

# 2022 Updated Louisiana Children’s Code Articles

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## Contents

Art. 301. Definitions .....	3
Art. 305. Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children.....	3
Art. 320. Indigency determination.....	6
Art. 323. Definitions.....	6
Art. 324. Authorization .....	7
Art. 335. Preparation of record; costs .....	7
Art. 502. Definitions.....	8
Art. 575. Duties of the program; qualifications of counsel.....	10
Art. 601. Purpose .....	10
Art. 603. Definitions.....	11
Art. 607. Child's right to appointed counsel; payment.....	16
Art. 608. Parents' right to counsel; payment.....	17
Art. 610. Reporting procedure; reports to the legislature and the United States Department of Defense Family Advocacy Program.....	18
Art. 612. Assignment of reports for investigation and assessment.....	22
Art. 615. Disposition of reports.....	23
Art. 616.1.1. Appeal and review; correction of central registry entries; procedure .....	26
Art. 619. Instanter custody orders; instanter safety plan orders .....	26
Art. 620. Oral instanter orders.....	28
Art. 621. Taking child into custody without a court order.....	29
Art. 622. Placement pending a continued custody hearing.....	29
Art. 624. Continued custody hearing; continued safety plan hearing; federal Indian Child Welfare Act ..	30
Art. 625. Advice of rights and responsibilities of parents, counsel, and department; absent parents.....	31
Art. 626. Grounds for continued custody; reasonable efforts; grounds for continued safety plan.....	32
Art. 627. Continued custody order; special provisions; appointments; continued safety plan order .....	33
Art. 635.1. Notice to counsel .....	34
Art. 638. Service of petition; parent; child.....	34
Art. 639. Notice of nature of proceedings; parental rights; form.....	34
Art. 640. Service and return; child; resident parent; counsel.....	35

Art. 646.1. Prehearing conference.....	36
Art. 657. Motions to dismiss.....	37
Art. 658. Dismissal of petition.....	37
Art. 672.1. Reunification efforts determination.....	37
Art. 673. Case plan.....	38
Art. 675. Case plan purpose; contents.....	38
Art. 677. Case plan review.....	40
Art. 681. Dispositional alternatives.....	41
Art. 682. Removal of a child from parental custody or control.....	41
Art. 683. Disposition; generally.....	42
Art. 684. Judgment of disposition.....	43
Art. 700. Order; appeal.....	45
Art. 702. Permanency hearing.....	46
Art. 710. Order; appeal.....	48
Art. 716. Modification of judgment of disposition.....	49
Art. 722. Grounds; hearing; order.....	49
Art. 724.1. Temporary guardianship; designated successor guardian; construction.....	50
Art. 763. Motions to dismiss.....	51
Art. 764. Dismissal of petition.....	51
Art. 896. Deferred dispositional agreement.....	51
Art. 897. Disposition after adjudication of a felony-grade delinquent act.....	52
Art. 899. Disposition after adjudication of a misdemeanor-grade delinquent act.....	54
Art. 905. Progress reports to court.....	56
Art. 1003. Definitions.....	56
Art. 1016. Right to counsel.....	58
Art. 1019.1. Notice to counsel.....	58
Art. 1019.2. Service of petition; parent; child.....	59
Art. 1021. Service and return; child; resident parent; counsel.....	59
Art. 1103. Definitions.....	59
Art. 1150. Definitions.....	60
Art. 1186. Confidential adoption records; disclosure.....	61
Art. 1188. Motion for disclosure.....	62
Art. 1207. Duties of the agency; duties of the department; home study; confidential report.....	62

Art. 1213. Continuing duties of the department; home study report.....	64
Art. 1229. Duties of attorney arranging the adoption; duties of the department; home study; confidential report.....	65
Art. 1235. Continuing duties; home study report.....	67
Art. 1404. Definitions.....	67
Art. 1432. Order for custody; grounds.....	70
Art. 1433. Protective custody without court order .....	72
Art. 1570.1. Costs paid by abuser .....	73

## Art. 301. Definitions

As used in this Title, "nonmetropolitan area" means a parish whose largest city has a population of fifty thousand or less and where the population of the entire parish is less than one hundred thousand.

Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 2022, No. 271, §6.

### CHAPTER 4. ORIGINAL CRIMINAL COURT

#### JURISDICTION OVER CHILDREN

## Art. 305. Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children

A.(1) When a child is fifteen years of age or older at the time of the commission of first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnapping, he is subject to the exclusive jurisdiction of the juvenile court until either:

(a) An indictment charging one of these offenses is returned.

(b) The juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that he committed one of these offenses, whichever occurs first. During this hearing, when the child is charged with aggravated or first degree rape, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

(2) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (1) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment. If the child is being held in detention, the district attorney shall file the

petition or indictment in the appropriate court within thirty calendar days after the child's arrest, unless the child waives this right.

(3) Thereafter, if an indictment is returned, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the court exercising criminal jurisdiction may order that the child be transferred to the appropriate adult facility for detention prior to his trial as an adult. If the district attorney elects to file a petition and the child waives the right to a continued custody hearing, the child is subject to the exclusive jurisdiction of the juvenile court for all subsequent procedures, including the review of bail applications.

B.(1) When a child is fifteen years of age or older at the time of the commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he is subject to the exclusive jurisdiction of the juvenile court until whichever of the following occurs first:

(a) An indictment charging one of the offenses listed in Subparagraph (2) of this Paragraph is returned.

(b) The juvenile court holds a continued custody hearing and finds probable cause that the child has committed any of the offenses listed in Subparagraph (2) of this Paragraph and a bill of information charging any of the offenses listed in Subparagraph (2) of this Paragraph is filed. During this hearing, when the child is charged with forcible or second degree rape or second degree kidnapping, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

(2)(a) Attempted first degree murder.

(b) Attempted second degree murder.

(c) Manslaughter.

(d) Armed robbery.

(e) Aggravated burglary.

(f) Forcible or second degree rape.

(g) Simple or third degree rape.

(h) Second degree kidnapping.

(i) Repealed by Acts 2001, No. 301, §2.

(j) Aggravated battery committed with a firearm.

(k) A second or subsequent aggravated battery.

(l) A second or subsequent aggravated burglary.

(m) A second or subsequent offense of burglary of an inhabited dwelling.

(n) A second or subsequent felony-grade violation of Part X or X-B of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.

(3) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (2) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment or file a bill of information. If the child is being held in detention, the district attorney shall file the indictment, bill of information, or petition in the appropriate court within thirty calendar days after the child's arrest, unless the child waives this right.

(4) If an indictment is returned or a bill of information is filed, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the district court may order that the child be transferred to the appropriate adult facility for detention prior to his trial as an adult.

C. Except when a juvenile is held in an adult jail or lockup, the time limitations for the conduct of a continued custody hearing are those provided by Article 819.

D. The court exercising criminal jurisdiction shall retain jurisdiction over the child's case, even though he pleads guilty to or is convicted of a lesser included offense. A plea to or conviction of a lesser included offense shall not revert jurisdiction in the court exercising juvenile jurisdiction over such a child.

E.(1) If a competency or sanity examination is ordered, except for the filing of a delinquency petition, the return of an indictment, or the filing of a bill of information, no further steps to prosecute the child shall occur until the court exercising criminal jurisdiction appoints counsel for the child and provides notification in accordance with Article 809 and determines the child's mental capacity to proceed.

(2) When an indictment has been returned or a bill of information has been filed pursuant to this Subsection, the district court exercising criminal jurisdiction shall be the proper court to determine the child's mental capacity to proceed. In all other instances, the juvenile court shall be the proper court to make this determination.

Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 1991, No. 501, §1, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1994, 3rd Ex. Sess., No. 15, §1; Acts 1994, 3rd Ex. Sess., No. 39, §1; Acts 1995, No. 367, §1; Acts 1995, No. 959, §1; Acts 1995, No. 979, §1; Acts 2001, No. 301, §2; Acts 2008, No. 222, §1, eff. June 16, 2008; Acts 2010, No. 594, §1; Acts 2012, No. 698, §1; Acts 2015, No. 184, §8; Acts 2016, No. 501, §2, eff. June 14, 2016; Acts 2022, No. 175, §1.

## Art. 320. Indigency determination

A. For purposes of the appointment of counsel, children are presumed to be indigent.

B. Except as provided in Article 608, the determination of the indigency of any person entitled to counsel in accordance with this Code may be made by the court at any stage of the proceedings. If necessary, the person shall be allowed to summon witnesses to testify before the court concerning the person's financial ability to employ counsel.

C.(1) In determining whether a person is indigent and entitled to the appointment of counsel, the court shall consider whether the person is a needy person and the extent of the person's ability to pay.

(2) The court shall consider such factors as income, property owned, outstanding obligations, and the number and ages of dependents.

(3) Release on bail shall not alone disqualify either an adult or child for appointment of counsel.

D. In each case, subject to the penalty of perjury, the person shall certify in writing the material factors relating to the person's ability to pay as the court prescribes.

Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 2010, No. 593, §1; Acts 2022, No. 272, §1.

## Art. 323. Definitions

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

(2) "Protected person" means any person who is a victim of a crime or a witness in a juvenile proceeding and who either:

(a) Is under the age of eighteen years.

(b) Has a developmental disability as defined in R.S. 28:451.2(12).

(3) "Videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, or by other electronic means together with the associated oral record.

Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 2004, No. 241, §2; Acts 2007, No. 70, §2; Acts 2022, No. 202, §1.

## Art. 324. Authorization

A. A court exercising juvenile jurisdiction may require that a statement of a protected person be recorded on videotape in conformity with Article 326 by any of the following:

(1) Motion of the court or motion of the district attorney, a parish welfare unit or agency, the Department of Children and Family Services, or a child advocacy center operating in the judicial district.

(2) Adoption of a local court rule that authorizes the videotaping of any protected person without the necessity of the issuance of an order by the court in any individual case.

(3) Execution of a written protocol between the court and law enforcement agencies, a parish welfare unit or agency, the Department of Children and Family Services, or a child advocacy center operating in the judicial district that authorizes the videotaping of any protected person without the necessity of the issuance of an order by the court in any individual case.

B. The coroner may, in conjunction with the district attorney and appropriate hospital personnel and pursuant to their duties in R.S. 40:2109.1 and 2113.4, provide for the videotaping of the statements of children under the age of eighteen who present themselves or who are brought to a hospital for treatment as victims of rape or who have been otherwise physically or sexually abused.

C. Such a videotape shall be available for introduction into evidence in any juvenile proceeding under this Code in which it is relevant.

Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 2004, No. 241, §2; Acts 2007, No. 70, §2; Acts 2014, No. 647, §2; Acts 2022, No. 202, §1.

## Art. 335. Preparation of record; costs

A. The clerk of the trial court shall cause the record on appeal to be prepared and lodged with the appellate court on or before the return day or extension thereof.

B. All records and supplemental records prepared for filing in any appellate court shall be certified and dated by the clerk upon completion. The certification shall include the date any transcript was received for inclusion in the record.

C. All transcripts or parts thereof completed for inclusion in the record shall be dated and certified by the court reporter who prepares them. The date of certification by the court reporter shall be the date on which the transcript was concluded and furnished to the clerk for inclusion in the record.

D. If a child desires a transcript for appeal or for supervisory writ, the child or the parents of the child shall not be assessed the cost of transcription of the record or any other costs associated with the preparation of the record.

E. If a parent, in a proceeding brought pursuant to Title V, VI, VII, X, or XI of this Code, desires a transcript for appeal or for supervisory writ, the parent shall pay the cost of transcription of the record unless the court determines that the parent is unable to pay due to poverty or lack of means. The appointment of counsel for the parent in a proceeding shall create a rebuttable presumption that the parent is unable to pay the costs associated with the preparation of the appellate record or the costs for the transcription of the contested proceedings for inclusion in the appeal or supervisory writ. If the court finds that the presumption has been rebutted, the court shall provide written reasons for its finding.

F. If the court finds that the interests of justice so require, the court may waive the costs of transcription of the record or for supervisory writ for any other party with a right to an appeal who is unable to pay due to poverty or lack of means.

G. Failure of the clerk to prepare and lodge the record on appeal either timely or correctly shall not prejudice the appeal.

Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 2022, No. 272, §1.

## Art. 502. Definitions

For the purposes of this Title, the following terms have the following meanings, unless the context clearly indicates otherwise:

(1) "Abuse" means any one of the following acts that seriously endanger the physical, mental, or emotional health, welfare, 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.



(c) The involvement of the child in any sexual act with a parent or any other person, the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person, the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(d) Female genital mutilation as defined by R.S. 14:43.4.

(2) "Child" means a person under the age of eighteen years who has not been judicially emancipated or emancipated by marriage as provided by law.

(3) "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.

(4) "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) Female genital mutilation.

(5) "Neglect" means the unreasonable refusal or 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, welfare, and safety is substantially threatened or impaired. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child's basic support, supervision, treatment, or services 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 that has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing in this Subparagraph shall prohibit the court from

ordering medical services for the child when there is substantial risk of harm to the child's health, welfare, or safety.

(6) "Nonprofit corporation" means a corporation formed in accordance with the provisions of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950.

Acts 1994, 3rd Ex. Sess., No. 69, §1, eff. July 7, 1994; Acts 1995, No. 1305, §1, eff. June 29, 1995; Acts 2003, No. 749, §1; Acts 2014, No. 602, §7, eff. June 12, 2014; Acts 2018, No. 458, §2; Acts 2022, No. 272, §1.

## Art. 575. Duties of the program; qualifications of counsel

A. The program shall provide qualified legal counsel, which shall include curator ad hoc appointments, to indigent or absent parents in child abuse and neglect cases in accordance with the provisions of Articles 608 and 1016 and R.S. 15:141 through 183 and 185.1 through 185.9.

