

Regular Session, 2011

HOUSE CONCURRENT RESOLUTION NO. 85

BY REPRESENTATIVE BARROW

A CONCURRENT RESOLUTION

To request the Louisiana State Law Institute to study the laws regarding adoptions and make recommendations relative to establishing consistent but separate procedures and laws for all types of adoptions, and also recommendations relative to adoption laws and procedures regarding the obtaining of information by an adopted person concerning their biological parents.

WHEREAS, the Children's Code provides for the various types of adoptions in Louisiana; and

WHEREAS, the Children's Code uses many cross references to the private adoption procedures that are not necessarily consistent with agency or intrafamily adoptions; and

WHEREAS, although each type of adoption serves a different purpose, it is important that the laws and procedures be consistent, to the extent possible, but shall be organized separately in the Children's Code for each type of adoption; and

WHEREAS, Louisiana Civil Code Article 199 presently states that, "Upon adoption, the adopting parent becomes the parent of the child for all purposes and the filiation between the child and his legal parent is terminated, except as otherwise provided by law. The adopted child and his descendants retain the right to inherit from his former legal parent and the relatives of that parent."; and

WHEREAS, Louisiana Civil Article 200 further presently states that, "The adoption of minors is also governed by the provisions of the Children's Code."; and

WHEREAS, requirements for adoption proceedings, confidentiality of adoption records, and procedures for disclosure to adopted persons of inheritance, medical, and other adoption record information are presently provided in Louisiana law and set forth in numerous statutes and code articles, including R.S. 40:72, 73, 74, 75, 76, 77, 78, and 79, and Children's Code Articles 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190,

1191, 1192, 1269.1, 1269.2, 1269.3, 1269.4, 1269.5, 1269.6, 1269.7, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, and 1278; and

WHEREAS, Louisiana presently provides for the confidentiality of adoption records and information generally, except as may otherwise be disclosed pursuant to law; and

WHEREAS, Louisiana further presently provides a voluntary registration process for contact and the disclosure of information between adopted persons and their biological parents, stating in Children's Code Article 1270 in part that, "Adoption is based upon the legal termination of parental rights and responsibilities of biological parents and the creation of the relationship of parent and child between an adopted person and his adoptive parents. These legal and social premises underlying adoption shall be maintained. (1) The legislature recognizes that some adults, adopted as children, have a strong interest in identifying information about their biological parents or biological siblings, or both, while other such adult adopted persons have no such interest. (2) The legislature further recognizes that some biological parents and biological siblings have a strong interest in identifying information about their biological children or siblings who were surrendered for adoption, while others have no such interest. (3) The legislature also recognizes the potential for special situations whereby other adoptive and biological relatives of an adopted person, such as a parent, sibling, or descendant, or his parent if a minor, of a deceased biological parent and an adoptive parent of a minor or deceased adopted person as well as a descendant of a deceased adopted person, or his parent if a minor, may have a need for identifying information. (4) The legislature fully recognizes the right to privacy and confidentiality of biological parents whose children were adopted, siblings, adopted persons, and the adoptive family."; and

WHEREAS, the Louisiana State Law Institute should study present Louisiana law, including the statutes and code articles listed above, and advise the Legislature of Louisiana regarding whether adopted persons should get information such as a copy of their original birth certificate or other confidential adoption information without the necessity of a legal proceeding or the showing of a compelling reason; and

WHEREAS, such study shall include review and discussion of present procedures in Louisiana and in other states for the obtaining of information by an adopted person concerning their biological parents, the use of contact preference and other forms and voluntary registration procedures for contact and the communication of information between

adopted persons and their biological parents, the rights of all parties in light of present Louisiana law, and whether a balancing of interests as presently exists in Louisiana law should be maintained or modified, the reasons therefore, and any recommendations for revising present Louisiana law in the form of proposed legislation to effect such recommendations in a statutorily consistent and coordinated manner.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby request the Louisiana State Law Institute to study the laws regarding adoptions and make recommendations relative to establishing consistent but separate procedures and laws for all types of adoptions to the Legislature of Louisiana on or before February 1, 2012.

BE IT FURTHER RESOLVED that such study shall include review of present adoption law and recommendations regarding the obtaining of information by an adopted person concerning their biological parents.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE