

Louisiana Children's Code 2024

Sample

About the Book

Formatted and compiled with the practitioners and law students in mind, this edition of the Louisiana Children's Code has easy to read text on letter size pages that reads across the whole page (no dual columns) and a detailed table of contents that allows you to quickly access the provision you need. Contains all articles as amended through the 2023 Legislative Sessions.

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About the Author

Nicholas M. Graphia is a Louisiana attorney focusing on property insurance claims, contract law, and bad faith litigation. A former insurance agent and defense attorney, Nicholas has over 15 years of experience in the legal and insurance industries. He routinely uses his knowledge and experience to help policyholders with their insurance recovery cases. Visit www.LainuranceClaims.com for more information.

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Table of Contents

TITLE I. GENERAL PROVISIONS	9
TITLE II. LEGAL STATUS OF CHILDREN	15
TITLE III. JURISDICTION, GENERAL AUTHORITY, AND APPEALS	15
CHAPTER 1. DEFINITIONS.....	15
CHAPTER 2. JUVENILE JURISDICTION OF COURTS	15
CHAPTER 3. JURISDICTION OVER CHILDREN, YOUTH, AND MINORS.....	15
CHAPTER 4. ORIGINAL CRIMINAL COURT	17
CHAPTER 5. JUVENILE JURISDICTION OVER ADULTS	20
CHAPTER 6. VENUE	23
CHAPTER 7. GENERAL AUTHORITY OF COURTS	24
CHAPTER 8. SPECIAL AUTHORITY OF COURTS;	26
CHAPTER 9. APPEALS AND SUPERVISORY JURISDICTION	29
TITLE IV. JUVENILE COURT ADMINISTRATION	32
CHAPTER 1. LOCAL RULES OF COURT	32
CHAPTER 2. SCHEDULING AND CONDUCT OF CASES	32
CHAPTER 3. RECORDS	35
CHAPTER 4. COURT PERSONNEL.....	40
CHAPTER 5. DUTIES OF COURT CLERKS	45
CHAPTER 6. MEDIATION	45
TITLE V. SERVICES TO FAMILIES	50
CHAPTER 1. PROTECTION OF CHILDREN IN ABUSE INVESTIGATIONS	50
CHAPTER 2. CHILD ADVOCACY CENTERS	56
CHAPTER 3. CHILDREN'S ADVOCACY CLEARINGHOUSE.....	59
CHAPTER 4. INFORMATION SHARING	60
CHAPTER 5. LEGAL REPRESENTATION OF CHILDREN	64
CHAPTER 6. LEGAL REPRESENTATION OF INDIGENT PARENTS	65
CHAPTER 7. CHILD PROTECTION REPRESENTATION COMMISSION.....	66
TITLE VI. CHILD IN NEED OF CARE	68
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	68
CHAPTER 2. VENUE	73
CHAPTER 3. GROUNDS; CHILD IN NEED OF CARE	74
CHAPTER 4. RIGHT TO COUNSEL.....	75

CHAPTER 5. CHILD ABUSE REPORTING AND INVESTIGATION.....	75
CHAPTER 6. PROCEDURES FOR THE	91
CHAPTER 7. INFORMAL ADJUSTMENT PROCEDURE.....	100
CHAPTER 8. PETITIONS; SERVICE; SUMMONS	102
CHAPTER 9. ANSWER TO PETITION.....	107
CHAPTER 10. SPECIAL MOTIONS AND DISCOVERY	109
CHAPTER 11. ADJUDICATION	112
CHAPTER 12. PREDISPOSITION INVESTIGATION	115
CHAPTER 13. PERMANENCY PLANNING REPORTS.....	115
CHAPTER 14. DISPOSITION.....	120
CHAPTER 15. CASE REVIEW PROCEDURE;.....	126
CHAPTER 16. DISPOSITIONAL REVIEWS	129
CHAPTER 17. SANCTIONS FOR FAILURE TO COMPLY.....	135
CHAPTER 18. MODIFICATION OF DISPOSITION	135
CHAPTER 19. GUARDIANSHIP	136
CHAPTER 20. SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN.....	139
TITLE VII. FAMILIES IN NEED OF SERVICES.....	143
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	143
CHAPTER 2. PERSONS SUBJECT TO PROCEEDINGS; GROUNDS; COMPLAINT.....	144
CHAPTER 3. DUTIES OF INTAKE OFFICERS.....	145
CHAPTER 4. PREADJUDICATION CUSTODY AND RELEASE OF CHILDREN.....	146
CHAPTER 5. INFORMAL FAMILY SERVICES PLAN PROCEDURE.....	150
CHAPTER 6. PETITION AND SUMMONS	152
CHAPTER 7. ANSWER TO PETITION.....	155
CHAPTER 8. SPECIAL MOTIONS AND DISCOVERY	156
CHAPTER 9. ADJUDICATION	156
CHAPTER 10. PREDISPOSITION INVESTIGATION	159
CHAPTER 11. PERMANENCY PLANNING REPORTS.....	160
CHAPTER 12. DISPOSITION.....	160
CHAPTER 13. CASE REVIEW PROCEDURE; REPORTS; REVIEW HEARINGS	164
CHAPTER 14. MODIFICATION OF DISPOSITION	164
CHAPTER 15. TRUANCY ASSESSMENT SERVICE CENTERS	166
CHAPTER 15-A. NATURE OF PROCEEDINGS AND RECORDS.....	168

CHAPTER 16. EARLY INTERVENTION PROGRAMS	168
TITLE VIII. DELINQUENCY	171
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	171
CHAPTER 2. VENUE	172
CHAPTER 3-A. RIGHTS OF THE VICTIM	175
CHAPTER 4. PREADJUDICATION CUSTODY AND RELEASE OF CHILDREN.....	179
CHAPTER 5. CONTINUED CUSTODY PRIOR TO ADJUDICATION	184
CHAPTER 6. BAIL, SECURITY DEPOSITS, CONDITIONS OF RELEASE, AND BREACH OF BAIL CONDITIONS	185
CHAPTER 7. MENTAL INCAPACITY TO PROCEED.....	188
CHAPTER 8. INFORMAL ADJUSTMENT PROCEDURE.....	197
CHAPTER 9. PETITION AND SUMMONS	198
CHAPTER 10. ANSWER TO PETITION.....	201
CHAPTER 11. TRANSFERS FOR CRIMINAL PROSECUTION.....	203
CHAPTER 12. PREADJUDICATION MOTIONS AND RELIEF.....	206
CHAPTER 13. ADJUDICATION.....	210
CHAPTER 14. VACATION OF ADJUDICATION.....	217
CHAPTER 15. PREDISPOSITION INVESTIGATION.....	218
CHAPTER 16. DISPOSITION HEARINGS	219
CHAPTER 17. MODIFICATION OF DISPOSITION	233
CHAPTER 18. EXPUNGEMENT.....	236
TITLE IX. TRAFFIC VIOLATIONS	246
CHAPTER 1. PRELIMINARY PROVISIONS.....	246
CHAPTER 2. TRAFFIC JURISDICTION; CITATION	246
CHAPTER 3. JUVENILE TRAFFIC REFEREES.....	246
CHAPTER 4. APPOINTMENT OF COUNSEL.....	247
CHAPTER 5. DISPOSITION.....	247
CHAPTER 6. TRAFFIC CASES HEARD BEFORE JUVENILE TRAFFIC REFEREE; APPEAL TO COURT	248
TITLE X. JUDICIAL CERTIFICATION OF CHILDREN FOR ADOPTION	248
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	248
CHAPTER 2. VENUE	252
CHAPTER 3. CONFIDENTIALITY OF RECORDS; DUTIES OF COURT CLERKS; DISCLOSURE PROCEEDINGS	252

CHAPTER 4. GROUNDS OF INVOLUNTARY TERMINATION.....	254
CHAPTER 5. RIGHT TO COUNSEL.....	256
CHAPTER 6. PREHEARING PROCEDURE.....	256
CHAPTER 7. SPECIAL MOTIONS AND DISCOVERY	262
CHAPTER 8. HEARING.....	263
CHAPTER 9. JUDGMENTS	268
CHAPTER 10. PERMANENT PLACEMENT	270
CHAPTER 11. RESTORATION OF PARENTAL RIGHTS	271
TITLE XI. SURRENDER OF PARENTAL RIGHTS.....	272
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	272
CHAPTER 2. DUTIES OF COURT CLERKS; CONFIDENTIALITY.....	273
CHAPTER 2-A. INTENT TO SURRENDER PROCESS	275
CHAPTER 3. AUTHORITY TO SURRENDER.....	281
CHAPTER 4. CAPACITY TO SURRENDER.....	282
CHAPTER 5. AUTHORITY TO ACCEPT SURRENDER	283
CHAPTER 6. COUNSELING REQUIREMENTS	284
CHAPTER 7. SURRENDER REQUIREMENTS.....	285
CHAPTER 8. STATEMENT OF FAMILY HISTORY; FORM 1.....	293
CHAPTER 9. FOREIGN SURRENDERS.....	300
CHAPTER 10. SURRENDER PROCEDURE IN GENERAL	300
CHAPTER 11. PERMANENCY PLANNING	308
CHAPTER 12. ANNULMENT OF SURRENDER.....	310
CHAPTER 13. SAFE HAVEN RELINQUISHMENTS.....	310
TITLE XII. ADOPTION OF CHILDREN.....	319
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	319
CHAPTER 2. PREPLACEMENT APPROVAL OF ADOPTIVE HOME IN PRIVATE ADOPTIONS	320
CHAPTER 3. VENUE AND JURISDICTION.....	323
CHAPTER 4. DUTIES OF COURT CLERKS.....	323
CHAPTER 5. CONFIDENTIALITY.....	324
CHAPTER 6. RIGHTS OF PARENTS; CONSENT; RELINQUISHMENT	326
CHAPTER 7. FORM OF PARENTAL CONSENT	327
CHAPTER 8. PRIOR CLEARANCE OF ORIGINAL BIRTH CERTIFICATE.....	328
CHAPTER 9. AGENCY ADOPTIONS.....	328

CHAPTER 10. PRIVATE ADOPTIONS.....	339
CHAPTER 11. INTRAFAMILY ADOPTIONS.....	349
CHAPTER 12. APPEAL.....	355
CHAPTER 13. ANNULMENT OF FINAL DECREES.....	356
CHAPTER 14. VISITATION RIGHTS OF GRANDPARENTS.....	356
CHAPTER 14-A. CONTINUING CONTACT.....	357
CHAPTER 15. VOLUNTARY REGISTRATION.....	362
CHAPTER 16. DEPARTMENT OF CHILDREN AND FAMILY SERVICES ADOPTION INCENTIVES.....	365
TITLE XII-A. INTERCOUNTRY ADOPTION OF CHILDREN.....	369
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	369
CHAPTER 2. NON-HAGUE CONVENTION COUNTRY ADOPTIONS RECOGNITION OF FOREIGN ADOPTIONS.....	371
CHAPTER 3. NON-HAGUE CONVENTION COUNTRY ADOPTIONS ADOPTION OF A FOREIGN ORPHAN.....	372
CHAPTER 4. HAGUE CONVENTION COUNTRY ADOPTIONS RECOGNITION OF FOREIGN ADOPTION.....	379
CHAPTER 5. ADOPTION OF A HAGUE CONVENTION ADOPTEE.....	380
TITLE XIII SUPPORT OF FAMILY.....	387
CHAPTER 1. UNIFORM INTERSTATE FAMILY SUPPORT ACT.....	387
Section 1. General Provisions.....	387
Section 2. Jurisdiction.....	390
Section 3. Civil Provisions of General Application.....	395
Section 4. Establishment of Support Order or Determination of Parentage.....	402
Section 5. Enforcement of Support Order Without Registration.....	403
Section 6. Registration, Enforcement, and Modification of Support Order.....	405
Section 7. Support Proceedings Under Convention.....	411
Section 8. Interstate Rendition.....	416
Section 9. Miscellaneous Provisions.....	417
CHAPTER 2. CRIMINAL NEGLECT OF FAMILY.....	420
TITLE XIV MENTAL HEALTH PROCEEDINGS.....	423
CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS.....	423
CHAPTER 2. TREATMENT FACILITIES.....	428
CHAPTER 3. RIGHTS OF MINOR PATIENTS.....	429
CHAPTER 4. HOSPITALIZED MINORS' RIGHT TO HEARING.....	434
CHAPTER 5. RECORDS.....	435

CHAPTER 6. IMMUNITY FROM LIABILITY	437
CHAPTER 7. EMERGENCY CERTIFICATE ADMISSION PROCEDURE	437
CHAPTER 8. PROTECTIVE CUSTODY	441
CHAPTER 9. JUDICIAL COMMITMENT PROCEDURE	444
CHAPTER 10. PARENTAL ADMISSION	451
CHAPTER 11. VOLUNTARY ADMISSION	454
CHAPTER 12. SUBSTANCE ABUSE TREATMENT PROCEDURE.....	455
CHAPTER 13. TRANSFER OF PATIENTS COMMITTED TO THE DEPARTMENT	456
TITLE XV SPECIAL PROCEEDINGS	457
CHAPTER 1. PRELIMINARY PROVISIONS	457
CHAPTER 2. CONTEMPT	457
CHAPTER 3. VOLUNTARY TRANSFER OF CUSTODY	461
CHAPTER 4. MISDEMEANOR PROSECUTION OF ADULTS.....	467
CHAPTER 5. (RESERVED).....	469
CHAPTER 6. AUTHORIZATION OF MINORS' MARRIAGES.....	469
CHAPTER 7. PROTECTION OF TERMINALLY ILL CHILDREN	471
CHAPTER 8. DOMESTIC ABUSE ASSISTANCE.....	476
TITLE XVI INTERSTATE COMPACTS AFFECTING CHILDREN	484
CHAPTER 1. INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE	484
CHAPTER 2. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.....	488
CHAPTER 2-A. INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.....	493
CHAPTER 4. THE INTERSTATE COMPACT FOR JUVENILES.....	511
TITLE XVII RELINQUISHMENT OF NEWBORNS	523

LOUISIANA CHILDREN'S CODE

TITLE I. GENERAL PROVISIONS

Art. 100. Short title; citation of Code

This Code shall be known as the "Louisiana Children's Code" and may be officially cited: Ch.C.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 101. Preamble

The people of Louisiana recognize the family as the most fundamental unit of human society; that preserving families is essential to a free society; that the relationship between parent and child is preeminent in establishing and maintaining the well-being of the child; that parents have the responsibility for providing the basic necessities of life as well as love and affection to their children; that parents have the paramount right to raise their children in accordance with their own values and traditions; that parents should make the decisions regarding where and with whom the child shall reside, the educational, moral, ethical, and religious training of the child, the medical, psychiatric, surgical, and preventive health care of the child, and the discipline of the child; that children owe to their parents respect, obedience, and affection; that the role of the state in the family is limited and should only be asserted when there is a serious threat to the family, the parents, or the child; and that extraordinary procedures established by law are meant to be used only when required by necessity, and then with due respect for the rights of the parents, the children, and the institution of the family, and only to the extent that such procedures are not prohibited by the Louisiana Constitution of 1974, as amended.

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

Art. 102. Purpose and construction

The provisions of this Code shall be liberally construed to the end that each child and parent coming within the jurisdiction of the court shall be accorded due process and that each child shall receive, preferably in his own home, the care, guidance, and control that will be conducive to his welfare. In those instances when he is removed from the control of his parents, the court shall secure for him care as nearly as possible equivalent to that which the parents should have given him. These Code provisions shall be construed to promote the stability of the family and to secure simplicity in procedure, fairness in adjudication and administration, and the elimination of unjustifiable delay.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 103. General applicability

Except as otherwise specified in any Title of this Code, the provisions of the Children's Code shall be applicable in all juvenile court proceedings, and only to such proceedings.

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

Art. 103.1. Applicability of Indian Child Welfare Act

A. The provisions of the federal Indian Child Welfare Act and the regulations promulgated thereunder supersede the Children's Code whenever the outcome of an involuntary or voluntary proceeding may result in the removal of an Indian child from a parent under circumstances in which the parent cannot have the child returned upon demand.

B. Child custody proceedings to which the federal Indian Child Welfare Act and the regulations promulgated thereunder apply include the following:

- (1) A child in need of care proceeding.
- (2) A certification for adoption proceeding.
- (3) A family in need of services proceeding.
- (4) A transfer of custody, a surrender for adoption, and any other voluntary proceeding.

Acts 2018, No. 296, §1.

Art. 104. Applicability of Code of Criminal Procedure; Code of Civil Procedure

Where procedures are not provided in this Code, or otherwise by law, the court shall proceed in accordance with:

(1) The Code of Criminal Procedure in a delinquency proceeding and in a criminal trial of an adult.

(2) The Code of Civil Procedure in all other matters.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 105. Applicability of Code of Evidence

Except as otherwise specially provided by this Code, the rules of evidence applicable to juvenile adjudication hearings in nonadjudicatory proceedings are those provisions of the Louisiana Code of Evidence applicable to civil cases. The rules of evidence applicable to delinquency proceedings and criminal trials of adults are those provisions of the Louisiana Code of Evidence applicable to criminal cases.

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

Art. 106. Number, gender

Unless the context clearly indicates otherwise:

(1) Words used in the singular number apply also to the plural; words used in the plural number include the singular.

(2) Words used in one gender apply also to the other.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 107. Mandatory and permissive language

The word "shall" is mandatory, and the word "may" is permissive.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 108. Conjunctive, disjunctive, or both

Unless the context clearly indicates otherwise:

(1) The word "and" indicates the conjunctive.

(2) The word "or" indicates the disjunctive.

(3) When the Article is phrased in the disjunctive, followed by the words "or both", both the conjunctive and disjunctive are intended.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 109. Assistants and deputies included

Unless the context clearly indicates the contrary, official titles, such as clerk of court, district attorney, and sheriff, include assistants and deputies.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 110. References to code articles or statutory sections

Unless the context clearly indicates the contrary:

(1) A reference in this Code to a Title, Chapter, or Article without further designation, means a Title, Chapter, or Article of this Code.

(2) A reference in this Code to an Article of a Code or to a statutory section applies to subsequent amendments thereof.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 111. Article headings and comments not part of law

The headings of the Articles of this Code and any comments thereto are for convenient reference and do not constitute parts of the law.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 112. Clerical and typographical errors disregarded

Clerical and typographical errors in this Code shall be disregarded when the legislative intent is clear from the context in which the provision or word is found.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 113. Pleading a statute or ordinance

In the course of any proceeding under this Code, when pleading a statute of Louisiana or an ordinance of a political subdivision thereof, a statute of another state of the United States, or a federal statute, or a right derived therefrom, it is sufficient to refer to the statute or ordinance by an official method of citation, by its title, or in any other manner which identifies the statute or ordinance. A copy of any ordinance pleaded shall be furnished to the court and filed with the record of the proceeding.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 114. Computation of time

A. In computing a period of time allowed or prescribed by law or by order of court, the date of the act, event, or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday, in which event the period runs until the end of the next day which is not a legal holiday.

B. A half-holiday is considered as a legal holiday.

C. A legal holiday is to be included in the computation of a period of time allowed or prescribed, except in any one of the following instances:

(1) It is expressly excluded.

(2) It would otherwise be the last day of the period, except that, for purposes of calculating a release date from an order of commitment, a legal holiday shall be included if it is the last day of the period.