B. Legal representation, which shall include curator ad hoc appointments, of indigent or absent parents in child abuse and neglect cases shall comply with standards promulgated by the Louisiana Public Defender Board, or any successor to that board in accordance with R.S. 15:141 through 183 and 185.1 through 185.9 to ensure competent and fair representation.

C. The Indigent Parents' Representation Program, through its governing authority, may adopt policies to provide representation to indigent parents prior to the commencement of court proceedings.

Acts 2007, No. 95, §1; Acts 2014, No. 354, §1; Acts 2016, No. 407, §1, eff. June 5, 2016; Acts 2022, No. 272, §1.

### TITLE VI CHILD IN NEED OF CARE CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

## Art. 601. Purpose

The purpose of this Title is to protect children whose physical or mental health, welfare, and safety is substantially at risk of harm by physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others, by providing for the reporting of suspected cases of abuse, exploitation, or neglect of children; by providing for the investigation of complaints; and by providing, if necessary, for the resolution of child in need of care proceedings in the courts. The proceedings shall be conducted expeditiously to avoid delays in achieving permanency for children. This Title is intended to provide the greatest possible protection as promptly as possible for children. The health, welfare, safety, and best interest of the child shall be the paramount concern in all proceedings pursuant to this Title. This Title shall be construed in accordance with Article 102. This Title shall be administered and interpreted to avoid

unnecessary interference with family privacy and trauma to the child, and yet, at the same time, authorize the protective and preventive intervention needed for the health, welfare, safety, and well-being of children.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2022, No. 272, §1.

## 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 that seriously endanger the physical, mental, or emotional health, welfare, 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, welfare, 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 that has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing in this Subparagraph shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health, welfare, or safety.

(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, or close friend of the parent.

(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) "Protective capacity" means the cognitive, behavioral, and emotional knowledge, abilities, and practices that prevent or control threats of danger to children.

(26) "Reasonable efforts" means the exercise of ordinary diligence and care by the department throughout the pendency of a case pursuant to the obligations imposed on the state by federal and state law to provide services and supports designed and intended to prevent or

eliminate the need for removing a child from the child's home, to reunite families after separation, and to achieve safe permanency for children. Reasonable efforts shall be determined by the particular facts and circumstances of each case, including the individualized needs of each child and the family, the imminence and potential severity of the threat of danger, the strengths of each child and the family, and the community of support available to the family. In making reasonable efforts, the health, welfare, and safety of the child shall be the paramount concern.

(27) "Relative" means an individual with whom the child has established a significant relationship by blood, adoption, or affinity.

(28) "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 health, welfare, and safety.

(29) "Safe" and "safety" mean the condition of not being unsafe. Whether a child is unsafe shall be determined by the particular facts and circumstances of each case, including consideration of the threat of danger to the child, whether the child is vulnerable to the threat, and the parent's or caretaker's protective capacity to manage or control the threat.

(30) "Safety plan" means a plan for the purpose of assuring a child's health, welfare, 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 the child's parents or other persons.

(31) "Threat of danger" exists when the behavior of a parent or caretaker or the family situation indicates serious harm, in the near future, to the child's physical, mental, or emotional health, welfare, and safety.

(32) "Vulnerable" means the inability to protect oneself from identified threats of danger.

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; Acts 2022, No. 272, §1.

## Art. 607. Child's right to appointed counsel; payment



A. The court shall appoint the entity designated for the jurisdiction by the Louisiana Supreme Court to provide qualified, independent counsel for the child in any order issued in accordance with Article 619(C) or 620 or at the time the order setting the first court hearing is signed. Neither the child nor anyone purporting to act on behalf of the child may be permitted to waive this right.

B. The child shall be a party to the proceedings, and the attorney for the child shall have the authority to represent the child at all stages of the proceedings. The attorney for the child shall have the authority to take actions, including but not limited to the following:

(1) Accompany the child and be present for all court appearances, school hearings, and educational and other meetings related to the child.

(2) View and copy the child's medical, dental, psychological, psychiatric, educational, or counseling records.

C. If the court finds that the parents of the child are financially able, the court may order the parents to pay some or all of the costs of the child's representation in accordance with Articles 320 and 321.

D. In any dispositional or postdispositional hearing which may result in the mental health institutionalization of a child who is in the custody of the state, the child shall be entitled to representation by an attorney appointed by the Mental Health Advocacy Service, unless unavailable as determined by the director.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 2004, No. 301, §1, eff. June 18, 2004; Acts 2004, No. 321, §1; Acts 2006, No. 271, §1; Acts 2007, No. 307, §9; Acts 2014, No. 354, §1; Acts 2022, No. 272, §1.

## Art. 608. Parents' right to counsel; payment

A. The parents of a child who is the subject of a child in need of care proceeding shall be entitled to qualified, independent counsel after the court issues any order in accordance with Article 619(C) or 620 or at the filing of a petition and at all stages of the proceedings thereafter. If the court does not issue an order in accordance with Article 619(C) or 620, the right to counsel shall attach upon the filing of a petition. At all proceedings governed by Chapter 6 of this Title, the parents shall be presumed to be indigent. Thereafter, indigence shall be determined in accordance with Article 320. The right to counsel may be waived by a parent if the court determines that the parent choosing to waive the right to representation has been instructed by the court about the rights and the possible consequences of waiver. Before accepting a waiver of counsel, the court shall ensure each of the following:

(1) The parent has been informed by the court that the Department of Children and Family Services cannot provide legal advice to the parent or represent the parent's interest.

(2) The parent has been informed by the court that the child's attorney cannot provide legal advice to the parent and does not represent the parent's interest.

(3) The parent has been informed by the court that a proceeding brought in accordance with this Title may ultimately result in a termination of parental rights and a complete and permanent separation of the parent from the child.

(4) The parent has been informed by the court that if the parent is unable to afford an attorney, one will be provided by the Indigent Parents' Representation Program.

(5) That the parent is eighteen years of age or older.

B. If a parent of a child is financially unable to afford counsel or is presumed indigent in accordance with Paragraph A of this Article, the district public defender office shall provide for representation, unless the Louisiana Public Defender Board has contracted to provide for representation in accordance with R.S. 15:185.3(B)(12) or any other provision of law.

C. The unavailability of counsel to represent the parent shall be good cause for a continuance of the continued custody hearing for up to three days, and the hearing shall not proceed until a qualified, independent attorney is provided to the parent.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 2007, No. 307, §9; Acts 2014, No. 354, §1; Acts 2022, No. 272, §1.

## Art. 610. Reporting procedure; reports to the legislature and the United States Department of Defense Family Advocacy Program

A.(1) Reports of child abuse or neglect or that such was a contributing factor in a child's death, where the abuser is believed to be a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, shall be made immediately to the department. A permitted reporter shall make a report through the designated state child protection reporting hotline telephone number or in person at any child welfare office. A mandatory reporter shall make a report through the designated state child protection reporting hotline telephone number, via the Louisiana Department of Children and Family Services Mandated Reporter Portal online, or in person at any child welfare office. Reports in which the abuse or neglect is believed to be perpetrated by someone other than a caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, and the caretaker is not believed to have any responsibility for the abuse or neglect, shall be made immediately to a local or state law enforcement agency. Dual reporting to both the department and the local or state law enforcement agency is permitted. If a report involves alleged sex trafficking, all mandatory reporters shall report to the department regardless of whether there is alleged parental or caretaker culpability.

(2) In an investigation of a report of abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare, the department shall determine whether the

person is an active duty member of the United States Armed Forces or the spouse of a member on active duty. If the department determines the person is an active duty member of the United States Armed Forces or the spouse of a member on active duty, the department shall notify the United States Department of Defense Family Advocacy Program at the closest active duty military installation of the investigation.

(3) A report made to the department by facsimile does not relieve the reporter of his duty to report in accordance with the applicable requirements of this Article.

B. The report shall contain the following information, if known:

(1) The name, address, age, sex, and race of the child.

(2) The nature, extent, and cause of the child's injuries or endangered condition, including any previous known or suspected abuse to this child or the child's siblings.

(3) The name and address of the child's parent(s) or other caretaker.

(4) The names and ages of all other members of the child's household.

(5) The name and address of the reporter.

(6) An account of how this child came to the reporter's attention.

(7) Any explanation of the cause of the child's injury or condition offered by the child, the caretaker, or any other person.

(8) The number of times the reporter has filed a report on the child or the child's siblings.

(9) Any other information which the reporter believes might be important or relevant.

C. The report shall also name the person or persons who are thought to have caused or contributed to the child's condition, if known, and the report shall contain the name of such person if he is named by the child.

D. If the initial report was in oral form by a mandatory reporter, it shall be followed by a written report made within five days via the online Mandated Reporter Portal of the department or by mail to the centralized intake unit of the department at the address provided on the website of the department; or, if necessary, to the local law enforcement agency. The reporter may use a form for the written report, which shall be developed, approved, and made available by the Department of Children and Family Services. The form is optional and may be available electronically on the department's website.

E.(1) All reports made to any local or state law enforcement agency involving abuse or neglect in which the child's parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, is believed responsible shall be promptly communicated to the department through the designated state child protection reporting

hotline telephone number in accordance with a written working agreement developed between the local law enforcement agency and the department.

(2) The department shall promptly communicate abuse or neglect cases not involving a parent, caretaker, or occupant of the household to the appropriate law enforcement agency in accordance with a written working agreement developed between the department and law enforcement agency. The department also shall report all cases of child death which involve a suspicion of abuse or neglect as a contributing factor in the child's death to the local and state law enforcement agencies, the office of the district attorney, and the coroner.

(3) Reports involving a felony-grade crime against a child shall be promptly communicated to the appropriate law enforcement authorities as part of the interagency protocols for multidisciplinary investigations of child abuse and neglect in each judicial district as provided in Articles 509 and 510.

(4) The department shall communicate as soon as possible all reports involving alleged child victims of sex trafficking to the Louisiana State Police for referral to the appropriate local law enforcement agency for investigation or other action as appropriate.

F. Any commercial film or photographic print processor who has knowledge of or observes, within the scope of this professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child who he knows or should know is under the age of seventeen years, which constitutes child pornography as defined in Article 603, shall report immediately to the local law enforcement agency having jurisdiction over the case. The reporter shall provide a copy of the film, photograph, videotape, negative, or slide to the agency receiving the report.

G.(1) If a physician has cause to believe that a newborn was exposed in utero to an unlawfully used controlled dangerous substance, as defined by R.S. 40:961 et seq., the physician shall order a toxicology test upon the newborn, without the consent of the newborn's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall issue a report, as soon as possible, in accordance with this Article. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution.

(2) If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his physical appearance or functioning that a physician has cause to believe are due to the chronic or severe use of alcohol by the mother during pregnancy or are the effects of fetal alcohol spectrum disorder, the physician shall issue a report in accordance with this Article.

H.(1) The provisions of this Paragraph shall be known and may be cited as The Alfred C. Williams Child Protection Act.

(2) Beginning May 1, 2017, and annually thereafter, the department shall provide to the legislature the following child-specific information regarding reports of child abuse or neglect reported to the department pursuant to the provisions of this Article:

(a) The actual or estimated age, the sex, and the race of each child at the time the latest report was received.

(b) The parish location of primary case name of the latest report accepted for investigation received.

(c) The categories, levels, and final findings assigned to each allegation contained in reports received for each child.

(d) The number of cases accepted for investigation in which the child was an alleged or valid victim during the report year.

(e) The number of cases accepted for investigation in which the child was a valid victim during the report year.

(f) The number of reports accepted for investigation prior to report year in which the child was an alleged or valid victim.

(g) The number of other alleged victims in reports accepted for investigation in each child's cases prior to report year.

(h) The number of reports accepted for investigation prior to the report year in which the child was a valid victim.

(i) The number of other validated victims in reports accepted for investigation in each child's cases prior to report year.

(j) The number of distinct reporter names for all investigations in which the child is an alleged or valid victim.

(3) For purposes of this Paragraph, the following words shall have the following meanings:

(a) "Alleged victim" includes a child who is the subject of an investigation and for whom there is an allegation of abuse or neglect.

(b) "Valid victim" or "validated victim" includes an alleged victim for whom one or more allegations of abuse or neglect have been determined to be justified pursuant to Article 615.

(4) The information provided in the annual report required by Subparagraph (2) of this Paragraph shall not include the name, street address, or other identifying information of any child, parent, sibling, or reporter.

(5) If the department fails to submit timely the report required by Subparagraph (2) of this Paragraph, then the legislature or either house thereof, through its authorized representative, may petition the Nineteenth Judicial District Court for writs of mandamus to compel the

submission of the report. Any failure to obey a writ of mandamus issued by the court may be punishable by the court as contempt thereof.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1997, No. 1103, §1, eff. July 14, 1997; Acts 1999, No. 1178, §1, eff. July 9, 1999; Acts 2004, No. 75, §1, eff. May 28, 2004; Acts 2004, No. 78, §1, eff. May 28, 2004; Acts 2006, No. 157, §1; Acts 2007, No. 396, §1; Acts 2012, No. 268, §2, eff. May 25, 2012; Acts 2012, No. 614, §2, eff. June 7, 2012; Acts 2016, No. 302, §1; Acts 2017, No. 359, §§1, 3, and 4; Acts 2018, No. 104, §1; Acts 2018, No. 207, §1; Acts 2022, No. 662, §1, eff. Jan. 1, 2023.

## Art. 612. Assignment of reports for investigation and assessment

A.(1) Upon receiving a report of abuse or neglect of a child who is not in the custody of the state, the local child protection unit of the department shall promptly assign a level of risk to the child based on the information provided by the reporter.

