

SENATE BILL NO. 39

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

1 AN ACT

2 To amend and reenact Children's Code Arts. 412(I), 421, the introductory paragraph of  
3 617(A) and (4), the introductory paragraph of 618(A), (2), and (3), 648, 672(A)(2),  
4 683(E) and (F), 718(A), 720(A), (B)(1) and (6), (C), and (D), 776(A), 781(D) and  
5 (E), 895, 1004(B), (D), and (F), 1007(B), 1015.2(B), 1016(A) and (B), 1019(C),  
6 1035(B), the introductory paragraph of 1036(C), the introductory paragraph of (D)  
7 and (E), 1036.2(E), 1037.1(A), 1107.8(A), 1124(C), 1125(B), 1132(D), the  
8 introductory paragraph of 1170(A), 1200(B)(7)(a)(iii), the introductory paragraph of  
9 1223(B) and (B)(7)(a)(iii), 1264, 1267(2), 1409(T), 1428, 1436, and the introductory  
10 paragraph of 1569(A), (4), and (7), and to enact Children's Code Art. 625.1, relative  
11 to the continuous revision of the Children's Code; to provide for cross-references; to  
12 provide for technical corrections; to provide for advising children of their rights; to  
13 provide for notice to the Louisiana Department of Health; to provide for notice to  
14 Mental Health Advocacy Services; to provide for the child's right to counsel; to  
15 provide for the disapproval of the placement of children; to provide for the purpose  
16 and motion of guardianship; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Children's Code Arts. 412(I), 421, the introductory paragraph of 617(A)  
19 and (4), the introductory paragraph of 618(A), (2), and (3), 648, 672(A)(2), 683(E) and (F),  
20 718(A), 720(A), (B)(1) and (6), (C), and (D), 776(A), 781(D) and (E), 895, 1004(B), (D),  
21 and (F), 1007(B), 1015.2(B), 1016(A) and (B), 1019(C), 1035(B), the introductory paragraph  
22 of 1036(C), the introductory paragraph of (D) and (E), 1036.2(E), 1037.1(A), 1107.8(A),  
23 1124(C), 1125(B), 1132(D), the introductory paragraph of 1170(A), 1200(B)(7)(a)(iii), the  
24 introductory paragraph of 1223(B) and (B)(7)(a)(iii), 1264, 1267(2), 1409(T), 1428, 1436,  
25 and the introductory paragraph of 1569(A), (4), and (7) are hereby amended and reenacted  
26 and Children's Code Art. 625.1 is hereby enacted to read as follows:

27 Art. 412. Confidentiality of records; disclosure exceptions; sanctions

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I. Any violation of the confidentiality provisions of this Article shall be punishable as a constructive contempt of court pursuant to ~~Article 1509(E)~~ **Articles 1507 through 1509.1.**

\* \* \*

Art. 421. Probation officers

A. The ~~judge of the~~ court shall have the authority to commission probation officers, one of whom may be designated as chief probation officer or director of probation.

B. Probation officers shall have the power and authority to make arrests; **to** serve notices, orders, subpoenas, and writs; **;** and to execute all orders and perform any other duties incident to their office. Nothing ~~herein contained~~ **in this Paragraph** shall be construed to relieve the sheriff from the duties as set forth in R.S. 13:5539.

C. Employment of ~~such personnel~~ **probation officers** by any court for its exclusive service shall in no ~~wise way~~ **wise way** be affected by or limit the court in availing itself of the services of ~~such~~ **the** officers or other employees as may be provided by the state.

\* \* \*

Art. 617. Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it **the court** deems necessary to protect from abuse or neglect the petitioner, any children, or any person alleged to be ~~an~~ incompetent. Immediate and present danger of abuse shall constitute good cause for purposes of this Article. The order may include but is not limited to the following:

\* \* \*

(4) Prohibiting either party from transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business; or for the necessary support of the party or the ~~minor~~ children.