(3) The period is less than seven days.

D. All Saturdays and Sundays are also considered as legal holidays.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 115. Oath or affirmation in juvenile proceedings

A. Witnesses shall swear or affirm to speak the truth and nothing but the truth.

B. A child witness need not be placed under oath or be required to make an affirmation if the court can otherwise assure that the child understands his obligation to speak the truth.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

Art. 116. Definitions

Except where the context clearly indicates otherwise, these definitions apply for the following terms used throughout this Code:

(1) "Act" includes a failure or omission to perform a legal duty.

(2) "Capital offense" means an offense that may be punished by death.

(2.1) "CASA program" means a court-appointed special advocate program established in compliance with National CASA Association standards.

(2.2) "CASA volunteer" means a court-appointed special advocate who has been trained in accordance with National CASA Association standards and is under the supervision of a CASA program.

(3) "Child" means a person who has not attained the age of eighteen years, except as it is specially defined by a provision of this Code.

(4) "Court" means any city, parish, district, or juvenile, or its judge, when exercising juvenile jurisdiction as provided for in this Code. It does not include a judge of a mayor's court or a justice of the peace.

(4.1) "Diligent effort to locate" means efforts made by a curator that, under the circumstances known to the curator, are reasonably calculated to locate an absentee. Such efforts may include a review of court records, department records, law enforcement records, vital records, military records, directory assistance, internet search sites, and licensing agencies. Publication shall not be required except as specifically provided in this Code.

(5) "Felony" means an offense that may be punished by death or by imprisonment at hard labor.

(5.1) "Guardianship" means the judicial placement of a child under the duty and authority of a guardian to make decisions in matters having a permanent effect on the life and development of the child as set forth in Article 719.

(6) "Home study" means an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located to determine whether a

proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

(6.1) "Indian child" means any unmarried child under eighteen years of age who is a member of an Indian tribe or who is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(6.2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior in accordance with their status as Indians.

(7) "Indictment" means a written accusation of crime made by a grand jury.

(8) "Information" means a written accusation of crime made and signed by the district attorney or the city prosecutor. It must be filed in open court in a court having jurisdiction to try the offense, or in the office of the clerk thereof.

(8.1) "Interstate home study" means a home study conducted by a state at the request of another state to facilitate an adoptive or foster placement in the state of a child in foster care under the responsibility of the state.

(9) "Judge" means the judge of a court exercising juvenile jurisdiction.

(9.1) "Juvenile crime victim" means a person, under the age of seventeen, against whom a felony offense against the person has been committed.

(10) "Juvenile detention center" means the same as a secure detention facility.

(11) "Juvenile proceeding" or "juvenile case" means a proceeding or case in which the court is exercising juvenile jurisdiction.

(12) "Legal custody" means the right to have physical custody of the child and to determine where and with whom the child shall reside; to exercise the rights and duty to protect, train, and discipline the child; the authority to consent to major medical, psychiatric, and surgical treatment; and to provide the child with food, shelter, education, and ordinary medical care, all subject to any residual rights possessed by the child's parents.

(13) "Licensed institution", "licensed facility", or "licensed agency" means an institution or agency that has been licensed under state law, if licensure is required by law for such an institution or agency.

(14) "Minor" means a person who has not attained the age of eighteen years.

(15) "Misdemeanor" means an offense other than a felony, and includes the violation of an ordinance providing a penalty.

(16) "Offense" includes both felony and misdemeanor.

(17) "Parent" means any living person who is presumed to be a parent under the Civil Code or a biological or adoptive mother or father of a child.

(18) "Parole" means the legal status created by court order whereby a child is conditionally released from a juvenile correctional institution to a less restrictive setting where continued supervision will be provided by a probation officer and standards of conduct will be imposed by the court.

(19) "Peace officer" means any sheriff, police officer, or other person deputized by proper authority to serve as a peace officer.

(20) "Physician" means a person permitted to practice and in active practice as a physician under the laws of Louisiana or a person in a postgraduate medical training program of an accredited medical school in Louisiana or a medical officer similarly qualified by the government of the United States while in this state in the performance of official duties.

(21) "Probation" means the legal status created by court order following an adjudication of delinquency or an adjudication that a family is in need of services or that the child is in need of supervision, whereby a child is permitted to remain in a community subject to supervision by a probation officer and to standards of conduct imposed by the court.

(22) "Probation officer" is a representative of the agency providing supervision services to a court exercising juvenile jurisdiction. It also includes any person designated by the court to serve as the court's probation officer.

(23) "Psychiatrist" means a physician who has at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

(24) "Residual parental rights" means those rights and responsibilities remaining with the parents after the legal transfer of custody of their child, including but not necessarily limited to right of visitation, consent to adoption, right to determine religious affiliation, responsibility of support, and the right of inheritance from the child.

(24.1) "Secure detention facility" means a facility that provides a physically restricting environment for the temporary care of children in accordance with the Minimum Standards for Licensure of the Louisiana Detention Association.

(24.2) "Secure placement" means a placement characterized by a range of moderate to high security level facilities that include construction, fixtures, and staff supervision designed to restrict the movements and activities of the residents, and to control, on a twenty-four-hour basis, the ability of the residents to enter and leave the premises, and which are intended for the treatment and rehabilitation of children who have been adjudicated delinquent. Secure placements shall include but are not limited to secure correctional centers for children and may include community-based secure detention facilities. However, no placement of a child to a community-based secure detention facility shall occur when a child has been adjudicated for the commission of a crime listed in Article 897.1 unless notice of such placement is provided to the committing judge and the district attorney.

(25) "Shelter care facility" means a licensed, physically unrestricting public or private child caring facility, a residential facility operated for runaway, homeless, or sexually exploited children, or a safe house as defined in Article 925.1 which provides temporary care for children.

(26) "State" includes a city or other political subdivision of the state.

(27) "Statute" or "law" means a statute, a constitutional provision, or an ordinance of a city or other political subdivision of the state.

(28) "Tutor" means one other than a parent who has qualified for the office and has been confirmed or appointed by a court.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1997, No. 732, §2; Acts 1999, No. 275, §1, eff. July 1, 1999; Acts 1999, No. 449, §§1, 2, eff. July 1, 1999; Acts 1999, No. 1317, §1; Acts 2004, No. 484, §1; Acts 2006, No. 344, §3, eff. June 13, 2006; Acts 2007, No. 334, §1; Acts 2011, No. 128, §1; Acts 2017, No. 239, §1; Acts 2017, No. 376, §1; Acts 2018, No. 296, §1; Acts 2018, No. 467, §2.

TITLE II. LEGAL STATUS OF CHILDREN

Arts. 201 - 300. (Reserved)

Acts 1991, No. 235, §2.

TITLE III. JURISDICTION, GENERAL AUTHORITY, AND APPEALS

CHAPTER 1. DEFINITIONS

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. 251, §6.

CHAPTER 2. JUVENILE JURISDICTION OF COURTS

Art. 302. Juvenile jurisdiction of courts

Juvenile jurisdiction shall be exercised as follows:

(1) Special juvenile courts created by law for Caddo, Orleans, Jefferson, and East Baton Rouge Parishes shall have exclusive original juvenile jurisdiction, and any other jurisdiction conferred by the statute creating them, in the parish or parishes for which they are created. Judges of these courts shall exercise their juvenile jurisdiction according to the provisions of this Code.

(2) District courts, except where a separate juvenile court with exclusive original juvenile jurisdiction is established by law, shall have original juvenile jurisdiction for the parish or parishes within their district.

(3) Parish courts, except where a separate juvenile court with exclusive original juvenile jurisdiction is established by law, shall have original juvenile jurisdiction for their parish. This jurisdiction shall be concurrent with that of the district court.

(4) City courts, except where a separate juvenile court with exclusive original juvenile jurisdiction is established by law, shall have original juvenile jurisdiction for their territorial jurisdiction. This jurisdiction shall be concurrent with that of the district court.

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

CHAPTER 3. JURISDICTION OVER CHILDREN, YOUTH, AND MINORS

Art. 303. Exclusive jurisdiction over children, youth, and minors; exceptions

A court exercising juvenile jurisdiction shall have exclusive original jurisdiction over:

(1) Delinquency proceedings pursuant to Title VIII, except when a child either:

(a) Is subject to the jurisdiction of the criminal courts for prosecution and liability as an adult pursuant to Chapter 4 of this Title.

(b) Has been transferred by the juvenile court for criminal prosecution and liability as an adult pursuant to Chapter 11 of Title VIII.

- (2) Child in need of care proceedings pursuant to Title VI.
 - (3) Families in need of services proceedings pursuant to Title VII.
 - (4) Traffic proceedings pursuant to Title IX.
 - (5) Involuntary termination of parental rights proceedings pursuant to Title X.
 - (6) Voluntary termination of parental rights proceedings pursuant to Title XI.
 - (7) Adoption proceedings pursuant to Title XI or XII.
 - (8) Mental health proceedings pursuant to Title XIV.
 - (9) Any special proceeding authorized by Title XV, except domestic abuse assistance proceedings brought in a district court pursuant to R.S. 46:2131 et seq.
 - (10) Any proceeding necessary to implement the provisions of interstate compacts affecting children pursuant to Title XVI.
 - (11) Such other jurisdiction over children as may be provided by law.
 - (12) Extended foster care proceedings as provided for by R.S. 46:288.1 et seq., to review the written report and make a determination whether it is in the youth's best interest to continue in extended foster care in a voluntary placement. For purposes of this Subparagraph, "youth" shall have the same meaning as provided in R.S. 46:288.2.
- Acts 1991, No. 235, §3, eff. Jan. 1, 1992; Acts 1992, No. 15, §1, eff. July 6, 1992; Acts 2001, No. 567, §1; Acts 2019, No. 400, §1, eff. June 19, 2019.

Art. 304. Transfer of child adjudicated in another state for disposition

- A.(1) Upon request of a court of another state, a court of this state shall accept jurisdiction of a child provided both the following occur:
 - (a) The child is about to become a resident of or is domiciled in the parish.
 - (b) The child has been adjudicated in the other state under circumstances which would confer jurisdiction in this state.
- (2) The request shall include a certified copy of the judgment of the requesting court and a copy of the record.
- B. The order of adjudication of the requesting state is not subject to attack.
- C. Within fourteen days of receiving such request, the court shall determine whether the conditions of transfer are met. If the conditions of transfer have not been met, the court shall immediately advise the requesting court in writing. If the conditions of transfer are met, the court shall immediately issue written notice of its intent to accept jurisdiction of the child.
- D. Upon receipt of an order of the requesting court transferring jurisdiction of the child, the court shall direct its probation officer or other person to take custody of the child or otherwise provide for his appearance before the court.
- E. Upon acceptance, the court shall promptly hold a hearing to determine the proper disposition. The disposition hearing and judgment of disposition shall be in accordance with the provisions of this Code.

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

**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)(a) 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 sixty calendar days after the child's arrest, unless the child waives this right.

(b) Failure to institute prosecution as provided in this Subparagraph shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the child. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

(c) When the juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that the child committed one of the offenses listed in Subparagraph (1) of this Paragraph, the time limitations contained in this Code are inapplicable, and the time period for filing an indictment after arrest shall be governed by Code of Criminal Procedure Article 701.

(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 A 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)(a) 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 sixty calendar days after the child's arrest, unless the child waives this right.

(b) Failure to institute prosecution as provided in this Subparagraph shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the child. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

(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; Acts 2023, No. 418, §1.

Art. 306. Places of detention; juveniles subject to criminal court jurisdiction

A. Prior to the divesting events specified in Paragraphs A and B of Article 305, the child shall be held in custody in a juvenile detention center, except as hereinafter provided.

B. If a detention facility for juveniles is not available, the child may be held in an adult jail or lockup for identification or processing procedures or while awaiting transportation only as long as necessary to complete these activities for up to six hours, except that in nonmetropolitan areas, the child may be held for up to forty-eight hours if all of the following occur:

(1) The child meets the age and offense criteria set out in Article 305.

(2) A continued custody hearing in accordance with Articles 820 and 821 is held within forty-eight hours after his arrest.

(3) There is no acceptable alternative placement to the jail or lockup in which he is being held.

(4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist providing for sight and sound separation of the juvenile from adult offenders and that he can be given continuous visual supervision while placed in the jail or lockup.

C. If an indictment has not been returned, a bill of information filed, or a continued custody hearing not held within forty-eight hours, the child held in an adult jail or lockup in a nonmetropolitan area shall be released or removed to a juvenile detention facility.

D. If at the conclusion of the continued custody hearing, the court determines that the child meets the age requirements and that there is probable cause that the child has committed one of the offenses enumerated in Article 305, the court shall order him held for trial as an adult for the appropriate court of criminal jurisdiction. The appropriate court of criminal jurisdiction may thereafter order that the child be held in any facility used for the pretrial detention of accused adults and the child shall apply to the appropriate court of criminal jurisdiction for a preliminary hearing, bail, and for any other rights to which he may be entitled under the Code of Criminal Procedure.

E. If for any reason the court determines that the child is not subject to the jurisdiction of the criminal courts, it may continue him in custody only in those places authorized by Article 822.

F. The court authorizing the detention of the child in an adult jail or lockup pursuant to Paragraph B or D of this Article shall submit a written report delineating appropriate reasons for the continued custody to the judicial administrator of the supreme court for review and shall submit copies to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice and to the sheriff or chief of police of the facility in which the child is being detained within seven working days of the court's decision.

G. Notwithstanding any provision of law to the contrary, a child who is subject to criminal jurisdiction pursuant to Article 305 and being held in a juvenile detention facility before trial shall be transferred to the appropriate adult facility for continued pretrial detention upon reaching the age of eighteen.

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. 9, §1, eff. July 1, 1999; Acts 2022, No. 272, §1.

Art. 602. General applicability

Except as otherwise specified in this Title, all provisions of the Code remain applicable.

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

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. 14:62, 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, 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. 17:358.1 et seq.

(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 6 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. 603.1. Required education; reporting child abuse

A. Every person graduating from any teacher preparation program in Louisiana shall have had in his curriculum instruction on the requirements of and how to report suspected child abuse cases pursuant to Article 601 et seq., as well as instruction on how to identify the signs and symptoms of child neglect and abuse, including sexual abuse, in order to receive his teacher certification.

B. Teaching or child care providers as defined by Article 605 shall complete an online training course provided by the Department of Children and Family Services between June first and August thirty-first annually. A record of completion of the course by the teaching or child care provider shall be provided to and retained by each entity at which the teaching or child care provider is employed. The entity at which the teaching or child care provider is employed shall retain a list of all teaching or child care providers who have not complied with the training requirements provided in this Article.

Acts 2003, No. 769, §1; Acts 2020, No. 272, §1, eff. June 11, 2020.

Art. 604. Persons subject to proceeding

A court exercising juvenile jurisdiction shall have exclusive original jurisdiction, in conformity with any special rules prescribed by law, over any child alleged to be in need of care and the parents of any such child.

Acts 1991, No. 235, §1, eff. Jan. 1, 1992.

CHAPTER 2. VENUE

Art. 605. Venue

A. A proceeding under this Title may be commenced in the parish in which the child is domiciled with his parent or tutor, the parish in which the child was present when an act alleged took place or conditions alleged existed, or the parish in which the child is found.

B. When a petition is filed in a parish other than that of the child's domicile, the court in which the proceeding is filed, upon motion of a party or upon the court's own motion, may transfer the proceeding to the court for the parish in which the child is domiciled. A transfer under this Paragraph may be made at any time.

C. When a petition is filed in a parish other than that of the child's domicile and the proceeding is not transferred under Paragraph B of this Article, the court in which the proceeding

is filed shall immediately notify the appropriate court for the parish in which the child is domiciled, and if the court for the parish in which the child is domiciled requests a transfer within five days after receipt of the notification, the court in which the proceeding was filed may transfer the proceeding. A transfer under this Paragraph shall be made prior to the adjudication hearing.

D. When a petition is filed in a parish other than that of the child's domicile, and the proceeding is not transferred under Paragraph B or C of this Article, the court in which the proceeding was filed may, after the adjudication hearing, transfer the proceeding to the court of the parish where the child is domiciled for the disposition hearing.

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

CHAPTER 3. GROUNDS; CHILD IN NEED OF CARE

Art. 606. Grounds; child in need of care

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

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

(2) The child is a victim of neglect.

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

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

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

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

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

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

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

CHAPTER 4. RIGHT TO COUNSEL

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 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.

CHAPTER 5. CHILD ABUSE REPORTING AND INVESTIGATION

Art. 609. Mandatory and permitted reporting; training requirements

A. With respect to mandatory reporters:

(1)(a) Notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report in accordance with Article 610.

(b) For purposes of this Article, the pregnancy of a child under the age of thirteen years shall constitute cause to consider whether the child has been abused.

(2) Violation of the duties imposed upon a mandatory reporter subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(3).

(3)(a) To familiarize mandatory reporters, as defined by Children's Code Article 603, with their legal mandate for reporting suspected child abuse and neglect, such mandatory reporters shall be offered training on the statutory requirements and responsibility of reporting child abuse and neglect. This training shall be made available by the child welfare division of the Department of Children and Family Services or any other mechanism as approved by the department as long as it includes information on the reporting procedure and the consequences of failing to report.

(b) Each mandatory reporter may obtain mandatory reporting training as each mandatory reporter believes to be necessary in accordance with Subsubparagraph (a) or (d) of this Subparagraph.

(c) The appropriate state regulatory department, board, commission, or agency for each category of mandatory reporter may provide continuing education credit for the completion of the training pursuant to this Paragraph.

(d) Any entity, including but not limited to hospitals, educational and religious institutions, and nonprofits, may provide its employees, volunteers, or educational attendees with equivalent training pursuant to Subsubparagraph (a) of this Subparagraph.

B. With respect to permitted reporters, any other person having cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect, including a judge of any court of this state, may report in accordance with Article 610.

C. The filing of a report, known to be false, may subject the offender to criminal prosecution authorized by R.S. 14:403(A)(3).

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 637, §1, eff. June 15, 1993; Acts 2013, No. 163, §1; Acts 2020, No. 122, §1, eff. June 9, 2020.

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

NOTE: Subparagraph (A)(1) eff. until Jan. 1, 2023. See Acts 2022, No. 662.

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.

NOTE: Subparagraph (A)(1) as amended by Acts 2022, No. 662, eff. Jan. 1, 2023.

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.

NOTE: Subparagraph (E)(4) eff. Jan. 1, 2023. See Acts 2022, No. 662.

(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 finding 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. 611. Immunity from civil or criminal liability

A.(1) No cause of action shall exist against any:

(a) Person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings authorized under the provisions of this Chapter.

NOTE: Subsubparagraph eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6

(b) Caseworker who in good faith conducts an investigation, makes an investigative judgment or disposition, or releases or uses information contained in the central registry for the purpose of protecting a child.

NOTE: Subsubparagraph eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6

(b) Caseworker who in good faith conducts an investigation, makes an investigative judgment or disposition, or releases or uses information contained in the state repository or central registry for the purpose of protecting a child.

(2) Such individuals shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.

B. This immunity shall not be extended to:

(1) Any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the child.

(2) Any person who makes a report known to be false or with reckless disregard for the truth of the report.

