SLS 12RS-316 ORIGINAL

Regular Session, 2012

SENATE BILL NO. 152

BY SENATOR BROOME (On Recommendation of the Louisiana State Law Institute)

CHILDREN'S CODE. Provides relative to the presence of the child and caregiver in certain hearings involving foster care and parental rights proceedings. (8/1/12)

AN ACT

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To amend and reenact Children's Code Articles 623(B) and (C), 661(B),(C) and (D), 675(B)(3),(4), and (5), 679(C) and (D), 695(Heading) and (A), (B), and (C), 696(B), 702(J), 705, 706(B), 776(B), 853, 908(Heading) and (C), 1015(3)(k), 1030(2), 1211(Introductory Paragraph) and to enact Children's Code Articles 623(D) and (E), 661(E), 675(B)(6), 679(E) and (F), 695(D), 696(C), 706(C), and 908(D), and to repeal Children's Code Article 730(10), relative to continuous revision of the Children's Code; to provide relative to notice and who has the right to be heard at a continued custody Child in Need of Care ("CINC") hearing; to provide for who shall be present at an adjudication hearing; to provide for the purpose and contents of the case plan; to provide for who receives notice of and who may be present at the disposition hearing; to provide for who shall receive notice of the right to appear and be heard at a case review hearing; to provide for the rights of the parties at a case review hearing; to provide for permanency hearings; to provide for notice of, the right to be heard, and the rights of the parties at permanency hearings; to provide for permanency planning reports; to provide for the effect of a parent's non-appearance at a delinquency hearing; to provide for the juvenile's care and treatment by the

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department; to provide for the grounds for termination of parental rights; to provide for suspension of the right of voluntary surrender of parental rights by initiation of a termination proceeding; to provide for the final decree at an adoption hearing; to provide for the grounds upon which an allegation that a family is a Family in Need of Services (or "FINS") must be based; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Articles 623(B) and (C), 661(B), (C) and (D), 675(B)(3),(4),and (5), 679(C) and (D), 695(Heading) and (A), (B), and (C), 696(B), 702(J), 705, 706(B), 776(B), 853, 908(Heading) and (C), 1015(3)(k), 1030(2), 1211(Introductory Paragraph) and to enact Children's Code Articles 623(D) and (E), 661(E), 675(B)(6), 679(E) and (F), 695(D), 696(C), 706(C), and 908(D) are hereby amended and reenacted to read as follows.

Art. 623. Notice; right to be heard

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B. The notice shall state the day date, time, and place of the hearing and inform the recipient of his right to attend and be heard.

C. A child twelve years of age or older shall be present in court unless his presence is waived by the court upon motion of the child's counsel. A child below the age of twelve years shall be present in court upon the request of counsel for the child or the court. If the child is present in court, he may choose to testify as to his wishes, and the court shall consider his testimony in the matter. Any testimony given by a child may be taken by a videotaped interview or by closed-circuit television, as authorized by Title 3, Chapter 8 of this Code, or by an in-chambers conference attended only by the judge and court reporter and by counsel for the child, for the petitioner, and for the parents.

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

E. The court shall solicit and consider information regarding th	<u>e care</u>
and treatment of the child from any foster parent, pre-adoptive pare	nt, or
relative providing care for the child who appears for the hearing.	

Comments - 2012

- (a) Paragraph C complies with Louisiana Supreme Court Rule 33, Part III, Subpart II, Section 1, Standard 12, which states that, in child abuse and neglect cases, "[t]he child should be present at significant hearings, regardless of whether the child will testify, except when counsel affirmatively waives the child's presence . . [and] [c]ounsel for a child should decide whether to call the child as a witness considering the child's need or desire to testify." Article 624(E) allows the child and the parents to "be heard on their own behalf," implying their presence. It also reflects the growing national trend for states to grant children the right to be present in court. *A.B.A. Ctr on Youth and the Law, Bar-Youth Empowerment Project (2009)*. These changes are consistent with the A.B.A. Model Act Governing the Representation of Children in Abuse Neglect, and Dependency Proceedings adopted in August, 2011.
- (b) Paragraph E complies with the Safe and Timely Interstate Placement of Foster Children Act of 2006, that requires that "the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child." 42 U.S.C. 675(5) (G) (emphasis added). In particular, it clarifies the foster parent or caretaker's right to be heard. It also emphasizes the role of the child's daily caretaker and the insight that the caretaker can provide. See Article 695.

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Art. 661. Presence at adjudication hearing; exclusion of witnesses

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B. A child twelve years of age or older shall be present in court unless his presence is waived by the court upon motion of the child's counsel. A child below the age of twelve years shall be present in court upon the request of counsel for the child or the court. If the child is present in court, he may choose to testify as to his wishes, and the court shall consider his testimony in the matter. Any testimony given by a child may be taken by a videotaped interview or by closed-circuit television, as authorized by Title 3, Chapter 8 of this Code, or by an in-chambers conference attended only by the judge and court reporter and by counsel for the child, for the petitioner, and for the parents.

B. C. The court shall not admit any other person into the courtroom unless the court has determined that the person has a proper interest in or is necessary to the proceedings.

1	C. $D.$ On its own motion the court may, and on the request of a party the
2	court shall, order that the witnesses, other than parties, be excluded from the
3	courtroom or from a place where they can see or hear the proceedings, and refrain
4	from discussing the facts of the case with anyone other than counsel in the case. In
5	the interest of justice, the court may exempt any witness from its order.
6	$\overline{D}$ . $\overline{E}$ . Prior to the commencement of the hearing, the court shall determine
7	whether it is in the child's best interest for the child to remain in the courtroom
8	during the testimony of the witnesses.
9	Comments - 2012
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11 12	(a) See Comment (a) to Article 623 for Paragraph B's compliance with Louisiana Supreme Court Rule 33, Part III, Subpart II, Section 1, Standard 12.
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14	(b) Paragraph A of this Article already allows the child to be present at the
15	adjudication hearing, and Paragraph E (formerly Paragraph D) provides the
16	appropriate safeguards for restricting the child from the courtroom if the court
17	believes the child's presence will have an adverse effect on him. This addition serves
18	to accommodate and clarify the rights of the child. It also reflects the growing
19	national trend for states to grant children the right to be present in court. A.B.A. Ctr
	on Youth and the Law, Bar-Youth Empowerment Project (2009). These changes are
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21 22	consistent with the A.B.A. Model Act Governing the Representation of Children in
22	Abuse Neglect, and Dependency Proceedings adopted in August, 2011.
23	* * *
24	Art. 675. Case plan purpose; contents
25	* * *
26	B. The case plan shall at least include all of the following:
27	* * *
28	(3) For a child fifteen years of age or older the plan shall include a
29	written, individualized, and thorough transitional plan, developed in
30	collaboration with the child and any agency, department, or individual
31	assuming his custody, care, or responsibility.
32	(a) The transitional plan shall identify the programs, services, and
33	facilities that will be used to assist the child in achieving a successful transition.
34	The transitional plan shall address the needs of the child, including but not
35	limited to education, health, permanent connections, living arrangements, and,

if appropriate, independent living skills and employment.

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(b) The department shall ensure that all records in its files relevant to

securing needed services in the community in which the child will live shall be

immediately transmitted to the appropriate service provider.

(3) (4) Documentation of the efforts the agency is making to safely return the child home or to finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan. For children whose permanent plan is adoption or placement in another permanent home, this documentation shall include child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, to facilitate orderly and timely in-state and interstate placements. For children whose permanent plan is guardianship, the documentation shall include the facts and circumstances supporting guardianship, including the reasons that the plan is in the best interest of the child and that reunification with a parent and adoption are not appropriate permanent plans. The documentation shall also address the suitability and commitment of the proposed guardian to offer a wholesome, stable home for the child throughout minority.