\* \* \*

1 Art. 618. Protective orders; content; modification; service

2 A. The court may grant any protective order or approve any consent  
3 agreement to bring about a cessation of abuse or neglect of a party, any ~~minor~~  
4 children, or any person alleged to be incompetent, ~~which~~ and the relief may include  
5 but is not limited to:

6 \* \* \*

7 (2) When there is a duty to support a party, any ~~minor~~ children, or any person  
8 alleged to be incompetent living in the residence or household, ordering payment of  
9 temporary support or provision of suitable housing for them.

10 (3) Awarding temporary custody of or establishing temporary visitation rights  
11 and conditions with regard to any ~~minor~~ children or person alleged to be  
12 incompetent.

13 \* \* \*

14 Art. 625.1. Advice of rights for children

15 A. At the first hearing at which the child appears, the judge shall advise  
16 any child ten years of age or older, in a developmentally appropriate manner  
17 and in terms understandable to the child, that the child is a party to the  
18 proceedings and has all of the following rights:

19 (1) To be represented by an independent and qualified attorney who  
20 shall have duties of loyalty, confidentiality, advocacy, and competent  
21 representation.

22 (2) To have notice of and attend all hearings.

23 (3) To have regular and meaningful communication with the child's  
24 attorney in a way that is understandable to the child.

25 (4) To have the child's attorney present the child's case, including  
26 presenting the child's wishes.

27 (5) To testify as to the child's wishes.

28 (6) To be free from discrimination based on race, religion, disability,  
29 national origin, and sex.

30 (7) To be provided qualified interpretation, translation, and language

1 assistance services.

2 (8) To be provided reasonable accommodations for any disability.

3 (9) If the child has been placed in foster care, to be provided an  
 4 individualized case plan, which shall provide all of the following:

5 (a) A focus on the child's health, welfare, and safety and achieving a  
 6 permanent placement that the child helps to develop and that is continuously  
 7 updated.

8 (b) A placement with siblings when consistent with the child's health,  
 9 welfare, and safety.

10 (c) A visitation plan that protects significant relationships with relatives  
 11 through continuing contact when consistent with the child's health, welfare, and  
 12 safety.

13 (d) If the child is fourteen years of age or older, the inclusion of a  
 14 transitional plan that is designed for the child, and with the child, to assist in  
 15 achieving a successful transition and that is continuously updated. The plan  
 16 shall include education, health, permanent connections, living arrangements,  
 17 independent living skills, and employment.

18 (10) To have the child's attorney file a written response objecting to the  
 19 case plan and to have the judge approve or disapprove all or part of the case  
 20 plan.

21 (11) If the child is fourteen years of age or older and in foster care, to the  
 22 rights as provided in R.S. 46:286.16, Foster Youth's Bill of Rights (FYBOR).

23 B. Written notice of the rights set forth in Paragraph A of this Article  
 24 shall be given to the child; the parents, foster parents, or pre-adoptive parents  
 25 of the child; and any relative providing care to the child.

26 Comments – 2024

27 (a) This Article is new and applies only in child in need of care proceedings.

28  
 29 (b) This Article is intended to ensure that the child is informed directly, and  
 30 all other parties indirectly, of the substantive and procedural rights of the child in a  
 31 child in need of care proceeding and to limit undue interference by parents, foster  
 32 parents, or others who may not otherwise know that children have rights. This  
 33 Article informs all parties that the child is not just the subject of the proceeding but

1 is a party and a full participant.  
2 \* \* \*

3 Art. 648. Advice of rights at appearance to answer petition

4 At the appearance to answer, the court shall advise the parent **and the child**  
5 of his **their** rights and responsibilities pursuant to ~~Article~~ **Articles 625 and 625.1,**  
6 unless **they were** so advised at a previous hearing.

7 \* \* \*

8 Art. 672. Care and treatment by department; **placement; disapproval**

9 A.

10 \* \* \*

11 ~~(2) Upon motion of the court, for good cause shown, a contradictory hearing~~  
12 ~~shall be held and thereafter, the presiding judge shall have the authority to~~  
13 ~~disapprove a placement chosen by the department if it is not in the best interest of~~  
14 ~~the child and shall issue a written order that the department choose a more suitable~~  
15 ~~placement with reasons supporting the court's decision. **The court may disapprove**~~  
16 ~~**the placement of a child on its own motion or on the motion of a party for good**~~  
17 ~~**cause shown after a contradictory hearing. The party's motion shall be in**~~  
18 ~~**writing and contain particularized allegations that the placement is not in the**~~  
19 ~~**best interest of the child. The court may deny the party's motion or set a**~~  
20 ~~**contradictory hearing with notice to all parties. The hearing may be**~~  
21 ~~**consolidated with any previously scheduled hearing. If the court disapproves the**~~  
22 ~~**placement, the court shall render specific written reasons for finding that the**~~  
23 ~~**placement is not in the best interest of the child and shall order the department**~~  
24 ~~**to choose a more suitable placement.**~~