C.(1) In any action to establish damages against a defendant who has made a false report of child abuse or neglect, the plaintiff shall bear the burden of proving that the defendant who filed the false report of child abuse or neglect knew the report was false or that the report was filed with reckless disregard for the truth of the report.

(2) A plaintiff who fails to meet his burden of proof provided in Subparagraph (1) of this Paragraph shall pay all court costs and attorney fees of the defendant.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 675, §1; Acts 2004, No. 76, §1; Acts 2006, No. 372, §1; Acts 2017, No. 348, §1, special eff. date.

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 and 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 instanter 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. 612.1. Institutional abuse; corrective measures

A. Upon a finding of institutional abuse or neglect, resulting from a single act or occurrence, the department shall require that the owner, operator, or administrator of the facility formulate a plan of remedial action. Within thirty days of the department's request, the owner, operator, or administrator shall notify the agency in writing of a plan of remedial action. Within ninety days of the request, the owner, operator, or administrator shall fully implement the plan for remedial action, unless otherwise agreed to by the department.

B. Upon a finding of institutional abuse or neglect resulting from several incidents that have occurred at the facility, within seven days of the finding, the department shall require that the owner, operator, or administrator of the facility make appropriate administrative, personnel, or structural changes at the facility. Within thirty days of such request, the owner, operator, or administrator of the facility shall notify the department of the progress in complying with the requirement. The department and the owner, operator, or administrator shall establish a reasonable period in which the requested changes shall be completed.

C. If an owner, operator, or administrator of a facility does not formulate or implement a plan for remedial action or make requested changes, the department shall recommend to the entity that licenses, oversees, certifies, or authorizes the operation of the facility, that appropriate sanctions or actions be imposed against the facility.

D. If there is reasonable cause to believe that a teacher, employee, volunteer, or other staff person has committed an act of child abuse or neglect, he shall be temporarily removed from his position at the institution or reassigned to other duties in which he will not have contact with the child victim or other children.

E. In accordance with the Administrative Procedure Act, the department shall adopt rules setting forth the procedures for the investigation and reporting of institutional abuse. Such rules may provide for the investigation to be conducted by an agency that contracts with the state whose staff is trained to conduct such investigations. The procedures may include the use of review teams to make recommendations to the department concerning the procedures for investigating institutional abuse or neglect.

Acts 2003, No. 567, §1, eff. upon allocation of adequate funding and subject to the approval of the Joint Legislative Committee on the Budget.

Art. 613. Entry orders

A. If in the course of an investigation of a report, admission cannot be obtained to the home, school, or any other place where the child may be found, the investigator shall apply to the juvenile court for an order authorizing an entry for the purposes of interviewing the child and other members of the household, for the visual inspection of the child, and for an inspection of the home to the extent such an inspection is essential to the investigation of specific allegations. The affidavit of the applicant must demonstrate:

- (1) That reasonable suspicion exists that the child has been abused or neglected.
- (2) That entry has been denied.

B. The court may grant such an order on an ex parte application and may also order a law enforcement officer to accompany the applicant in executing the entry order.

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

Art. 614. Evaluation orders

A. If necessary, the investigator may apply to the court for certain medical examinations and evaluations of the child or other children in the household.

B. Upon a showing of good cause in an affidavit executed by the applicant, the court may order a physical examination and evaluation of the child or other children in the household by any physician. Such an order may be granted ex parte.

C. Upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order a psychological or psychiatric examination and evaluation of the child or other children in the household by a psychologist or psychiatrist.

D. Upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order a physical, psychological, or psychiatric examination of the parent or caretaker.

E. When a medical examination of a child has been conducted pursuant to Article 612(A)(4), upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order an additional physical examination of the child or other children in the household by any physician. For the purposes of this Paragraph, an applicant may be the investigator or the child's parent or caretaker.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1995, No. 1095, §2; Acts 2013, No. 225, §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. 615.1. Reports; review by district attorney

A. When a law enforcement agency receives a report of a crime involving sexual abuse of a child, including but not limited to those received pursuant to Louisiana Children's Code Article 610(E)(3), the law enforcement agency shall:

(1) Maintain a report containing all information listed in Louisiana Children's Code Article 610(B) and (C), if known, and conduct a full investigation of the allegations.

(2) Maintain the confidentiality of the identity of the reporter in accordance with R.S. 46:56.

(3) After investigation of the report of child sexual abuse by the law enforcement agency having jurisdiction over the reported incident, send the investigative file to the district attorney for review whether or not an arrest is made.

B. In cases involving allegations of sexual abuse of a child:

(1) If the district attorney determines that the report has been fully investigated and there is insufficient evidence to establish probable cause for arrest, the district attorney shall upload the information contained in the report pursuant to Louisiana Children's Code Article 610(B) and (C) to the central registry for children in need of care maintained by the Bureau of Criminal Identification and Information in the office of state police if a alleged perpetrator has been identified. The information uploaded to the registry shall also include the name of the law enforcement agency that handled the investigation of the complaint.

(2) If the district attorney determines that the report needs further investigation, he shall refer the report to the multidisciplinary team established pursuant to Louisiana Children's Code Article 507 et seq. If, after a multidisciplinary team investigation, there is still insufficient evidence to establish probable cause for an arrest, the pertinent information in the report shall be uploaded to the bureau as provided in Subparagraph (B)(1) of this Article.

(3) In no case shall the district attorney forward information to the Bureau of Criminal Identification and Information in the office of state police when the district attorney finds, based on the investigation, that the allegations are false.

Acts 2006, No. 94, §1.

Art. 616. Central registry; screening court-appointed special advocates volunteers; confidentiality

NOTE: Section heading and Paragraph A eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

Art. 616. Registry; screening of CASA volunteers, staff, and board members; confidentiality

A. The department shall maintain a central registry of all reports of abuse and neglect. The purpose of this central registry, among other uses, is to provide information of past reports of child abuse or neglect of children to assist in the proper evaluation of current reports of abuse or neglect which may include a pattern of incidents.

NOTE: Section heading and Paragraph A shall become eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

Art. 616. Registry; screening of CASA volunteers, staff, and board members; confidentiality

A. The department shall maintain a state repository of all reports of abuse and neglect. The purpose of this state repository, among other uses, is to provide information of past reports of child abuse or neglect of children to assist in the proper evaluation of current reports of abuse or neglect which may include a pattern of incidents.

NOTE: Paragraph B eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

B. Except as provided in this Article or R.S. 46:56, all records of reports of child abuse or neglect are confidential. The department shall promulgate rules regarding the maintenance, deletion, and release of information in the central registry, determined by the types of disposition made pursuant to Article 615.

NOTE: Paragraph B eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

B. Within the state repository, the department shall maintain a state central registry of certain justified reports of abuse and neglect as set forth in rules promulgated by the department. The name of an individual who was placed on the state central registry as a perpetrator of abuse or neglect prior to the effective date of Article 616.1.1 shall not be released outside of the department until that individual's administrative appeals are exhausted. After the effective date of Article 616.1.1, the name of an individual who is determined to be a perpetrator of abuse or neglect shall not be placed on the state central registry until that individual's administrative appeals are exhausted. All decisions rendered by an administrative law judge are final, and the decisions shall exhaust the individual's administrative remedy.

NOTE: Paragraph B eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6 and Acts 2018, No. 556.

B. Within the state repository, the department shall maintain a state central registry of certain justified reports of abuse and neglect as set forth in rules promulgated by the department. The name of an individual who was placed on the state central registry as a perpetrator of abuse or neglect prior to the effective date of Article 616.1.1 shall not be released outside of the department until that individual's administrative appeals are exhausted. After the effective date of Article 616.1.1, the name of an individual who is determined to be a perpetrator of abuse or neglect shall not be placed on the state central registry until that individual's administrative appeals are exhausted. All decisions rendered by an administrative law judge are final, and the decisions shall exhaust the individual's administrative remedy. However, notwithstanding any other provision of law, the department shall provide information involving an investigation from either the repository or the state central registry immediately to the local district attorney's office, or its designee, or to the court, when taking court action is necessary to protect the child from abuse or neglect. The department shall provide information involving an open investigation or a completed investigation determined to be justified from either the repository or the state central registry to another state's child welfare agency upon written request when the request is made pursuant to an ongoing child protective services investigation in the other state.

NOTE: Paragraph C eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

C. Upon the written request of the court during its evaluation of any of the following individuals who will have contact with children served by the court-appointed special advocate

program, and with the consent of the individual, the department shall search the central registry and report to the court any justified report of abuse or neglect alleging that the individual is a perpetrator:

- (1) An individual applying to work as a court-appointed special advocate.
- (2) A CASA staff member.
- (3) A member of the CASA board of directors.

NOTE: Paragraph C eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6 and Acts 2018, No. 320.

C. Except as provided in this Article or R.S. 46:56, all records of reports of child abuse or neglect are confidential. The department shall promulgate rules regarding the maintenance, deletion, and release of information in the state repository and central registry.

NOTE: Paragraph D eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

D. When, after an investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry.

NOTE: Paragraph D eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

D. Upon the written request of the court during its evaluation of an individual applying to work as a court-appointed special advocate and with the consent of the applicant, the department shall search the central registry and report to the court any justified report of abuse or neglect alleging that the applicant is a perpetrator.

NOTE: Paragraph D eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6 and Acts 2018, No. 320.

D. Upon the written request of the court during its evaluation of any of the following individuals who will have contact with children served by the court-appointed special advocate program, and with the consent of the individual, the department shall search the central registry and report to the court any justified report of abuse or neglect alleging that the individual is a perpetrator:

- (1) An individual applying to work as a court-appointed special advocate.
- (2) A CASA staff member.
- (3) A member of the CASA board of directors.

NOTE: Paragraph E eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

E. Repealed by Acts 2005, No. 378, §1, eff. June 30, 2005.

NOTE: Paragraph E eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

E. When, after an investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry.

NOTE: Paragraph F eff. until promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

F. Information from investigations of reports that are inconclusive may be disclosed, with the applicant's written consent, for the limited purposes of evaluating the applicant to be a CASA volunteer, a foster parent, an adoptive parent, or caregiver pursuant to R.S. 46:56(F)(11).

NOTE: Paragraph F eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6 and Acts 2018, No. 320.

F. Information from investigations of reports that are inconclusive may be disclosed, with the applicant's written consent, for the limited purposes of evaluating the applicant to be a foster parent, an adoptive parent, or caregiver pursuant to R.S. 46:56(F)(11).

G. Violation of the confidentiality provisions of this Article, Article 615, or the lawful regulations of the department subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(2).

NOTE: Paragraphs H and I shall become eff. upon promulgation and publication of rules by DCFS pursuant to Acts 2017, No. 348, §6.

H. The department may charge a fee, that shall not exceed twenty-five dollars, to conduct a search of the state central registry of justified abuse or neglect reports to determine whether an individual's name is recorded therein. A search shall be allowed only when specifically authorized.

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

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1991, No. 505, §1; Acts 1995, No. 625, §1, eff. June 19, 1995; Acts 1997, No. 903, §2, eff. July 10, 1997; Acts 1999, No. 593, §1; Acts 2003, No. 567, §1; Acts 2005, No. 378, §1, eff. June 30, 2005; Acts 2017, No. 348, §1 Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1993, No. 677, §1; Acts 2004, No. 76, §1; Acts 2006, No. 372, §1; Acts 2017, No. 348, §1, special eff. date; Acts 2018, No. 320, §2, 3; Acts 2018, No. 556, §1, 2.

Art. 616.1. Correction of central registry entries; procedure

NOTE: Paragraph A shall become eff. upon promulgation and publication by DCFS of the final rules to implement the provisions of this Act.

A. When a report alleging abuse or neglect is recorded as justified by the department in the central registry but when no petition is subsequently filed alleging that the child is in need of care, the individual who is the subject of the finding may file a written motion seeking correction of that entry and all related department records in the court exercising juvenile jurisdiction in the parish in which the finding was made.

NOTE: Paragraph A shall become eff. upon promulgation and publication by DCFS of the final rules to implement the provisions of this Act.

A. When a report alleging abuse or neglect is recorded as justified by the department in the state central registry but when no petition is or was subsequently filed alleging that the child is in need of care, the individual who is the subject of the finding may file a written motion seeking correction of that entry and all related department records in the court exercising juvenile jurisdiction in the parish in which the finding was made.

B. Prior to the hearing, the motion shall be served on the department and the district attorney.

C. If neither the department nor the district attorney files a written objection, the court may enter an order in accordance with Paragraph D.

D. If after a contradictory hearing with the department and the district attorney the court finds that the report was not justified, in accordance with Article 615(B)(4) or (5), and correction of the record is not contrary to the best interest of the child, it may order the department to correct the central registry entry. If the central registry entry is ordered to be corrected, the department and any law enforcement offices having any record of the report shall be ordered to correct those records and any other records, notations, or references thereto, and the court shall order the department and other custodians of such records to file a sworn affidavit to the effect that their records have been corrected. The affidavit of the department shall also attest to the correction of the central registry entry.

E. The originals of the affidavits required in Paragraph D shall be kept by the court and a copy shall be retained by the affiant. The copy shall not be a public record and shall not be open for public inspection but rather shall be kept under lock and key and maintained only for internal recordkeeping purposes and to preserve the integrity of the files of the department or office and shall not be used for any investigative purpose.

NOTE: Paragraph F shall become eff. upon promulgation and publication by DCFS of the final rules to implement the provisions of this Act.

F. The provisions of this Article shall apply only to those reports determined by the department to be justified prior to the effective date of Children's Code Article 616.1.1.

Acts 1997, No. 612, §1; Acts 2017, No. 348, §1, et seq. upon promulgation and publication by DCFS rules.

NOTE: Article 616.1.1 shall become eff. upon promulgation and publication by DCFS of the final rules to implement the provisions of this Act.

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.

TITLE VII. FAMILIES IN NEED OF SERVICES

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 726. Purpose

The purpose of this Title is to define self-destructive behaviors by the child and conduct by other family members which contribute to the child's harm and which warrant court intervention in the family's life so that appropriate services to remedy the family's dysfunction can be secured; to secure the effectiveness of the court's intervention by explicitly confirming its duty to obtain the cooperation and coordination of all public institutions or agencies having responsibility to supply services to any member of the family referred to the court; to establish a family service plan binding upon all family members and the appropriate service providers; and to protect the integrity of the family by authorizing adjudication and the imposition of a dispositional judgment requiring participation in a plan of services only after all available voluntary alternatives have been exhausted.

Acts 1991, No. 235, §7.

Art. 727. General applicability

Except as otherwise specified in this Title, all provisions of the Children's Code remain applicable.

Acts 1991, No. 235, §7.

Art. 728. Definitions

As used in this Title:

(1) "Caretaker" means any person providing a residence for the child or any person legally obligated to provide or secure adequate care for the child, including a parent, tutor, guardian, or legal custodian.

(2) "Child" means a person under eighteen years of age who, prior to proceedings under this Title, has not been judicially emancipated or emancipated by marriage.

(3) "Runaway" means the continued absence of the child from the home of his caretaker without the caretaker's consent.

(3.1) Repealed by Acts 2004, No. 484, §3.

(4) "Sexually exploited child" means any person under the age of eighteen who has been subject to sexual exploitation because the person either:

(a) Is a victim of trafficking of children for sexual purposes under R.S. 14:46.3.

(b) Is a victim of child sex trafficking under 18 U.S.C. 1591.

(5) "Truant" means the repeated or habitual unauthorized absence or tardiness of a child from school pursuant to the provisions of R.S. 17:233 by a child who is subject to the compulsory attendance laws of this state.

(6) "Ungovernable" means the child's habitual disregard of the lawful and reasonable demands of his caretakers and that the child is beyond their control.

Acts 1991, No. 235, §7; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1999, No. 1313, §1; Acts 2004, No. 484, §3; Acts 2009, No. 305, §3; Acts 2013, No. 429, §3, eff. June 24, 2013; Acts 2017, No. 362, §1.

CHAPTER 2. PERSONS SUBJECT TO PROCEEDINGS; GROUNDS; COMPLAINT

Art. 729. Persons subject to proceedings

A court exercising juvenile jurisdiction shall have exclusive original jurisdiction, in conformity with any special rules prescribed by law, over any child, his caretaker, or any other member of the child's family, who is alleged to be in need of services, as well as over any employee of a public institution or agency having legal responsibility and ability to supply the needed services.

Acts 1991, No. 235, §7.

Art. 729.1. Venue

A proceeding under this Title may be commenced in the parish in which the child is residing with his parent or tutor, the parish in which the child is residing with his caretaker, the parish in which the act complained of took place or the condition complained of existed, or the parish in which the child is found. Whenever this Title requires that a hearing be convened within twenty-four hours of a child's entry into custody, in a multiparish judicial district, the hearing may be held in any parish within the judicial district.

Acts 1999, No. 1313, §1.

Art. 730. Grounds

Allegations that a family is in need of services must assert whether the child is currently under the supervision of any state or local entity including, but not limited to, the Department of Children and Family Services or the Department of Public Safety and Corrections, youth services, the office of juvenile justice, and assert one or more of the following grounds:

- (1) That a child is truant or has willfully and repeatedly violated lawful school rules.
- (2) That a child is ungovernable.
- (3) That a child is a runaway.
- (4) That a child has repeatedly possessed or consumed intoxicating beverages, or that he has misrepresented or deceived his age for the purpose of purchasing or receiving such beverages from any person, or has repeatedly loitered around any place where such beverages are the principal commodities sold or handled.
- (5) That a child has committed an offense applicable only to children.
- (6) That a child under ten years of age has committed any act which if committed by an adult would be a crime under any federal, state, or local law.
- (7) That a caretaker has caused, encouraged, or contributed to the child's behaviors enumerated in this Article or to the commission of delinquent acts as defined in Title VIII.
- (8) That, after notice, a caretaker has willfully failed to attend a meeting with the child's teacher, school principal, or other appropriate school employee to discuss the child's truancy, the child's repeated violation of school rules, or other serious educational problems of the child.

(9) That a child has been found incompetent to proceed with a delinquency matter under Article 832 et seq.

(10) Repealed by Acts 2012, No. 730, §2.

(11) A child found to have engaged in cyberbullying.

Acts 1991, No. 235, §7; Acts 1994, 3rd Ex. Sess., No. 45, §3; Acts 1995, No. 444, §1, eff. June 17, 1995; Acts 1999, No. 784, §1; Acts 1999, No. 1313, §2; Acts 2004, No. 485, §1, eff. Jan. 1, 2005; Acts 2010, No. 989, §1; Acts 2012, No. 660, §1; Acts 2012, No. 730, §2.

Art. 731. Complaint

A. A caretaker, other adult family member, any representative of an agency having the responsibility or ability to supply services to a family, or any other person authorized by the court may file a complaint which alleges one or more of the grounds enumerated in Article 730. Referring entities shall utilize all appropriate and available resources prior to filing a complaint and provide documentation of all steps taken at the time the complaint is filed. If the referring entity is a school, it shall at a minimum document meetings with the child, meetings with the child's caretaker, and referral of the child to school behavior support personnel.

B. The complaint shall be in writing but may make allegations of fact on information and belief.

C. The complaint shall set forth with specificity:

(1) The name, date and place of birth, sex, race, address, and present location of the child.

(2) The name, age, sex, and current address of the child's parents or other caretakers.

(3) The name, age, and sex of any other family members living within the child's home.

(4) The name of any public institution or agency having the responsibility or ability to supply services alleged to be needed by the family.