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

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

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## Comments - 2012

(a) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) requires states during the 90-day period immediately prior to the date a child in custody attains eighteen years of age to "provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child [and] includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work

force supports and employment services." In accordance with best practices, the State of Louisiana has by policy adopted the lower age of fifteen years. The Patient Protection and Affordable Care Act of 2010 (P.L. 111-148) further mandates the provision of information about health care treatment decision-making and specific health care options, including the option to execute a health care power of attorney, health care proxy, or other similar document recognized under state law.

- (b) The child's caseworker and other representatives are expected to assist and support the child in developing the personal transitional plan. The child's caregivers should also assist and support the child in developing the plan. Other community and state agencies involved with the child currently or prospectively should also contribute to plan development. Such agencies may include local educational authorities, the Office of Juvenile Justice, the Department of Health and Hospitals, and other child-serving organizations at the community or state level.
- (c) The common transitional plan form developed and used by the Department of Children and Family Services and by Youth Services, Office of Juvenile Justice, is available on the website of each agency.

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Art. 679. Notice; presence at disposition

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- C. The child need not be present when the court enters a judgment of disposition. A child twelve years of age or older shall be present in court unless his presence is waived by the court upon motion of the child's counsel. A child below the age of twelve years shall be present in court upon the request of counsel for the child or the court. If the child is present in court, he may choose to testify as to his wishes, and the court shall consider his testimony in the matter. Any testimony given by a child may be taken by a videotaped interview or by closed-circuit television, as authorized by Title 3, Chapter 8 of this Code, or by an in-chambers conference attended only by the judge and court reporter and by counsel for the child, for the petitioner, and for the parents.
- D. The department shall give notice of the right to appear at the disposition hearing to any foster parent, pre-adoptive parent, or relative providing care for the child.
- D. E. If a foster parent, pre-adoptive parent, adoptive parent, or relative providing care for the child fails to appear at the disposition hearing, the department shall report to the court whether notice was given, or, if not, what diligent efforts were made to locate and notify the absent person. The court may permit the hearing

to be held in the person's absence.

F. The court shall solicit and consider information regarding the care and treatment of the child from any foster parent, pre-adoptive parent, or relative providing care for the child who appears for the hearing.

Comments - 2012

- (a) See Comment (a) to Article 623 for Paragraph C's compliance with Supreme Court Rule 33, Part III, Subpart II, Section 1, Standard 12.
- (b) Additionally, Article 680 requires the court to consider any and all evidence presented by the child during the disposition hearing, implying the child's presence. It also reflects the growing national trend for states to grant children the right to be present in court. *A.B.A. Ctr on Youth and the Law, Bar-Youth Empowerment Project (2009).* These changes are consistent with the A.B.A. Model Act Governing the Representation of Children in Abuse Neglect, and Dependency Proceedings adopted in August, 2011.
- (c) See Comment (b) to Article 623 for Paragraph D's compliance with the Safe and Timely Interstate Placement of Foster Children Act of 2006, 42 U.S.C. 601 et seq., P.L. 105-89.
- (d) See Comment (b) to Article 623 for Paragraph F's compliance with the Safe and Timely Interstate Placement of Foster Children Act of 2006, that requires that "the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, *and a right to be heard in*, any proceeding to be held with respect to the child." 42 U.S.C. 675(5)(G) (emphasis added). In particular, it clarifies the foster parent or caretaker's right to be heard. It also emphasizes the role of the child's daily caretaker and the insight that the care taken can provide. See Article 695.