25 \* \* \*

26 Art. 683. Disposition; generally

27 \* \* \*

28 E. A child shall not be committed to a public or private mental institution or  
29 institution for persons with mental illness unless the court finds, based on  
30 psychological or psychiatric evaluation, that the child has a mental disorder, other

1 than an intellectual disability, ~~which~~ **that** has a substantial adverse effect on ~~his~~ **the**  
 2 **child's** ability to function and requires care and treatment in an institution. When the  
 3 child is in the custody of the state of Louisiana, this finding shall not be made  
 4 without ~~the~~ **a contradictory hearing, notice to the Louisiana Department of**  
 5 **Health, bureau of legal services, and** representation of the child by an attorney  
 6 appointed from the Mental Health Advocacy Service, unless ~~such attorneys are~~  
 7 ~~unavailable as determined by the director or~~ the child retains private counsel, who  
 8 shall represent only the interest of the child. The Mental Health Advocacy Service's  
 9 attorney ~~so~~ appointed shall continue to represent the child in any proceeding relating  
 10 to admission, change of status, or discharge from the mental hospital or psychiatric  
 11 unit. Upon modification of the disposition to a placement other than a mental  
 12 hospital or psychiatric unit, the Mental Health Advocacy Service's attorney shall be  
 13 relieved of representation of the child.

14 F. A child shall not be committed to a public or private institution for persons  
 15 with intellectual disabilities unless the court finds, based on psychological or  
 16 psychiatric evaluation **pursuant to R.S. 28:451.1 et seq.**, that the child has an  
 17 intellectual disability and ~~such~~ **that the** condition has a substantial adverse effect on  
 18 ~~his~~ **the child's** ability to function and requires care and treatment in an institution.

19 \* \* \*

20 Art. 718. Purpose of guardianship

21 A. The purpose of guardianship is to provide a permanent placement for  
 22 children when ~~neither reunification with a parent nor adoption has been found to be~~  
 23 **the court has found that adoption is not** in ~~their~~ **the children's** best interest **and**  
 24 **the children cannot be safely reunified with their parents within a reasonable**  
 25 **time**; to encourage stability and permanence in the lives of children who have been  
 26 adjudicated to be in need of care and have been removed from the custody of their  
 27 parent; and to increase the opportunities for the prompt permanent placement of  
 28 children, especially with relatives, without ongoing supervision by the department.

29 \* \* \*

30 Art. 720. Motion for guardianship

1 A. After a child has been adjudicated to be in need of care, a motion for  
2 guardianship may be filed by the department, parent, counsel for the child, or, when  
3 the guardian is deceased, an individual previously named as a successor guardian by  
4 ~~the guardian~~ in a guardianship subsidy agreement with the department; or the  
5 department may submit a case plan along with the case review report to the court and  
6 all counsel of record recommending guardianship in accordance with ~~Children's~~  
7 ~~Code~~ Articles 674, 688, and 689.

8 B. The motion, case review report, or case plan shall include all of the  
9 following:

10 (1) The name and gender of the child, and the date and place of ~~his~~ **the**  
11 **child's** birth.

12 \* \* \*

13 (6) A plain and concise statement of the facts on which the motion, case  
14 review report, or case plan for guardianship is sought; ~~and~~ why neither adoption nor  
15 reunification with a parent is in the best interest of the child; **and why the child**  
16 **cannot be safely reunified with the parent within a reasonable time. If a parent**  
17 **files the motion, any statement that the child cannot be safely reunified with the**  
18 **parent within a reasonable time shall not be deemed an admission for any**  
19 **purpose other than satisfying the motion.**

20 C. If any of the information required by Paragraph B of this Article is  
21 unknown, the motion, case review report, or case plan shall state that fact. In  
22 addition, if the location of either parent is unknown, the motion, case review report,  
23 or case plan shall disclose efforts to locate ~~him~~ **the parent**.