(5) Whether the child is currently under the supervision of any state or local entity, including but not limited to, the Department of Children and Family Services or the Department of Public Safety and Corrections, youth services, or the office of juvenile justice.

D. If any of the information required by Paragraph C of this Article is unknown, the complaint shall so allege.

Acts 1991, No. 235, §7; Acts 1997, No. 612, §2; Acts 2012, No. 660, §1.

CHAPTER 3. DUTIES OF INTAKE OFFICER

Art. 732. Duties of intake officer

A. The court shall designate any individual, except a person authorized to file a petition, who will serve as the intake officer for the court in families in need of services cases.

B. Unless otherwise specified by the court, the duties of the intake officer shall include:

(1) Responsibility for receiving all complaints alleging that a family is in need of services.

(2) Responsibility for conducting a preliminary investigation into the merits of the allegations.

(3) Responsibility for identifying any public institutions or agencies having the legal responsibility and ability to supply any needed services.

(4) Scheduling the conference authorized by Article 743 and notifying all parties of the time and place of the conference.

- (5) Conducting the Informal Family Services Plan conference and writing the resulting agreement, if any.
 - (6) Coordinating the implementation of the resulting agreement, if any.
 - (7) Referring the case for petition and an adjudication hearing, if necessary.
- Acts 1991, No. 235, §7; Acts 1999, No. 1313, §1.

CHAPTER 4. PREADJUDICATION CUSTODY AND RELEASE OF CHILDREN

Art. 733. Instanter orders of custody

A. A peace officer, probation officer, district attorney, or other person designated by the court may file a verified complaint alleging facts showing that there are reasonable grounds to believe that the family is in need of services and that emergency removal of the child from his home is necessary to secure the child's protection or control.

B. If the court determines that the child's welfare cannot be safeguarded without removal, the court may issue an instanter order directing that the child be taken into custody.

C. The order shall specify the place of the child's preferred placement in accordance with Article 737.

D. An instanter order may be executed by any peace officer having territorial jurisdiction over the child or any other person designated by the court.

E. Any peace officer having territorial jurisdiction over the child or any other person designated by the court may serve a summons upon a caretaker to appear at court for a hearing. A copy of the summons shall be filed in the record as proof of service.

Acts 1991, No. 235, §7; Acts 1999, No. 1313, §1.

Art. 733.1. Stop of child absent from school; transportation to school facility

A. In addition to the authority provided in Article 736, a peace officer, probation officer, or school attendance officer may lawfully detain any child from the age of seven through sixteen whom the officer reasonably believes to be absent from school during normal school hours and the officer may question the child about his reasons for being absent.

B. If based on this inquiry the officer has reasonable grounds to believe that the child is absent from school without justification, the officer may release the child to his parents or transport the child to the appropriate administrator of the child's assigned school or to a receiving center designated by the parish school board for acceptance of such children.

C. Upon the child's transportation to either school or receiving center, the administrator shall promptly notify the child's parents.

D. If the officer has reasonable grounds to believe that the child is truant or that the family is otherwise in need of services, the officer or administrator may file a complaint pursuant to Article 731.

Acts 1994, 3rd Ex. Sess., No. 114, §1; Acts 1995, No. 1095, §3.

Art. 734. 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 his order directing that a child be taken into custody may be issued orally.

B. In such cases, 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.

C. If the affidavit is filed after the child has been taken into custody, it shall indicate whether the child was released to his parents or continued in custody, and if so, the prehearing placement to which the child was taken.

Acts 1991, No. 235, §7; Acts 1999, No. 1313, §1.

Art. 735. Taking child into custody with a court order

A. The court may issue an order directing that a child be taken into custody upon presentation to the court of a written verified complaint by a peace officer, probation officer, district attorney, or other person designated by the court alleging facts showing that there are reasonable grounds to believe that the child's family is in need of services and that the child's conduct or surroundings are such as to endanger his welfare and that immediate removal appears to be necessary for his protection or control.

B. In exceptional cases, the facts supporting the issuance of this order may be relayed telephonically or orally to the judge and his order directing that a child be taken into custody may be issued orally. In such cases, the requirements of Article 734(B) and (C) must be followed.

C. An order directing that a child be taken into custody may be executed by a peace officer or probation officer having territorial jurisdiction over the child.

D. The order shall specify the child's prehearing placement in accordance with Article 737.
Acts 1991, No. 235, §7; Acts 1995, No. 1095, §3; Acts 1999, No. 1313, §1.

Art. 736. 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 he has reasonable grounds to believe that the child's family is in need of services and that the child's conduct or surroundings are such as to endanger his welfare and that immediate removal appears to be necessary for his protection or control.

B. If the child is taken into custody without a court order or warrant, the peace officer shall have the responsibility either to:

(1) Counsel and release the child to the care of his parents or legal custodian upon a written promise to bring the child to court at such time as may be fixed by the court.

(2) Promptly take the child to a shelter care facility.

C. If the officer does not release the child to the care of his parents, the officer promptly shall notify the child's parents that he has been taken into custody.

D. The officer shall submit a report to the district attorney or the officer designated by the court to receive such reports. The report shall include:

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

(2) The name and address of the parents, or spouse, if any, of the child.

(3) A plain and concise statement of the facts and circumstances of the officer's taking the child into custody.

(4) A plain and concise statement of facts and circumstances showing reasonable grounds to believe that the family is in need of services and that the child's conduct or surroundings are such as to endanger his welfare, and that immediate removal appears to be necessary for his protection or control.

(5) A statement indicating whether the child was released or conducted to a shelter care facility.

E. If the child is released pursuant to Paragraph B of this Article, the report shall be submitted by the officer within seven days from the child's release. If the child is not so released, the report shall be submitted within twenty-four hours of the child being taken into custody.

Acts 1991, No. 235, §7; Acts 1999, No. 1313, §1.

Art. 736.1. Immunity

Any law enforcement officer acting in good faith upon the request of a parent or guardian, exercising due care in the taking into custody a runaway child, or providing assistance thereto, pursuant to the provisions of this Title shall have immunity from any civil liability that otherwise might be incurred or imposed because of the report, taking into custody, or assistance provided. The limitation of liability provided by this Article shall not extend to acts constituting negligence, a violation of the law, or a violation of the confidentiality provisions of this Code, including those contained in Article 412.

Acts 2001, No. 840, §1; Acts 2017, No. 362, §1

Art. 737. Place of prehearing placement upon taking into custody

A. When taken into custody, a child shall be placed in the least restrictive prehearing placement consistent with the child's need for protection or control, in the following order of priority:

(1) The home of a relative who is of the age of majority and who is willing and able to offer a wholesome and suitable environment for the child subject to the supervision of the court.

(2) The home of a suitable adult who is concerned about the child and who is willing and able to offer a wholesome and suitable environment for the child subject to the supervision of the court and who is eligible for certification as an emergency foster home pursuant to R.S. 46:281 through 286 or R.S. 46:1406 et seq.

(3) A shelter care facility for juveniles.

(4) A secure detention facility, until a hearing is held within twenty-four hours after the child's entry into custody in accordance with Article 739, if the child can be detained separately from children who have been adjudicated delinquent and both of the following apply:

(a) Non-secure placement is not available to meet the child's need for protection or control.

(b) There are reasonable grounds to believe that the child is a runaway, ungovernable, or otherwise at substantial risk of failing to appear at the next scheduled hearing if released to the custody of a parent or guardian.

B. If the court finds that the child is in need of medical or psychological evaluation or treatment, it may issue orders in accordance with Article 760 or 761 and, if necessary, place the child in a medical facility for such evaluation or treatment.

C. If the court finds reasonable grounds to believe that the conduct of the child indicates that he is suffering from mental illness or substance abuse, the court may refer the child to a physician for an assessment in accordance with Article 1422.

D. Any records and reports related to placement of a child into custody under any of the provisions of this Title shall be confidential and shall not be disclosed unless specifically authorized by provisions of this Code, including Article 412.

Acts 1991, No. 235, §7; Acts 1995, No. 1095, §3; Acts 1999, No. 1313, §1; Acts 2017, No. 362, §1.

Art. 738. Release from custody

A. As soon as practicable after a child is received by a shelter care facility or a secure detention facility, the court or a probation officer employed and authorized by the court, upon determining it to be appropriate, shall release the child to the care of his parents or other relatives or caretakers upon their written promise to bring him to court at such times as may be fixed by the court and to comply with other orders of the court for the child's evaluation or treatment, if any. The court may also impose reasonable restrictions upon the child's travel, place of abode, association with other people, or employment during this period of release.

B. If the court finds that release under Paragraph A of this Article is inappropriate, it may authorize the continued custody of the child pending the holding of a continued custody hearing within the time limitations established in Article 739.

C. An appropriate representative of the agency that took the child into custody shall be responsible for transporting the child to the adjudication or disposition hearing, or both, and transporting the child back to the shelter care facility or secure detention facility as determined by the court through its order or judgment of disposition.

D. Repealed by Acts 2017, No. 362, §5.

Acts 1991, No. 235, §7; Acts 1999, No. 1313, §1; Acts 2017, No. 362, §§1, 5.

Art. 739. Continued custody hearing time limitations

A. If the child is released to the care of his parents, a hearing shall be held by the court within three days after the child's entry into custody. The hearing may be continued for up to three additional days upon motion and with good cause shown. If the hearing is not timely held, the child shall be released unless the hearing is continued at the request of the child.

B. If pursuant to Article 737(A) the child is being held in a secure detention facility, a hearing shall be held within twenty-four hours, excluding weekends and holidays, after the child's entry into custody. If the hearing is not timely held, the child shall be released unless the hearing is continued at the request of the child.

C. At this hearing, the state has the burden of proving the existence of a ground for continued custody pursuant to Article 741.

D. Hearsay evidence shall be admissible at this hearing.

E. Notwithstanding any other provisions of this Code to the contrary, and due to the expedited nature of these hearings, in a judicial district comprised of more than one parish, a continued custody hearing may be conducted in any parish in the judicial district.

Acts 1991, No. 235, §7; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1999, No. 1313, §1; Acts 2008, No. 634, §1.

C. The sheriff shall remit on a quarterly basis funds collected in such account to the office of the district attorney of the respective parish.

D. The district attorney shall cause to be conducted on an annual basis an audit of the fund and the books and accounts relating thereto and shall file such audit information with the office of the legislative auditor where it shall be available for public inspection.

E. In matters involving any court other than the district court, the clerk of court or the appropriate court personnel shall remit the money to the sheriff of the respective parish.

Acts 2004, No. 852, §1, eff. July 12, 2004; Acts 2014, No. 479, §1.

TITLE VIII. DELINQUENCY

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 801. Purpose

The purpose of this Title is to accord due process to each child who is accused of having committed a delinquent act and ensure that he shall receive, preferably in his own home, the care, guidance, and control that will be conducive to his welfare and the best interests of the state and that in those instances when he is removed from the control of his parents, the court shall secure for him care as nearly as possible equivalent to that which the parents should have given him.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1993, No. 430, §2; Acts 2018, No. 467, §2.

Art. 802. General applicability

Except as otherwise specified in this Title, all provisions of the Children's Code remain applicable.

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

Art. 803. Applicability of Title procedures; supplemental procedures

The provisions of this Title shall govern and regulate delinquency proceedings of courts exercising juvenile jurisdiction. Where procedures are not provided in this Title, or otherwise by this Code, the court shall proceed in accordance with the Code of Criminal Procedure.

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

Art. 804. Definitions

As used in this Title:

(1)(a) "Child" means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act before attaining seventeen years of age.

(b) Beginning March 1, 2019, "child" means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act on or after March 1, 2019, when the act is not a crime of violence as defined in R.S. 14:2, and occurs before the person attains eighteen years of age.

(c)(i) After June 30, 2020, "child" means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act on or after July 1, 2020, and before the person attains eighteen years of age.

(ii) Notwithstanding Item (i) of this Subparagraph, a child who has attained the age of seventeen shall be subject to criminal jurisdiction pursuant to Article 305 or 857.

(2) "Child care institution" means a nonprofit, licensed private or public institution which accommodates no more than twenty-five children and which is not a detention facility, a forestry camp, a training school, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(3) "Delinquent act" means an act committed by a child of ten years of age or older which if committed by an adult is designated an offense under the statutes or ordinances of this state, or of another state if the offense occurred there, or under federal law, except traffic violations. It includes an act constituting an offense under R.S. 14:95.8, an act constituting an offense under R.S. 14:81.1.1(A)(2), and a direct contempt of court committed by a child. "Delinquent act" shall not include a violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for a child who, during the time of the alleged commission of the offense, was a victim of trafficking of children for sexual purposes pursuant to R.S. 14:46.3(E).

(4) "Delinquent child" means a child who has committed a delinquent act.

(5) "Felony-grade delinquent act" means an offense that if committed by an adult, may be punished by death or by imprisonment at hard labor. "Felony-grade delinquent act" shall not include a violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for a child who, during the time of the alleged commission of the offense, was a victim of trafficking of children for sexual purposes pursuant to R.S. 14:46.3(E).

(6) "Insanity" means a mental disease or mental illness which renders the child incapable of distinguishing between right and wrong with reference to the conduct in question, as a result of which the child is exempt from criminal responsibility.

(7) "Mental incapacity to proceed" means that, as a result of mental illness or developmental disability, a child presently lacks the capacity to understand the nature of the proceedings against him or to assist in his defense.

(8) "Misdemeanor-grade delinquent act" means any offense which if committed by an adult is other than a felony and includes the violation of an ordinance providing a penal sanction.

(9) "Sexually exploited child" means any person under the age of eighteen who has been subject to sexual exploitation because the person:

(a) Is a victim of trafficking of children for sexual purposes under R.S. 14:46.3.

(b) Is a victim of child sex trafficking under 18 U.S.C. 1591.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 2004, No. 485, §1, eff. Jan. 1, 2005; Acts 2010, No. 594, §1; Acts 2010, No. 993, §1; Acts 2012, No. 446, §6; Acts 2013, No. 429, §3, eff. June 24, 2013; Acts 2016, No. 501, §2, eff. June 14, 2016; Acts 2018, No. 654, §1, eff. June 1, 2018.

CHAPTER 2. VENUE

Art. 805. Venue

A. A delinquency proceeding shall be commenced in the parish in which the offense complained of took place. The juvenile court shall conduct the adjudication hearing and may also conduct the disposition hearing unless it decides to transfer the case as provided for in Paragraph B of this Article.

B. Upon motion of the district attorney, the child, or upon the court's own motion, after the confederation of an informal adjustment agreement or an adjudication that the child is delinquent, the court may transfer the proceeding to the parish in which the child is domiciled.

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

Art. 806. Change of venue; improper venue

When a petition is filed in a court of improper venue, on the court's own motion or upon written motion of a party and after contradictory hearing, the court may dismiss the petition or transfer the proceedings to a court of proper venue.

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

Art. 807. Change of venue; proper venue

A. A request for change of venue must be made by written motion of the district attorney or the child, sworn to by mover or his counsel, before jeopardy begins. The motion shall contain allegations of facts upon which the motion is based and a statement that the motion is not made for the purpose of delay but to obtain a fair and impartial trial. The motion must be resolved after a contradictory hearing unless waived by the district attorney and the child.

B. A change of venue shall be granted if the court finds that, because of undue influence of an adverse party, prejudice existing in the public mind, or for any other reason, a fair and impartial trial cannot be obtained. The court shall consider whether the reasons are such that they will effect the testimony of witnesses at the trial.

C. The court may order a change of venue in accordance with Articles 623 through 627 of the Code of Criminal Procedure, except that the proceedings may be transferred to any parish.

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

Art. 808. Constitutional rights of accused delinquents

All rights guaranteed to criminal defendants by the Constitution of the United States or the Constitution of Louisiana, except the right to jury trial, shall be applicable in juvenile court proceedings brought under this Title.

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

Art. 809. Right to counsel

A. At every stage of proceedings under this Title, the accused child shall be entitled to the assistance of counsel at state expense. The court shall appoint counsel or refer the child for representation by the district public defender.

B. If a parent secures the services of retained counsel, the court-appointed counsel or public defender shall continue to represent the child until retained counsel has enrolled as counsel of record.

C. No child shall be admitted in accordance with this Title to a public or private mental institution or institution for persons with mental illness nor shall proceedings in accordance with Chapter 7 of this Title or Article 869 go forward unless he has been represented by retained private counsel who represents only the child's interest or by an attorney from the Mental Health Advocacy Service, unless its executive director has determined that its attorneys are unavailable. Any

attorney from the Mental Health Advocacy Service 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 placement other than a mental hospital or psychiatric unit, the Mental Health Advocacy Service's attorney shall be relieved of representation of the child upon request of the Mental Health Advocacy Service or the child.

D. If the court finds that the interests of the child and his parent or caretaker conflict, or if required in the interests of justice, the court shall appoint an attorney to represent the child or refer him for representation by the district public defender.

E. The clerk of court shall promptly send notice of appointment to any attorney appointed in accordance with this Article.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 2004, No. 776, §1; Acts 2006, No. 266, §1; Acts 2007, No. 307, §9; Acts 2010, No. 593, §1; Acts 2014, No. 811, §33, eff. June 23, 2014.

Art. 810. Waiver of right to counsel

A. The court may allow a child to waive the assistance of counsel if the court determines that all of the following exists:

(1) The child has consulted with an attorney, parent or, if no parent, a caretaker as defined in Children's Code Article 728.

(2) That both the child and the adult consulting with the child as provided in Subparagraph (A)(1) of this Article have been instructed by the court about the child's rights and the possible consequences of waiver.

(3) That the child is competent and is knowingly and voluntarily waiving his right to counsel.

B. Such waiver may be accepted at any stage in the proceedings and shall be evidenced by a writing reciting the requirements contained in Paragraph A of this Article and signed by the child and the adult consulting with the child and filed in the record or by a verbatim transcript of the proceedings which demonstrates compliance with Paragraph A of this Article.

C. The court shall appoint an attorney in any case in which the interests of the child and the adult consulting with the child conflict or whenever appointment of counsel is otherwise required in the interests of justice.

D. The child shall not be permitted to waive assistance of counsel in the following circumstances:

(1) In proceedings in which it has been recommended to the court that the child be placed in a mental hospital, psychiatric unit, or substance abuse facility, nor in proceedings to modify said dispositions.

(2) In proceedings in which he is charged with a felony-grade delinquent act.

(3) In probation or parole revocation proceedings.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 2004, No. 776, §1.

Art. 811. When jeopardy begins

When a child enters a denial to the petition, jeopardy begins when the first witness is sworn at the adjudication hearing. When he enters an admission to the petition, jeopardy begins when a valid disposition is made the judgment of the court.

CHAPTER 3-A. RIGHTS OF THE VICTIM

Art. 811.1. Rights of the victim of alleged delinquent act

A. The juvenile court, district attorneys, and law enforcement agencies shall provide the following services to victims of alleged delinquent acts, providing the victim reported the act to law enforcement authorities within seventy-two hours of its occurrence or discovery, unless extenuating circumstances exist for later reporting:

(1) The district attorney shall, whenever practical, inform the victim or his legal representative of judicial proceedings relating to their case including:

(a) The taking into custody of the alleged delinquent.

(b) Adjudication hearings and disposition hearings relating to the alleged delinquent.