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## Art. 695. Notice; foster parents, pre-adoptive parents, relatives providing care;

right to be heard

- A. The department shall give notice of the right to appear at each case review hearing to any foster parent, pre-adoptive parent, adoptive parent, or relative providing care for the child.
- B. The notice shall state the day date, time, and place of the case review hearing and the recipient's right to attend and be heard.
- C. If a foster parent, pre-adoptive parent, adoptive parent, or relative providing care for the child fails to appear at a case review hearing, the department shall report to the court whether notice was given or, if not, what diligent efforts were made to locate and notify the absent person. The court may permit the hearing

1 to be held in the person's absence. 2 D. The court shall solicit and consider information regarding the care and treatment of the child from any foster parent, pre-adoptive parent, or 3 relative providing care for the child who appears for the hearing. 4 Comment - 2012 5 See Comment (b) to Article 623 for Paragraph D's compliance with the Safe 6 and Timely Interstate Placement of Foster Children Act of 2006. It also emphasizes 7 the role of the child's daily caretaker and the insight he can provide. 8 9 Art. 696. Rights of parties 10 11 B. A child twelve years of age or older shall be present in court unless his presence is waived by the court upon motion of the child's counsel. A child 12 below the age of twelve years shall be present in court upon the request of 13 14 counsel for the child or the court. If the child is present in court, he may choose to testify as to his wishes, and the court shall consider his testimony in the 15 matter. Any testimony given by a child may be taken by a videotaped interview 16 or by closed-circuit television, as authorized by Title 3, Chapter 8 of this Code, 17 or by an in-chambers conference attended only by the judge and court reporter 18 and by counsel for the child, for the petitioner, and for the parents. 19 20 B. C. Any party who has received notice of the case review hearing and does 21 not appear shall be deemed to have waived his right to be present. 22 Comments - 2012 23 (a) See Comment (a) to Article 623 for Paragraph B's compliance with 24 Louisiana Supreme Court Rule 33, Part III, Subpart II, Section 1, Standard 12. 25 (b) Additionally, the rights provided to a party in Paragraph A of this Article 26 require a presumption that the child be present during the hearing. It also reflects the 27 growing national trend for states to grant children the right to be present in court. 28 29 A.B.A. Ctr on Youth and the Law, Bar-Youth Empowerment Project (2009). These changes are consistent with the A.B.A. Model Act Governing the Representation of 30 Children in Abuse, Neglect, and Dependency Proceedings adopted in August, 2011. 31 32 33 Art. 702. Permanency hearing

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1	J. In the case of a child who has attained age sixteen fifteen years of age or
2	older, the hearing shall determine the services needed to assist the child to make the
3	transition from foster care to independent living include a review of the transitional
4	plan developed with the child and the agency in accordance with Article 675
5	<u>B(3).</u>
6	Comment - 2012
7	See Comment to Children's Code Article 675.
8	* * *
9	Art. 705. Notice; right to be heard
10	A. The department shall give notice of the right to appear at each
11	permanency hearing to any foster parent, pre-adoptive parent, adoptive parent, or
12	relative providing care for the child.
13	B. The notice shall state the day date, time, and place of the permanency
14	hearing and the recipient's right to attend and be heard.
15	C. If a foster parent, pre-adoptive parent, adoptive parent, or relative
16	providing care for the child fails to appear at a permanency hearing, the department
17	shall report to the court whether notice was given or, if not, what diligent efforts
18	were made to locate and notify the absent person. The court may permit the hearing
19	to be held in the person's absence.
20	D. The court shall solicit and consider information regarding the care
21	and treatment of the child from any foster parent, pre-adoptive parent, or
22	relative providing care for the child who appears for the hearing.
23	Comment - 2012
24 25 26 27	See Comment (b) to Article 623 for Paragraph D's compliance with the Safe and Timely Interstate Placement of Foster Children Act of 2006. In particular, it clarifies the foster parent or caretaker's right to be heard. It also emphasizes the role of the child's daily caretaker and the insight that he can provide. See Article 695.
28	Art. 706. Rights of parties
29	* * *
30	B. A child twelve years of age or older shall be present in court unless
31	his presence is waived by the court upon motion of the child's counsel. A child