(2) Reports of high and intermediate levels of risk shall be investigated promptly. This investigation shall include a preliminary investigation as to the nature, extent, and cause of the abuse or neglect and the identity of the person actually responsible for the child's condition. This preliminary investigation shall include an inquiry as to whether there is reason to know that the child is an Indian child. This preliminary investigation shall also include an interview with the child and the child's parents or other caretaker and shall include consideration of all available medical information provided to the department pertaining to the child's condition. This preliminary investigation shall also include an immediate assessment of any existing visitation or custody order or agreement involving the alleged perpetrator and the child. The department shall request a temporary restraining order pursuant to Article 617, a protective order pursuant to Article 618, or an instanter safety plan order pursuant to Article 619 or 620 if the department determines that any previously ordered visitation or custody would put the child's health, welfare, and safety at risk. Admission of the investigator on school premises or access to the child in school shall not be denied by school personnel. However, the request for a temporary restraining order or a protective order in accordance with this Article shall not independently confer exclusive jurisdiction on the juvenile court in accordance with Article 303.

(3) In lieu of an investigation, reports of low levels of risk may be assessed promptly through interviews with the family to identify needs and available match to community resources. If during this assessment, it is determined that a child is at immediate substantial risk of harm, the local child protection unit shall promptly conduct or participate in an intensive investigation.

(4) During the investigation of a report from a treating health care practitioner of physical abuse of a child who is not in custody of the state, at the request and expense of the child's parent or caregiver, the department shall provide copies of all medical information pertaining to the child's condition or treatment obtained during the investigation to a board certified child abuse pediatrician for purposes of conducting an independent review of the information. Any resulting report shall be provided to the department and to the child's parent or caretaker and shall be

utilized in the department's ongoing assessment of risk and to determine what action may be necessary to protect the health, welfare, and safety of the child. Nothing in this Subparagraph shall be construed to prohibit granting an instant removal order pursuant to Article 615(B).

B. All persons, including without limitation mandatory and permissive reporters, shall cooperate fully with investigative procedures, including independent investigations and psychological evaluations of the child initiated by the parent on behalf of the child. The provisions of this Paragraph shall not require the disclosure of any communications between an attorney and his client or any confession or other sacred communication between priest, rabbi, duly ordained minister, or Christian Science practitioner and his communicant.

C. All interviews of the child or his parents conducted in the course of a child protective investigation shall be tape-recorded, if requested by the parent or parents.

D. Upon determination that there is reason to believe that the child has been abused or neglected, the local child protection unit shall conduct a more intensive investigation. If necessary, the investigator may apply for an evaluation order authorized by Article 614.

E. When the report concerns a facility under the supervision of the department, the secretary of the department may assign the duties and powers enumerated herein to any office within the department to carry out the purposes of this Chapter or may enter into cooperative agreements with other state agencies to conduct investigations in accordance with this Article.

F. Violation of the duties imposed by this Article subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(2).

G. The Department of Children and Family Services shall set priorities for case response and allocate staff resources to cases identified by reporters as presenting immediate substantial risk of harm to children. Absent evidence of willful or intentional misconduct or gross negligence in carrying out the investigative functions of the state child protection program, caseworkers, supervisors, program managers, and agency heads shall be immune from civil and criminal liability in any legal action arising from the department's decisions made relative to the setting of priorities for cases and targeting of staff resources.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1993, No. 675, §1; Acts 1995, No. 444 §1, eff. June 17, 1995; Acts 1999, No. 1355, §1, eff. July 12, 1999; Acts 2011, No. 189, §1; Acts 2013, No. 225, §1; Acts 2014, No. 486, §1; Acts 2018, No. 296, §1; Acts 2022, No. 272, §1.

## Art. 615. Disposition of reports

A. In determining the disposition of the report, the agency shall take into account, in mitigation, the possibility of accidental injury or condition, or that the injury resulted from what might be considered a reasonable exercise of discipline for the child's misbehavior.

B. After investigation, the local child protection unit shall make one of the following determinations:

(1) The child appears to be a child in need of care and the child's immediate removal is necessary for protection from further abuse or neglect, in which case, whenever extraordinary justification arises, the local child protection unit shall apply for an instanter removal order to place the child in the custody of a suitable relative or other suitable individual capable of protecting the health, welfare, and safety of the child or the state as authorized by Articles 619 and 620 and shall notify the district attorney as soon as possible.

(2) The report appears to be justified, in that there is evidence of child abuse, or neglect, and a protective order or instanter safety plan order would eliminate the need for removal of the child in order to protect him from further abuse, in which case it may apply for a temporary restraining order or protective order authorized by Article 617 and Article 618, or an instanter safety plan order authorized by Article 619 or Article 620.

(3) The report appears to be justified, in that there is evidence of child abuse or neglect, in which case it shall report all pertinent information to the district attorney, as soon as possible but in no case more than thirty days after such determination, for evaluation of whether a child in need of care petition should be filed in the court with juvenile jurisdiction.

(4) The report is inconclusive, in that the evidence tends to support a finding of abuse or neglect, but there is not enough information to confirm a justified report.

(5) The report does not appear justified as the evidence does not support a finding of child abuse or neglect.

(6) The investigation indicates the report appears to be false and that the reporter knowingly made a false report in which case all pertinent information shall be forwarded to the district attorney for a determination of whether the evidence supports a finding of a false public report.

C. In addition to investigation or assessment of reports, or both, the local child protection family services unit may offer available information, referrals, or services to the family when there appears to be some need for medical, mental health, social, basic support, supervision, or other services. Assignments for case response and allocation of resources shall be made in the order of children at greatest risk of harm to the lowest risk of harm. The individualized intervention strategies based on this risk assessment may include concurrent planning.

D. Violation of the duties imposed by this Article subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(2).

E. When after the investigation of a report, the determination is made that the report is inconclusive or not justified, as provided in Subparagraphs (B)(4) and (5) of this Article, the files, records, and pertinent information regarding the report and investigation shall be strictly confidential, shall not become part of the central registry except as otherwise provided in Subparagraph (1) of this Paragraph or in Article 616(F), shall not be disclosed or ordered to be



produced in conjunction with any legal proceeding or other matter except as provided in Subparagraph (4) of this Paragraph, and shall be maintained only for the following purposes:

(1) The files, records, and information shall remain unsealed and shall be maintained for the exclusive use of child protective services, to assist in future risk and safety assessments. The Department of Children and Family Services shall maintain all files and records for seven years from the date of the determination, unless a subsequent inconclusive or not justified report is received during that period. In that case, information from all such reports will be maintained until the youngest child in the alleged victim's family attains the age of eighteen years or seven years from the date of the latest determination, whichever is longer. If information from an inconclusive or not justified report is used as a part of the basis for a later, related, and justified report, the earlier report shall become part of the file of the justified report and shall cease to be a separate report.

(2) All files, records, and information shall be admissible in any civil litigation or criminal proceeding against the Department of Children and Family Services or its employees wherein work performance or conduct is at issue. They shall remain confidential and be placed under seal by the court to prevent disclosure to the public. The department shall maintain the files, records and information during the pendency of the litigation or prosecution.

(3) All files, records, and information regarding a report that has been determined to be inconclusive may be released to law enforcement investigators in the course of investigations of crimes involving acts against children in order to assist in the proper evaluation of current reports of abuse which may include a pattern of incidents. Notwithstanding any other provision of law to the contrary, these files, records, and information shall remain confidential and shall not be subject to disclosure pursuant to R.S. 44:1 et seq. If a court determines that the files, records, and information are admissible in criminal proceedings involving acts against children, those files, records, and information shall be placed under seal by the court to prevent disclosure to the public.

(4)(a) All files, records, and information regarding a report that has been determined to be inconclusive or not justified shall be released to local, state, and federal law enforcement agencies, military authorities, prosecuting authorities, and coroners upon request when such entity is in the course of investigations or legal proceedings and the requesting entity has good cause to believe that the files, records, or information contain information which may be constitutionally required to be disclosed pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and its progeny. The requesting agency shall request the information in writing and state the purpose for which the information is being requested.

(b) Files, records, and information released pursuant to this Subparagraph shall be confidential and shall not be further disclosed except as expressly authorized by Article 412. Notwithstanding any other provision of law to the contrary, files, records, and information released pursuant to this Subparagraph shall not be subject to disclosure pursuant to R.S. 44:1 et seq.

F. The department shall promulgate rules to provide for the disposition, handling, maintenance, and storage of inconclusive and not justified reports in keeping with this Article.

G. Except as provided in Subparagraph (B)(6) of this Article, the name of the reporter shall not be disclosed.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 505, §1; Acts 1995, No. 444, §§1, 2, eff. June 17, 1995; Acts 1995, No. 625, §1, eff. June 19, 1995; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 1999, No. 593, §1; Acts 2003, No. 567, §1; Acts 2004, No. 457, §§1, 2, eff. June 24, 2004; Acts 2005, No. 148, §1; Acts 2006, No. 580, §1, eff. June 23, 2006; Acts 2006, No. 394, §1; Acts 2014, No. 486, §1; Acts 2022, No. 232, §1; Acts 2022, No. 272, §1.

### Art. 616.1.1. Appeal and review; correction of central registry entries; procedure

A. When a report alleging abuse or neglect is determined to be justified by the department, the individual who is or was the subject of the determination may make a formal written request to the division of administrative law for an administrative appeal of the justified determination, in accordance with the procedures set forth in Title 67 of the Louisiana Administrative Code.

B. The department shall provide a written notice to the individual who is or was the subject of the determination in clear, concise, and understandable language that is easy to read, containing all of the following:

- (1) An explanation of the determination by the department.
- (2) An explanation of the consequences of the determination.
- (3) The individual's right to an administrative appeal.
- (4) The specific procedure for requesting an appeal, including the deadline.
- (5) The name and contact information of a department representative the individual may contact for additional information.

C. The department shall promulgate, in accordance with the Administrative Procedure Act, all rules and regulations necessary to implement the provisions of this Article.

Acts 2017, No. 348, §1, eff. upon promulgation and publication by DCFS rules; Acts 2022, No. 535, §1.

### Art. 619. Instanter custody orders; instanter safety plan orders

A.(1) A peace officer, district attorney, or employee of the local child protection unit of the department may file a verified complaint alleging facts showing that there are reasonable grounds to believe that the child is in need of care and that emergency removal or the implementation of a safety plan is necessary to secure the child's health, welfare, and safety.

(2) After the complaint has been filed, the parent is without authority to place the child with any individual or institution except the department until legal custody is returned to the parent or the safety plan is terminated.

B.(1) If removal of the child is requested, the court shall immediately determine whether reasonable efforts, as defined by Article 603, have been made by the department to prevent or eliminate the need for the child's removal. In making the determination, the court shall consider all of the following:

(a) Whether the department has requested a temporary restraining order pursuant to Article 617.

(b) Whether the department has requested a protective order pursuant to Article 618.

(c) Whether the department has requested an instanter safety plan order pursuant to this Article.

(d) Any services or support offered or attempted prior to the request for an instanter order to control the threat of danger or substitute for diminished or absent caretaker protective capacity.

(2) In making and determining reasonable efforts, the child's health, welfare, and safety shall be the paramount concern.

(3) Even if the department's efforts have not been reasonable, the court may authorize the removal of the child if the court determines that removal is necessary to secure the safety of the child and that additional efforts would not keep the child safe from identified threats of danger.

C.(1) Upon presentation of the verified complaint, the court shall immediately determine whether emergency removal or the issuance of an instanter safety plan order is necessary to secure the child's health, welfare, and safety.

(2) If the court finds that continuation in the home would be contrary to the health, welfare, and safety of the child, the court shall immediately issue a written instanter order directing that the child be placed in the provisional custody of a suitable relative or other suitable individual capable of protecting the health, welfare, and safety of the child or that the child be taken into the custody of the state. The order shall contain written findings of fact supporting the necessity for the child's removal. If the child has been ordered into the custody of a suitable relative or other suitable individual, a safety plan shall be made an order of the court and shall direct the provisional custodian to adhere to the conditions of the safety plan. The safety plan shall set forth conditions of contact with parents or other suitable individuals.

(3) If, upon request by the state, the court determines that with the issuance of a safety plan order, the child's health, welfare, and safety can be secured without removal, the court shall immediately issue a written instanter safety plan order directing compliance with the terms of the safety plan. The order shall contain written findings of fact supporting the necessity for the safety plan. The safety plan shall set forth conditions as determined by or agreed upon by the state as necessary for the child's health, welfare, and safety while remaining in the home.

(4) If the court determines that emergency removal or the issuance of a safety plan order is not necessary to secure the child's health, welfare, and safety, the court shall issue a written order denying the request for custody or for the implementation of a safety plan.

D. An instanter order shall be executed by either an employee of the local child protection unit or any peace officer having territorial jurisdiction over the child.

E. Any peace officer having territorial jurisdiction over the child is authorized to serve a summons upon a parent or caretaker, commanding him to appear at court for a continued custody or continued safety plan hearing. The summons shall expressly notify the parent or caretaker that the court may issue a binding order in his absence if he fails to appear. A copy of the summons shall be filed in the record as proof of service. An employee of the local child protection unit shall provide written notice to the parents or caretaker of the date, time, and location of the continued custody or continued safety plan hearing.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1995, No. 1095, §2; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 1999, No. 1215, §1, eff. July 9, 1999; Acts 2001, No. 567, §1; Acts 2005, No. 148, §1; Acts 2006, No. 278, §1; Acts 2014, No. 486, §1; Acts 2022, No. 272, §1.

## Art. 620. Oral instanter orders

A. In exceptional circumstances, the facts supporting the issuance of an instanter order and the exceptional circumstances may be relayed orally, including telephonically, to the judge, and the order directing that a child be taken into custody or, upon request by the state, that an instanter safety plan order be implemented may be issued orally.

B. An affidavit containing the information previously relayed orally, including telephonically, shall be filed with the clerk of the court within twenty-four hours, and a written order shall be issued. The written order shall include the court's findings of fact supporting the necessity for the child's removal or the implementation of an instanter safety plan order and, if the child has been removed, shall determine the child's custodian in accordance with Article 619.

C. The affidavit filed after the child has been placed shall indicate whether the child was released to the child's parents or remains removed.

