

Regular Session, 2010

# ACT No. 266

HOUSE BILL NO. 651

BY REPRESENTATIVE TEMPLET

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Children's Code Articles 1122(B)(8), (F)(12), (G)(12), 1125(B),  
3 1189(3), 1270, 1271(A) and (B), 1272, 1273, 1276, 1515(B)(VI), 1517(A), 1518(B),  
4 1519, 1520(B)(introductory paragraph) and (C), and 1522(B) and to enact Children's  
5 Code Articles 1515(A)(7) and 1517(E), relative to the continuous revision of the  
6 Children's Code; to provide for adoption; to provide for voluntary transfer of  
7 custody; to provide for contents of the surrender form; to provide for the Statement  
8 of Family History Form; to provide for voluntary registration, use of the registry,  
9 matching procedures, and who may register; to provide for effective date of  
10 registration, monitoring, verifying, matching, and counseling registrants; to provide  
11 for confidentiality of documents filed; to provide for disclosure of death of biological  
12 parents and adopted persons and grounds for disclosure; to provide for the contents  
13 and form of the petition for voluntary transfer; to provide for notice and service of  
14 the petition; to provide for appointment of counsel; to provide for required testimony  
15 at the hearing; to provide for the contents of the judgment; and to provide for related  
16 matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Children's Code Articles 1122(B)(8), (F)(12), (G)(12), 1125(B), 1189(3),  
19 1270, 1271(A) and (B), 1272, 1273, 1276, 1515(B)(VI), 1517(A), 1518(B), 1519,  
20 1520(B)(introductory paragraph) and (C), and 1522(B) are hereby amended and reenacted  
21 and Children's Code Articles 1515(A)(7) and 1517(E) are hereby enacted to read as follows:

1 Art. 1122. Contents of surrender; form

2 \* \* \*

3 B. The Act of Surrender shall also recite the following declarations:

4 \* \* \*

5 (8) That the parent has been informed of the provisions of the voluntary  
6 registration law, as provided for in Chapter 15 of Title XII, whereby contact can be  
7 established between the parent and the surrendered child upon the child's reaching  
8 majority if both the surrendering parent and the adopted person register and fulfill  
9 all registration requirements.

10 \* \* \*

11 F. The Act of Surrender for a surrendering mother shall contain the  
12 requirements in substantially the following form:

13 \* \* \*

14 (12) Affiant declares that she has been informed of the provisions of the  
15 voluntary registration law, whereby contact may be established with the surrendered  
16 child upon the child's reaching the age of eighteen years if both the surrendering  
17 parent and the adopted person register and fulfill all registration requirements.

18 \* \* \*

19 G. The Act of Surrender for a surrendering father shall contain the  
20 requirements in substantially the following form:

21 \* \* \*

22 (12) Affiant declares that he has been informed of the provisions of the  
23 voluntary registration law, whereby contact may be established with the surrendered  
24 child upon the child's reaching the age of eighteen years if both the surrendering  
25 parent and the adopted person register and fulfill all registration requirements.

26 \* \* \*

1 Art. 1125. Statement of family history; contents; form

2 \* \* \*

3 B. The Statement of Family History form shall be substantially as follows:

4 STATEMENT OF FAMILY HISTORY

5	Child's Biological MOTHER	Child's Biological FATHER
6 Age		
7 Height		
8 Weight		
9 Hair color		
10 Eye color		
11 Complexion		
12 Body build		
13 Education-last		
14 grade completed/		
15 degree received		
16 Right/left handed		
17 Occupation		
18 Talents		
19 Religion		
20 Race		
21 Ethnicity/		
22 Nationality		
23 Native		
24 American/Tribal		
25 Affiliation, if		
26 applicable		
27 Other		