1	below the age of twelve years shall be present in court upon the request of
2	counsel for the child or the court. If the child is present in court, he may choose
3	to testify as to his wishes, and the court shall consider his testimony in the
4	matter. Any testimony given by a child may be taken by a videotaped interview
5	or by closed-circuit television, as authorized by Title 3, Chapter 8 of this Code,
6	or by an in-chambers conference attended only by the judge and court reporter
7	and by counsel for the child, for the petitioner, and for the parents.
8	$\mathbf{B}$ . $\mathbf{C}$ . Any party who has received notice of the dispositional review hearing
9	and does not appear shall be deemed to have waived his right to be present.
10	Comments - 2012
11 12 13	(a) See Comment (a) to Article 623 for Paragraph B's compliance with Louisiana Supreme Court Rule 33, Part III, Subpart II, Section 1, Standard 12.
13 14 15 16 17 18 19	(b) Additionally, the rights provided to a party in Paragraph A of this Article require a presumption that the child be present during the hearing. It also reflects the growing national trend for states to grant children the right to be present in court. <i>A.B.A. Ctr on Youth and the Law, Bar-Youth Empowerment Project (2009).</i> These changes are consistent with the A.B.A. Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings adopted in August, 2011.
20	* * *
21	Art. 776. Permanency planning reports
22	* * *
23	B. When the department Department of Public Safety and Corrections is the
24	custodian, the provisions of Chapter 15 of Title VI shall be applicable only as
25	provided in Article 907 and Article 908(C).
26	Comments - 2012
27 28 29 30 31 32	(a) The development of a transitional plan in collaboration with a child fifteen years of age or older transitioning from foster care to independent living was mandated by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). Inclusion of specific health care options in the plan is mandated by the Patient Protection and Affordable Care Act of 2010 (P.L. 111-148).
33 34 35	(b) The transitional plan form developed and used by the Department of Children and Family Services and by Youth Services, Office of Juvenile Justice is available on the agencies' websites.
36	* * *
37	Art. 853. Effect of nonappearance by a parent

1 If it appears from the record that the parent has been served in accordance 2 with Article 849 or 852 and summoned to any hearing, or cannot be found, and the 3 parent fails to appear, the hearing may be held in the parent's absence. Should the court decide to proceed, it may appoint a Court Appointed Special Advocate in 4 accordance with Article 424 for the child. The court shall appoint counsel for the 5 6 child if neither parent appears. 7 8 Art. 908. Care and treatment by Department 9 10 C. At least six months prior to the release of the child, the department 11 shall prepare a written, individualized, and thorough transitional plan 12 developed in collaboration with the child and any agency or department 13 assuming his custody, care, or responsibility. (1) The plan shall identify the programs, services, and facilities that will 14 be used to assist the child in achieving a successful release from the 15 department's custody. 16 (2) A copy of the transitional plan shall be provided to the court, counsel 17 for the child, and the district attorney. 18 19 (3) The transitional plan shall address the needs of the child, including but not limited to education, health, permanent connections, living 20 21 arrangements, independent living skills, and employment. (4) The department shall ensure that all records in its files relevant to 22 securing needed services in the community in which the child will live shall be 23 24 immediately transmitted to the appropriate service provider. **<u>D.</u>** The court shall not divide legal and physical custody of a child when 25 assigning custody to the department in accordance with this Article or in accordance 26 27 with any other statute or provision of law. Comments - 2012 28 29 (a) Transition plans were originally required only for youth who had been

adjudicated delinquent for an offense listed in Article 897.1. Transitional plans are

