

SENATE BILL NO. 290

BY SENATOR JOHNS

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AN ACT

To amend and reenact Children's Code Articles 603(27), 612(A)(2), 615(B)(2), 619, 620, 624(A), (C)(1) and (D), the introductory paragraph of 625(A), 627(E) and (F), and 632(A) and (C) and to enact Children's Code Articles 626(E) and 627(G), relative to child in need of care; to provide relative to terms and definitions; to provide relative to child abuse reporting and investigation; to provide with respect to assignment of reports for investigation and assessment; to provide with respect to disposition of reports; to provide relative to procedures for protection of a child; to provide with respect to instanter orders of custody; to provide relative to continued custody hearing and custody order; to provide relative to rights and responsibilities of certain person; to provide relative time for filing of petition; to provide relative to grounds for continued safety plan; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Articles 603(27), 612(A)(2), 615(B)(2), 619, 620, 624(A), (C)(1) and (D), the introductory paragraph of 625(A), 627(E) and (F), and 632(A) and (C) are hereby amended and reenacted and Children's Code Articles 626(E) and 627(G) are hereby enacted to read as follows:

Art. 603. Definitions

As used in this Title:

\* \* \*

(27) "Safety plan" means a ~~short-term~~ plan for the purpose of assuring a child's ~~immediate~~ health 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 his parents or other persons.

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Art. 612. Assignment of reports for investigation and assessment

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A. \* \* \*

(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 interview with the child and his parent or parents or other caretaker and shall include consideration of all available medical information provided to the department pertaining to the child's condition. Such 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, ~~or a protective order pursuant to Article 618,~~ **or an instanter safety plan order pursuant to Article 619 or Article 620** if the department determines that any such previously ordered visitation or custody would put the child's health and safety at risk. Admission of the investigator on school premises or access to the child in school shall not be denied by school personnel. However, the request for a temporary restraining order or a protective order in accordance with this Article shall not independently confer exclusive jurisdiction on the juvenile court in accordance with Article 303.

\* \* \*

Art. 615. Disposition of reports

\* \* \*

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

\* \* \*

(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.**

\* \* \*

Art. 619. Instanter ~~orders of custody~~ **orders; instanter safety plan orders**

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

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

B. ~~The~~ **If removal of the child is requested, the** court shall immediately determine whether reasonable efforts have been made by the department to prevent or eliminate the need for the child's removal, including whether the department has requested a temporary restraining order pursuant to Article 617, ~~or a protective order pursuant to Article 618,~~ **or a safety plan order pursuant to this article.** In making and determining reasonable efforts, the child's health and safety shall be the paramount concern. However, the court may authorize the removal of the child even if the department's efforts have not been reasonable.

C. (1) Upon presentation of the verified complaint, the court shall immediately determine whether emergency removal **or the issuance of a safety plan order** is necessary to secure the child's protection.

(2) If the court determines that the child's welfare cannot be safeguarded without removal, the court shall immediately issue a written instanter order directing that the child be placed in the provisional custody of a suitable relative or other suitable individual capable of protecting the health and safety of the child or taken into the custody of the state. The order shall contain written findings of fact supporting the necessity for the child's removal in order to safeguard his welfare. ~~If the court determines that emergency removal is not necessary to secure the child's protection, the court shall issue a written order denying the request for custody. If custody is given to a suitable relative or other suitable individual, the~~ **a** safety plan

1 shall be made an order of the court and shall direct the provisional custodian to  
2 adhere to the conditions of the safety plan. The safety plan shall set forth conditions  
3 of contact with parents or other third parties.

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

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

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

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

26 Art. 620. Oral instanter orders

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

1 issued orally.

2 B. In such cases, an affidavit containing the information previously relayed  
3 orally, including telephonically, shall be filed with the clerk of the court within  
4 twenty-four hours and a written order shall be issued. The written order shall include  
5 the court's findings of fact supporting the necessity for the child's removal **or the**  
6 **implementation of a safety plan order** in order to safeguard his welfare and, **if the**  
7 **child has been removed**, shall determine the child's custodian in accordance with  
8 Article 619.

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

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

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

18 \* \* \*

19 Art. 624. Continued custody hearing; **continued safety plan hearing**

20 A. If a child is not released to the care of his parents, a hearing shall be held  
21 by the court within three days after the child's removal or entry into custody. **If a**  
22 **safety plan has been ordered, a hearing shall be held by the court within three**  
23 **days from the issuance of the safety plan order, unless the parents are in**  
24 **agreement with the safety plan. The parents' signature on the safety plan shall**  
25 **constitute evidence of their agreement with the plan.**

26 \* \* \*

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

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

\* \* \*

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

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

\* \* \*

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

\* \* \*

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

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

\* \* \*

~~E. The court shall order the appointment of counsel for the child and the appointment of a curator for any parent who is an absentee. The court may order the appointment of counsel for the parents or the appointment of a court-appointed special advocate.~~ **If the court finds that the child can safely remain in or return to the home with the implementation of a safety plan developed and agreed upon by the state pending adjudication, the court may order compliance with the conditions of the safety plan.**

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

3 **G. The court shall order the appointment of counsel for the child and the**  
4 **appointment of a curator for any parent who is an absentee. The court may**  
5 **order the appointment of counsel for the parents or the appointment of a court-**  
6 **appointed special advocate.**

7 \* \* \*

8 Art. 632. Time for filing of petition; child in custody

9 A. If a child is continued in custody prior to adjudication, or if a protective  
10 order is issued, a petition requesting that the child be adjudicated in need of care  
11 shall be filed within thirty days of the hearing to determine continued custody. **If the**  
12 **child remains in the home and a safety plan order has been issued, a petition**  
13 **requesting that the child be adjudicated in need of care shall be filed within**  
14 **forty-five days of the issuance of the safety plan order.**

15 \* \* \*

16 C. If no petition is filed within the applicable time period, the child shall be  
17 returned to the parent **or the safety plan shall automatically be terminated.**

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

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