforts to reunify the parent and child or to finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan. The child's health and safety will be the paramount concern in the court's determination of the permanent plan.

F.(1) If a child is in an out-of-state placement, the court shall determine and enter findings on whether the placement is safe, appropriate, and otherwise in the best interests of the child.

(2) In the case of a child who will not be returned to the parent, the court shall consider in-state and out-of-state placement options.

G. When reunification is determined to be the permanent plan for the child, the court shall advise the parents that it is their obligation to achieve the case plan goals and correct the conditions that require the child to be in care within the time period specified by the court. Otherwise, an alternative permanent plan for the child will be selected and a petition to terminate parental rights may be filed. When adoption is the permanent plan for the child, the court will advise the parent of his authority to voluntarily surrender the child and to consent to the adoption prior to the filing of a petition to terminate parental rights.

H. The permanency hearing may be conducted by a court-appointed or court-approved administrative body.

I. In any permanency hearing, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

J. In the case of a child fourteen years of age or older, the hearing shall include a review of the transitional plan developed with the child and the agency in accordance with Subparagraph (B)(6) of Article 675.

K. In any permanency hearing for a child whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, the court or administrative body conducting the hearing shall ask the child about the desired permanency outcome for the child.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1997, No. 612, §1; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2001, No. 567, §§1 and 3; Acts 2001, No. 568, §1, eff. Jan. 1, 2002; Acts 2007, No. 334, §1; Acts 2012, No. 730, §1; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2021, No. 350, §1, eff. June 17, 2021.

#### **Art. 725.2. Safe house for sexually exploited children**

A.(1) The department shall identify and maintain a current listing of safe houses which are licensed residential homes that specialize in the provision of services to sexually exploited children, regardless of whether those facilities receive taxpayer funding. This listing shall be made

available to the governor's office of human trafficking prevention and to courts, prosecutors, and other stakeholders involved in proceedings pertaining to an exploited child.

(2) The department may, to the extent funds are available, operate or contract with an appropriate nongovernmental agency with experience working with sexually exploited children to operate one or more safe houses in a geographically appropriate area of the state.

(3) Each safe house shall provide safe and secure housing and specialized services for sexually exploited children.

(4) Nothing in this Article shall be construed to preclude an agency from applying for and accepting grants, gifts, and bequests for funds from private individuals, foundations, and the federal government for the purpose of creating or carrying out the duties of a safe house for sexually exploited children.

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

Acts 2013, No. 429, §3, eff. June 24, 2013; Acts 2014, No. 564, §7; Acts 2017, No. 376, §1; Acts 2021, No. 352, §3, eff. June 17, 2021.

#### **Art. 750. Amendment of petition**

A. Without leave of court, the court's designate may amend the petition at any time prior to the adjudication hearing to add new names of agencies or institutions having the legal responsibility to provide services to the family or to delete the names of agencies or institutions named in the original petition.

B. The petitioner may amend the petition at any time to cure defects of form, imperfection, omission, or uncertainty.

C. Prior to the adjudication hearing, the petitioner may amend the petition to include new allegations of fact or requests for adjudication.

D. Prior to the adjudication hearing, the petitioner may dismiss the family in need of services petition and instead file a petition which alleges delinquency pursuant to Title VIII of this Code or that a child is in need of care pursuant to Title VI of this Code.

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

Acts 1991, No. 235, §7; Acts 2021, No. 270, §1.

**Art. 846. Amendment of petition**

A. The petitioner may amend the petition at any time to cure defects of form, imperfection, omission, or uncertainty.

B. Prior to the adjudication hearing, the petitioner may amend the petition to include new allegations of fact or requests for adjudication.

C. After jeopardy begins pursuant to Article 811, a petition shall not be amended to include new allegations of fact or requests for adjudication.

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

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 2021, No 270, §1.

**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.

Acts 1991, No. 235, §10, eff. Jan. 1, 1992; Acts 2021, No. 158, §1.