D. The department shall promptly notify the parents or caretaker of the nature of the allegations and, if the child is not released, of the time and place of the continued custody hearing.

E. If the court ordered the implementation of a safety plan, the department shall promptly notify the parents or caretaker of the nature of the allegations, the conditions of the safety plan, and the time and place of a continued safety plan order hearing.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 2001, No. 567, §1; Acts 2005, No. 148, §1; Acts 2006, No. 278, §1; Acts 2014, No. 486, §1; Acts 2022, No. 272, §1.

## Art. 621. Taking child into custody without a court order

A. A peace officer or probation officer of the court may take a child into custody without a court order if there are reasonable grounds to believe that the child's surroundings are such as to endanger the child's health, welfare, and safety and immediate removal appears to be necessary. The peace officer shall have the responsibility to promptly notify and release the child to the department.

B. Employees of the department shall secure an instanter order before taking a child into custody.

C. The department may release the child or secure an instanter order.

D. The department shall promptly notify the parents or caretaker of the nature of the allegations and, if the child is not released, of the time and place of the continued custody hearing.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 2006, No. 278, §1; Acts 2022, No. 272, §1.

## Art. 622. Placement pending a continued custody hearing

A. Prior to the continued custody hearing required in Article 624, a suitable relative or other suitable individual may seek and obtain an ex parte court order to take provisional custody of the child pending the continued custody hearing. The provisions of Code of Civil Procedure Article 3945 are inapplicable to an ex parte order rendered pursuant to this Paragraph.

B. Unless the best interest of the child requires a different placement, a child who appears to be a child in need of care and whose immediate removal is necessary shall be placed, pending a continued custody hearing, in accordance with the following priorities of placement:

(1) In the home of a suitable relative who is of the age of majority and with whom the child has been living in a stable and safe environment if the relative is willing and able to continue to offer such environment for the child pending an adjudication hearing and if the relative agrees to the safety plan.

(2) In the home of a suitable relative who is of the age of majority if the relative is willing and able to offer a stable and safe environment for the child pending an adjudication hearing and if the relative agrees to the safety plan.

(3) In the home of a suitable individual who is of the age of majority if the individual is willing and able to offer a stable and safe environment for the child pending an adjudication hearing and if the individual agrees to the safety plan.

(4) In foster care under the supervision of the department until further orders of the court.

(5) In a shelter care facility if the child, who is not in the custody of the department, has been the victim of human trafficking as provided for in R.S. 14:46.2 or trafficking of children for sexual purposes as provided for in R.S. 14:46.3.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1997, No. 1152, §1; Acts 1999, No. 754, §1; Acts 1999, No. 1317, §2; Acts 2005, No. 148, §1; Acts 2006, No. 278, §1; Acts 2017, No. 376, §1; Acts 2022, No. 272, §1.

## Art. 624. Continued custody hearing; continued safety plan hearing; federal Indian Child Welfare Act

A. If the court issues an order pursuant to Article 619 or 620, a hearing shall be held by the court within three days after the issuance of the order. An order setting the hearing shall provide for appointment of counsel for the child and notice to the entity approved to represent children. If an instanter safety plan order has been ordered, a hearing shall be held by the court within three days from the issuance of the safety plan order. The parents' signature on the safety plan shall constitute evidence of their agreement with the plan. The continued safety plan hearing shall be conducted in accordance with the procedural and evidentiary rules applicable to continued custody hearings.

B. After notice to all parties and when a child is in foster care, to any foster parent, pre-adoptive parent, and relative providing care, and upon a showing of good cause, the court may grant, deny, or condition a requested continuance of the proceeding in accordance with the best interests of the child. The hearing may be continued for up to three additional days. If a continuance is granted, the court shall issue a written order identifying the mover and reciting the particular facts justifying the continuance.

C.(1) If it appears from the record that, after diligent efforts by the department, the parent cannot be found or has been served a summons or notified by the department to appear at the continued custody or continued safety plan hearing and fails to appear at the hearing, then the hearing may be held in the parent's absence.

(2) If a foster parent, pre-adoptive parent, adoptive parent, or relative providing care for the child fails to appear at the hearing, the department shall report to the court whether notice was given, or, if not, what diligent efforts were made to locate and notify the absent person. The court may permit the hearing to be held in the person's absence.

D. At the commencement of the hearing, on the record, the court shall ask each person before the court whether he knows or has reason to know that the child is an Indian child. Each person before the court shall be instructed to inform the court if he subsequently discovers information indicating that the child is an Indian child.

E. At this hearing, the state has the burden of proving the existence of a ground for continued custody or the continued implementation of a safety plan pursuant to Article 626.

F. The child and the child's parents may introduce evidence, call witnesses, be heard on their own behalf, and cross-examine witnesses called by the state.

G. Hearsay evidence shall be admissible at this hearing.

H. A suitable relative or other suitable individual who seeks to become the custodian of the child shall provide evidence of a willingness and ability to provide a stable and safe environment for the child and to protect the health, welfare, and safety of the child pending an adjudication hearing. The suitable relative or other suitable individual shall affirm a continued acceptance of the terms of the safety plan.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 1999, No. 1215, §1, eff. July 9, 1999; Acts 2001, No. 567, §1; Acts 2005, No. 148, §1; Acts 2006, No. 278, §§1 and 2; Acts 2007, No. 334, §1; Acts 2014, No. 354, §1; Acts 2014, No. 486, §1; Acts 2018, No. 296, §1; Acts 2022, No. 272, §1.

## Art. 625. Advice of rights and responsibilities of parents, counsel, and department; absent parents

A.(1) At the continued custody or continued safety plan hearing, the court shall advise the parents and may advise the child, insofar as practicable, of:

(a) The nature of the proceedings in terms understandable to the child.

(b) The nature of the allegations in terms understandable to the child.

(c) The right to an adjudication hearing.

(d) The right to be represented by counsel and the right of indigent parents to representation by the Indigent Parents' Representation Program in accordance with Children's Code Article 608.

(2) At the continued custody or continued safety plan hearing, the court shall request the parent and all counsel of record to provide an electronic mail address at which the parent is willing to receive service and notice of future proceedings. The court shall advise the parent that once an electronic mail address is provided, all service and notice of future proceedings may be

sent electronically until such time he provides notice to the court and all parties in writing or in open court that he is no longer able to receive service or notice at such address.

B. If the child is continued in the custody of the state, the court shall advise the parents of:

(1) The child's need to have a safe and stable relationship with caretakers, either his parents or, if necessary, others who are willing and able to assume parental responsibility and provide a permanent home, and to have these caretaker decisions made as quickly as possible.

(2) Their responsibility to cooperate in preparing a case plan and otherwise in meeting the needs of their child, and if their child cannot return home safely, to assist the child's adjustment to other caretakers, and their obligation to contribute to the cost of care and treatment of their child as provided in Article 685.

(3) Their responsibility to notify the department and their counsel in writing of their current whereabouts, including their address, cellular number, telephone number, and any other contact information, and that if they fail to do so, the law authorizes hearings to be held in their absence.

C. Upon receipt of information regarding a parent's change of address, the department and the parent's counsel shall promptly inform the court of the new address.

D.(1) The court shall direct all persons before the court to identify the name, address, and whereabouts of each parent and any suitable relative or other suitable individual willing and able to offer a stable and safe home for the child.

(2) The court shall advise all persons before the court of their responsibility in achieving timely permanency for the child, and further shall direct all such individuals to identify the name, address, and whereabouts of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the child.

E. If at the time of the hearing a petition has been filed, the court may also call upon the parent to answer its allegations in accordance with Chapter 9 of this Title.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2006, No. 248, §1; Acts 2008, No. 392, §1; Acts 2014, No. 354, §1; Acts 2014, No. 486, §1; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §1.

## Art. 626. Grounds for continued custody; reasonable efforts; grounds for continued safety plan

A. The court may authorize continued custody of a child prior to adjudication if there are reasonable grounds to believe the child is in need of care and that continued custody is necessary for the health, welfare, and safety of the child.



B. Except as otherwise provided in Article 672.1, the court shall determine whether the department has made reasonable efforts as defined in Article 603 to prevent or eliminate the need for removal of the child from the home and, after removal, to make it possible for the child to safely return home. The health, welfare, and safety of the child shall be the paramount concern. These determinations shall be supported by findings of fact contained in the continued custody order issued pursuant to Article 627.

C. The court may deem the department to have made reasonable efforts to prevent or eliminate the need for removal if the department's first contact with the family occurred during an emergency which precluded those efforts.

D. The court may authorize the removal of the child even if the department's efforts have not been reasonable if the court determines that removal is necessary to secure the health, welfare, and safety of the child and that additional efforts would not keep the child safe from identified threats of danger. The court may impose any sanctions it deems appropriate pursuant to Article 712.

E. The court may authorize, with the consent of the state, continued implementation of a safety plan prior to the adjudication if there are reasonable grounds to believe that the child is in need of care and that the continued implementation of the safety plan is necessary for the health, welfare, and safety of the child. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the health, welfare, and safety of the child while remaining in the home.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2001, No. 567, §1; Acts 2014, No. 486, §1; Acts 2022, No. 272, §1.

## Art. 627. Continued custody order; special provisions; appointments; continued safety plan order

A. Following a hearing, the court may return the child to the parents or, in accordance with Article 622, may place the child in the custody of a suitable relative, other suitable individual, or the department.

B. If a child is not returned to the parents, the court shall place the child in the custody of a suitable relative unless the court has made a specific finding that such placement is not in the best interest of the child. The court shall give specific oral and written reasons for its findings, which shall be made a part of the record of the proceeding.

C. If the court finds that the child can be safely returned home under a protective order pending adjudication, the court may order return of the child and issue protective orders as are deemed necessary for the health, welfare, and safety of the child.

D. If a protective order is issued or modified, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for filing, all without delay, and the clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

E. If the court finds that the child can safely remain in or return to the home with the implementation of a safety plan developed and agreed upon by the state pending adjudication, the court may order compliance with the conditions of the safety plan.

F. If the court orders that the child be placed in the custody of a suitable relative or other suitable individual, it shall make a safety plan part of its order.

G. The court shall order the appointment of a curator for any parent who is an absentee. The court may order the appointment of a court-appointed special advocate.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1997, No. 1152, §1; Acts 1997, No. 1156, §1; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 1999, No. 1317, §2; Acts 2005, No. 148, §1; Acts 2006, No. 278, §1; Acts 2014, No. 354, §1; Acts 2014, No. 486, §1; Acts 2022, No. 272, §1.

## Art. 635.1. Notice to counsel

Upon the filing of the petition, the court shall provide notice and a copy of the petition to the entity designated for the jurisdiction to provide counsel for the child in accordance with Article 607, and to the entity representing indigent parents in accordance with Article 608.

Acts 2014, No. 354, §1; Acts 2022, No. 272, §1.

## Art. 638. Service of petition; parent; child

A copy of the petition and the notice of the nature of the hearing and the rights of the parent, as provided for in Article 639, shall be served, in a sealed envelope, upon every parent of the child. A copy of the petition and the notice of the nature of the hearing shall be served on the child through the entity designated for the jurisdiction to provide counsel for the child.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 2006, No. 742, §1; Acts 2022, No. 272, §1.

## Art. 639. Notice of nature of proceedings; parental rights; form

The following notice shall be served with a petition and summons on every parent whose child is the subject of a child in need of care proceeding:

"NOTICE

Louisiana law provides that the health, welfare, and safety of your child or children are of paramount importance and you can lose some or all of your parental rights regarding your children under certain circumstances.

The state has filed a petition that claims that your child is abused or neglected or is otherwise in need of care and asks the court to hold a hearing to determine whether these circumstances exist. If the court rules that your child is being abused or neglected or is otherwise in need of care, as defined by Louisiana law, your rights to have custody of your child, to visit your child, or to make decisions affecting your child will be seriously affected. You may also become liable for paying the costs of your child's care if custody is awarded to some other individual or to the state. If your child cannot be safely returned home and the court grants custody to some other suitable individual or to the state, a petition to terminate your parental rights may be filed.

You have the right to hire an attorney and are encouraged to do so. When you come to court, if you cannot afford to hire an attorney, you may qualify to have the court appoint one for you at state expense.

Whether or not you decide to hire an attorney, you have the right to attend all hearings of your case and must attend as summoned, and the right to call witnesses on your behalf, and to question those witnesses brought against you."

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2022, No. 272, §1.

## Art. 640. Service and return; child; resident parent; counsel

A. For a child, through counsel, and for a parent who resides within the state, service of the petition, summons, and notice shall be made as soon as possible, and not less than fifteen days prior to commencement of the adjudication hearing on the matter, by any of the following means:

(1) Personal service.

(2) Domiciliary service.

(3) Certified mail.

(4) Electronic mail to the electronic mail address provided by counsel for the child or expressly designated by the parent in a pleading, at the continued custody or continued safety plan hearing, or at any other hearing at which the parent personally appeared before the court.

(5) Actual delivery by a commercial courier.

B. The person effecting service shall execute a return and, if service was made by certified mail, the return receipt shall be attached thereto.

C. Service by electronic mail is complete upon transmission, provided that the sender receives an electronic confirmation of delivery.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §1.

## Art. 646.1. Prehearing conference

A. On its own motion or on motion of counsel, the court may convene a prehearing conference attended by the district attorney, the department, counsel for all parties, unrepresented parties, and such other persons as the court deems proper.

B. The prehearing conference may be conducted either in person or by telephone to consider any of the following:

(1) The consideration of alternatives to formal court proceedings when their use is appropriate and in the best interests of the child.

(2) Efforts to identify and locate an absent parent, and suitable relatives or other suitable individuals willing and able to offer a stable and safe home for the child.

(3) Whether there is an issue of paternity requiring the issuance of an order for immediate blood or tissue sampling in accordance with the provisions of R.S. 9:396 et seq.

(4) The simplification of the issues including the elimination of frivolous claims or defenses.