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Yes	No	Diseases/conditions	If yes, <ul style="list-style-type: none"> <li>• state relationship to child [biological parent (mother or father), sibling (full or half), grandparent (paternal or maternal), great grandparent (paternal or maternal), aunt/uncle/cousin (paternal or maternal)];</li> <li>• state specific condition;</li> <li>• age of onset;</li> <li>• treatment (medication, surgery, etc.); and</li> <li>• outcome.</li> </ul>
		Cancer	
		Heart disease	
		Stroke	
		High blood pressure	
		Diabetes	
		Kidney disease	
		Liver disease	
		Digestive disorders	
		Respiratory disorders	
		Blood disease (sickle cell, hemophilia, etc.)	
		Glandular disturbances (thyroid, adrenal, growth, etc.)	
		Neurological & muscular disorders (multiple sclerosis, muscular dystrophy, Tay-Sachs, etc.)	
		Arthritis ( <u>juvenile</u> , <u>rheumatoid</u> , <u>gout</u> , <u>hammertoe</u> , etc.)	
		Epilepsy, seizures, convulsions	

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	Allergies (drugs, food, other)	
	Asthma	
	Vision problems/blindness	
	Hearing problems/deafness	
	Speech disorders	
	Dental problems/braces	
	Birth defects (cleft palate, missing digit, club foot, etc.)	
	Curvature of spine	
	Headaches/migraines	
	Alcoholism	
	Substance abuse	
	Eating disorders/obesity	
	Mental illness (schizophrenia, bipolar, depressive, etc.)	
	Mental retardation–non-injury (PKU, Down's Syndrome, etc.)	
	Learning disabilities (ADD, ADHD, etc.)	
	Multiple births	
	Miscarriages, stillbirths, neonatal deaths	
	SIDS	
	Rh Factor	

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		HIV ( <del>birth</del> <u>biological</u> mother only)	
		Venereal disease during pregnancy ( <del>birth</del> <u>biological</u> mother only)	
		Other: specify	
		Other: specify	
		Other: specify	
		<u>Prenatal History</u>	
	<u>Yes</u>	<u>No</u>	<u>If yes,</u> • <u>state type;</u> • <u>state amount; and</u> • <u>state during what months of pregnancy.</u>
		<u>Prescription medication</u>	
		<u>Over the counter medication</u>	
		<u>Alcohol</u>	
		<u>Tobacco</u>	
		<u>Other Drugs</u>	

9 Are the parents of the child biologically related to each other? Yes \_\_\_\_\_ No \_\_\_\_\_

10 If yes what is the biological relationship? \_\_\_\_\_

11 Has the minor child had the following immunizations?

12 YES NO

YES NO

13 ( ) ( ) Birth-2 mo. Hepatitis (Hep) B ( ) ( ) 12-15 mo. Hib, MMR # 1

14 ( ) ( ) 1 – 4 mo. Hep B ( ) ( ) 12-18 mo. Var (chickenpox)

15 ( ) ( ) 2 mo. DTaP, IPV, Hib, ( ) ( ) 15-18 mo. DTaP

1 ( ) ( ) 4 mo. DTaP, IPV, Hib, ( ) ( ) 4-6 yrs. MMR # 2, DTaP,  
2 OPV

3 ( ) ( ) 6 mo. DTaP, Hib, ( ) ( ) 11-12 yrs. MMR # 2, Var,  
4 Hep B

5 ( ) ( ) 6-18 mo. Hep B, IPV ( ) ( ) 11-16 yrs. Td (tetanus,  
6 diphtheria)

7 Has the minor child had the following illnesses?

8 YES NO YES NO

9 ( ) ( ) Pertussis (P) (Whooping Cough) ( ) ( ) Rheumatic Fever

10 ( ) ( ) Rubella (R) (Measles) ( ) ( ) Tonsillitis

11 ( ) ( ) Mumps (M) ( ) ( ) Convulsions

12 ( ) ( ) Chicken Pox (Var) ( ) ( ) Asthma

13 ( ) ( ) Rotavirus (Rv) ( ) ( ) Polio (IPV)

14 ( ) ( ) Scarlet Fever ( ) ( ) Allergies, specify

15 ( ) ( ) Diphtheria (D) \_\_\_\_\_

16 ( ) ( ) ~~Operations~~ Surgery, operations, specify \_\_\_\_\_

17 ( ) ( ) Glandular Disturbances, specify \_\_\_\_\_

18 ~~Has~~ Does the minor child ~~had~~ have or has he had any other serious illnesses or medical  
19 conditions?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20 \* \* \*