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

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

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

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

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

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

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

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

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

(3) Each designated emergency care facility that installs a newborn safety device shall post department-approved signage at the site of the device that clearly identifies the device and provides both written and pictorial instruction to the relinquishing parent to open the access door, place the

infant inside the device, and close the access door to engage the lock. The signage shall also clearly indicate all of the following:

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

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

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

B. If the parent is unable to travel to a designated emergency care facility, he may call "911", and a firefighter, a law enforcement officer, or an emergency medical service provider shall immediately be dispatched to meet the parent and transport the child to a hospital, and to ensure that all requirements listed in Article 1152(D) through (I) have been met.

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

Acts 2003, No. 609, §2; Acts 2018, No. 134, §1; Acts 2021, No. 421, §1.

**Art. 1152. Designated emergency care facility, emergency medical service provider, firefighter, and law enforcement officer responsibilities; newborn safety devices authorized**

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

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

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

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

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

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

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

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

(d) Each designated emergency care facility that installs a newborn safety device as authorized by this Subparagraph shall ensure that the device is checked at least daily for debris

and is cleaned and sanitized with a hospital-quality disinfectant at least weekly and after any newborn relinquishment into the device.

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

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

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

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

B. Every designated emergency care facility, emergency medical service provider, fire station, and law enforcement station shall provide, on a periodic basis, instruction regarding safe haven relinquishment procedures to all employees who work in the facility or at the station. No employee or volunteer of a designated emergency care facility or emergency medical service provider, and no firefighter or law enforcement officer shall be held liable for any civil penalty for failure to comply with the provisions of this Paragraph. C. Instruction by a designated emergency care facility on safe haven relinquishment procedures may:

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

(2) Vary depending on the type of facility and the job duties of the employees being trained.

(3) Utilize the downloadable instructional video and training materials provided by the Department of Children and Family Services on the department's website.

D. The department shall create a card that will be supplied to designated emergency care facilities, emergency medical service providers, firefighters, and law enforcement officers which shall be provided to the individual relinquishing an infant into the care of a designated emergency care facility. The card shall feature a toll-free number to the department and a section on the card for the designated emergency care facility, emergency medical service provider, firefighter, or law enforcement officer to provide their address and contact information.

E. In the event that the relinquishing parent makes contact with the department, a designated emergency care facility, emergency medical service provider, firefighter, or law enforcement officer, the relinquishing parent shall be asked to voluntarily provide information about any prenatal care and the name of the other parent.

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



(1) How to contact the department should the parent later have questions about the relinquishment or the voluntary medical and genetic history information.

(2) The availability of counseling services.

(3) The right of the parent to file a claim and be heard in accordance with Articles 1156 and 1157.

(4) The right of the parent to use the services of the voluntary registry in accordance with Chapter 15 of Title XII.

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

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

I. Absent evidence of willful or intentional misconduct or gross negligence in carrying out these responsibilities, the representative and other staff of the designated emergency care facility or emergency medical service provider, the firefighter, or the law enforcement officer shall be immune from civil and criminal liability in any legal action arising from the examination, testing, care, and treatment of the infant.

Acts 2003, No. 609, §2; Acts 2010, No. 471, §1; Acts 2018, No. 134, §1; Acts 2021, No. 421, §1.

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

A. After an interlocutory decree has been entered, the department shall maintain contact with the proposed adoptive home directly or through another agency in accordance with Paragraph D of this Article.

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

C. A second confidential report must be presented to the court preceding the hearing on the final decree of agency adoption. The findings of this report shall be based upon the same considerations as prescribed in Article 1207 and shall disclose any changed conditions and all new pertinent information.

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



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

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

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

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

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

(a) The date and time of the visit.

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

(c) The location of the visit.

(d) The duration of the visit.

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

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

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

(h) A description of changes since last contact.

(i) A summary of the visit.

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

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

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

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

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

(10) A confidential report concerning requirements set forth in Subparagraphs (1) through (9) of this Paragraph must be presented to the department upon completion and to the court prior to the hearing on the final decree of agency adoption.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2021, No. 6, §1.