(c) The release pending adjudication after a continued custody hearing whenever an alleged delinquent is accused of a violent offense, such as attempted murder, rape, or a crime against another child.

(2) The district attorney shall, whenever practical, notify the victim or his legal representative if a court proceeding to which he has been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court.

(3) The district attorney shall notify the victim or his legal representative whenever he is notified that a child accused of a violent offense, such as attempted murder, rape, or a crime against another child, has escaped from lawful confinement or has been released in accordance with Chapter 6 of this Title, and whenever a child committed to the Department of Public Safety and Corrections has escaped or has been released from a secure institution. The district attorney shall also inform the victim that the sheriff shall provide information relative to victim assistance.

(4) The sheriff shall inform the victim or his legal representative of financial assistance, fees, or other social services available as a result of being a victim of a crime, including information on how to apply for the financial assistance and services.

NOTE: Subparagraph (A)(5) eff. until Jan. 1, 2024. See Acts 2023, No. 448.

(5) The court should provide, whenever possible, a secure waiting area during court proceedings that does not require victims and their legal representatives to be in close proximity to accused children and their families and friends. The juvenile court shall provide a secure waiting area in cases involving violent crime.

NOTE: Subparagraph (A)(5) eff. Jan. 1, 2024. See Acts 2023, No. 448.

(5) The court should provide, whenever possible, a secure waiting area during court proceedings that does not require victims and their legal representatives to be in close proximity to accused children and their families and friends. The juvenile court shall provide a secure waiting area in cases involving violent crime. The victim, or the designated member of the victim's family in a case involving homicide or injury to a minor, shall have the right to be present at all court proceedings and, whenever practical, be allowed to observe the proceedings by simultaneous transmission through audiovisual equipment, if such technology is available in the courtroom.

(6) All judicial and law enforcement agencies shall expeditiously return any stolen or other personal property to victims when no longer needed as evidence.

(7) The appropriate law enforcement agency shall ensure that the victim receives emergency, social, and medical services as soon as possible. The appropriate law enforcement agency shall also distribute to the victim, or to the family of a homicide victim, a crime victim's brochure prepared by the Crime Victims Reparations Board as provided in R.S. 46:1844(T), and supplemented as necessary by the district attorney with victim information specific to the parish in which the delinquent act is alleged to have occurred, as provided in R.S. 46:1844(A).

(8) All law enforcement agencies shall provide a private setting for all interviewing of victims of crime. "Private setting" shall mean an enclosed room from which the occupants are not visible or otherwise identifiable and whose conversations cannot be heard from outside such room. Only those persons directly and immediately related to the interviewing of the victim, specifically the victim, a social worker, psychologist, or other professional, the victim advocate designated by the sheriff's office, or a representative from a not-for-profit victim service organization, including but not limited to rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups providing emotional support to the victim, shall be present, unless the victim requests the exclusion of such person from the interview, and, where appropriate, the parent or parents of the victim.

(9) The victim or the family of the victim shall have the right to retain counsel to confer with law enforcement and judicial agencies on the disposition of the victim's case. The prosecutor, in accordance with the provisions of Code of Criminal Procedure Article 63, may confer with the counsel retained by the victim or victim's family in the prosecution of the case.

NOTE: Subparagraph (A)(10) eff. until Jan. 1, 2024. See Acts 2023, No. 448.

(10) If requested, the victim of a violent felony-grade offense and the designated member of the victim's family in the case of homicide or injury to a minor shall be consulted by the prosecutor in order to obtain their view regarding:

NOTE: Subparagraph (A)(10) eff. Jan. 1, 2024. See Acts 2023, No. 448.

(10) The district attorney shall, whenever practical, consult the victim or the designated member of the victim's family in the case of homicide or injury to a minor in order to obtain their view regarding:

(a) The disposition of the delinquency case by dismissal, plea bargaining, or adjudication hearing.

(b) The use of available disposition alternatives such as placement in secure detention, probation, community service, and the payment of restitution to the victim.

(11) The victim or a member of the victim's family may file a victim notice form as provided in R.S. 46:1842. Upon filing of a victim notice form by a victim or a family member, it shall be the duty of the Department of Public Safety and Corrections to notify the victim or family member by certified mail of appeal or release at the time of such appeal, discharge, or parole of a delinquent named in that form. Such form shall be included in the delinquent's commitment documents to be delivered to the state training facility where such delinquent has been confined or transferred.

(12) The victim or witness who so requests shall be assisted by judicial and law enforcement agencies in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of the victim or witness from work.

B. The family members of all homicide victims shall be afforded all of the rights under this Article accruing to victims. Communication with the appropriate law enforcement or judicial agencies concerning the rights of the victim's family members shall be made through a designated

family member. A designated family member is a member of the victim's family designated by a majority of the victim's family members to make such communications.

C. No order or disposition shall be invalidated because of failure to comply with the provisions of this Article.

D. The juvenile court, the district attorney, the sheriff, and law enforcement agencies are exempt from the requirements of this Section in any case in which either:

(1) The victim has failed to provide a current address.

(2) The victim refuses the services offered.

E. Nothing in this Article shall be construed as creating a right of appeal on behalf of any person nor as creating a cause of action on behalf of any person against any public employee, office, or department responsible for the provision of services set forth in this Article.

NOTE: Paragraph (F) eff. until Jan. 1, 2024. See Acts 2023, No. 448.

F. Any information about the status of the case in juvenile court which is received by the victim or his legal representative shall remain subject to the confidentiality restrictions of Article 412 and shall not be further disclosed by him.

NOTE: Paragraph (F) eff. Jan. 1, 2024. See Acts 2023, No. 448.

F.(1) In order to protect the identity and provide for the safety and welfare of juvenile crime victims under the age of eighteen years, all public officials and officers and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, and the Department of Children and Family Services or any division thereof, shall not publicly disclose the name, address, or identity of a juvenile victim of crime who at the time of the commission of the offense is under eighteen years of age. The public disclosure of the name of the juvenile crime victim by any public official or officer or public agency is not prohibited by this Subparagraph when the crime resulted in the death of the victim.

(2) Notwithstanding any other provision of law to the contrary, all public officials, officers, and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, and the Department of Children and Family Services or any division thereof, charged with the responsibility of knowing the name, address, and identity of juvenile crime victim as a necessary part of their duties shall have full and complete access to this information regarding juvenile crime victim, and they may lawfully utilize initials, abbreviations, or other terms of indefinite descriptions on all public documents used in the performance of their duties to whatever extent they deem necessary, to prevent the public disclosure of the name, address, or identity of a juvenile victim of crime under the age of eighteen years.

NOTE: Paragraph (G) eff. until Jan. 1, 2024. See Acts 2023, No. 448.

G.(1) In order to protect the identity and provide for the safety and welfare of juvenile crime victims under the age of seventeen years, all public officials and officers and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, and the Department of Children and Family Services or any division thereof, shall not publicly disclose the name, address, or identity of a juvenile victim of crime who at the time of the commission of the offense is under seventeen years of age. The public disclosure of the name of the juvenile crime victim by any public official or officer or public agency is not prohibited by this Subparagraph when the crime resulted in the death of the victim.

(2) Notwithstanding any other provision of law to the contrary, all public officials, officers, and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, and the Department of Children and Family Services

or any division thereof, charged with the responsibility of knowing the name, address and identity of juvenile crime victims as a necessary part of their duties shall have full and complete access to this information regarding a juvenile crime victim and they may lawfully utilize initials, abbreviations, or other forms of indefinite descriptions on all public documents used in the performance of their duties to whatever extent they deem necessary, to prevent the public disclosure of the name, address, or identity of a juvenile victim of crime under the age of seventeen years.

(3) Notwithstanding the provisions of Subparagraph (1) of this Paragraph, all information regarding juvenile crime victims that is required by a child abduction alert system which assists law enforcement in the successful resolution of child abduction cases, such as the AMBER Alert network, shall be made available to said network as quickly as possible.

NOTE: Paragraph (G) eff. Jan. 1, 2024. See Acts 2023, No. 448.

G. Repealed by Acts 2023, No. 448, §2, eff. Jan. 1, 2024.

Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1995, No. 522, §1; Acts 1995, No. 835, §1; Acts 1997, No. 732, §2; Acts 2003, No. 5, §2; Acts 2005, No. 74, §1; Acts 2023, No. 448, §§1, 2, eff. Jan. 1, 2024.

Art. 811.2. Victims of juvenile crime compensation fund, established disbursements

A. All courts exercising juvenile jurisdiction may levy special cost in an amount not to exceed fifteen dollars against any juvenile defendant, other than an indigent, who is found to have committed a traffic violation resulting in injury or property loss, or who pleads guilty to or is adjudicated convicted of a juvenile offense. Such cost shall be in addition to any fine, clerk's fees or costs, or any other fees or costs provided by law.

B. The clerk of court shall remit two-thirds of the sums collected or received pursuant to this Article for deposit in a special account which is hereby designated as the Victims of Juvenile Crime Compensation Fund. The funds shall be used to compensate victims of juvenile crimes who do not otherwise receive restitution or reparation. The judges of the courts exercising juvenile jurisdiction shall have control over the fund and disbursements made therefrom. The judges shall cause to be conducted annually an audit of the fund and the books and accounts relating thereto and shall file the same with the office of the legislative auditor, where it shall be available for public inspection.

C. The judges shall provide by court rule for the collection, administration, and distribution of the fund in order to implement the purpose of this Article. However, no amount greater than five hundred dollars shall be disbursed from the fund to any one claimant.

D. The clerk of court shall remit one-third of the total sums collected or received pursuant to this Article monthly to the Crime Victims Reparations Fund as provided in R.S. 46:1801 et seq. Acts 1993, No. 634, §1, eff. June 15, 1993.

Art. 811.3. Definitions

In this Chapter:

NOTE: Paragraphs (1)-(3) eff. until Jan. 1, 2024. See Acts 2023, No. 448.

(1) "Juvenile crime victim" means a person under the age of seventeen against whom an offense against the person that is a felony has been committed.

(2) "Victim" means a person against whom an offense that is a felony-grade delinquent act has been committed.

(3) "Victim's family" means a spouse, parent, child, stepchild, sibling, or legal representative of the victim, except when the person is in custody for an offense or is the defendant. NOTE: Paragraphs (1)-(3) eff. Jan. 1, 2024. See Acts 2023, No. 448.

(1) "*Juvenile crime victim*" means a person under the age of eighteen against whom a delinquent act has been committed.

(2) "*Victim*" means a person against whom an offense that is a delinquent act has been committed.

(3) "*Victim's family*" means the spouse, child, stepchild, sibling, parent, grandparent, guardian, legal custodian, or legal representative of the victim, except when the person is in custody for an offense or is the defendant.

Acts 1995, No. 522, §1; Acts 1995, No. 835, §1; Acts 1997, No. 732, §2; Acts 2022, No. 271, §8; Acts 2023, No. 448, §1, eff. Jan. 1, 2024.

CHAPTER 4. PREADJUDICATION CUSTODY AND RELEASE OF CHILDREN

Art. 812. Taking child into custody

A. A child may be taken into custody pursuant to an order of the court under this Title or pursuant to the laws governing arrest.

B. The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Constitution of the United States or the Constitution of Louisiana.

Acts 1991, No. 235, §8, eff. Jan. 1, 1991.

Art. 813. Taking child into custody with a court order; filing of verified complaint; execution

A. The court may issue an order directing that a child be taken into custody upon presentation to the court of a written statement of facts sworn to before an officer authorized by law to administer oaths, by a peace officer, probation officer, district attorney, or other person designated by the court, alleging facts showing that there is probable cause to believe either that:

(1) The child has committed a delinquent act.

(2) The child has violated the terms of his probation or otherwise has violated the terms of his release.

B. The verified complaint shall be filed with the clerk of court. If it is filed after the child has been taken into custody, the complaint shall indicate whether the child was released to his parents or continued in custody.

C. An order directing that a child be taken into custody may be executed by a peace officer or the child's probation officer having territorial jurisdiction over the child. The officer shall promptly notify the child's parents that their child has been taken into custody. The officer shall also promptly conduct the child to the appropriate facility in accordance with Article 815.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1995, No. 1158, §1.

Art. 814. Taking child into custody without a court order; duties of the officer; duties of the court

A. A child may be taken into custody without a court order or warrant by a peace officer or probation officer if the officer has probable cause to believe that the child has committed a delinquent act. When the officer has probable cause to believe that the child has committed a delinquent act, the officer, in lieu of taking the child into custody, may issue a verbal warning to the child.

B. If a child is taken into custody without a court order or warrant, the officer shall have the responsibility to either:

(1) Counsel and release the child to the care of his parents upon their written promise to bring the child to court at such time as may be fixed by the court.

(2) Follow the appropriate procedures set forth in Article 815.

C. If the officer does not release the child to the care of his parents, the officer shall promptly notify the child's parents that he has been taken into custody.

D. The officer shall immediately execute a written statement of facts, sworn to before an officer authorized by law to administer oaths, supporting the existence of probable cause to believe either that the child committed a delinquent act or that the child has violated the terms of his probation or otherwise has violated the terms of his release. This affidavit shall be submitted to the juvenile court. Within forty-eight hours after the child has been taken into custody, including legal holidays within the time computation, the court shall review the affidavit, and if it determines that probable cause exists, the child shall be held for a continued custody hearing pursuant to Article 819. If the court determines that probable cause does not exist, the child shall be released from custody. The provisions of this Paragraph shall not be construed to require the officer who executed the written statement to personally appear in court for any determination of probable cause in connection with the child being taken into custody.

E. The officer shall submit a report to the district attorney or an officer designated by the court to receive such reports. The report shall include:

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

(2) The name and address of the parents, or spouse, if any, of the child.

(3) A plain and concise statement of the facts and circumstances of the officer's taking the child into custody.

(4) A plain and concise statement of facts and circumstances showing probable cause that the child committed a delinquent act.

(5) A statement indicating whether the child was released, or escorted to a juvenile detention center, or placed in a shelter care facility.

F. If the child is released pursuant to Paragraph B or D of this Article, the report shall be submitted by the officer within seven days from the child's release. If the child is not so released, the report shall be submitted within twenty-four hours of the child being taken into custody.

Acts 1991, No. 235, §8, 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. 1158, §1; Acts 2008, No. 293, §1; Acts 2019, No. 147, §1.

Art. 815. Child taken into custody; place of detention

A.(1) The peace officer or an appropriate representative of the arresting agency shall have the authority and responsibility to transport the child to the appropriate place of detention as specified in this Article, unless the child has been released to the care of his parents pursuant to Article 814(B)(1). Beginning July 1, 2020, a detention screening instrument shall be administered

to the child prior to transportation of the child to the appropriate place of detention or upon the child's arrival at the appropriate place of detention, unless it cannot be completed at that time. If the detention screening instrument cannot be completed prior to the child's transportation to the appropriate place of detention or upon the child's arrival at the appropriate place of detention, the detention screening instrument shall be completed as soon as possible after the child has been admitted into the detention center. Reasonable efforts shall be made to administer the instrument at the earliest possible time.

(2) The detention screening instrument shall include, but need not be limited to, consideration of the following factors:

- (a) The current offense for which the child was taken into custody.
- (b) The child's history of prior delinquent acts.
- (c) The child's history of failure to appear.
- (d) The child's history of being a runaway.
- (e) Any mitigating and aggravating circumstances.

(3) When the child is detained prior to the completion of the detention screening instrument, the results of the detention screening instrument shall be communicated to the court promptly upon its completion.

B. Except as provided in Paragraph E of this Article, if the child has been taken into custody for the commission of a felony-grade delinquent act or of a misdemeanor-grade delinquent act based upon an offense against the person of another, the child may be taken to a juvenile detention center and the procedures regarding the administration of the detention screening instrument set forth in Paragraph A of this Article shall apply.

C. Except as provided in Paragraph E of this Article, for the commission of any other misdemeanor-grade delinquent act, the child may be taken to a juvenile detention center or shelter care facility or released to a parent or guardian upon the written promise of the parent or guardian to bring the child to court pursuant to Article 114. If the child is not released to a parent or guardian, the officer shall follow the procedures set forth in Paragraph A of this Article.

D. The governing authority of the parish or municipality requesting placement of a juvenile in either a regional detention center or a shelter care facility shall be responsible to the regional detention center or shelter care facility for the cost of confinement in accordance with a schedule which may be adopted by the regional detention center or shelter care facility.

E. No child under the age of thirteen shall be detained in a juvenile detention center after being taken into custody for the alleged commission of a misdemeanor-grade delinquent act.

F. If a juvenile detention center is not available, a juvenile may be held in an adult jail or lockup for purposes of and only as long as necessary to complete identification or processing procedures or while awaiting transportation, but not to exceed six hours. However, in nonmetropolitan areas, the juvenile may be held for up to forty-eight hours if all of the following occur:

- (1) The juvenile is accused of a nonstatus offense.
- (2) A continued custody hearing in accordance with Articles 820 and 821 is held within forty-eight hours after his arrest.
- (3) There is no acceptable alternative placement to the jail or lockup in which the juvenile is being held.
- (4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist that provide for sight and sound separation of the juvenile from adult offenders and the juvenile can be given continuous visual supervision while placed in the jail or lockup.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1993, No. 818, §1; Acts 1995, No. 1158, §1; Acts 1999, No. 1356, §1, eff. July 12, 1999; Acts 2004, No. 120, §1; Acts 2016, No. 499, §2; Acts 2019, No. 147, §1; Acts 2023, No. 445, §1, eff. June 28, 2023.

Art. 815.1. Alternative to detention programs

A.(1) The peace officer or an appropriate representative of the arresting agency shall have the authority and responsibility to transport the child to the appropriate place of detention as specified in this Article, unless the child has been released to the care of his parents pursuant to Article 814(B)(1). Beginning July 1, 2020, a detention screening instrument shall be administered to the child prior to transportation of the child to the appropriate place of detention or upon the child's arrival at the appropriate place of detention, unless it cannot be completed at that time. If the detention screening instrument cannot be completed prior to the child's transportation to the appropriate place of detention or upon the child's arrival at the appropriate place of detention, the detention screening instrument shall be completed as soon as possible after the child has been admitted into the detention center. Reasonable efforts shall be made to administer the instrument at the earliest possible time.

(2) The detention screening instrument shall include but need not be limited to, consideration of the following factors:

- (a) The current offense for which the child was taken into custody.
- (b) The child's history of prior delinquent acts.
- (c) The child's history of failure to appear.
- (d) The child's history of being a runaway.
- (e) Any mitigating and aggravating circumstances.

(3) When the child is detained prior to the completion of the detention screening instrument, the results of the detention screening instrument shall be communicated to the court promptly upon its completion.

B. Except as provided in Paragraph E of this Article, if the child has been taken into custody for the commission of a felony-grade delinquent act or of a misdemeanor-grade delinquent act based upon an offense against the person of another, the child may be taken to a juvenile detention center and the procedures regarding the administration of the detention screening instrument set forth in Paragraph A of this Article shall apply.

C. Except as provided in Paragraph E of this Article, for the commission of any other misdemeanor-grade delinquent act, the child may be taken to a juvenile detention center or shelter care facility or released to a parent or guardian upon the written promise of the parent or guardian to bring the child to court pursuant to Article 814. If the child is not released to a parent or guardian, the officer shall follow the procedures set forth in Paragraph A of this Article.