24 D. Unless not yet completed, the home study, as required by ~~Children's Code~~  
25 Article 721, shall be attached to the motion, case review report, or case plan. If not  
26 attached, the home study shall be submitted to the court as soon as it is completed.

27 \* \* \*

28 Art. 776. Permanency planning reports  
29 A. If at any point in family in need of services proceedings; a child enters the  
30 custody of the state, the provisions of Chapters 13, 15, and 16 of Title VI **of this**

1 Code and Article ~~1004.1~~ 1004.2 shall be applicable.

2 \* \* \*

3 Art. 781. Disposition; generally

4 \* \* \*

5 D. A child shall not be committed to a public or private mental institution or  
6 institution for persons with mental illness unless the court finds, based on  
7 psychological or psychiatric evaluation, that the child has a mental disorder, other  
8 than an intellectual disability, ~~which~~ that has a substantial adverse effect on ~~his~~ the  
9 child's ability to function and requires care and treatment in an institution. When the  
10 child is in the custody of the state of Louisiana, this finding shall not be made  
11 without ~~the~~ a contradictory hearing, notice to the Louisiana Department of  
12 Health, bureau of legal services, and representation of the child by an attorney  
13 appointed from the Mental Health Advocacy Service, unless ~~such attorneys are~~  
14 ~~unavailable as determined by the director or~~ the child retains private counsel, who  
15 shall represent only the interest of the child. The Mental Health Advocacy Service's  
16 attorney ~~so~~ appointed shall continue to represent the child in any proceeding relating  
17 to admission, change of status, or discharge from the mental hospital or psychiatric  
18 unit. Upon modification of the disposition to a placement other than a mental  
19 hospital or psychiatric unit, the Mental Health Advocacy Service's attorney shall be  
20 relieved of representation of the child.

21 E. A child shall not be committed to a public or private institution for persons  
22 with intellectual disabilities unless the court finds, based on psychological or  
23 psychiatric evaluation pursuant to R.S. 28:451.1 et seq., that the child has an  
24 intellectual disability and ~~such~~ that the condition has a substantial adverse effect on  
25 ~~his~~ the child's ability to function and requires care and treatment in an institution.

26 \* \* \*

27 Art. 895. Commitment to mental institution

28 A. In cases in which a child has been adjudicated a delinquent, the court may  
29 commit ~~him~~ the child to a public or private mental institution or institution for  
30 persons with mental illness if the court finds, based on psychological or psychiatric



1 evaluation, that the child has a mental disorder, other than an intellectual disability,  
2 ~~which that~~ has a substantial adverse effect on his the child's ability to function and  
3 requires care and treatment in an institution.

4 B. This finding shall not be made without a contradictory hearing and  
5 notice to the Louisiana Department of Health, bureau of legal services, and  
6 unless the child is accorded ~~his right to special~~ counsel in accordance with Article  
7 809~~(C)~~.

8 \* \* \*

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

10 \* \* \*

11 B. Counsel appointed for the child pursuant to Article 607 may petition for  
12 the termination of parental rights of the parent of the child if the petition alleges a  
13 ground authorized by Article ~~1015(5), (6), or (7)~~ 1015(4), (5), or (6) and, although  
14 eighteen months have elapsed since the date of the child's adjudication as a child in  
15 need of care, no petition has been filed by the district attorney or the department.

16 \* \* \*

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

19 (1) The child has been subjected to abuse or neglect after the child is returned  
20 to the parent's care and custody while under department supervision, and termination  
21 is authorized by Article ~~1015(4)(j)~~ 1015(3)(j).

22 (2) The parent's parental rights to one or more of the child's siblings have  
23 been terminated due to neglect or abuse and prior attempts to rehabilitate the parent  
24 have been unsuccessful, and termination is authorized by Article ~~1015(4)(k)~~  
25 1015(3)(k).