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1 2	now mandated for all youth in the custody of the Office of Juvenile Justice.
3 4 5	(b) The transitional plan form developed and used by the Department of Children and Family Services and by Youth Services, Office of Juvenile Justice, is available on the agencies' websites.
6	* * *
7	Art. 1015. Grounds
8	The grounds for termination of parental rights are:
9	* * *
10	(3) Misconduct of the parent toward this child or any other child of the
11	parent or any other child in his household which constitutes extreme abuse, cruel and
12	inhuman treatment, or grossly negligent behavior below a reasonable standard of
13	human decency, including but not limited to the conviction, commission, aiding or
14	abetting, attempting, conspiring, or soliciting to commit any of the following:
15	* * *
16	(k) The parent's parental rights to one or more of the child's siblings have
17	been terminated due to neglect or abuse, and prior attempts to rehabilitate the parent
18	have been unsuccessful, and the court has determined pursuant to Article 672.1,
19	that current attempts to reunite the family are not required.
20	* * *
21	Art. 1030. Suspension of right of voluntary surrender of parental rights by initiation
22	of termination proceeding.
23	Once a petition to terminate parental rights has been filed, the parent is
24	thereafter without authority to execute an act of surrender or otherwise to affect the
25	custody of the child except:
26	* * *
27	(2) The parent may consent to a judgment terminating his parental rights as
28	provided in Article <del>1033</del> <u><b>1025.2</b></u> .
29	* * *
30	Art. 1211. Final decree at first hearing
31	Notwithstanding Article 1216, upon the consideration of the factors

enumerated in Article 1208(B), the court may render a final decree of private agency
adoption at the first hearing without the necessity of first entering an interlocutory
decree, if either.

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The original instrument and the following digest, which constitutes no part

of the legislative instrument, were prepared by Julie J. Baxter.

Section 2. Children's Code Article 730(10) is hereby repealed in its entirety.

## **DIGEST**

<u>Present law</u> (Ch.C. Art. 623) in the Children's Code provides for who shall receive notice and who has a right to be heard at Child in Need of Care (CINC) hearings.

<u>Proposed law</u> retains <u>present law</u> and also provides for when the child shall be present and authorizes the child to testify and specifies how he may testify. Also provides that the court shall solicit and consider information provided by certain individuals who appear at the hearing.

<u>Present law</u> (Ch.C. Art.661) provides for who shall and shall not be present at an adjudication hearing.

<u>Proposed law</u> retains <u>present law</u> and also provides for when the child shall be present and authorizes the child to testify and specifies how he may testify.

<u>Present law</u> (Ch.C. Art. 675) provides for the purpose and content of the case plan for transitioning to placement.

<u>Proposed law retains present law and also provides specificity for the plan of a child 15 years or older and specifies who shall help develop the plan. Further provides for the content of the plan to include services and facilities to be used in transitioning to placement, the child's specific needs, and the transmission of records to the service provider.</u>

<u>Present law</u> (Ch.C. Art.679) provides for who shall receive notice and who shall be present at a disposition hearing.

<u>Proposed law</u> retains <u>present law</u> and also provides for when the child shall be present, authorizes the child to testify and specifies how he may testify. Also provides that the court shall solicit and consider information provided by certain individuals who appear at the hearing.

<u>Present law</u> (Ch.C. Art.695) provides for who shall receive notice and who has a right to be heard at a case review hearing.

<u>Proposed law</u> retains <u>present law</u> and also provides that the court shall solicit and consider information provided by certain individuals who appear at the hearing.

<u>Present law</u> (Ch.C. Art.696) provides that at a case review hearing all parties have a right to counsel, be heard and present evidence, and confront witnesses.

<u>Proposed law</u> retains <u>present law</u> and also provides for when the child shall be present, and authorizes the child to testify and specifies how he may testify.

<u>Present law</u> (Ch.C. Art. 702) provides for the court to conduct a permanency hearing on the child's placement options. Also provides for the court to determine the best placement plan for the child and for those items the court shall consider in reaching that decision.

<u>Proposed law</u> retains <u>present law</u> and also provides that, for a child aged fifteen and older, the hearing shall also include a review of the transitional plan developed with the child and the agency.