21 Art. 1189. Grounds for disclosure

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

24 \* \* \*

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

7 \* \* \*

8 Art. 1270. Legislative findings; purpose; release of information

9 A. Adoption is based upon the legal termination of parental rights and  
10 responsibilities of ~~birth~~ biological parents and the creation of ~~such a~~ the relationship  
11 of parent and child between an adopted person and his adoptive parents. These legal  
12 and social premises underlying adoption shall be maintained.

13 (1) The legislature recognizes that some adults, ~~who were~~ adopted as children,  
14 have a strong interest in identifying information about their ~~birth~~ biological parents  
15 or biological siblings, or both, while other such adult adopted persons have no such  
16 interest.

17 (2) The legislature further recognizes that some ~~birth~~ biological parents and  
18 biological siblings have a strong interest in identifying information about their  
19 biological children or siblings who were surrendered for adoption, while others have  
20 no such interest.

21 (3) The legislature also recognizes the potential for special situations whereby  
22 other adoptive and biological relatives of an adopted person, such as a parent, sibling,  
23 or descendant, or his parent if a minor, of a deceased biological parent and an  
24 adoptive parent of a minor or deceased adopted person as well as a descendant of a  
25 deceased adopted person, or his parent if a minor, may have a need for identifying  
26 information.

27 (4) The legislature fully recognizes the right to privacy and confidentiality of  
28 ~~birth~~ biological parents whose children were adopted, ~~of~~ siblings, ~~and of~~ adopted  
29 persons, ~~as well as that of~~ and the adoptive family.



1           B. There is hereby created within the office of community services of the  
2 Department of Social Services a voluntary registry for the matching of adopted  
3 persons, or an adoptive parent of a minor or deceased adopted person, or a descendant  
4 of a deceased adopted person, or his parent if a minor, and biological parents or  
5 siblings, or both, or a parent, sibling, or descendant, or his parent if a minor, of a  
6 deceased biological parent. The purpose of this registry shall be to facilitate  
7 voluntary contact between the adopted person, or an adoptive parent of a minor or  
8 deceased adopted person, or the descendant of a deceased adopted person, or his  
9 parent if a minor, and ~~the a biological parents parent or siblings~~ biological sibling, or  
10 both, or a parent, sibling, or descendant, or his parent if a minor, of a deceased  
11 biological parent.

12           C. The use of the registry shall be limited to the adopted person who is at least  
13 eighteen years of age, the biological mother, the biological father, parents or siblings  
14 or a descendant, or his parent if a minor, of a deceased biological parent, an adoptive  
15 parent of a minor or deceased adopted person or a descendant of a deceased adopted  
16 person, or his parent if a minor, and any biological sibling who is at least eighteen  
17 years of age.

18           D. No registration by an adopted person shall be permitted until all biological  
19 siblings who were adopted by the same adoptive parent or parents have reached the  
20 age of eighteen years.

21           E. The ~~registry office of community services~~ shall not release any registry  
22 ~~information from adoption records in violation of the privacy or confidentiality rights~~  
23 ~~of a biological parent who has not authorized the release of any information of this~~  
24 Chapter.

25           F. The ~~registry office of community services~~ shall confirm for an adopted  
26 person the fact of his adoption and identify the court in which the adoption was  
27 finalized and the agency, firm, or lawyer facilitating the adoption when that  
28 information is known ~~by the department.~~ To receive this information, the adopted

1 person shall be eighteen years of age or older, provide proof of identity, and submit  
2 ~~the a written request in writing, and provide proof of identity.~~

3 Art. 1271. Registration

4 A. Registration shall be by affidavit filed with the office of community  
5 services, ~~which.~~ That office shall develop and furnish standardized affidavit forms  
6 appropriate for effecting the purpose of this Chapter.