26 (3) The child has been abandoned and termination is authorized by Article  
27 ~~1015(5)~~ 1015(4).

28 (4) The child has been placed in the custody of the state, and termination is  
29 authorized by Article ~~1015(6)~~ 1015(5).

30 (5) The child is in foster care because the parent is incarcerated, and

1 termination is authorized by Article ~~1015(7)~~ **1015(6)**.

2 (6) The child is in foster care and, despite diligent efforts by the department  
3 to identify the child's father, ~~his~~ **the father's** identity is unknown, and termination  
4 is authorized by Article ~~1015(10)~~ **1015(8)**.

5 \* \* \*

6 F. By special appointment for a particular case, the court or the district  
7 attorney may designate private counsel authorized to petition for the termination of  
8 parental rights of the parent of the child on the ground of abandonment authorized  
9 by Article ~~1015(5)~~ **1015(4)**.

10 \* \* \*

11 Art. 1007. Court records of proceedings

12 \* \* \*

13 B. The address and parish of the petitioner and each person on whose behalf  
14 the petition for termination of parental rights is filed under the provisions of Article  
15 ~~1015(3) or (9)~~ **1015.1** may remain confidential with the court.

16 \* \* \*

17 Art. 1015.2. Termination of parental rights; certain grounds; costs and fees

18 \* \* \*

19 B. All court costs, attorney fees, costs of enforcement and modification  
20 proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in  
21 filing, maintaining, or defending any proceeding ~~under~~ **in accordance with** Article  
22 1015.1 shall be paid by the perpetrator of the sex offense, including all costs of  
23 medical and psychological care for the sexually abused ~~adult,~~ **parent** or for the child  
24 conceived as a result of the sex offense.

25 \* \* \*

26 Art. 1016. Right to counsel

27 A.(1) The child and ~~the~~ **each** identified parent shall ~~each~~ have the right to be  
28 represented by separate counsel in a termination proceeding brought in accordance  
29 with this Title. **The child shall be a party to the proceedings.** Neither the child nor  
30 anyone purporting to act on behalf of the child ~~may~~ **shall** be permitted to waive the

1 child's right to counsel.

2 (2) ~~For actions brought under Article 1015.1, the court shall have discretion~~  
3 ~~to decide under the circumstances for each case whether to appoint counsel for the~~  
4 ~~child.~~ In no event shall the petitioner of ~~such an~~ **action pursuant to Article 1015.1**  
5 or the ~~minor~~ child be required to interact with the respondent as a condition to pursue  
6 termination ~~under~~ **in accordance with** this Article. Any counsel acting on behalf of  
7 the child shall not require a petitioner to make the child available for any visitation  
8 or conversation with the respondent or the respondent's family and shall not require  
9 any nonoffending petitioner to take classes or provide updates on the child. A  
10 petitioner shall have the right to seek an ~~expedited suspensive appeal~~ **emergency**  
11 **supervisory writ** for any violation of this Article.

12 B. The court shall appoint the entity designated for the jurisdiction by the  
13 Louisiana Supreme Court to provide qualified, independent counsel for the child in  
14 ~~such a~~ **the** proceeding. **Counsel for the child shall have the authority to represent**  
15 **the child throughout the termination proceeding and any appellate review.**

16 \* \* \*

17 Art. 1019. Contents of the petition

18 \* \* \*

19 C. The petition shall allege facts ~~which~~ **that** constitute the grounds necessary  
20 for the termination of parental rights as set forth in Article 1015 **or 1015.1.**

21 \* \* \*

22 Art. 1035. Burden of proof

23 \* \* \*

24 B. The parent asserting a mental or physical disability as an affirmative  
25 defense to abandonment ~~under~~ **pursuant to** Article ~~1015(5)~~ **1015(4)** bears the burden  
26 of proof by a preponderance of the evidence.