D. The governing authority of the parish or municipality requesting placement of a juvenile in either a regional detention center or a shelter care facility shall be responsible to the regional detention center or shelter care facility for the cost of confinement in accordance with a schedule which may be adopted by the regional detention center or shelter care facility.

E. No child under the age of thirteen shall be detained in a juvenile detention center after being taken into custody for the alleged commission of a misdemeanor-grade delinquent act.

F. If a juvenile detention center is not available, a juvenile may be held in an adult jail or lockup for purposes of and only as long as necessary to complete identification or processing procedures or while awaiting transportation, but not to exceed six hours. However, in

nonmetropolitan areas, the juvenile may be held for up to forty-eight hours if all of the following occur:

- (1) The juvenile is accused of a nonstatus offense.
- (2) A continued custody hearing in accordance with Articles 820 and 821 is held within forty-eight hours after his arrest.
- (3) There is no acceptable alternative placement to the jail or lockup in which the juvenile is being held.
- (4) The sheriff or the administrator of the adult jail or lockup has certified to the court that facilities exist that provide for sight and sound separation of the juvenile from adult offenders and the juvenile can be given continuous visual supervision while placed in the jail or lockup.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1993, No. 818, §1; Acts 1995, No. 1158, §1; Acts 1999, No. 1356, §1, eff. July 12, 1999; Acts 2004, No. 120, §1; Acts 2016, No. 499, §2; Acts 2019, No. 147, §1; Acts 2023, No. 445, §1, eff. June 28, 2023.

Art. 816. Record of detention center; access

A. Every juvenile detention center shall maintain a permanent record of certain information as to each child received. The record shall include:

- (1) The child's name, age, sex, race, and address.
- (2) The reason the child is being taken into custody.
- (3) The date and time of the child's entry into and exit from the juvenile detention center.
- (4) The name of the officer and the law enforcement agency employing the officer who brings the child to the juvenile detention center.

B. The record in which such information is kept shall not be open for public inspection. Peace officers, probation officers, counsel representing the child, the district attorney, persons collecting statistical information, and authorized officers of the court shall have access to the record.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992.

Art. 817. Release from custody

A. As soon as practicable after a child is received by a juvenile detention center or shelter care facility, the court or an individual or entity authorized by the court to make the determination, shall, upon determining it to be appropriate, release the child to the care of his parents or other relatives upon their written promise to bring him to court at such times as may be fixed by the court. The court may also impose reasonable restrictions upon the child's travel, place of abode, association with other people, or employment during the period of this release.

B. If the court finds that these conditions are insufficient to assure the presence of the child at later proceedings, the court may require the posting of bail in accordance with Chapter 6 of this Title.

C. If the court finds that release under neither Paragraph A or B of this Article is appropriate, it may authorize the continued custody of a child pending a hearing in accordance with Chapter 5 of this Title.

D. If custody is continued, an appropriate representative of the arresting agency shall be responsible for transporting the child to the adjudication or dispositional hearing, or both, and transporting the child back to the juvenile detention center or to such state or local facility as determined by the court through its order or judgment or disposition.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 2019, No. 147, §1.

Art. 818. Identification procedures

A. A child may be photographed or fingerprinted in connection with being taken into custody for the commission of either:

- (1) A felony-grade delinquent act.
- (2) A misdemeanor-grade delinquent act.

B. Upon motion of the district attorney, the court in its discretion can order any child to submit to other reasonable identification procedures, such as to provide handwriting exemplars or to stand in a lineup.

C. Fingerprints and photographs taken pursuant to Paragraph A of this Article shall be maintained and indexed separately from those of adults. They shall be made available only to law enforcement and correctional agencies for purposes related to their official functions. Fingerprints taken pursuant to Paragraph A of this Article shall be submitted to the central fingerprint repository maintained by the Louisiana Bureau of Criminal Identification and Information as specified under R.S. 15:590 et seq., and to the fingerprint repository, if any, maintained by the local law enforcement agency.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1992, No. 1078, §1; Acts 2008, No. 641, §1; Acts 2009, No. 158, §1.

CHAPTER 5. CONTINUED CUSTODY PRIOR TO ADJUDICATION

Art. 819. Continued custody hearing; time limitations

If a child is not released to the care of his parents, the court shall set and hold a hearing within three days after the child's entry into the juvenile detention center or shelter care facility. The three-day period includes any day that is included as a legal holiday under Article 114. When the last day of the three-day period is a legal holiday, the hearing shall be set and held on the next business day that is not a legal holiday. If the hearing is not held, the child shall be released unless the hearing is continued at the request of the child.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 2019, No. 310, §1.

Art. 820. Grounds for continued custody prior to adjudication

At the continued custody hearing, the state shall prove that there is probable cause that the child has committed a delinquent act or has violated a condition of his probation or release.

Acts 1991, No. 235, §8, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992.

Art. 821. Continued custody hearing

A. At the outset of the continued custody hearing, if not before, the court shall advise the child of his rights to counsel pursuant to Articles 809 and 810.

B. At the continued custody hearing, the state and the child may produce witnesses, who shall be examined in the presence of the child and shall be subject to cross-examination. The child may also testify, subject to cross-examination.

C. Hearsay evidence shall be admissible.

- (3) Restrict the child's driving privileges to driving at specified times, under specified conditions, or for specified purposes.
- (4) Order the child to attend traffic school or to receive additional driving instruction.
- (5) Order inspection of a motor vehicle and correction of any deficiencies.
- (6) Require public liability insurance coverage as a condition of the child's driving.
- (7) Impose a fine not exceeding two hundred dollars payable immediately or over a period of time.
- (8) Place the child on probation.
- (9) Make such other disposition or combination of dispositions as it deems to be in the best interests of the child.

Acts 1991, No. 235, §9, eff. Jan. 1, 1992.

CHAPTER 6. TRAFFIC CASES HEARD BEFORE JUVENILE TRAFFIC REFEREE; APPEAL TO COURT

Art. 960. Traffic cases heard before juvenile traffic referee; appeal to court

A. In cases of traffic violations, the child may appeal to the court from a judgment of the juvenile traffic referee. Such an appeal shall be filed within three days of the judgment of disposition.

B. On appeal, the case shall be tried de novo, and there shall be no further appeal.

Acts 1991, No. 235, §9, eff. Jan. 1, 1992.

TITLE X. JUDICIAL CERTIFICATION OF CHILDREN FOR ADOPTION

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 1001. Purpose

The purpose of this title is to protect children whose parents are unwilling or unable to provide safety and care adequate to meet their physical, emotional, and mental health needs, by providing a judicial process for the termination of all parental rights and responsibilities and for the certification of the child for adoption. In all proceedings, the primary concern is to secure the best interest of the child if a ground justifying termination of parental rights is proved. Termination of parental rights is to be considered the first step toward permanent placement of the child in a safe and suitable home, and if at all possible, to achieve the child's adoption. The procedural provisions of this Title shall be construed liberally. The proceedings shall be conducted expeditiously to avoid delays in resolving the status of the parent and in achieving permanency for children.

Acts 1991, No. 235, §10, eff. Jan. 1, 1992; Acts 1997, No. 256, §1; Acts 1999, No. 449, §1, eff. July 1, 1999.

Art. 1001.1. Priority of docketing; adjudication

Any petition filed and any proceeding held under the provisions of this Title shall be given priority, to the extent practicable, over any other civil action before the court, except emergency

proceedings for the protection of the child under Articles 617 through 627, or Domestic Abuse Assistance proceedings under Chapter 8 of Title XV. Any petition filed under the provisions of this Title shall be docketed immediately upon filing, and hearings shall be scheduled for the earliest dates practicable.

Acts 1997, No. 256, §1.

Art. 1002. General applicability

Except as otherwise specified in this Title, all provisions of the Children's Code remain applicable.

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

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 service 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, mutilation, or ritualistic or malicious acts causing extreme and unjustifiable physical or mental pain or suffering, disfigurement, or injury.

Acts 1991, No. 275, §10, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1997, No. 256, §1; Acts 1999, No. 402, §1, eff. July 1, 1999; Acts 2014, No. 811, §33, eff. June 23, 2014; Acts 2022, No. 275, §1.

Art. 1004. Petition for termination of parental rights; authorization to file

A. At any time, including in any hearing in a child in need of care proceeding, the court on its own motion may order the filing of a petition on any ground authorized by Article 1015 or 1015.1.

B. Counsel appointed for the child pursuant to Article 607 may petition for the termination of parental rights of the parent of the child if the petition alleges a ground authorized by Article 1015(5), (6), or (7) and, although eighteen months have elapsed since the date of the child's adjudication as a child in need of care, no petition has been filed by the district attorney or the department.

C. The district attorney may petition for the termination of parental rights of the parent of the child on any ground authorized by Article 1015.

D. The department may petition for the termination of parental rights of the parent of the child when any of the following apply:

(1) The child has been subjected to abuse or neglect after the child is returned to the parent's care and custody while under department supervision, and termination is authorized by Article 1015(4)(j).

(2) The parent's parental rights to one or more of the child's siblings have been terminated due to neglect or abuse and prior attempts to rehabilitate the parent have been unsuccessful, and termination is authorized by Article 1015(4)(k).

(3) The child has been abandoned and termination is authorized by Article 1015(5).

(4) The child has been placed in the custody of the state and termination is authorized by Article 1015(6).

(5) The child is in foster care because the parent is incarcerated and termination is authorized by Article 1015(7).

(6) The child is in foster care and, despite diligent efforts by the department to identify the child's father, his identity is unknown and termination is authorized by Article 1015(10).

E. When termination is authorized by Article 1015, other than on the grounds specified by Paragraph D of this Article, by special appointment, the district attorney may designate counsel for the department as a special assistant authorized to act in his stead in all such termination actions or in a particular case.

F. By special appointment for a particular case, the court or the district attorney may designate private counsel authorized to petition for the termination of parental rights of the parent of the child on the ground of abandonment authorized by Article 1015(5).

G. Foster parents who intend to adopt the child may petition for the termination of parental rights of the foster child's parents when, in accordance with Article 702(D), adoption is the permanent plan for the child, the child has been in state custody under the foster parent's care for seventeen of the last twenty-two months and the department has failed to petition for such termination.

H. When termination is authorized by Article 1015(1) or (2) and no petition is filed to terminate the parental rights of the surviving parent pursuant to Paragraph A, C, or E of this Article after a written request to file such action is made to the district attorney by any interested person and no petition is filed within sixty days by the district attorney, that person may file suit to terminate the parental rights of the surviving parent.

I. Repealed by Acts 2023, No. 271, §3, eff. June 9, 2023.

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 1999, No. 1067, §1; Acts 2001, No. 567, §1; Acts 2005, No. 80, §1; Acts 2016, No. 608, §1; Acts 2017, No. 151, §1, eff. June 12, 2017; Acts 2017, No. 239, §1; Acts 2023, No. 271, §§1, 3, eff. June 9, 2023.

Art. 1004.1. Petition for termination of parental rights; child conceived as a result of a sex offense

At any time, including prior to or during an adoption proceeding, when a child is conceived as the result of the conviction or commission of a sex offense as defined in R.S. 15:541, the victim of the sex offense may petition to terminate the rights of the perpetrator of the sex offense. Termination shall result in the loss of all parental rights of the perpetrator regarding the child, including any rights to custody, visitation, and contact, as well as any right to intervene in such action. The termination shall not affect the inheritance rights of the child. The perpetrator shall be cast in judgment for all court costs.

(5) The ability and willingness of the parent to be involved in the life of the child and to accept the physical custody of the child.

(6) Other relevant information.

Acts 2008, No. 436, §1.

Art. 1053. Hearing

A. At the hearing, the court may, in the best interest of the child:

(1) Allow contact between the parent and child, and if so, under what conditions.

(2) Restore the parental rights of the parent.

(3) Place the child in the custody of the parent with or without continuing supervision of the department. If the court orders placement of the child in the custody of a parent who resides out of state, it shall order compliance with the Interstate Compact on the Placement of Children.

B. If the department, counsel for the child, CASA volunteer, and the parent stipulate that restoration of parental rights or parental contact is in the best interest of the child, the court may, after reviewing the report of the department, enter a judgment to that effect without a hearing.

C. The restoration of parental rights and placement of the child in the custody of the parent without supervision by the department is considered permanent placement. Any other disposition by the court shall be made part of the case plan.

Acts 2008, No. 436, §1.

TITLE XI. SURRENDER OF PARENTAL RIGHTS

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 1101. Purpose

Except as otherwise provided in Articles 1195 and 1196 of this Code, this Title provides the exclusive means by which a parent can voluntarily relinquish his parental rights to a child for the ultimate purpose of adoption.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992; Acts 2000, 1st Ex. Sess., No. 109, §1, eff. April 17, 2000; Acts 2003, No. 602, §1.

Art. 1102. General applicability

Except as otherwise specified in this Title, all provisions of the Children's Code remain applicable.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992.

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 9 of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:400 and 400.

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. 1104. Nature of surrender

A. To the extent there are special provisions set forth in this Title, a voluntary act of surrender executed pursuant to this Title is subject to the provisions herein and not to conventional obligations law.

B. The act of surrender shall be presumptive evidence of a legal and voluntary surrender only if it contains every element required by Article 1122, and is in all other respects executed in accordance with the provisions of this Title.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993.

CHAPTER 2. DUTIES OF COURT CLERKS; CONFIDENTIALITY

Art. 1105. Recordkeeping generally

The clerks of the respective juvenile courts shall open separate records and keep separate indices of all documents filed in accordance with this Title. All such records shall be indexed in the name of the child and shall be subject to disclosure only as provided in this Title.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992.

Art. 1106. Recordation of acknowledgment by authentic act and judgments of filiation

A. Acknowledgment of a child by authentic act may be evidenced by proof of its filing. If the child is born in Louisiana, and the acknowledgment is by authentic act, it shall be filed with the state registrar, office of vital records, the central repository for paternity acknowledgments, and recorded in the office of the clerk of court in the parish in which the child is born in order for the father to be accorded the rights afforded by Article 1193.

B. All acknowledgments by authentic act recorded pursuant to this Article shall indicate the name of the child, the child's date of birth, if known, the name of the mother, and the full name and address of the acknowledging father.

C. A judgment of filiation rendered by a court which recognizes a father as having formally acknowledged a child born outside of marriage and in which the father is adjudged the parent of the child shall also be filed with the state registrar, office of vital records, the central repository for adjudications of paternity, and filed and recorded in the office of the clerk of court in the parish in which the child was born, if born in this state, or if the child was born in another state, in the parish in which the child is domiciled at the time of the judgment.

D. The clerk of court shall issue, on request, a certificate indicating whether any act of acknowledgment or any filiation judgment has been recorded relative to a particular child. If such an act has been recorded, the clerk shall include on the certificate the name and address of the father, the name of the notary, and the date of recordation of the certificate. Records of requests for certificates and copies of certificates issued shall be maintained in confidential records and shall not be open to public inspection. The acts recorded, however, shall be made available only upon motion and order for good cause shown. Certificates shall be issued to the department, other adoption agencies, and the courts of this state at no charge. The clerk may assess reasonable charges for copies of the certificate requested by other persons or agencies.

E. For purposes of this Article, "clerk of court" means the clerk of court in the parish in which the child was born. However "clerk of court" means only the following clerks of court in the following parishes:

- (1) In the parish of Caddo, the clerk of the Caddo Parish Juvenile Court.
- (2) In the parish of East Baton Rouge, the clerk of the East Baton Rouge Parish Juvenile Court.
- (3) In the parish of Jefferson, the clerk of the Jefferson Parish Juvenile Court.
- (4) In the parish of Orleans, the clerk of the Orleans Parish Juvenile Court.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 2004, No. 26, §3; Acts 2008, No. 561, §1.

Art. 1107. Confidentiality of records

A. All records maintained in accordance with this Title shall be confidential and shall not be open to inspection except on written authorization by the court and there shall be no publication.

B. Such written authorization shall be granted only upon a showing of compelling reasons and then only to the extent necessary to satisfy the compelling necessity pursuant to the procedures contained in Articles 1188 through 1192.

Acts 1991, No. 235, §11, eff. Jan. 1, 1992.

(2) The department shall promulgate in rule the image that shall constitute the official Safe Haven symbol.

C. The department is hereby authorized, but is not required, to produce electronic and physical copies of the Safe Haven symbol with any of the following features individually or in any combination:

(1) Text reading "SAFE BABY SITE" in all capital letters appearing above the symbol.

(2) A background that is either white or a shade of yellow typically used for traffic warning signs indicating necessity of caution.

Acts 2016, No. 84, §1.

TITLE XII. ADOPTION OF CHILDREN

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 1167. Purpose

The purpose of this Title is to promote the permanent placement of available children into suitable homes through the procedures described herein.

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

Art. 1168. General applicability of other Children's Code provisions

Except as otherwise specified in this Title, all provisions of the Children's Code remain applicable.

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

Art. 1169. Definitions

As used in this Title:

(1) "Agency" or "child placing 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 prefiled version of the birth certificate in the event the official birth certificate has not been issued.

(2.1) "Broker" means any person who, for compensation or the expectation of compensation, obtains or offers to obtain a child for adoption from a third party.

(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) "Putative father registry" means the Louisiana putative father registry established in R.S. 9:400.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2006, No. 288, §1.

Art. 1170. Types of adoption

A. This Title sets forth the exclusive procedures for adoption of minor children in Louisiana. There are three types of adoption of minor children in Louisiana:

- (1) Agency adoption.
- (2) Private adoption.
- (3) Intrafamily adoption.

B. The procedures governing each type of adoption are set forth in the following Articles. Acts 1991, No. 235, §12, eff. Jan. 1, 1992.

CHAPTER 2. PREPLACEMENT APPROVAL OF ADOPTIVE HOME IN PRIVATE ADOPTIONS

Art. 1171. Prior approval of private adoptive placement; exceptions

Except when the child is the stepchild, grandchild, sibling, niece, or nephew of one of the prospective adopting parents, no child who is the subject of a private adoption shall be placed in the home of the prospective adoptive parents prior to their either obtaining a current certification for adoption, as provided for in Articles 1171 through 1173, or by their obtaining a current order of a court of competent jurisdiction approving the adoptive placement, as provided for in Articles 1175 through 1177.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 2000, No. 567, §1.

Art. 1172. Certification for adoption; authority to conduct preplacement home study

Any person qualified to adopt a child pursuant to Article 1221 may request a social worker acting in the employ of a licensed adoption agency, licensed clinical social worker, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist, to conduct a preplacement home study for the purpose of obtaining a certification for adoption.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1309, §9, eff. Jan. 1, 2000; Acts 2001, No. 486, §5, eff. June 21, 2001; Acts 2008, No. 583, §1; Acts 2009, No. 251, §13.

Art. 1173. Preplacement home study; requirements

A. The department shall promulgate rules and regulations for preplacement home studies in private adoptions in accordance with the Administrative Procedure Act. The rules and regulations promulgated pursuant to this Article shall not be inconsistent with the following:

(1) The rules and regulations governing the licensing of adoption agencies relative to preplacement home studies, specifically adoptive home studies, notification regarding application, access to records, updating home studies, review procedures, and adoptive parents' records, to the extent that such provisions are compatible with procedural laws governing private surrenders and adoptions.

(2) Such study shall be conducted by a social worker in the employ of a licensed adoption agency, licensed social worker, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist, except that a

prospective adoptive parent who is domiciled outside the state shall obtain a preplacement home study in accordance with the provisions of Chapter 2 of Title XVI.