(5) The necessity or desirability of amendments to the petition.

(6) What material facts and issues exist without substantial controversy, and what material facts and issues are actually and in good faith controverted.

(7) Proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of the evidence.

(8) Limitations or restrictions on, or regulation of, the use of expert testimony.

(9) The control and scheduling of discovery.

(10) The identification of witnesses, documents, and exhibits.

(11) Such other matters as may aid in the disposition of the action.

C. The court shall render an order which recites the action taken at the prehearing conference, the amendments allowed to the petition, and the agreements made by the parties as to any of the matters considered, and which limits the issues for adjudication to those not disposed of by admissions or agreements of counsel. Such order controls the subsequent course of the action, unless modified at the adjudication hearing to prevent manifest injustice.

D. If counsel for any party fails to obey a prehearing order, or to appear at the prehearing and scheduling conference, or is substantially unprepared to participate in the conference, or fails to participate in good faith, the court, upon its own motion or on the motion of a party, after hearing, may make orders as are just, including orders provided in Code of Civil Procedure Article 1471(A)(2), (3), and (4). In lieu of or in addition to any other sanction, the court may require the party or counsel for the party, or both, to pay the reasonable expenses incurred by noncompliance with this Paragraph, including attorney fees.

Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2022, No. 272, §1.

## Art. 657. Motions to dismiss

- A. All objections to the proceedings, including objections based on defects in the petition and defenses capable of determination as a matter of law, may be raised by a motion to dismiss.
- B. Upon a finding of grounds to dismiss the petition as provided in Paragraph A of this Article, the court shall order that the petition be dismissed.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 2022, No. 176, §1.

## Art. 658. Dismissal of petition

The court shall dismiss a petition on the motion of the petitioner.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 2022, No. 176, §1.

## Art. 672.1. Reunification efforts determination

A. At any time in a child in need of care proceeding when a child is in the custody of the department, the department may file a motion for a judicial determination that efforts to reunify the parent and child are not required.

B. The department shall have the burden of demonstrating by clear and convincing evidence that reunification efforts are not required, considering the health, welfare, and safety of the child and the child's need for permanency.

C. Efforts to reunify the parent and child are not required if a court of competent jurisdiction has determined that:

(1) The parent has subjected the child to egregious conduct or conditions, including but not limited to any of the grounds for certification for adoption pursuant to Article 1015.

(2) The parent has committed murder or manslaughter of another child of the parent or any other child or has aided or abetted, attempted, conspired, or solicited to commit such a murder or manslaughter.

(3) The parent has committed a felony that results in serious bodily injury to the child or another child of the parent or any other child.

(4) The parental rights of the parent to a sibling have been terminated involuntarily.

D. If the court determines that reunification efforts are not required, it shall document that determination by written findings of fact. A permanency hearing, which considers in-state and out-of-state permanent placement options for the child, may be conducted immediately and shall be conducted within thirty days after the determination.

Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2001, No. 567, §1; Acts 2007, No. 334, §1; Acts 2012, No. 730, §1; Acts 2022, No. 272, §1.

## Art. 673. Case plan

Within sixty days after a child enters the custody of a child care agency, the custodian shall develop a case plan detailing the custodian's efforts toward achieving a permanent placement for the child. The health, welfare, and safety of the child shall be the paramount concern in the development of the case plan.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2022, No. 272, §1.

## Art. 675. Case plan purpose; contents

A. The case plan shall be designed to achieve placement in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' homes, consistent with the best interest and special needs of the child. The health, welfare, and safety of the child shall be the paramount concern in the development of the case plan.

B. The case plan shall at least include all of the following:

(1) A description of the type of home or institution in which the child is placed, including a discussion of the child's health, welfare, and safety; the appropriateness of the placement; and the reasons why the placement, if a substantial distance from the home of the parents or in a different state, is in the best interest of the child.

(2) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate the safe return of the child to the child's own home or other permanent placement of the child, or both, and address the needs of the child while in foster care, including a plan for visitation and a discussion of the appropriateness of the services that have been provided to the child in accordance with the plan.

(3) A plan for assuring that the child is afforded the greatest opportunity for normalcy through engagement in age- or developmentally appropriate activities on a regular basis. The child shall be consulted in an age-appropriate manner about the child's interests and the available opportunities. Recognizing the greatest opportunity for normalcy lies in the day-to-day decisions affecting the child's activities, the caretaker should be supported in making those decisions through the use of the reasonable and prudent parent standard as set forth in R.S. 46:283.

(4) If the child has been committed to the custody of a person other than the parents, the plan shall recommend an amount the parents are obligated to contribute for the cost of care and treatment of their child in accordance with Article 685.

(5) When appropriate for a child fourteen years of age or older, the plan shall include a written description of the programs and services which will help the child prepare for the transition from foster care to independent living.

(6)(a) For a child fourteen years of age or older, the plan shall include a written, individualized, and thorough transitional plan, developed in collaboration with the child and any agency, department, or individual assuming custody, care, or responsibility of the child.

(b) The transitional plan shall identify the programs, services, and facilities that will be used to assist the child in achieving a successful transition. The transitional plan shall address the needs of the child, including but not limited to education, health, permanent connections, living arrangements, and, if appropriate, independent living skills and employment.

(c) The department shall ensure that all records in its files relevant to securing needed services in the community in which the child will live shall be immediately transmitted to the appropriate service provider.

(7)(a) Documentation of the efforts the agency is making to safely return the child home or to finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan.

(b) For children whose permanent plan is adoption or placement in another permanent home, this documentation shall include child-specific recruitment efforts such as the use of state,

regional, and national adoption exchanges, including electronic exchange systems, to facilitate orderly and timely in-state and interstate placements.

(c) For children whose permanent plan is guardianship, the documentation shall include the facts and circumstances supporting guardianship, including the reasons that the plan is in the best interest of the child and that reunification with a parent and adoption are not appropriate permanent plans. The documentation shall also address the suitability and commitment of the proposed guardian to offer a wholesome, stable home for the child throughout minority.

(d) For children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, the documentation shall include the intensive, ongoing, and as of the date of the hearing, efforts made by the department to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent.

(8) Assessment of the relationships between the child and the parents, grandparents, and siblings, including a plan for assuring that continuing contact with any suitable relative by blood, adoption, or affinity with whom the child has an established and significant relationship is preserved while the child is in foster care. The preservation of these relationships shall be considered when the permanent plan is adopted.

(9) Documentation of the compelling reasons for determining that filing a petition for termination of parental rights would not be in the best interest of the child, when appropriate.

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. 568, §1, eff. Jan. 1, 2002; Acts 2003, No. 567, §1; Acts 2007, No. 334, §1; Acts 2008, No. 392, §1; Acts 2011, No. 128, §1; Acts 2012, No. 730, §1; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2015, No. 278, §1, eff. June 29, 2015; Acts 2022, No. 272, §1.

## Art. 677. Case plan review

A. At the disposition hearing, the court shall consider the content or implementation of the case plan and any response filed concerning it. At any other hearing held subsequent to the filing of the case plan, on its own motion or upon motion of any party for good cause shown, the court may consider the content or implementation of the case plan or of any response filed concerning it.

B. If no party files a written response objecting to the case plan and the court finds that the plan protects the health, welfare, and safety of the child and is in the best interest of the child, the court shall render an order approving the plan.

C. If the court does not approve the case plan, the court shall enter specific written reasons for finding that the plan does not protect the health, welfare, and safety of the child or is otherwise not in the best interest of 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 2022, No. 272, §1.

## Art. 681. Dispositional alternatives

A. In a case in which a child has been adjudicated to be in need of care, the health, welfare, and safety of the child shall be the paramount concern. If the child can safely remain in or return to the custody of the parent, the court shall place the child in the custody of the parent under terms and conditions deemed to be in the best interest of the child, including but not limited to the issuance of a protective order pursuant to Article 618 or a safety plan order. If the child cannot safely remain in or return to the custody of the parent, the court may do any of the following:

(1) Order the child into the legal custody of a suitable relative or other suitable individual on terms and conditions deemed to be in the best interest of the child, including but not limited to the issuance of a protective order pursuant to Article 618.

(2) Place the child in the custody of a private or public institution or agency.

(3) Commit a child found to have a mental illness to a public or private institution for persons with mental illness.

(4) Grant guardianship of the child to a nonparent.

(5) Make such other disposition or combination of the above dispositions as the court deems to be in the best interest of the child.

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

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2011, No. 128, §1; Acts 2014, No. 811, §33, eff. June 23, 2014; Acts 2022, No. 272, §1.

## Art. 682. Removal of a child from parental custody or control

A. The court shall not remove a child from the custody of the parent unless continuation in the home would be contrary to the health, welfare, and safety of the child and the health, welfare, and safety of the child cannot, in the opinion of the court, be adequately secured without removal. Except as otherwise provided in Article 672.1, in support of any disposition removing a child from the parental home, the court shall determine whether the department has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to reunify the parent and child or to finalize placement in an alternative safe and permanent home in accordance with the permanent plan including, if appropriate, through an interstate placement. The health, welfare, and safety of the child shall be the paramount concern in the court's

consideration of removal. The department shall have the burden of demonstrating reasonable efforts.

B. If the court concludes that the child is to be removed from the custody of the parent, the court shall do all of the following:

(1) Inform the parents about the case review and permanency review procedure, as provided for in Chapters 15 and 16 of this Title.

(2) Inform the parents that it is their obligation to cooperate with the department, comply with the requirements of the case plan, including their duty to keep the department apprised of their current address, and correct the conditions requiring the child to be in care.

(3) Inform the parents that a petition to terminate their parental rights may be filed based upon their failure to comply with the requirements of the case plan, failure to make significant measurable progress toward achieving case plan goals and to correct the conditions requiring the child to be in care, or on any other ground authorized by Article 1015.

(4) Inform the parties and all persons before the court that it is their continuing responsibility to notify the department and the court in writing regarding the whereabouts, including address, cellular number, telephone number, and any other contact information, of an absent parent and the identity and whereabouts, including address, cellular number, telephone number, and any other contact information, of any suitable relative or other suitable individual willing and able to offer a stable and safe home for the child.

(5) Inform the parties and all persons before the court of their continuing responsibility to support the achievement of timely permanency for the child and further direct all individuals to advise the department and the court in writing of the whereabouts, including the address, cellular number, telephone number, and any other contact information, of all grandparents, all parents of a sibling where the parent has legal custody of the sibling, and all other adult relatives of the child.

(6) Inform the parents of their obligation to support their child, including their obligation to contribute to the care and treatment of their child as provided in Article 685.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1997, No. 612, §1; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2006, No. 248, §1; Acts 2007, No. 334, §1; Acts 2008, No. 392, §1; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §1.

## Art. 683. Disposition; generally

A. The court shall impose the least restrictive disposition of the alternatives enumerated in Article 681 that the court finds is consistent with the circumstances of the case and the health, welfare, and safety of the child.

B. If the court determines that the child cannot safely remain in or return to the custody of the parent, the court shall place the child in the custody of a suitable relative unless the court has made a specific finding that the placement is not in the best interest of the child. The court shall give specific written reasons for its findings, which shall be made a part of the record of the proceeding.

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

D. In committing a child to the custody of another suitable individual or a private agency or institution, the court shall, whenever practicable, select an individual, agency, or institution of the same religious affiliation as the child or the parents.

E. A child shall not be committed to a public or private mental institution or institution for persons with mental illness unless the court finds, based on psychological or psychiatric evaluation, that the child has a mental disorder, other than an intellectual disability, which has a substantial adverse effect on his ability to function and requires care and treatment in an institution. When the child is in the custody of the state of Louisiana, this finding shall not be made without the representation of the child by an attorney appointed from the Mental Health Advocacy Service, unless such attorneys are unavailable as determined by the director or the child retains private counsel who shall represent only the interest of the child. The Mental Health Advocacy Service's attorney so appointed shall continue to represent the child in any proceeding relating to admission, change of status, or discharge from the mental hospital or psychiatric unit. Upon modification of the disposition to a placement other than a mental hospital or psychiatric unit, the Mental Health Advocacy Service's attorney shall be relieved of representation of the child.

F. A child shall not be committed to a public or private institution for persons with intellectual disabilities unless the court finds, based on psychological or psychiatric evaluation, that the child has an intellectual disability and such condition has a substantial adverse effect on his ability to function and requires care and treatment in an institution.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 1999, No. 770, §1; Acts 1999, No. 1317, §2; Acts 2014, No. 811, §33, eff. June 23, 2014; Acts 2022, No. 272, §1.

## Art. 684. Judgment of disposition

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

- (1) The nature of the disposition.
- (2) The maximum duration of the disposition.

(3) The agency, institution, or person to whom the child is assigned, including the responsibilities of any other agency, institution, or person having legal responsibility to secure or provide services to the child which the court has determined are needed.

(4) Any other applicable terms and conditions regarding the disposition.

B. The court shall enter a written order approving the case plan or specific written reasons why the court finds the plan does not protect the health, welfare, and safety of the child or is otherwise not in the best interest of the child.

C. When the child is to be removed from the custody of the parent, the court shall enter findings that continuation in the home would be contrary to the health, welfare, and safety of the child. Except as otherwise provided in Article 672.1, when the child is to be removed from the custody of the parent, in support of its determination of whether reasonable efforts, as defined in Article 603, have been made to prevent removal, the court shall enter findings, including a description of what preventive and reunification efforts, or both, were made and why additional efforts would not keep the child safe from identified threats of danger. If a child is to be or has been placed out-of-state, the court shall determine and enter findings on whether the placement is safe, appropriate, and in the best interest of the child.

D. When a parent is absent, the court shall enter findings regarding diligent efforts by the curator, the department, and others to locate that parent. In the absence of findings to the contrary, efforts to locate the parent shall be presumed sufficient. If the court determines additional search efforts are needed, it shall specifically identify those efforts.