27 Art. 1036. Proof of parental misconduct

28 \* \* \*

29 C. ~~Under Article 1015(6)~~ **In accordance with Article 1015(5)**, lack of  
30 parental compliance with a case plan may be evidenced by one or more of the

1 following:

2 \* \* \*

3 D. ~~Under Article 1015(6)~~ **In accordance with Article 1015(5)**, lack of any  
4 reasonable expectation of significant improvement in the parent's conduct in the near  
5 future may be evidenced by one or more of the following:

6 \* \* \*

7 E. ~~Under Article 1015(7)~~ **In accordance with Article 1015(6)**, a sentence of  
8 at least five years of imprisonment raises a presumption of the parent's inability to  
9 care for the child for an extended period of time, although the incarceration of a  
10 parent shall not in and of itself be sufficient to deprive a parent of his parental rights.

11 \* \* \*

12 Art. 1036.2. Incarcerated parent; duties; assessment

13 \* \* \*

14 E. The notification form given to the incarcerated parent shall be substantially  
15 as follows:

16 NOTICE OF DUTY TO PROVIDE A REASONABLE PLAN FOR THE  
17 APPROPRIATE CARE OF YOUR CHILD AND TERMINATION OF  
18 PARENTAL RIGHTS LAW

19 NOTICE TO PARENT: YOUR CHILD(REN), \_\_\_\_\_  
20 HAS/HAVE BEEN PLACED IN THE CUSTODY OF THE LOUISIANA DEPARTMENT  
21 OF CHILDREN AND FAMILY SERVICES BY ORDER OF THE  
22 \_\_\_\_\_ Parish juvenile court \_\_\_\_\_ on  
23 \_\_\_\_\_.

24 PLEASE BE ADVISED OF THE FOLLOWING:

25 Louisiana law provides that you may name a person who is willing and able  
26 to serve as the custodian of your child(ren) and to offer a wholesome and stable  
27 environment for your child(ren). Failure to furnish a reasonable plan for the  
28 appropriate care of your child(ren) may result in the termination of your parental  
29 rights.

30 Please refer to Louisiana Children's Code, Title X, Articles 1001 to 1043,

1 especially Articles ~~1015(7)~~ **1015(6)** and 1036(E), for the details of Louisiana law  
2 regarding the termination of parental rights. A copy of the law is attached to this  
3 notice.

4 You are hereby notified that Louisiana law requires that you provide a  
5 reasonable plan for the appropriate care of your child(ren), other than continued  
6 foster care, within sixty (60) days of your receipt of this notice, which date is  
7 \_\_\_\_\_ . Your plan shall include the names, addresses,  
8 cellular numbers, telephone numbers, and other contact information of every suitable  
9 alternative caregiver. You may provide additional information by filling out this  
10 form and mailing it in the stamped, self-addressed envelope given to you by the  
11 department before \_\_\_\_\_. If you fail or refuse to do so, you may  
12 lose all rights to your child(ren). Your plan will be examined to determine if it is  
13 reasonable and appropriate. Please provide your plan in detail no later than  
14 \_\_\_\_\_ to the following person:

15 NAME: \_\_\_\_\_  
16 ADDRESS: \_\_\_\_\_  
17 CITY/STATE/ZIP: \_\_\_\_\_  
18 TELEPHONE: \_\_\_\_\_

19 NOTE: IF YOU HAVE ANY QUESTIONS OR NEED ANY ASSISTANCE,  
20 CONTACT THE ABOVE PERSON OR YOUR ATTORNEY IMMEDIATELY.

21 Copy of the law, La. Ch.C. Arts. 1001 - 1043, Attached. PLEASE READ.

22 I, \_\_\_\_\_, hereby certify that a copy of  
23 this notice with La. Ch.C. Arts. 1001-1043 attached, was delivered to  
24 \_\_\_\_\_ on \_\_\_\_\_ by  
25 personal delivery at the following location \_\_\_\_\_.

26 DATE: \_\_\_\_\_  
27 \_\_\_\_\_

28 Signature of caseworker

29 I, \_\_\_\_\_, have received a copy of this  
30 notice, together with the attached laws (La. Ch.C. Arts. 1001-1043), and

1 acknowledge that I understand fully that my rights may be terminated and my  
2 child(ren) adopted by others if I do not provide a reasonable plan of appropriate care  
3 while I am incarcerated, other than continued foster care, within sixty (60) days of  
4 my receipt of this notice on \_\_\_\_\_.