(3) A certification for adoption issued after a favorable preplacement home study shall be completed or brought current within twelve months next preceding the placement of a child with the adoptive parents.

B. The sheriff and department shall conduct and accord priority to requests for a criminal records check for all federal and state arrests and convictions and validated complaints of child abuse or neglect, respectively, in this or any other state of each prospective adoptive parent, and shall provide a certificate indicating all information discovered or that no information has been found, all in accordance with the applicable rules and regulations promulgated by the department.

C. The department shall promulgate and submit for approval such rules and regulations governing placement home studies in private adoptions in accordance with the Administrative Procedure Act no later than October 1, 1991, and such rules and regulations shall become effective upon its publication in the Louisiana Register.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1309, §9, eff. Jan. 1, 2000; Acts 2001, No. 486, §5, eff. June 21, 2001; Acts 2003, No. 567, §1; Acts 2006, No. 583, §1; Acts 2009, No. 194, §1, eff. June 30, 2009; Acts 2009, No. 251, §13.

Art. 1174. Issuance of preplacement certification for adoption

A. If the preplacement home study is favorable, the professional who conducted it shall issue a preplacement certification for adoption to the prospective adoptive parents.

B. The preplacement certification for adoption shall be valid for a minimum of two years.

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

Art. 1175. Court approval of uncertified adoptive placement

Prospective adoptive parents who have not previously obtained a certification for adoption may apply for a court order approving the placement of a child in their home.

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

Art. 1176. Application for court approval of adoptive placement; contents; filing

A. An application for court approval of adoptive placement shall be verified and shall contain the following:

(1) The name, address, age, occupation, and marital status of the prospective adoptive parents.

(2) The expected date of the child's placement.

(3) The relationship between the child and the prospective adoptive parents, if any.

(4) The name of the child whose placement is requested, if known.

B. An application for court approval of adoptive placement shall be filed with the clerk of a court of appropriate venue as authorized by Article 1180.

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

Art. 1177. Hearing

A. The application for court approval of adoptive placement shall be set for hearing in chambers, confidentially, and in a summary manner within forty-eight hours of its filing.

B. At the hearing, the prospective adoptive parents shall testify under oath concerning their fitness to receive the child into their care and custody, including but not limited to:

(1) Their moral fitness, previous criminal records or validated complaints of child abuse or neglect, if any.

(2) Their mental and physical health.

(3) Their financial capacity and disposition to provide the child with food, clothing, medical care, and other material needs.

(4) Their capacity and disposition to give the child love, affection, and guidance and to undertake the responsibilities of becoming the child's parents.

(5) The adequacy of the physical environment of their home and neighborhood for the placement of the child.

(6) The names and ages of other family members who would reside with the child in the prospective adoptive home and their attitude toward the proposed adoption.

(7) The stability and permanence, as a family unit, of the proposed adoptive home.

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

Art. 1178. Order and revocation

A. At the conclusion of the hearing, the court shall render an order approving or disapproving the placement of the child with the prospective adoptive parents.

B. The order shall be in writing, dated, and signed by the court and shall authorize adoptive placement of a child at any time within a period of twelve months from its date.

C. A certified copy of a court order approving the adoptive placement shall be given to the prospective adoptive parents.

D. Any order disapproving the adoptive placement shall include specific reasons therefor.

E. The court shall render a decision that is in the best interest of the child and shall consider all relevant factors including those provided in Article 1177(B).

F.(1) The existence of a criminal record of a prospective adoptive parent shall not be automatic grounds to disapprove placement of the child with the prospective adoptive parents. The court shall consider all of the following:

(a) The nature of the offenses.

(b) The number of offenses committed.

(c) The length of time between offenses and between the last offense committed and the application for court approval.

(2) Subsequent to the entry of an order approving an adoptive placement, if the result of a criminal records check or the results of abuse or neglect validated complaint records check indicate that the prospective adoptive parents failed to disclose such unfavorable information at the hearing, the court may issue an instant order taking protective custody of the child, pursuant to Article 619, if this information, if known, together with other evidence presented at the hearing would have resulted in the court's disapproval of the adoptive placement.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 2003, No. 567, §1; Acts 2013, No. 187, §1.

Art. 1179. Appeal

A. Appeal from an order disapproving the adoptive placement shall be by trial de novo in the court of appeal, based upon the criteria set out in Article 1177.

B. The appeal shall be heard in chambers, confidentially, in a summary manner, and within forty-eight hours of its filing.

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

CHAPTER 3. VENUE AND JURISDICTION

Art. 1180. Venue and jurisdiction in adoption

A. A proceeding for the adoption of a child may be commenced in either:

(1) The juvenile court in the parish of the domicile of the petitioner.

(2) The juvenile court in the parish of the domicile of the custodian of the child.

(3) The juvenile court in the parish in which a voluntary act of surrender has been executed with respect to the child to be adopted.

(4) The juvenile court in which the child has been adjudicated a child in need of care or in which the child in need of care proceeding is pending.

(5) The juvenile court which previously terminated parental rights of a parent with respect to the child to be adopted.

B. An attorney at law named as representative of the prospective adoptive parent shall not be deemed the legal custodian of the child for purposes of proper jurisdiction or venue.

C. Upon filing of the act of voluntary surrender approved by the court according to Article 1131(C), the court of competent venue and jurisdiction wherein the surrender is filed shall have exclusive, original jurisdiction over all issues of custody and adoption of the child during the pendency of the proceedings, unless the child is in the custody of the Department of Children and Family Services.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1999, No. 1062, §4, eff. Jan. 1, 2000; Acts 2001, No. 910, §1.

CHAPTER 4. DUTIES OF COURT CLERKS

Art. 1181. Adoption records

The clerks of court shall keep separate indices of all suits filed in accordance with this Title, and shall index these suits in the name of the parties filing the petition and in the name of the child to be adopted.

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

Art. 1182. Records of adoption decrees

A. Whenever an interlocutory decree of adoption has been granted, the clerk of court shall forward a certified copy of the decree to the Department of Children and Family Services.

B. Whenever a final decree of adoption has been granted with regard to a child born in Louisiana, the clerk of court shall forward, on a form supplied by the Department of Children and Family Services, a certificate of the decree to the state registrar of vital records.

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

Art. 1183. Reports of annulments of adoption decrees

The clerk of court shall prepare, within ten days after a decree of annulment of adoption becomes final, a certificate of the decree of annulment on forms furnished by the state registrar of vital records. On or before the fifteenth day of each month, the clerk shall forward any certificates prepared by him during the preceding calendar month to the state registrar of vital records.

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

CHAPTER 5. CONFIDENTIALITY

Art. 1184. Admission to hearings

All adoption proceedings shall be heard by the judge in chambers, and no one shall be admitted to the hearings except the parties in interest, their attorneys, and officers of the court. The court, in its discretion, may grant the request of a petitioner to permit others to be present at the hearing.

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

Art. 1185. Confidential records

No one except the judge presiding in the case, his successor, or a curator ad hoc, as provided for in Article 1191, shall have access to the confidential records of the court pursuant to this Title. Following final disposition of an adoption case, the reports submitted by the department to the judge shall be retained in the court's confidential adoption record.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 2008, No. 583, §1.

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. 1187. Court records of proceedings

All court records of adoption proceedings shall be confidential and shall not be open to inspection except on written authorization by the court and there shall be no publication thereof.

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

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. 1189. Grounds for disclosure

A motion for disclosure shall show compelling necessity overriding the general policy of confidentiality for adoption records by alleging any of the following:

(1) There are inheritance rights which are or may be due from the biological parents of the adopted person in accordance with the Civil Code.

(2) There is a medical necessity requiring information about the biological family of the adopted person or his or her adoption health history in order to treat the adopted person, his siblings, or his descendants.

(3) Both the adopted person, or the adoptive parent of a minor or a deceased adoptive person, or a descendant of a deceased adopted person, or his parent if a minor, and a person reasonably believed to be a biological parent or biological sibling, or a parent, sibling, or descendant, or his parent if a minor, of a deceased biological parent have registered with the department pursuant to Chapter 15 of this Title.

(4) The information is otherwise required to be disclosed by federal or state law.

Acts 1991, No. 235, §12, eff. Jan. 1, 1992; Acts 1997, No. 715, §1; Acts 2008, No. 583, §1; Acts 2010, No. 266, §1.

Art. 1190. Authority of the court

A. Upon reviewing a motion for disclosure on grounds of either inheritance rights or medical necessity, the court may deny it for lack of a proper showing of compelling necessity. Before granting a motion, the court may appoint a curator ad hoc and shall set the motion for a hearing.

B. Written notice of the date, time, and place of any disclosure proceedings shall be served and a return made in the same manner as a petition on any custodian of records sought to be disclosed at least fifteen days prior to the hearing.

TITLE XIII SUPPORT OF FAMILY

CHAPTER 1. UNIFORM INTERSTATE FAMILY SUPPORT ACT

Section 1. General Provisions

Art. 1301.1. Short title

This Chapter may be cited as the "Uniform Interstate Family Support Act".
Acts 1995, No. 251, §1, eff. Jan. 1, 1996; Acts 2015, No. 80, §1, eff. July 1, 2015.

Art. 1301.2. Definitions

In this Chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) Which has been declared under the law of the United States to be a foreign reciprocating country;

(b) Which has established a reciprocal arrangement for child support with this state as provided in Article 1303.8;

(c) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this Chapter; or

(d) In which the Convention is in full force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by the income-withholding law of this state, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(16) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(b) A foreign country, state or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(c) An individual seeking a judgment determining parentage of the individual's child; or

(d) A person that is a creditor in a proceeding under Section 7.

(17) "Obligor" means an individual or the estate of a decedent who:

(a) Owes or is alleged to owe a duty of support;

(b) Is alleged, but has not been adjudicated to be a parent of a child;

(c) Is liable under a support order; or

(d) Is a debtor in a proceeding under Section 7.

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Register" means to record or file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

- (a) Seek enforcement of support orders or laws relating to the duty of support;
- (b) Seek establishment or modification of child support;
- (c) Request determination of parentage of a child;
- (d) Attempt to locate obligors or their assets; or
- (e) Request determination of the controlling child support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Acts 1995, No. 251, §1, eff. Jan. 1, 1996; Acts 2015, No. 80, §1, eff. July 1, 2015.

Art. 1301.3. State tribunal and support enforcement agency

A. The district courts or, if applicable, the family or juvenile courts, and the division of administrative review, Department of Children and Family Services, or other administrative law division authorized by law are the tribunal of this state for purposes of this Chapter.

B. The Department of Children and Family Services is the support enforcement agency of this state.

Acts 1995, No. 251, §1, eff. Jan. 1, 1996; Acts 1997, No. 1241, §1, eff. July 15, 1997; Acts 2015, No. 80, §1, eff. July 1, 2015.

Art. 1301.4. Remedies cumulative

A. Remedies provided by this Chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

B. This Chapter does not:

(1) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(2) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this Chapter.

Acts 1995, No. 251, §1, eff. Jan. 1, 1996; Acts 1997, No. 1241, §1, eff. July 15, 1997; Acts 2010, No. 877, §3, eff. July 1, 2010; Acts 2015, No. 80, §1, eff. July 1, 2015.

TITLE XIV MENTAL HEALTH PROCEEDINGS

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 1401. Purpose

The purpose of this Title is to facilitate the proper treatment of children suffering from mental illness or substance abuse. The manner of treatment should be medically appropriate, least restrictive of the child's liberty, and respectful of the child's individual rights. A preference for outpatient treatment should prevail unless the admission to a treatment facility is determined necessary for the recovery of the child from the mental illness or substance abuse.

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

Art. 1402. Declaration of policy

The underlying policy of this Title is as follows:

(1) That minors with mental illness and minors suffering from substance abuse, and their caretakers on their behalf, be encouraged to seek voluntary treatment.

(2) That any involuntary treatment or evaluation be accomplished in a setting which is medically appropriate, most likely to facilitate proper care and treatment that will return the minor patient to the community as soon as possible, and is the least restrictive of the minor's liberty.

(3) That continuity of care for persons with mental illness and minors suffering from substance abuse be provided.

(4) That mental health and substance abuse treatment services be delivered as near to the place of residence of the minor receiving such services as is reasonably possible and medically appropriate.

(5) That individual rights of minor patients be safeguarded.

(6) That no minor solely as a result of mental illness or alcoholism or incapacitation by alcohol shall be confined in any jail, prison, correctional facility, or juvenile detention center.

(7) That no minor shall be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after an earlier treatment.

(8) That minors be protected from unnecessary institutionalization and be afforded proper treatment for their special mental health needs.

(9) That, in view of the liberty interest at issue in any commitment decision, proper respect for the parental decisionmaking role be balanced with the individual rights of the minor.

Acts 1991, No. 235, §14, eff. Jan. 1, 1992; Acts 2014, No. 811, §33, eff. June 23, 2014.

Art. 1403. General applicability

Except as otherwise specified in this Title, all provisions of the Children's Code remain applicable.

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

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 or 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 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. 1405. Mental Health Advocacy Service (MHAS); representation; fees

A. MHAS shall provide legal counsel to all patients who request such service and who are admitted for treatment pursuant to this Title, including but not limited to voluntary or involuntary admission, commitment, legal competency, change of status, transfer, and discharge.

B. MHAS shall provide legal counsel, as availability is determined by its executive director, to minors admitted for mental health or substance abuse treatment pursuant to the dispositional alternatives as provided in the other Titles of this Code including but not limited to Titles VI and VIII.

C. Nothing in this Title shall be construed to prohibit a person with mental illness or respondent from being represented by privately retained counsel. If a MHAS attorney has been appointed by the court and the minor with mental illness or respondent secures his own counsel, the court shall discharge the MHAS attorney.

D. MHAS shall establish official rules and regulations for evaluating a client's financial resources, for the purpose of determining whether a client has the ability to pay for services received. A client found to have sufficient financial resources shall be required to pay in accordance with standards established by the executive director. An indigent client shall be provided legal counsel and representation without charge.

E. MHAS shall be empowered with all of the same rights and responsibilities to represent their clients whether appointed through the provisions of this Code or Title 28 of the Louisiana Revised Statutes of 1950. These rights include but are not limited to:

(1) A request for a judicial hearing pursuant to Article 1411.

(2) An independent medical examination as requested and approved by the MHAS executive director.

Acts 1991, No. 235, §14, eff. Jan. 1, 1992; Acts 2014, No. 811, §33, eff. June 23, 2014.

Art. 1405.1. Child Advocacy Program; establishment within Mental Health Advocacy Service; duties

A. The Child Advocacy Program, referred to hereafter in this Article as the "program", is hereby established within the Mental Health Advocacy Service authorized pursuant to R.S. 28:64.

B. The program shall provide qualified legal counsel to children in child abuse and neglect cases, subject to availability as determined by the director of the program, in those jurisdictions designated by the Louisiana Supreme Court and pursuant to Children's Code Article 560.

C. The program shall be governed by the board of trustees established pursuant to R.S. 28:64(A)(3).

D. The duties of the board of trustees shall include those enumerated in R.S. 28:64(C) and all of the following specific duties:

(1) To establish general policy guidelines for the operation of the program to provide legal counsel and representation for children in child abuse and neglect cases of this state in order to ensure that their legal rights are protected; however, the board shall not have supervisory power over the conduct of particular cases.

(2) To review and evaluate the operations of the program and emphasize special training for attorneys hired by the service.

(3) To review and approve an annual budget for the program.

(4) To review and approve an annual report on the operation of the program and submit such report to the legislature, the governor, and the chief justice of the Louisiana Supreme Court.

E. The duties of the director of the program shall include those enumerated in R.S. 28:64(E) and all of the following specific duties:

(1) To organize and administer a program to provide legal counsel and representation for children in child abuse and neglect cases subject to the approval of the board of trustees and in accordance with a plan for service delivery approved by the Louisiana Supreme Court.

(2) To identify the needs of children in child abuse and neglect cases for legal counsel and representation within the state and the resources necessary to meet those needs, subject to the approval of the board of trustees.

(3) To institute or cause to be instituted such legal proceedings as may be necessary to enforce and give effect to any of the duties or powers of the program.

(4) To hire and train attorneys and other professional and nonprofessional staff that may be necessary to carry out the functions of the program. All attorneys representing children through this program shall be licensed to practice law in Louisiana and be qualified in accordance with Louisiana Supreme Court Part J, Special Rules for Cases Involving the Protection of Children.

(5) To establish official rules and regulations for the conduct of work of the program, subject to the approval of the board of trustees.

(6) To take such actions as he deems necessary and appropriate to secure private and state, federal, or other public funds to help support the program, subject to the approval of the board of trustees.

(7) To have the ability to contract with organizations or individuals for the provision of legal services for children in child abuse and neglect cases, subject to the approval of the board of trustees and in accordance with a plan for service delivery approved by the Louisiana Supreme Court.

Acts 2014, No. 354, §1.

(3) All of the minor patient's clinical records or a full abstract thereof, including the results of medical, physical, and laboratory examinations.
Acts 1991, No. 235, §14, eff. Jan. 1, 1992.

TITLE XV SPECIAL PROCEEDINGS

CHAPTER 1. PRELIMINARY PROVISIONS

Art. 1501. Purpose

The purpose of this Title is to establish the substantive and procedural guidelines governing the juvenile court's exercise of jurisdiction over contempt proceedings, voluntary transfer of custody proceedings, proceedings seeking judicial authorization for minors' abortions, proceedings seeking judicial authorization for minors' marriages, declaratory judgment proceedings involving medical treatment for terminally ill children, domestic abuse assistance proceedings, and such other types of proceedings as may hereafter be added by the legislature to the jurisdiction of the juvenile courts of this state.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1502. General applicability

Except as otherwise specified in this title, all provisions of the Children's Code remain applicable.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

CHAPTER 2. CONTEMPT

Art. 1503. Purpose

The purpose of this Chapter is to provide procedures for allowing each juvenile court to enforce its orders and maintain proper court decorum.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1504. Kinds of contempt

A. A contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

B. Contempts of court are of two kinds, direct and constructive.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1505. Direct contempt

A. A direct contempt of court is one committed in the immediate view and presence of the court and of which it has personal knowledge.