E. In all cases in which the child is removed from his parents' custody and assigned to the department, the court shall advise the parties and all persons before the court of the following:

(1) Procedures governing the case plan, case review, and permanency review procedure, as provided for in Chapters 15 and 16 of this Title.

(2) The obligation of the parents to cooperate with the department, comply with the requirements of the case plan, including their duty to keep the department and their counsel apprised in writing of their current whereabouts, including address, cellular number, telephone number, and any other contact information, and correct the conditions requiring the child to be in care.

(3) The possibility that a petition to terminate parental rights may be filed based on the parents' failure to comply with the case plan, failure to make significant measurable progress toward achieving case plan goals and to correct the conditions requiring the child to be in care, or on any other ground authorized by Article 1015.

(4) The continuing responsibility of all persons before the court to advise the department and the court in writing of the whereabouts, including the address, cellular number, telephone number, and any other contact information, of an absent parent and the identity and the whereabouts, including address, cellular number, telephone number, and any other contact

information, of any relative or other individual willing and able to offer a wholesome and stable home for the child.

(5) The continuing responsibility of all persons before the court to support the achievement of timely permanency for the child and the requirement that those persons advise the department and the court in writing of the whereabouts, including the address, cellular number, telephone number, and any other contact information, of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the child.

F. The date of entry of the judgment of disposition shall be recorded on the judgment. The advisement in Paragraph E of this Article shall be attached to the judgment of disposition and any other orders of the court furnished to the parties.

G. An extract of minutes of court specifying the information in Paragraph A of this Article and signed by the court shall be considered a written judgment of disposition. A copy of the judgment of disposition shall be furnished to the parents, their counsel, or curator.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 865, §1, eff. June 23, 1993; Acts 1997, No. 612, §1; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2006, No. 248, §1; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §1.

## Art. 700. Order; appeal

A. At the conclusion of the case review hearing, the court shall make a finding as to whether the child can safely return to the custody of the parent and shall order return of custody to the parent if it is safe to do so. The court order shall give specific written reasons for the findings. If the court finds that the child cannot be safely returned to the parent under terms and conditions deemed to be in the best interest of the child, the court may take one of the following actions:

(1) Approve the plan as consistent with the health, welfare, and safety of the child and order compliance by all parties.

(2) Find that the case plan is not appropriate, in whole or in part, based on the evidence presented at the contradictory hearing, and order the department to revise the case plan accordingly.

B. At the conclusion of the case review hearing, the court shall inform the parents of all of the following:

(1) It is their obligation to cooperate with the department, comply with the requirements of the case plan, including their duty to keep the department apprised of their current address, and to correct the conditions requiring the child to be in care.

(2) It is their continuing responsibility to support the achievement of timely permanency for the child and to advise the department and the court in writing of the whereabouts, including the address, cellular number, telephone number, and any other contact information, of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the child.

(3) A termination of parental rights petition may be filed based on their failure to comply with the case plan, failure to make significant measurable progress toward achieving case plan goals and to correct the conditions requiring the child to be in care, or on any other ground authorized by Article 1015.

C. Any person directly affected may appeal the findings or orders of the court rendered pursuant to this Article.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §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 shall be in compliance 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 suitable relative who is willing and able to offer a stable and safe 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, as defined in Article 603, to reunify the parent and child or to finalize the child's placement in an alternative safe and permanent home in accordance with the permanent plan. The health, welfare, and safety of the child shall 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 shall be selected and a petition to terminate parental rights may be filed. When adoption is the permanent plan for the child, the court shall advise the parent of the 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 department in accordance with Article 675(B)(6).

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; Acts 2022, No. 272, §1.

## Art. 710. Order; appeal

A. In a written judgment, the court shall make findings of fact regarding:

(1) Whether the child can safely return to the custody of the parent, and shall order return of custody to the parent if it is safe to do so.

(2) The permanent plan that is most appropriate and in the best interest of the child in accordance with the priorities of Article 702 (C).

(3) Except as otherwise provided in Article 672.1, whether the department has made reasonable efforts, as defined in Article 603, to reunify the parent and child or to finalize the



child's placement in an alternative safe and permanent home in accordance with the permanent plan.

(4) Whether an out-of-state placement is safe, appropriate, and otherwise in the best interest of the child.

(5) For children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, why, as of the date of the hearing, the plan is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a suitable relative.

B. The court may enter orders as are needed and appropriate to facilitate the timely achievement of each child's permanent plan, including the filing of a certification for adoption petition.

C. An extract of minutes of court specifying the information in Paragraph A of this Article and signed by the court shall be considered a written judgment.

D. Any person directly affected may appeal the findings or orders of the court rendered pursuant to this Article or Article 716.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2001, No. 567, §1; Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §1.

## Art. 716. Modification of judgment of disposition

A judgment of disposition may be modified if the court finds that the conditions and circumstances justify the modification. A judgment of disposition shall be modified to return custody of the child to the parent, under terms and conditions the court deems to be in the best interest of the child, if the court finds that the child can be safely returned to the parent.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 2022, No. 272, §1.

## Art. 722. Grounds; hearing; order

A. The mover shall have the burden of proving all of the following by clear and convincing evidence:

(1) The child has been adjudicated to be in need of care.

(2) Adoption is not in the best interest of the child and the child cannot be safely reunified with the parent within a reasonable time.

(3) The child has resided for at least six months with the proposed guardian, unless the court waives the residence requirement for good cause.

(4) The proposed guardian is able to provide a stable and safe home for the child for the duration of minority.

B. If the child is twelve years of age or older, the court shall solicit and consider the wishes of the child in the matter.

C. The court shall hold a hearing before approving a guardianship and shall, at the conclusion of the hearing, enter a written order that includes the findings upon which the order is based.

Acts 2011, No. 128, §1; Acts 2022, No. 272, §1.

## Art. 724.1. Temporary guardianship; designated successor guardian; construction

A.(1) A guardian who has entered into a guardianship subsidy agreement with the department may name an individual as a successor guardian in the agreement for the purpose of continued eligibility of the subsidy in the event of the death or incapacity of the guardian.

(2) Nothing relative to the subsidy agreement provided for in this Paragraph shall be construed to confer any right of legal guardianship, as such legal guardianship shall be established or modified pursuant to Articles 720 through 724 exclusively.

B. An individual who has been named as a successor guardian in the guardianship subsidy agreement may request an ex parte order of temporary guardianship of the child in a motion for guardianship or modification of guardianship pursuant to Article 720 or 724.

C. An ex parte order of temporary guardianship of the child may be granted to the named successor only if all of the following conditions are satisfied:

(1) The current guardian is incapacitated or deceased.

(2) It clearly appears from specific facts shown by a verified motion or by supporting affidavit that the individual is able to provide a stable and safe home for the child pending the hearing.

(3) The mover was previously named as a successor guardian in a guardianship subsidy agreement with the department as shown by the agreement.

(4) The mover certifies to the court in writing the efforts undertaken to give notice to the parent of the child, the department, and the attorney for the child of the request for the ex parte order granting temporary guardianship or the reasons supporting the claim that notice should not be required.

D. An ex parte order of temporary guardianship shall:

(1) Continue until a hearing on the motion for guardianship or modification of guardianship is held and guardianship is established or denied by the court.

(2) Provide the date on which the ex parte order is signed and the date and hour of the hearing on the motion for guardianship or modification of the guardianship.

Acts 2015, No. 124, §1, eff. June 19, 2015; Acts 2022, No. 272, §1.

### Art. 763. Motions to dismiss

- A. All objections to the proceedings, including objections based on defects in the petition and defenses capable of determination as a matter of law, may be raised by motion to dismiss.
- B. Upon a finding of grounds to dismiss the petition as provided in Paragraph A of this Article, the court shall order that the petition be dismissed.

Acts 1991, No. 235, §7; Acts 2022, No. 176, §1.

### Art. 764. Dismissal of petition

The court shall dismiss a petition on the motion of the district attorney.

Acts 1991, No. 235, §7; Acts 2022, No. 176, §1.

### Art. 896. Deferred dispositional agreement

A. At any time after the entry of an adjudication order, the court may, on motion of the district attorney or of counsel for the child, suspend further proceedings and place the child on supervised or unsupervised probation, with or without any of the conditions authorized by Article 897(B)(1) or Article 899(B)(1).

B. The child and his parent must consent to this special type of disposition. If the child has waived counsel, the court must advise the child and his parent concerning the consequences of a deferred dispositional agreement and of the child's right to have a disposition imposed by the court in accordance with Articles 897 through 900.

C. A deferred dispositional agreement order shall comply with all the requirements of Article 903.

D. A deferred dispositional agreement shall remain in force for six months unless the child is discharged sooner by the court. Upon application of the district attorney or by any

agency supervising the child made before the expiration of the six-month period, a deferred dispositional agreement order may be extended by the court for an additional period not to exceed six months, or for such period in which the child is a full-time participant in a juvenile drug court program operated by a court of this state, whichever period is longer.

E. If prior to the expiration of the order a new petition alleging the commission of a delinquent act is filed against the child, or the child otherwise fails to fulfill the express terms and conditions of the order, the court may proceed to impose any disposition authorized by this Title and the child may be held accountable as if the deferred dispositional agreement order had never been entered.

F. If the child satisfactorily completes the court ordered period of supervision, the court shall discharge the child from any further supervision or conditions, set aside the adjudication, and dismiss the petition with prejudice.

G. Pursuant to the provisions of this Article, the court has the authority to utilize or initiate a teen or youth court program and may assess a fee to a participant in the program to offset costs.

H. Notwithstanding any provision of law to the contrary, a child shall not be eligible for a deferred dispositional agreement as provided in this Article if the child has been convicted of a crime of violence as defined in R.S. 14:2(B).

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 2003, No. 334, §1; Acts 2003, No. 940, §1; Acts 2022, No. 565, §1.

## Art. 897. Disposition after adjudication of a felony-grade delinquent act

A. After adjudication of any felony-grade delinquent act other than those described in Article 897.1, the court may:

(1) Reprimand and warn the child and release him into the custody of his parents either unconditionally or subject to such terms and conditions as deemed in the best interests of the child and the public.

(2) Reprimand and warn the child and release him into the custody of some other suitable person either unconditionally or subject to such terms and conditions as deemed in the best interests of the child and the public. The court shall, whenever practicable, select a person of the same religious faith as the child or his parents.

(3) Place the child on probation in the custody of his parents or other suitable person.

B. As conditions of probation, if ordered pursuant to Subparagraph (A)(3) of this Article:

(1) The court shall impose all of the following restrictions:

(a) Prohibit the child from possessing any drugs or alcohol.

(b) Prohibit the child from engaging in any further delinquent or criminal activity.

(c) Prohibit the child from possessing a firearm or carrying a concealed weapon, if he has been adjudicated for any of the following offenses and probation is not otherwise prohibited: first or second degree murder; manslaughter; aggravated battery; aggravated or first degree rape, forcible or second degree rape, or simple or third degree rape; aggravated crime against nature as defined by R.S. 14:89.1(A)(1); aggravated kidnapping; aggravated arson; aggravated or simple burglary; armed or simple robbery; burglary of a pharmacy; burglary of an inhabited dwelling; unauthorized entry of an inhabited dwelling; or any violation of the Uniform Controlled Dangerous Substances Law which is a felony or any crime defined as an attempt to commit one of these enumerated offenses.

(2) The court may impose any other term and condition deemed in the best interests of the child and the public, including:

(a) A requirement that the child attend school, if the school admits the child.

(b) A requirement that the child perform court-approved community service activities.

(c) A requirement that the child and his parent or legal guardian cooperate in connection with any part of the disposition order, including but not limited to a court-approved decisionmaking course necessary for his rehabilitation.

(d) A requirement that the child make reasonable restitution to any victim for any personal or property damage caused by the child in the commission of the delinquent act.

(e) A requirement that the child participate in any program of medical or psychological or other treatment found necessary for his rehabilitation.

(f) A requirement suspending or restricting the child's driving privileges, if any, for all or part of the period of probation. In such cases, a copy of the order shall be forwarded to the Department of Public Safety and Corrections, which shall suspend the child's driver's license or issue a restricted license in accordance with the order of the court.

(g) A requirement prohibiting the child from possessing a firearm or carrying a concealed weapon.

(h) A requirement that the child pay a supervision fee of not less than ten nor more than one hundred dollars per month, payable to the Department of Public Safety and Corrections or other supervising agency, to defray the costs of supervision. The amount of the fee shall be based upon the financial ability of the payor to pay such a fee. The court may order a parent, tutor, guardian, or other person who is financially responsible for the care of the child to be responsible for payment of all or part of any supervision fee imposed.

C. Except as provided for in Article 897.1, the court may commit the child to the custody of a private or public institution or agency. When commitment is to be made to a private institution or agency, the court shall:

(1) Select one that has been licensed under state law, if licensure is required by law for such an institution or agency.

(2) Whenever practicable, select an agency or institution of the same religious faith as the child or his parents.

D. Except as provided in Article 897.1, the court may commit the child to the custody of the Department of Public Safety and Corrections, with or without a recommendation that the child be placed in alternative care facilities through the department's client placement process, or be referred to appropriate placement resources in the state available through other public or private agencies.

E. Except as provided for in Article 897.1, the court may impose but suspend the execution of the whole or part of any order of commitment and place the child on probation subject to any of the terms and conditions authorized under Paragraph B of this Article.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1992, No. 299, §1; Acts 1993, No. 430, §2; Acts 2003, No. 567, §1; Acts 2014, No. 602, §1, eff. June 12, 2014; Acts 2015, No. 184, §8; Acts 2022, No. 674, §1.

## Art. 899. Disposition after adjudication of a misdemeanor-grade delinquent act

A. After adjudication of a misdemeanor-grade delinquent act, the court may:

(1) Reprimand and warn the child and release him into the custody of his parents either unconditionally or subject to such terms and conditions as deemed in the best interests of the child and the public.