5 \_\_\_\_\_

6 Signature of parent

7 Witness: \_\_\_\_\_ Date: \_\_\_\_\_

8 \* \* \*

9 Art. 1037.1. Continuing contact with biological relatives

10 A. Subsequent to a termination of parental rights judgment when custody is  
11 granted to the department, the court may order continuing contact between the child  
12 and the parent, sibling, or other biological relative. The court may grant ~~such~~ an  
13 order only after it makes ~~finding~~ **findings** of fact that continuing contact is in the best  
14 interest of the child. The court may receive expert testimony on the issue of  
15 continuing contact.

16 \* \* \*

17 Art. 1107.8. Notice of filing of act of intent to surrender for adoption; form;  
18 objection and form

19 A. The notice of filing of a mother's intent to surrender for adoption shall  
20 contain the following information in substantially the following form:

21 "NOTICE OF FILING OF ACT OF INTENT TO SURRENDER  
22 FOR ADOPTION

23 Be advised that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
24 \_\_\_\_\_ (MOTHER'S NAME) voluntarily filed an act of intent to surrender  
25 for adoption of her ~~minor~~ child, namely \_\_\_\_\_, born on the \_\_\_\_\_ day of  
26 \_\_\_\_\_, 20\_\_, in the Parish/County of \_\_\_\_\_, State of  
27 \_\_\_\_\_.

28 OR

29 [Be advised that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
30 \_\_\_\_\_ (MOTHER'S NAME) voluntarily filed an act of intent to

1 surrender for adoption of her expected child to be born on or about  
2 \_\_\_\_\_, 20\_\_.]

3 The act of intent to surrender for adoption names you as the father of this  
4 child. The act of intent to surrender for adoption does not bind the mother to follow  
5 through with plans to surrender her child for adoption. She may change her mind. Its  
6 only purpose is to determine whether you will oppose plans for surrendering this  
7 child for adoption.

8 You may attempt to oppose the proposed adoption of this child only by filing  
9 a written objection with this court within fifteen days after you receive this notice.  
10 In your objection, you must provide the court with an address where you can be  
11 contacted about further proceedings, if any, regarding the child's adoption.

12 A form for your use is attached.

13 Note that this objection must be signed under oath before a notary public  
14 after you have proved your identity. If the objection does not have the notary's  
15 signature, it is not effective.

16 If you do file such a written objection:

17 (1) You will have the right to receive notice of any surrender for adoption  
18 that the mother may hereafter sign giving up her parental rights to the child.

19 (2) You will also have the right to be given notice of any hearing scheduled  
20 by the court to decide whether your parental rights should be terminated. At that  
21 hearing, you must show that you are claiming or have acknowledged paternity of the  
22 child and must prove that you have assumed parental responsibility for the child, that  
23 you are a fit parent, and that you are willing and able to take custody of the child. At  
24 that hearing, the court will decide whether your efforts have been sufficient to  
25 preserve your parental rights regarding this child and to prevent the child's adoption.

26 These notices will be served upon you at the address you provide in your  
27 written objection.

28 If you do not file a written, notarized objection within fifteen days from the  
29 time you receive this notice, then you waive notice and service of future surrender  
30 or adoption proceedings, you have no cause of action to challenge the child's

1 adoption, and all rights you may have as the child's alleged father may be terminated  
2 by order of this court and the child may be adopted if the mother does decide to sign  
3 a surrender of the child for adoption.

4 These are serious consequences. You are urged to contact a lawyer to advise  
5 you further."

6 \* \* \*

7 Art. 1124. Requirement of family information

8 \* \* \*

9 C. The form for the affidavit shall be substantially as follows:

10 STATE OF \_\_\_\_\_

11 PARISH/COUNTY OF \_\_\_\_\_

12 AFFIDAVIT

13 BEFORE ME, the undersigned authority, personally came and appeared

14 \_\_\_\_\_

15 SURRENDERING PARENT

16 who declares that he/she has executed a true and correct Statement of Family History  
17 to provide the adoptive parents of the ~~minor~~ child with nonidentifying medical  
18 genetic information in accordance with the provisions of Louisiana Children's Code  
19 Articles 1124 through 1127.