#### **Art. 1217.1. Reporting requirement; statistical availability**

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

- (1) Whether either of the adopted parents are related to the child.
- (2) The age of the child at placement.
- (3) The age of the child at the time of finalization.
- (4) The gender of the child.
- (5) The race of the child.
- (6) The location of placement.
- (7) Other nonidentifying information the department requests in order to maintain statistical records of adoption finalizations.

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

Acts 2021, No. 6, §1.

#### **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.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 2021, No. 158, §1.

#### **Art. 1233. Final decree at first hearing**

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

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2021, No. 6, §1.

#### **Art. 1235. Continuing duties; home study report**

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

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

C. Prior to the final decree of adoption, the attorney arranging the adoption shall ensure that all of the prerequisites for adoption listed in this Paragraph are completed. The list shall be completed by utilizing a social worker in the employment of a licensed adoption agency, licensed social worker, licensed professional counselor, licensed psychologist, medical psychologist,

licensed psychiatrist, or licensed marriage and family therapist. The prerequisites that must be completed are all of the following:

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

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

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

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

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

(a) The date and time of the visit.

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

(c) The location of the visit.

(d) The duration of the visit.

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

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

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

(h) A description of changes since last contact.

(i) A summary of the visit.

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

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

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

(8) Ensure that the child and adoptive parent shall be provided assistance, consultation, and emotional support with situations and problems encountered in permanent placement through finalization.

(9) Ensure that the adoptive family shall be provided with access to twenty-four hour crisis intervention services through finalization.

(10) Prepare a confidential report concerning the requirements set forth in Subparagraphs (1) through (9) of this Paragraph and present the report to the department upon completion and to the court prior to the hearing on the final decree of agency adoption.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2021, No. 6, §1.

**Art. 1239.1. Reporting requirement; statistical availability**

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

- (1) Whether either of the adopted parents are related to the child.
- (2) The age of the child at placement.
- (3) The age of the child at the time of finalization.
- (4) The gender of the child.
- (5) The race of the child.
- (6) The location of placement.

(7) Other nonidentifying information the department requests in order to maintain statistical records of adoption finalizations.

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

Acts 2021, No. 6, §1.

**Art. 1568. Petition**

A. A petition filed under the provisions of this Chapter shall contain the following:

(1) The name of each petitioner and each person on whose behalf the petition is filed and the name, address, and parish of residence of each individual alleged to have committed abuse, if known.

(2) If the petition is being filed on behalf of a child or person alleged to be incompetent, the relationship between that person and the petitioner.

(3) The facts and circumstances concerning the alleged abuse.

(4) The relationship between each petitioner and each individual alleged to have committed abuse.

(5) A request for one or more protective orders or a temporary restraining order.

B. The address and parish of residence of each petitioner and each person on whose behalf the petition is filed may remain confidential with the court.

C. If the petition requests a protective order for a spouse and alleges that the other spouse has committed abuse, the petition shall state whether a suit for divorce is pending.

D. If the petition requests the issuance of an ex parte temporary restraining order, the petition shall contain a written affirmation signed and dated by each petitioner that the facts and circumstances contained in the petition are true and correct to the best knowledge, information, and belief of the petitioner, under penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a witness who shall sign and print his name.

E. If a suit for divorce is pending, any application for a protective order shall be filed in that proceeding and shall be heard within the delays provided by this Chapter. Any decree issued in a divorce proceeding filed subsequent to the filing of a petition or an order issued pursuant to this Chapter may, in the discretion of the court hearing the divorce proceeding, supersede in whole or in part the orders issued pursuant to this Chapter. Such subsequent decree shall be forwarded by the rendering court to the court having jurisdiction of the petition for a protective order and shall be made a part of the record thereof. The findings and rulings made in connection with such protective orders shall not be res judicata in any subsequent proceeding.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 1997, No. 1156, §1; Acts 2021, No. 394,  
§2.