(2) Reprimand and warn the child and release him into the custody of some other suitable person either unconditionally or subject to such terms and conditions as deemed in the best interests of the child and the public. The court shall, whenever practicable, select a person of the same religious faith as the child or his parents.

(3) Place the child on probation in the custody of his parents or other suitable person.

B. As conditions of probation, if ordered pursuant to Subparagraph (A)(3) of this Article:

(1) The court shall impose all of the following restrictions:

(a) Prohibit the child from possessing any drugs or alcohol.

(b) Prohibit the child from engaging in any further delinquent or criminal activity.

(2) The court may impose any other term and condition deemed in the best interests of

the child and the public, including:

- (a) A requirement that the child attend school, if the school admits the child.
- (b) A requirement that the child or his parent or legal guardian perform court-approved community service activities. If feasible, the court-approved community service activities shall be conducted by the caretaker and child together.
- (c) A requirement that the adjudicated child make reasonable restitution to any victim for any personal or property damage caused by the child in the commission of the delinquent act.
- (d) A requirement that the child participate in any program of medical or psychological or other treatment found necessary for his rehabilitation.
- (e) A requirement suspending or restricting the child's driving privileges, if any, for all or part of the period of probation. In such cases, a copy of the order shall be forwarded to the Department of Public Safety and Corrections, which shall suspend the child's driver's license or issue a restricted license in accordance with the order of the court.
- (f) A requirement prohibiting the child from possessing a firearm or carrying a concealed weapon.
- (g) A requirement that the child pay a monthly supervision fee of not less than ten nor more than one hundred dollars per month, payable to the Department of Public Safety and Corrections or other supervising agency, to defray the cost of supervision. The court may order a parent, tutor, guardian, or other person who is financially responsible for the care of the child to be responsible for payment of all or part of any supervision fee imposed.
- (h) A requirement that the child and his parent or legal guardian cooperate in connection with any part of the disposition order, including but not limited to a court-approved decisionmaking course necessary for his rehabilitation.

C. The court may commit the child to the custody of a private or public institution or agency. When commitment is to be made to a private institution or agency, the court shall:

- (1) Select one that has been licensed under state law, if licensure is required by law for such an institution or agency.
- (2) Whenever practicable, select an agency or institution of the same religious faith as the child or his parents.

D. If the child is thirteen years of age or older at the time of the commission of the delinquent act, the court may commit the child to the custody of the Department of Public Safety and Corrections, with or without a recommendation that the child be placed in alternative care facilities through the department's client placement process, or be referred to appropriate placement resources in the state available through other public or private agencies.

E. The court may impose but suspend the execution of the whole or part of any authorized order of commitment and place the child on probation subject to any of the terms and conditions authorized under Paragraph B of this Article.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1992, No. 299, §1; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 2003, No. 567, §1; Acts 2010, No. 314, §1; Acts 2022, No. 674, §1.

## Art. 905. Progress reports to court

A. Any institution or agency to which a child is assigned, upon request, shall provide the court any information concerning the condition, supervision, treatment, or rehabilitation program of the child. When such information is provided to the court, it shall also be provided to the state and to counsel for the child at the same time it is provided to the court.

B. Any institution, agency, or person to which a child is assigned shall, not less than once every six months, report in writing the whereabouts and condition of the child to the judge who rendered the judgment of disposition and to counsel for the child. Such reports shall be provided to the court, counsel for the child, and the district attorney not less than one week before any in-court review hearing.

C. If the child is indigent, the information and reports contemplated by this Article shall be furnished at no cost to the child, the child's family, or to counsel. Representation by a public defender shall create an irrebuttable presumption of indigence for the purposes of this Article.

D. Information and reports required by this Article may be submitted electronically to the extent practicable.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 2016, No. 617, §1; Acts 2022, No. 217, §1.

## Art. 1003. Definitions

As used in this Title:

(1) "Abuse" means any of the following acts that seriously endanger the physical, mental, or emotional health, welfare, and safety of the child:

(a) The infliction or attempted infliction, or, as a result of inadequate supervision, the allowance or toleration 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.



(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 or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(2) "Agency" shall include the Department of Children and Family Services, the corresponding department of any other state, and those private agencies and institutions licensed for the placement of children for adoption by the Department of Children and Family Services or by the corresponding department of any other state.

(3) "Child in need of care" means a child adjudicated as such under Title VI.

(4) "Dangerous to others" means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future.

(5) "Dangerous to self" means the condition of a person whose behavior, significant threats, or inaction supports a reasonable expectation that there is a substantial risk that he will inflict physical or severe emotional harm upon his own person.

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

(7) "Grave disability" means the condition of a person who is unable to provide for his own basic physical needs, such as essential food, clothing, medical care, and shelter, as a result of serious mental illness or substance abuse and is unable to survive safely in freedom or protect himself from serious harm. The term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, is unconscious or whose judgment is otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(8) "Mental deficiency" means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior, as determined by a psychiatrist or psychologist and manifested during the developmental period.

(9) "Mental illness" means a psychiatric disorder which has substantial adverse effects on the parent's ability to function and which requires care and treatment as determined by a psychiatrist or psychologist. It does not include a person who has, solely, one of the following conditions:

- (a) An intellectual disability.
- (b) Epilepsy.
- (c) Alcoholism.
- (d) Drug abuse.

(10) "Neglect" means the refusal or 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,

welfare, and safety is substantially threatened or impaired. 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 that has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or abused. Disagreement by the parent regarding the need for medical care shall not, by itself, be grounds for termination of parental rights. However, nothing in this Subparagraph shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health, welfare, or safety.

(11) "Permanent placement" means either placement of the child with a legal guardian or placement of the child with adoptive parents pursuant to a final decree of adoption.

(12) "Starvation" means mistreatment causing suffering from extreme hunger or malnourishment.

(13) "Substance abuse" means the condition of a person who uses narcotic, stimulant, depressant, soporific, tranquilizing, or hallucinogenic drugs or alcohol to the extent that it renders the person dangerous to himself or others or renders the person gravely disabled.

(14) "Torture" means torment, maiming, mutilation, or ritualistic or malicious acts causing extreme and unjustifiable physical or mental pain or suffering, disfigurement, or injury.

Acts 1991, No. 235, §10, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1997, No. 256, §1; Acts 1999, No. 449, §1, eff. July 1, 1999; Acts 2014, No. 811, §33, eff. June 23, 2014; Acts 2022, No. 272, §1.

## Art. 1016. Right to counsel

A. The child and the identified parent shall each have the right to be represented by separate counsel in a termination proceeding brought in accordance with this Title. Neither the child nor anyone purporting to act on behalf of the child may be permitted to waive the child's right to counsel.

B. The court shall appoint the entity designated for the jurisdiction by the Louisiana Supreme Court to provide qualified, independent counsel for the child in such a proceeding.

C. If the court determines that the parent is indigent and unable to employ counsel solely for that reason, the court shall refer the parent for representation by the Indigent Parents' Representation Program.

Acts 1991, No. 235, §10, eff. Jan. 1, 1992; Acts 2004, No. 301, §1, eff. June 18, 2004; Acts 2004, No. 321, §1; Acts 2006, No. 271, §1; Acts 2014, No. 354, §1; Acts 2017, No. 239, §1; Acts 2022, No. 272, §1.

## Art. 1019.1. Notice to counsel

Upon the filing of the petition, the court shall provide notice and a copy of the petition to the entity designated for the jurisdiction to provide counsel for the child in accordance with Article 607 and to the entity representing indigent parents in accordance with Article 608.

Acts 2022, No. 272, §1.

## Art. 1019.2. Service of petition; parent; child

A copy of the petition and the notice of the nature of the hearing and the rights of the parent, as provided for in Article 1020, shall be served, in a sealed envelope, upon every parent of the child. A copy of the petition and the notice of the nature of the hearing shall be served on the child through the entity designated for the jurisdiction to provide counsel for the child.

Acts 2022, No. 272, §1.

## Art. 1021. Service and return; child; resident parent; counsel

A. For a child, through counsel, and for a parent who resides within the state, service of the petition, summons, and notice shall be made as soon as possible, and not less than fifteen days prior to commencement of the adjudication hearing on the matter, by any of the following means:

(1) Personal service.

(2) Domiciliary service.

(3) Certified mail.

(4) Electronic mail to the electronic mail address provided by counsel for the child or expressly designated by the parent in a pleading, at the continued custody or continued safety plan hearing, or at any other hearing at which the parent personally appeared before the court.

(5) Actual delivery by a commercial courier.

B. The person effecting service shall execute a return and, if service was made by certified mail, the return receipt shall be attached thereto.

C. Service by electronic mail is complete upon transmission, provided that the sender receives an electronic confirmation of delivery.

Acts 1991, No. 235, §10, eff. Jan. 1, 1992; Acts 2022, No. 272, §1.

## Art. 1103. Definitions

As used in this Title:

(1) "Agency" includes the Department of Children and Family Services, the corresponding department of any other state, and those private agencies and institutions licensed for the placement of children for adoption by the Department of Children and Family Services or by the corresponding department of any other state.

(2) "Birth certificate" means the child's official birth certificate or a true copy of a prefilled version of the birth certificate in the event the official birth certificate has not yet been issued.

(3) "Child" means a person under eighteen years of age and not emancipated by marriage.

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

(5) "Parental fitness" means:

(a) That a parent has not abused the child. For purposes of this Subparagraph, abuse means the infliction of physical or mental injury which causes deterioration to the child, sexual abuse, exploitation, or overworking of a child to such an extent that his health or moral or emotional well-being is endangered.

(b) That a parent has consistently offered to provide reasonably necessary food, clothing, appropriate shelter, or treatment for the child. For purposes of this Subparagraph, treatment means medical care or other health services provided in accordance with the tenets of a well-recognized religious method of healing with a reasonable, proven record of success.

(c) That a parent suffers from no medical or emotional illness, mental deficiency, behavior or conduct disorder, severe physical disability, substance abuse, or chemical dependency which makes him unable or unwilling to provide an adequate permanent home for the child at the present time or in the reasonably near future based upon expert opinion or based upon an established pattern of behavior.

(d) Viewed in its entirety, the parent's past or present conduct, including his criminal convictions, would not pose a risk of substantial harm to the physical, mental, or emotional health of the child.

(6) "Putative father registry" means the Louisiana putative father registry established in Part I-C of Chapter 1 of Code Title VII of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:400 and 400.1.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1997, No. 797, §1; Acts 2022, No. 202, §1.

## Art. 1150. Definitions

As used in this Chapter:

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

(2) "Designated emergency care facility" means any of the following:

(a) Any hospital licensed in the state of Louisiana.

(b) Any of the following medical clinics during normal and customary hours of operation: local or parish public health units, licensed rural health clinics, licensed ambulatory surgical centers, and federally qualified health centers. Offices, clinics, or other types of treatment facilities, private physicians, or dentists not listed above are not designated emergency care facilities within the meaning of this Subparagraph.

(c) Any manned fire station.

(d) Any manned law enforcement station.

(e) Any Child Advocacy Center accredited by the National Children's Alliance, during normal and customary hours of operation.

(3) "Emergency medical service provider" means a licensed emergency medical service provider, when dispatched as a result of a "911" call from a parent who wishes to relinquish his infant under this Chapter.

(4) "Infant" means a child not previously subjected to abuse or neglect, who is not more than sixty days old as determined within a reasonable degree of medical certainty by an examining physician.

(5) "Relinquish" or "relinquishment" of an infant means to give over possession or control of him by a parent to another in compliance with this Chapter, with the settled intent to forego all parental responsibilities.

Acts 2003, No. 609, §2; Acts 2009, No. 284, §1, eff. July 1, 2009; Acts 2013, No. 186, §1; Acts 2016, No. 80, §3; Acts 2018, No. 134, §1; Acts 2022, No. 271, §6.

## Art. 1186. Confidential adoption records; disclosure

A. All adoption records shall be retained in confidential files, and it shall be unlawful for anyone except the biological or adopting parent to disclose any identifying information concerning any individual adoption case, except as follows:

(1) Upon order of the court, after giving proper notice as required in Article 1190 or as otherwise authorized by this Code.

(2) Disclosure pursuant to R.S. 40:73, 77, or 79.

(3) For purposes directly connected with an adoption agency's responsibilities in relation to adoption work as permitted by its rules and regulations.

B. If the agency, firm, or lawyer ceases to do business in this state, it shall transfer its adoption records to the Department of Children and Family Services or another transferee approved by the department. Thereafter, the transferee shall ensure the preservation and confidentiality of records required by Paragraph A of this Article and assumes responsibility for providing nonidentifying information as required by Articles 1127 and 1127.1.

C. Any person who violates this requirement of confidentiality shall be fined not more than five hundred dollars or imprisoned for not more than ninety days, or both.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2003, No. 812, §1; Acts 2008, No. 583, §1; Acts 2022, No. 470, §1.

## Art. 1188. Motion for disclosure

A. An adopted person or, if still a minor, his legal representative on his behalf may file a motion for disclosure of information pertaining to his adoption pursuant to Article 1189. The action shall be styled: "In re the Adoption of \_\_\_\_\_".

B. A biological sibling or descendant of an adopted person, or if still a minor, his legal representative on his behalf, may file a motion for disclosure pursuant to Article 1189.

C. This action, the limited medical exception provision of Article 1127, and the provisions of R.S. 40:73, 77, and 79 shall be the exclusive means for gaining access to records of adoptions whether maintained by this court, some other court, an adoption agency, any state agency, or private individual, notwithstanding provisions of law to the contrary.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1995, No. 1108, §1; Acts 2008, No. 583, §1; Acts 2022, No. 470, §1.

## Art. 1207. Duties of the agency; duties of the department; home study; confidential report

A. Prior to the final decree of the adoption, the licensed private adoption 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 private 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. All of the following prerequisites shall be completed:

(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 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 shall be presented to the department upon completion and to the court prior to the hearing on the final decree of agency adoption.