<u>Present law</u> (Ch.C. Art. 705) provides for who shall receive notice of the right to appear and be present at permanency hearings.

<u>Proposed law</u> retains <u>present law</u> and also provides that the court shall solicit and consider information from certain individuals who appear at the hearing.

<u>Present law</u> (Ch.C. Art. 706) provides that all parties have a right to counsel, be heard and present evidence, and confront witnesses, at permanency hearings.

<u>Proposed law</u> retains <u>present law</u> and also provides for when the child shall be present and authorizes the child to testify and specifies how he may testify.

<u>Present law</u> (Ch.C. Art. 776) provides for applicable codal provisions in certain situations in Family in Need of Services (FINS) proceedings.

<u>Proposed law</u> retains <u>present law</u> and also adds that, when Department of Public Safety and Corrections (DPSC) is the child's custodian, Ch.C. Art.908(C) also applies.

<u>Present law</u> (Ch.C. Art. 853) provides that the court may proceed with a delinquency hearing upon a parent's nonappearance if the parent has been served and summoned. In that instance the court shall appoint CASA for the child according to Ch.C. Art. 424.

<u>Proposed law</u> retains <u>present law</u> but deletes the CASA provisions as subsequent revisions (Ch.C. Art. 424.1) now specify proceedings in which CASA may be appointed.

<u>Present law</u> (Ch.C. Art. 908) provides for the care and treatment for a child committed to the department.

<u>Proposed law</u> retains <u>present law</u> and also adds that, at least six months prior to the child's release, the department shall develop, in collaboration with the child, an individualized thorough transitional plan which identifies the programs, services and facilities used to assist the child's successful release. The plan shall address the child's various needs. A copy of the plan shall go to the court, the child's counsel and the district attorney.

<u>Present law</u> (Ch.C. Art. 1015(3)(k)) provides for the grounds for termination of parental rights in the case of parental misconduct toward the child. Also provides as grounds for termination situations where the parent's parental rights to one or more of the child's siblings have been terminated due to neglect and abuse and prior attempts to rehabilitate the parent have failed.

<u>Proposed law</u> retains <u>present law</u> and adds that in those 1015 (3)(k) cases – where the child's 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 that parent have been unsuccessful – then the court must also determine that, pursuant to Article 672.1, current attempts to reunite the family are also not required.

<u>Present law</u> (Ch.C. Art. 1030(2)) provides that once a petition to terminate parental rights is filed, a parent is without authority to affect the custody of the child, except through a consent judgment as per Ch.C. Art. 1033.

<u>Proposed law</u> retains <u>present law</u> and corrects the incorrect citation to Art. 1033 to read Art. 1025.2.

<u>Present law</u> (Ch.C. Art. 1211) provides for when the court may order a final decree of private adoption at the first hearing.

Proposed law retains present law but changes "private adoption" to "agency adoption."

<u>Present law</u> (Ch.C. Art. 730(10)) provides for the child's possession of a handgun or semiautomatic handgun under circumstances reasonably tending to exclude any lawful purpose as one of the allegations which may be made supporting a family's being in need of care in FINS cases.

<u>Proposed law</u> repeals <u>present law</u> (Ch.C. Art. 730(10)) as firearms offenses are now part of delinquency offenses in Ch.C. Art. 804(3).

Effective August 1, 2012.

(Amends Ch.C. Art. 623(B) and (C), 661(B), (C) and (D), 675(B)(3),(4),and (5), 679(C) and (D), 695(Heading) and (A), (B), and (C), 696(B), 702(J), 705, 706(B), 776(B), 853, 908(Heading) and (C), 1015(3)(k), 1030(2), 1211 (intro para); adds Ch.C. Art. 623(D) and (E), 661(E), 675(B)(6), 679(E) and (F), 695(D), 696(C), 706(C), and 908(D); repeals Ch.C. Art. 730(10))