B. A direct contempt includes but is not limited to any of the following acts:

- (1) Contumacious failure, after notice, to appear for a hearing on the day fixed therefor.
- (2) Contumacious failure to comply with a subpoena or summons to appear in court, proof of service of which appears of record.
- (3) Contumacious violation of an order excluding, separating, or sequestering a witness.
- (4) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a nonincriminating question when ordered to do so by the court.
- (5) Contumacious, insolent, or disorderly behavior toward the judge or an attorney or other officer of the court, tending to interrupt or interfere with the business of the court or to impair its dignity or respect for its authority.
- (6) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or interfere with the business of the court or to impair its dignity or respect for its authority.
- (7) Use of insulting, abusive, or discourteous language by an attorney or other person in open court, or in a motion, plea, brief, or other document, filed with the court, in irrelevant criticism of another attorney or officer of the court.
- (8) Violation of a rule of the court adopted to maintain order and decorum in the courtroom.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1506. Procedure for punishing direct contempt

A person who has committed a direct contempt of court may be found guilty and punished therefor by the court without any trial, after affording him an opportunity to be heard orally by way of defense or mitigation. The court shall render its order reciting the facts constituting the contempt, adjudging the person guilty thereof, and specifying the punishment imposed.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1507. Constructive contempt

A constructive contempt of court is any contempt other than a direct one, including but not limited to the following:

- (1) Willful neglect or violation of duty by a clerk, sheriff, or other person elected, appointed, or employed to assist the court in the administration of justice.
- (2) Willful disobedience of any lawful judgment, order, mandate, writ, or process of the court.
- (3) Removal or attempted removal of any person or property in the custody of an officer acting under authority of a judgment, order, mandate, writ, or process of the court.
- (4) Deceit or abuse of the process or procedure of the court by a party to an action or proceeding, or by his attorney.
- (5) Unlawful detention of a witness, party, or his attorney, while going to, remaining at, or returning from the court where the action or proceeding is to be tried.
- (6) Assuming to act as an attorney or other officer of the court, without lawful authority.
- (7) Comment by a newspaper or other medium for the dissemination of news upon a case or proceeding, then pending and undecided, which constitutes a clear, present, and imminent danger of obstructing or interfering with the orderly administration of justice, by either influencing the court to reach a particular decision, or embarrassing it in the discharge of its judicial duties.

(8) Willful disobedience by an inferior court, judge, or other officer thereof, of the lawful judgment, order, mandate, writ, or process of an appellate court, rendered in connection with an appeal from a judgment or order of the inferior court, or in connection with a review of such judgment or order under a supervisory writ issued by the appellate court.

(9) Willful disobedience of the confidentiality provisions of Article 412.

(10) Any other act or omission punishable by law as a contempt of court, or intended to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority, and which is not a direct contempt.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993.

Art. 1508. Procedure for punishing constructive contempt

A. When a person is charged with committing a constructive contempt, he shall be tried by the judge on a rule to show cause alleging the facts constituting the contempt. The rule may be issued by the court on its own motion or on motion of any party.

B. A certified copy of the motion and of the rule shall be served on the person charged, in the manner of a subpoena, not less than forty-eight hours prior to the time assigned for trial of the rule.

C. If the person charged with contempt is found guilty, the court shall render an order reciting the facts constituting the contempt, adjudging the person charged with the contempt guilty thereof, and specifying the punishment imposed.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1509. Penalties for contempt; in general

A. A person may not be adjudged guilty of contempt of court except for misconduct defined as such, or made punishable as such, expressly by law.

B. When a contempt of court consists of the omission to perform an act which is yet in the power of an adult person charged with contempt to perform, he may be imprisoned until he performs it and in such a case his name shall be specified in the court's order.

C. When an attorney is adjudged guilty of a direct contempt of court, the punishment shall be limited to a fine of not more than one hundred dollars or imprisonment for not more than twenty-four hours, or both; and, for any subsequent direct contempt of the same court by the same offender, a fine of not more than two hundred dollars or imprisonment for not more than ten days, or both.

D. Except as otherwise provided in this Article, a court may punish an adult person adjudged guilty of contempt of court in connection with a juvenile proceeding by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

E. In addition to or in lieu of the above penalties, when a parent has violated a visitation order, the court may order any or all of the following:

(1) Require the custodial parent to allow additional visitation days to replace those denied the noncustodial parent.

(2) Require one or both parents to attend a parent education course.

(3) Require one or both parents to attend counseling or mediation.

(4) Require the parent violating the order to pay all court costs and reasonable attorney fees of the other party.

F. A pattern of willful and intentional violation of this Article, without good cause, may constitute a material change in circumstances warranting a modification of an existing custody or visitation order.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 1995, No. 1095, §8; Acts 1999, No. 1313, §1; Acts 2001, No. 425, §1, eff. June 15, 2001; Acts 2004, No. 520, §2.

Art. 1509.1. Penalties for contempt; children

A. In delinquency proceedings, when a child is adjudged guilty of direct contempt of court or constructive contempt of court for repeated disobedience of the court's judgment of disposition, the court may:

(1) For a first offense in any twelve-month period, commit the child to a juvenile detention center or other suitable facility for not more than seven days, including the time spent in detention for the contempt prior to the contempt hearing.

(2) For a second offense in any twelve-month period, commit the child to a juvenile detention center or other suitable facility for not more than ten days, including the time spent in detention for the contempt prior to the contempt hearing.

(3) For a third or subsequent offense in any twelve-month period, commit the child to a juvenile detention center or other suitable facility for not more than fifteen days, including the time spent in detention for the contempt prior to the contempt hearing.

B. In child in need of care proceedings, when the child is adjudged guilty of direct contempt of court or constructive contempt of court for repeated disobedience of the court's judgment of disposition, the court may commit the child only to a shelter care facility for not more than fifteen days, including time spent there for the contempt prior to the contempt hearing. Such a child shall not be placed in secure detention nor shall such detention facility accept a child in need of care.

C. In families in need of services proceedings, when the child is adjudged guilty of direct contempt of court or constructive contempt of court for repeated disobedience of the court's judgment of disposition, the court may:

(1) Commit the child to a shelter care facility for not more than fifteen days, including time spent there for the contempt prior to the contempt hearing.

(2) Commit the child to a secure detention facility for not more than seven days, including time spent there for the contempt prior to the contempt hearing, if the court finds that all of the following have occurred:

(a) A judgment of disposition was entered pursuant to Article 782.

(b) The child willfully violated the judgment of disposition.

(c) All sanctions other than secure confinement have been exhausted or are clearly inappropriate.

Acts 1999, No. 1313, §1; Acts 2016, No. 499, §2.

CHAPTER 3. VOLUNTARY TRANSFER OF CUSTODY

Art. 1510. Purpose

The purpose of this Chapter is to protect the health and welfare of children by providing, in addition to any other provisions of law, for juvenile court procedure to govern a voluntary transfer of custody of a child by parents to other responsible adults for the purpose of enabling the child to receive adequate care and treatment. The provisions of this Chapter are intended to promote mutual understanding of the rights and responsibilities of the parents and custodians and of any terms or conditions which may be set forth by agreement of the parties.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1511. Definitions

As used in this Chapter:

(1) "Legal custody" means a legal status created by court order that vests in a custodian the right to have physical custody of the child and the right and duty to protect, train, and discipline and to provide food, shelter, education, and ordinary medical care, all subject to any residual parental rights and responsibilities.

(2) "Physical custody" means the duty and authority to provide care for a child in the home of the custodian.

(3) "Voluntary transfer of custody" is a parent's knowing and voluntary relinquishment of legal custody to an agency, institution, or individual, subject to residual parental rights retained by the parent and under such terms and conditions that enable the child to receive adequate care and treatment.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2011, No. 128, §1.

Art. 1512. Continuing jurisdiction

The court exercising juvenile jurisdiction shall have continuing jurisdiction and the exclusive authority to modify its orders rendered pursuant to this Chapter.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1513. Venue

A proceeding brought pursuant to this Chapter may be commenced in the parish in which either:

- (1) The parents requesting transfer of custody reside.
- (2) The person, agency, or institution to whom the transfer of custody is intended resides.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1514. Petition for voluntary transfer

A. A proceeding under this Chapter shall be commenced by written petition.

B. Except as otherwise provided in this Article, all persons or organizations lawfully exercising legal custody of the child shall join in the petition.

C. If a legal custodian is unable or unwilling to join in the petition, the petition shall state with particularity the reasons therefor.

D. If a guardian has been appointed, a petition for voluntary transfer may not be filed. To change a guardianship order a motion to modify the guardianship may be filed in accordance with Article 724.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2011, No. 128, §1.

Art. 1515. Petition; contents; form

A. A petition for voluntary transfer of custody shall set forth specifically:

- (1) The name and address of all parents and legal custodians.
- (2) An affirmation that the parents are knowingly and voluntarily transferring custody.
- (3) The full name and date of birth of the child whose custody is sought to be transferred.
- (4) The factual basis for the transfer of custody.
- (5) The nature, duration, and extent of the transfer of custody, including any terms and conditions.

(6) The name and address of the agency, institution, or individual to whom the child is sought to be transferred and the relationship, if any, to the child.

(7) Whether the Department of Children and Family Services has recommended a petition for voluntary transfer of custody be filed.

(8) Whether the child is an Indian child.

B. The form for the petition shall be as follows:

"PETITION FOR VOLUNTARY TRANSFER OF CUSTODY

The petition of _____ (all legal custodians of the child unless otherwise indicated in Paragraph III of the petition), domiciled in the parish of _____, respectfully represent(s):

I.

That petitioner(s) reside at the following address(es):

II.

That petitioner(s) is/are the parent(s) and legal custodian(s) of the minor child(ren), namely _____, whose date of birth is _____ (add same information for all children subject to the petition), as more fully appears from the attached certificate(s) of birth.

Is the child an Indian child?

Yes No

III.

That there are no other legal custodians of the child(ren) OR that a legal custodian, namely _____, is unable to join in this petition for the following reasons:

IV.

That petitioner(s) desire(s) to knowingly and voluntarily transfer custody of the above named children to _____, which individual(s), institution or agency reside(s) at the following address:

_____ and who have the following relationship with the children:

_____.

V.

That petitioner(s) desire to transfer physical custody OR legal custody of the person of the children (indicate one) for the period of time _____(specify intended duration) in accordance with the following terms and conditions

(may include provisions for support and/or visitation).

VI.

That petitioners desire this transfer of custody for the following reasons:

_____.

Has the Department of Children and Family Services recommended to you that this petition be filed?

_____ Yes _____ No

If yes, state name of the Department of Children and Family Services worker making the recommendation and the reasons for the recommendation with particularity.

If the department has recommended that this petition be filed, you have a right to counsel. Have you consulted with an attorney?

_____ Yes _____ No

VII.

That _____ has/have agreed to and does/do desire to accept custody of the child(ren) to the extent and under the terms and conditions stated in this petition, as more fully appears in the attached Affidavit of Acceptance.

WHEREFORE, petitioner(s) pray(s) that there be judgment herein transferring custody of the child(ren), _____, _____, _____, _____, to _____, to the extent and under the terms and conditions set forth in this petition.

(Signature and address of Petitioner(s))
or counsel for Petitioner(s)

(If in proper person, petition should be signed in presence of a notary.)

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE ____ DAY OF _____, 20 ____.

NOTARY PUBLIC"

C. The petitioner shall inform the court if he subsequently discovers information indicating that the child is an Indian child.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2010, No. 266, §1; Acts 2011, No. 128, §1; Acts 2018, No. 296, §1.

Art. 1516. Affidavit of acceptance; contents; form

A. An Affidavit of Acceptance shall be executed by the agency, institution, or individual accepting custody and shall state that the agency, institution, or individual knowingly and voluntarily accepts custody of the child to the extent and under the terms and conditions custody is transferred from the parents.

B. The form for the Affidavit of Acceptance shall be as follows:

"AFFIDAVIT OF ACCEPTANCE"

BEFORE ME, the undersigned Notary Public personally came and appeared:

_____, individual(s) OR a representative of _____ (name of agency or institution) who, being first duly sworn, did depose and state:

That affiant is a person of the full age of majority and resides at _____ address of individual(s), agency, or institution) in _____ Parish, Louisiana.

That affiant does knowingly and voluntarily accept physical custody OR legal custody of the person of the children (indicate one) of _____, _____, _____, _____ (name(s) of child(ren) for the period of time _____ (specify intended period) in accordance with the following terms and conditions:

_____.

(may include provisions for support and/or visitation)

AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE ____ DAY OF _____, 20 ____.

NOTARY PUBLIC"

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2011, No. 128, §1.

Art. 1517. Notice; service; curator; reservation of rights

A. Notice of the proceedings, including, if applicable, the parents' right to an attorney in accordance with Paragraph E of this Article, shall be served on any parent or legal custodian who has not joined in the petition.

B. Notice may be served by personal or domiciliary service or by certified mail, proof of which shall be filed in the record.

C. If a parent or legal custodian cannot be served, the court may appoint an attorney at law as curator for him and service shall be made upon the curator.

D. If a parent or legal custodian cannot be served and a curator is not appointed for him, the court shall specifically reserve the absentee's rights in any order transferring custody pursuant to this Chapter.

E. If the Department of Children and Family Services has recommended that the petition for voluntary transfer of custody be filed:

(1) It shall also be served with notice of the proceedings.

(2) The court may also order a report by the department concerning the safety and well-being of the child and of the circumstances leading the department to recommend that the custody of the child be transferred by the parent to some other individual.

(3) The court shall advise the parents and may advise the child, insofar as practicable, of the right to be represented by counsel and the right to have counsel appointed as provided in Chapter 4 of Title VI.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2010, No. 266, §1.

Art. 1518. Pretrial orders; contribution to costs; appointment of counsel; Indian parent or custodian

A. On its own motion or the motion of any party to the proceedings, the court may render such orders it deems necessary to protect the best interests of the child, including but not limited to the following:

(1) A home study of the proposed placement.

(2) A physical or mental examination of any party.

(3) An appointment of counsel for the child.

B. Upon request of an indigent parent, the court shall appoint counsel for the parent when the Department of Children and Family Services has recommended that the petition for voluntary transfer be filed.

C. If the court finds that the parent or custodian of an Indian child is indigent, it shall appoint counsel for the parent or custodian.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2010, No. 266, §1; Acts 2018, No. 296, §1.

Art. 1519. Hearing

The petition shall be set for hearing on the record unless specifically waived by the court. If the Department of Children and Family Services, office of children and family services, has recommended that the petition for voluntary transfer of custody be filed, a representative for the department shall testify at the hearing with particularity the reasons for the

recommendation. Further, the department representative shall specify why a child in need of care petition should not be filed and shall testify regarding the preventative services offered by the department to the petitioner to prevent the transfer of custody.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2010, No. 266, §1.

Art. 1520. Judgment

A. The court shall render a written judgment granting or denying the transfer of custody.

B. If the court grants the transfer of custody, the judgment shall order the transfer and recite such terms and conditions as required to protect the safety and secure the best interests of the child and shall also recite all of the following:

(1) All necessary parties are involved.

(2) The transfer is knowing and voluntary.

(3) There is a legitimate purpose and a factual basis to support that purpose.

(4) All parties have been advised of and understand the nature and extent of the transfer, including any terms and conditions, and of their respective rights.

(5) The proposed change of custody is in the best interests of the child.

C. After giving the parent a reasonable opportunity to be heard, the court may order that the parent contribute to the cost of the home study, examination, or of the representation of the child.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2010, No. 266, §1.

Art. 1521. Review; permanency planning

A. On its own motion or on the motion of any party, the court may order a hearing to be set for review of the transfer of custody.

B. Judgments transferring custody pursuant to this Chapter are exempt from the permanency planning requirements mandated in Title VI including the provisions of Chapters 13, 15 and 16 of that Title.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992.

Art. 1522. Modification

A. Except when the parties jointly desire to dismiss the proceedings and return custody of the child to the parents, modification or enforcement of a judgment transferring custody shall be upon motion of any party and by order of the court according to the provisions of this Chapter.

B. If the parties jointly desire to dismiss the proceedings and return the custody of the child to the parents, the court shall be notified. The court may render an ex parte dismissal of the proceedings, or it may order a hearing to be set for review of the proposed modification.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 2010, No. 266, §1.

Art. 1523. Revocation

A. Upon failure of a custodian to return a child after revocation of the parent's consent, the parent may move for dismissal of the proceedings and for the return of the child to their custody.

B. The motion to dismiss shall be set for contradictory hearing with the custodians.

C. In making its determination of the best interests of the child, the court shall consider the following:

- (1) The length of the parent/child separation.
 - (2) The current fitness of the parent.
 - (3) The frequency of contact between the parent and child during the separation.
 - (4) The efforts made by the parent to exercise parental responsibilities during the separation, including support.
 - (5) The terms and conditions of the judgment.
- Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

CHAPTER 4. MISDEMEANOR PROSECUTION OF ADULTS

Art. 1524. Purpose

The purpose of this Chapter is to set out the substantive principles and procedures by which the juvenile court tries adults for misdemeanors when the law (vinitate) was enacted for the protection of the physical, moral, or mental well-being of children.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1525. Scope of jurisdiction

The juvenile court shall have jurisdiction to try an adult who is charged with any of the following misdemeanors:

- (1) Interference with the custody of a child.
- (2) Criminal abandonment.
- (3) Unlawful sales to minors.
- (4) Unlawful purchase of alcoholic beverages for minors.
- (5) Unlawful distribution of sample tobacco products to minors.
- (6) Sale, exhibition, or distribution of material harmful to minors.
- (7) Sale, distribution, or making available to minors publications encouraging, advocating, or facilitating the illegal use of controlled substances.
- (8) Illegal use of controlled dangerous substances in the presence of children.
- (9) Sale of poisonous reptiles to minors.
- (10) Contributing to the delinquency of juveniles or encouraging or contributing to child delinquency, dependency, or neglect.
- (11) Unlawful use and sale of model glue to minors.
- (12) Tattooing minors.
- (13) Child desertion.
- (14) Abandoning ice boxes or other air tight containers in a place accessible to children.
- (15) Failure of a mandatory reporter to report abuse of children.
- (16) Violation of the requirements for the investigation of reports of child abuse.
- (17) Knowingly making a false report of child abuse.
- (18) Making a false report of a missing child.
- (19) Violation of the compulsory school attendance law.

(20) Any offense affecting the physical, moral, or mental well-being of children as provided in Section 2 of Subpart B of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992; Acts 1995, No. 1095, §8.

Art. 1526. Definitions

Except when the context clearly indicates otherwise, as used in this Chapter:

(1) "Affidavit" means a written accusation of crime made under oath and signed by the affiant. It must be filed in open court in a court having jurisdiction to try the offense or in the office of the clerk thereof.

(2) "Institution of prosecution" means the filing of an information or affidavit, which is designed to serve as the basis of a trial.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1527. Venue

Proceedings pursuant to this Chapter shall be commenced in the parish in which the offense is alleged to have been committed. If acts constituting an offense or if the elements of an offense occurred in more than one place, the offense is deemed to have been committed in any parish in which any such act or element occurred.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1528. Method of instituting prosecution

Criminal prosecutions in a juvenile court shall be instituted by affidavit, information, or indictment.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1529. Procedure

Proceedings pursuant to this Chapter shall be conducted in accordance with the Louisiana Code of Criminal Procedure.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1530. Trial of misdemeanors

A. A defendant charged with a misdemeanor in which the punishment, as set forth in the statute defining the offense, may be a fine in excess of one thousand dollars or imprisonment for more than six months, shall be tried by a jury of six jurors, all of whom must concur to render a verdict.

B. The defendant charged with any other misdemeanor shall be tried by the court without a jury.

Acts 1991, No. 235, §15, eff. Jan. 1, 1992.

Art. 1531. Right to waive trial by jury

A. A defendant charged in juvenile court with a misdemeanor triable by jury may knowingly and intelligently waive a trial by jury and elect to be tried by the judge. At the time of

TITLE XVII RELINQUISHMENT OF NEWBORNS

Art. 1701. Repealed by Acts 2003, No. 609, §3.

Art. 1702. Repealed by Acts 2003, No. 609, §3.

Art. 1703. Repealed by Acts 2003, No. 609, §3.

Art. 1704. Repealed by Acts 2003, No. 609, §3.

Art. 1705. Repealed by Acts 2003, No. 609, §3.

Art. 1706. Repealed by Acts 2003, No. 609, §3.

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