B. The department shall investigate the proposed agency adoption and submit a confidential report of its findings to the court. The findings shall include:

(1) The conditions with respect to the availability of the child for adoption.

(2) The physical and mental condition of the child.

(3) Other factors regarding the suitability of the child for adoption in petitioner's home.

(4) The moral and financial fitness of the petitioner.

(5) The conditions of the proposed adoptive home with respect to health, adjustment, and other advantages or disadvantages to the child.

C. The department may delegate the performance of this investigation to a licensed private adoption agency, but the department remains responsible for ensuring the accuracy and thoroughness of the resulting report and for the safety and welfare of the child. 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.

D. The department shall make every effort to locate any living parent whose consent is required under Article 1193 to determine the parent's attitude toward the proposed adoption. If a curator ad hoc has been appointed by the court pursuant to Article 1205, the department shall supply him with all information pertinent to the location of an absentee parent within fifteen days of its receipt of a copy of the order appointing the curator ad hoc.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2022, No. 633, §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 Article 1207.

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. If an interlocutory decree has been entered, a second confidential report shall 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. Repealed by Acts 2022, No. 633, §2.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2021, No. 6, §1; Acts 2022, No. 633, §§1, 2.

## Art. 1229. Duties of attorney arranging the adoption; duties of the department; home study; confidential report

A. Prior to the final decree of the adoption, the attorney arranging the private adoption shall ensure that all of the prerequisites for adoption that are listed in this Paragraph are completed. The attorney arranging the private adoption shall complete the list of prerequisites by utilizing a social worker in the employ of a licensed private 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. All of the following prerequisites shall be completed:

(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 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 shall be presented to the department upon completion and to the court prior to the hearing on the final decree of agency adoption.

B. The department shall investigate the proposed private adoption and submit a confidential report of its findings to the court. The findings shall include:

- (1) The conditions with respect to the availability of the child for adoption.
- (2) The physical and mental condition of the child.
- (3) Other factors regarding the suitability of the child for adoption in petitioner's home.

(4) The moral and financial fitness of the petitioner.

(5) The conditions of the proposed adoptive home with respect to health, adjustment, and other advantages or disadvantages to the child.

C. The department may delegate the performance of this investigation to a licensed private adoption agency, but the department remains responsible for ensuring the accuracy and thoroughness of the resulting report and for the safety and welfare of the child. 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.

D. The department shall make every effort to locate any living parent whose consent is required under Article 1193 to determine the parent's attitude toward the proposed adoption. If a curator ad hoc has been appointed by the court pursuant to Article 1227, the department shall supply him with all information pertinent to the location of an absentee parent within fifteen days of its receipt of a copy of the order appointing the curator ad hoc.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2022, No. 633, §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 Article 1229.

B. If an interlocutory decree has been entered, 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. Repealed by Acts 2022, No. 633, §2.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2021, No. 6, §1; Acts 2022, No. 633, §§1, 2.

## Art. 1404. Definitions

As used in this Title:

(1) "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, or other person providing a residence for the child.

(2) "Conditional discharge" means the physical release of a judicially committed minor from a treatment facility by the director or by the court.

(3) "Dangerous to others" means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future.

(4) "Dangerous to self" means the condition of a person whose behavior, significant threats, or inaction supports a reasonable expectation that there is a substantial risk that he will inflict physical or severe emotional harm upon his own person.

(5) "Department" means the Louisiana Department of Health.

(6) "Diagnosis" means the art and science of determining the presence of disease in an individual and distinguishing one disease from another.

(7) "Director" or "superintendent" means a person in charge of a treatment facility or his deputy.

(8) "Discharge" means the full or conditional release from a treatment facility of any minor admitted or otherwise detained under this Title.

(9) "Family psychiatric mental health nurse practitioner" means an individual who maintains the credentials as such and meets the requirements of a "psychiatric mental health nurse practitioner" as provided in R.S. 28:2. Further, a family psychiatric mental health nurse practitioner shall have been engaged in clinical practice for not less than three years.

(10) "Formal voluntary admission" means the admission of a minor suffering from mental illness or substance abuse desiring admission to a treatment facility for diagnosis or treatment of such condition, or both, who may be formally admitted upon his written request.

(11) "Grave disability" means the condition of a person who is unable to provide for his own basic physical needs, such as essential food, clothing, medical care, and shelter, as a result of serious mental illness or substance abuse and is unable to survive safely in freedom or protect himself from serious harm; the term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, is unconscious or whose judgment is otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(12) "Informal voluntary admission" means the admission of a minor suffering from mental illness or substance abuse, desiring admission to a treatment facility for diagnosis or treatment of such condition, or both, who may be admitted upon his request without making formal application.

(13) "MHAS" means Mental Health Advocacy Service, as established by R.S. 28:64 and Article 1405.

(14) "Major surgical procedure" means an invasive procedure of a serious nature with incision upon the body or parts thereof under general, local, or spinal anesthesia, utilizing surgical instruments, for the purpose of diagnosis or treatment of a medical condition. Diagnostic procedures, including but not limited to the following, shall not be considered as major surgical procedures:

(a) Endoscopy through natural body openings, such as the mouth, anus, or urethra, to view the trachea, bronchi, esophagus, stomach, pancreas, small or large intestine, urethra, urinary bladder, or ureters, and to obtain from such organs specimens of fluids or tissues for chemical or microscopic analysis.

(b) Subcutaneous percutaneous liver biopsy.

(c) Punch biopsy of skeletal muscles.

(d) Bone marrow biopsy.

(e) Lumbar puncture.

(f) Myelogram.

(g) Abdominocentesis.

(h) Conization of the uterine cervix.

(i) Renal angiography.

(j) Femoral angiography.

(k) Carotid angiography.

(l) Vertebral angiography.

(15) "Mental Health Advocacy Service" means a service established by the state of Louisiana for the purpose of providing legal counsel and representation for persons with mental disabilities and for children and to ensure that their legal rights are protected.

(16) "Patient" means any person detained and taken care of as a person with mental illness or person suffering from substance abuse.

(17) "Person with mental illness" means any person with a psychiatric disorder which has substantial adverse effects on his ability to function and who requires care and treatment. It does not include a person with, solely, an intellectual disability, or who suffers solely from epilepsy, alcoholism, or drug abuse.

(18) "Psychologist" means an individual licensed to practice psychology in Louisiana in accordance with R.S. 37:2351 et seq., or licensed to practice medical psychology in Louisiana in accordance with R.S. 37:1360.51 et seq., and who has been engaged in the practice of a clinical specialty for not less than three years.

(19) "Respondent" means a person alleged to be mentally ill or suffering from substance abuse and for whom an application for commitment to a treatment facility has been filed.

(20) "Restraint" means the partial or total immobilization of any or all of the extremities or the torso by mechanical means for psychiatric indications. Restraint does not include the use

of mechanisms usually and customarily used during medical or surgical procedures, including but not limited to body immobilization during surgery and arm immobilization during intravenous administration. Restraint does not include orthopedic appliances used to posturally support the patient, such as posies.

(21) "Seclusion" means the involuntary confinement of a patient alone in a room, which the patient is physically prevented from leaving, for any period of time, except that seclusion does not include the placement of a patient alone in a room or other area for no more than thirty minutes at a time and no more than three hours in any twenty-four hour time period pursuant to behavior-shaping techniques such as "time-out".

(22) "Substance abuse" means the condition of a person who uses narcotic, stimulant, depressant, soporific, tranquilizing, or hallucinogenic drugs or alcohol to the extent that it renders the person dangerous to himself or others or renders the person gravely disabled.

(23) "Treatment" means an active effort to accomplish an improvement in the mental condition or behavior of a patient or to prevent deterioration in his condition or behavior. Treatment includes but is not limited to hospitalization, partial hospitalization, outpatient services, examination, diagnosis, training, the use of pharmaceutical, and other services provided for patients by a treatment facility.

(24) "Treatment facility" means any public or private hospital, retreat, institution, mental health center, or facility licensed by the state of Louisiana in which any mentally ill minor or minor suffering from substance abuse is received or detained as a patient except a facility under the control or supervision of the Department of Public Safety and Corrections unless otherwise provided in Title VIII of this Code.

Acts 1991, No. 235, §14, eff. Jan. 1, 1992; Acts 1995, No. 1287, §2, eff. June 29, 1995; Acts 2006, No. 271, §1; Acts 2012, No. 489, §; Acts 2014, No. 811, §33, eff. June 23, 2014; Acts 2017, No. 369, §6; Acts 2022, No. 272, §1.

## Art. 1432. Order for custody; grounds

A. Any parish coroner or judge of a court of competent jurisdiction may order a minor to be taken into protective custody and transported to a treatment facility or the office of the coroner for immediate examination when a peace officer or other credible person executes a statement under private signature specifying that, to the best of his knowledge and belief, the minor is mentally ill or suffering from substance abuse and is in need of immediate treatment to protect the minor patient or others from physical harm. The statement may include the following information:

(1) A statement of facts, including the affiant's observations leading to the conclusion that the minor is mentally ill or suffering from substance abuse and dangerous to himself or others or gravely disabled.

(2) The date and place of any dangerous acts or threats.

(3) The name and surname, if known, of any other person who is in danger.

(4) Facts showing that the minor sought has been encouraged to seek treatment and is unwilling to be evaluated on a voluntary basis.

(5) Facts showing that the affiant has attempted to contact a specific treatment facility or a specific physician in order to obtain an examination of the minor sought to be treated.

B. The order for custody shall be in writing, in the name of the state of Louisiana, signed by the judge or parish coroner, and shall state all of the following:

(1) The date and hour of issuance and the municipality or parish where issued.

(2) The name of the minor to be taken into custody or, if his name is not known, a designation of the minor by any name or description by which he can be identified with reasonable certainty.

(3) A description of the acts or threats which have led to the belief that the minor is mentally ill or suffering from substance abuse and is in need of immediate hospitalization to protect the person or others from physical harm.

(4) That the minor shall be taken to a community mental health center, a public or private general hospital, a public or private mental hospital, coroner's office, or a detoxification center.

C. The order for custody shall be effective for seventy-two hours from its issuance and shall be delivered to the coroner or director of the treatment facility by the individual who has transported the minor. The date and hour that the minor is taken into protective custody shall be written on the order. Without delay, and in no event more than twelve hours after being taken into protective custody, the minor shall be delivered to a treatment facility or the office of the coroner or he shall be released. Upon arrival, the minor in custody shall be examined immediately by the coroner or, if at a treatment facility, by a physician, preferably a psychiatrist, who shall determine if the minor shall be voluntarily admitted, admitted by emergency certificate, admitted as a noncontested admission, or discharged. The minor in custody shall be examined within eight hours of his arrival at the treatment facility or coroner's office or he shall be released.

D.(1) Any person removing a minor from a school pursuant to this Article shall provide the following information about the minor to a school administrator:

(a) First and last name.

(b) Address.

(c) Date of birth.

(2) The provisions of this Paragraph shall not apply to an arrest for which there is probable cause.

Acts 1991, No. 235, §14, eff. Jan. 1, 1992; Acts 2022, No. 324, §1.

## Art. 1433. Protective custody without court order

A. A peace officer or a peace officer accompanied by an emergency medical service trained technician may take a minor into protective custody and transport him to a treatment facility for a medical evaluation when, as a result of his personal observation, the peace officer or emergency medical service technician has reasonable grounds to believe the minor is a proper subject for involuntary admission to a treatment facility because he is acting in a manner dangerous to himself or dangerous to others, is gravely disabled, and is in need of immediate hospitalization to protect the minor or others from physical harm.

B. The minor may only be transported to one of the following:

- (1) A community mental health center.
- (2) A public or private general hospital.
- (3) A public or private mental hospital.
- (4) A detoxification center.
- (5) A substance abuse clinic.
- (6) A substance abuse inpatient facility.

C. Upon arrival at the treatment facility, the escorting peace officer shall then be relieved of any further responsibility and the minor shall be immediately examined by a physician, preferably a psychiatrist, who shall determine if the minor shall be voluntarily admitted, admitted by emergency certificate, or discharged.

D. In the case of a minor suffering from substance abuse and where any of the facilities stated in Paragraph B of this Article are unavailable, the peace officer and emergency medical service technician may use whatever means or facilities available to protect the health and safety of the minor suffering from substance abuse until such time as any of the above facilities become available. In taking a minor into protective custody, the peace officer and emergency medical service technician may take reasonable steps to protect themselves. A peace officer or emergency medical service technician who acts in compliance with this Article is acting in the course of his official duty and cannot be subjected to criminal or civil liability as a result thereof.



E. Under the provisions of this Article no minor shall be placed in protective custody for a period in excess of seventy-two hours. Any minor placed in protective custody under the provisions of this Article shall be considered as an inmate for maintenance purposes only.

F.(1) Any person removing a minor from a school pursuant to this Article shall provide the following information about the minor to a school administrator:

(a) First and last name.

(b) Address.

(c) Date of birth.

(2) The provisions of this Paragraph shall not apply to an arrest for which there is probable cause.

Acts 1991, No. 235, §14, eff. Jan. 1, 1992; Acts 2022, No. 324, §1.

## Art. 1570.1. Costs paid by abuser

A. Except as provided in Paragraph B of this Article, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance in accordance with the provisions of this Chapter shall be paid by the perpetrator of the domestic violence, including all costs of medical and psychological care for the abused adult, or for any of the children, necessitated by the domestic violence.

B. If the court determines the petition was frivolous, the court may order the nonprevailing party to pay all court costs and reasonable attorney fees of the other party. Failure to appear at a hearing on the petition shall not on its own constitute grounds for assessing court costs and fees against the petitioner.

Acts 1997, No. 1156, §1; Acts 2006, No. 777, §1; Acts 2008, No. 411, §2, eff. June 21, 2008; Acts 2018, No. 264, §2; Acts 2022, No. 416, §1, eff. June 15, 2022.