7 B. Registration shall be effective upon filing and shall remain effective  
8 ~~indefinitely after filing, unless until~~ withdrawn by the ~~affiant by~~ affiant's written  
9 request.

10 \* \* \*

11 Art. 1272. Matching; verification by original documents; mandatory counseling

12 A. The office of community services shall regularly monitor registrant  
13 affidavits, utilizing computer services if necessary, to determine whether ~~or not~~  
14 affidavits have been filed by ~~an adopted person and his biological parents or~~  
15 ~~biological sibling~~ a registrant as enumerated in Article 1270.

16 B. If there appears to be a match between ~~an adopted person and a biological~~  
17 ~~parent or biological sibling,~~ current registrants, the office of community services shall  
18 notify the ~~respective parties~~ registrants of the match and ~~that each of them must~~  
19 ~~participate in~~ of the counseling requirements of Paragraph D of this Article. Upon  
20 ~~satisfaction of these~~ verification that each registered person has met the requirements  
21 ~~and provided none of the parties subsequently withdraws his registration,~~ the office  
22 of community services shall provide the details of the match to the licensed clinical  
23 ~~social worker, or adoption agency~~ social worker acting in the employ of a licensed  
24 adoption agency, licensed professional counselor, licensed psychologist, licensed  
25 psychiatrist, or licensed marriage and family therapist that provided counseling for  
26 ~~the adopted person, and the social worker or agency~~ registrant, who shall then contact  
27 the registered and matched parties in a careful and confidential manner and give them  
28 the information necessary to contact each other.

1 C. If doubt exists that ~~the adopted person registered and the biological parents~~  
 2 ~~or biological sibling registered~~ any registrants are indeed biologically related, the  
 3 office of community services shall advise ~~the parties~~ them to file a motion with the  
 4 court having jurisdiction and request permission to open the sealed adoption record  
 5 for verification. Such verification shall be a compelling reason, within the meaning  
 6 of Article 1189, to open the adoption records for the limited purpose of verification.

7 D. Each ~~party~~ registrant shall participate in not less than one hour of  
 8 counseling with a licensed clinical social worker, a social worker acting in the employ  
 9 of a licensed adoption agency, a licensed professional counselor, a licensed  
 10 psychologist, medical psychologist, a licensed psychiatrist, or a licensed marriage and  
 11 family therapist before they will be put ~~into~~ in contact with one another.

12 Art. 1273. Confidentiality

13 Documents filed with the office of ~~human development~~ community services,  
 14 pursuant to this Chapter, shall be confidential and shall not be available for  
 15 inspection, except under the procedures set forth in this Chapter.

16 \* \* \*

17 Art. 1276. Disclosure of death of ~~birth~~ biological parents and adopted persons

18 ~~In any case where~~ When one or both of the ~~birth~~ biological parents are  
 19 deceased, or ~~where~~ when the adopted person is deceased and ~~when~~ this fact is known  
 20 by the voluntary registry or by the licensed adoption agency, firm, or lawyer which  
 21 originally placed the adopted person for adoption, this information shall be disclosed  
 22 to any person permitted to register pursuant to Article 1270 and who has registered  
 23 with the office of community services under the provisions of this Chapter, and the  
 24 registered persons shall then be afforded the option of deciding whether they still  
 25 desire to avail themselves of the contact opportunity provided through the voluntary  
 26 registry.

27 \* \* \*

1 Art. 1515. Petition; contents; form

2 A. A petition for voluntary transfer of custody shall set forth specifically:

3 \* \* \*

4 (7) Whether the Department of Social Services has recommended a petition  
5 for voluntary transfer of custody be filed.

6 B. The form for the petition shall be as follows:

7 \* \* \*

8 VI.

9 That petitioners desire this transfer of custody for the following reasons:

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_.

15 Has the Department of Social Services, office of community services, or child  
16 protective services recommended to you that this petition be filed?

17 \_\_\_\_\_

18 Yes No

19 If yes, state name of the Department of Social Services worker making the  
20 recommendation and the reasons for the recommendation with particularity.

21 If the department has recommended that this petition be filed, you have a right  
22 to counsel. Have you consulted with an attorney?

23 \_\_\_\_\_

24 Yes No

25 \* \* \*

1 Art. 1517. Notice; service; curator; reservation of rights

2 A. Notice of the proceedings, including, if applicable, the parents' right to an  
3 attorney in accordance with Paragraph E of this Article, shall be served on any parent  
4 or legal custodian who has not joined in the petition.

5 \* \* \*

6 E. If the Department of Social Services has recommended that the petition for  
7 voluntary transfer of custody be filed:

8 (1) It shall also be served with notice of the proceedings.

9 (2) The court may also order a report by the department concerning the safety  
10 and well-being of the child and of the circumstances leading the department to  
11 recommend that the custody of the child be transferred by the parent to some other  
12 individual.

13 (3) The court shall advise the parents and may advise the child, insofar as  
14 practicable, of the right to be represented by counsel and the right to have counsel  
15 appointed as provided in Chapter 4 of Title VI.

16 Comments-2010

17 (a) The source of Subparagraph (E)(3) is Article 625 (A)(4).

18 (b) The circumstances of the department's investigation will affect what  
19 information, if any, may be disclosed by any report or testimony by a department  
20 employee. If an investigation of a complaint has been deemed "justified", the child  
21 protection unit may seek an instanter order, a temporary restraining order or  
22 protective order, or simply refer the case to the district attorney for evaluation of  
23 whether a child in need of care petition should be filed. (Article 615(B)(1)-(3)). In  
24 those instances, information about the investigation will usually be released to the  
25 court as background which may clarify why a voluntary transfer of custody may have  
26 been recommended to the parent. In contrast, if the department has undertaken an  
27 investigation of a report of child abuse or neglect and has determined that the report  
28 is inconclusive or not justified, it may not report any information in any legal  
29 proceeding and its records are generally confidential. (Article 615(E)).

30 Art. 1518. Pretrial orders; contribution to costs; appointment of counsel

31 \* \* \*

32 ~~B. After giving the parent a reasonable opportunity to be heard, the court may~~  
33 ~~order that such parent shall contribute to the cost of the home study, examination, or~~  
34 ~~of the child's representation. Upon request of an indigent parent, the court shall~~

1 appoint counsel for the parent when the Department of Social Services has  
2 recommended that the petition for voluntary transfer be filed.

3 Art. 1519. Hearing

4 The petition shall be set for hearing on the record unless specifically waived  
5 by the court. If the Department of Social Services, office of community services, has  
6 recommended that the petition for voluntary transfer of custody be filed, a  
7 representative for the department shall testify at the hearing with particularity the  
8 reasons for the recommendation. Further, the department representative shall specify  
9 why a child in need of care petition should not be filed and shall testify regarding the  
10 preventative services offered by the department to the petitioner to prevent the  
11 transfer of custody.

12 Art. 1520. Judgment

13 \* \* \*

14 B. If the court grants the transfer of custody, the judgment shall order the  
15 transfer and recite such terms and conditions as required to protect the safety and  
16 secure the best interests of the child and shall also recite that all of the following:

17 \* \* \*

18 C. ~~In addition, if the order grants the transfer of custody, the judgment shall~~  
19 ~~order the transfer of custody and recite such terms and conditions as requested by the~~  
20 ~~parties. After giving the parent a reasonable opportunity to be heard, the court may~~  
21 ~~order that the parent contribute to the cost of the home study, examination, or of the~~  
22 ~~representation of the child.~~

23 Comment-2010

24 The source of Paragraph C is Article 1518(B) which has been moved here  
25 without change.

26 \* \* \*

1           Art. 1522. Modification

2   \*       \*       \*

3                    B. If the parties jointly desire to dismiss the proceedings and return the custody  
4           of the child to the parents, the court ~~should~~ shall be notified. ~~A~~ The court ~~so notified~~  
5           ~~shall then~~ may render an ex parte dismissal of the proceedings, or it may order a  
6           hearing to be set for review of the proposed modification.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_