20 Affiant understands and agrees that the nonidentifying Statement of Family  
21 History will be attached to the Act of Surrender and included in the sealed adoption  
22 record. Affiant further understands that the Statement of Family History will be  
23 given to the prospective adoptive parent(s) at the time of placement and made  
24 available, upon request, to the adopted person at the age of eighteen years or older.

25 Affiant has been informed that this affidavit shall be included in the sealed  
26 adoption record only and will not be given to the adoptive parents or the ~~minor~~ child.

27 \_\_\_\_\_

28 SIGNATURE OF SURRENDERING PARENT

29 \_\_\_\_\_

30 NAME OF SURRENDERING PARENT



1 SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF  
 2 \_\_\_\_\_, 20\_\_\_\_.

3 \_\_\_\_\_  
 4 NOTARY PUBLIC

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

6 \* \* \*

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

8 STATEMENT OF FAMILY HISTORY

	Child's Biological MOTHER		Child's Biological FATHER
9	Age		
10	Height		
11	Weight		
12	Hair color		
13	Eye color		
14	Complexion		
15	Body build		
16	Education-last grade completed/ degree received		
17	Right/left handed		
18	Occupation		
19	Talents		
20	Religion		
21	Race		
22	Ethnicity/ Nationality		
23	Native American/Tribal Affiliation, if applicable		
24	Other		
25	Yes	No	Diseases/conditions If yes, • 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)]; • state specific condition; • age of onset; • treatment (medication, surgery, etc.); and • outcome.
26			
27			Cancer
28			Heart disease

1		Stroke	
2		High blood pressure	
3		Diabetes	
4		Kidney disease	
5		Liver disease	
6		Digestive disorders	
7		Respiratory disorders	
8		Blood disease (sickle cell, hemophilia, etc.)	
9			
10		Glandular disturbances (thyroid, adrenal, growth, etc.)	
11			
12			
13		Neurological & muscular disorders (multiple sclerosis, muscular dystrophy, Tay-Sachs, etc.)	
14			
15			
16			
17			
18		Arthritis (juvenile, rheumatoid, gout, hammertoe, etc.)	
19			
20			
21		Epilepsy, seizures, convulsions	
22			
23		Allergies (drugs, food, other)	
24			
25		Asthma	
26		Vision problems/blindness	
27			
28		Hearing problems/deafness	
29			
30		Speech disorders	
31		Dental problems/braces	
32		Birth defects (cleft palate, missing digit, club foot, etc.)	
33			
34			
35		Curvature of spine	
36		Headaches/migraines	
37		Alcoholism	
38		Substance abuse	
39		Eating disorders/obesity	
40		Mental illness (schizophrenia, bipolar, depressive, etc.)	
41			
42			
43		Intellectual disability–non-injury (PKU, <del>Down's</del> <b><u>Down</u></b> Syndrome, etc.)	
44			
45			
46			

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		Learning disabilities (ADD, ADHD, etc.)	
		Multiple births	
		Miscarriages, stillbirths, neonatal deaths	
		SIDS	
		Rh Factor	
		HIV ( biological mother only)	
		Venereal disease during pregnancy ( biological mother only)	
		Other: specify	
		Other: specify	
		Other: specify	
Prenatal History			
Yes	No		If yes, • state type; • state amount; and • state during what months of pregnancy.
		Prescription medication	
		Over the counter medication	
		Alcohol	
		Tobacco	
		Other Drugs	

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

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

Has the minor child had the following immunizations?

- |                               |                          |                                     |                          |
|-------------------------------|--------------------------|-------------------------------------|--------------------------|
| YES                           | NO                       | YES                                 | NO                       |
| <input type="checkbox"/>      | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Birth-2 mo. Hepatitis (Hep) B |                          | 12-15 mo. Hib, MMR # 1              |                          |
| <input type="checkbox"/>      | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 1 – 4 mo. Hep B               |                          | 12-18 mo. Var (chickenpox)          |                          |
| <input type="checkbox"/>      | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 2 mo. DTaP, IPV, Hib,         |                          | 15-18 mo. DTaP                      |                          |
| <input type="checkbox"/>      | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 4 mo. DTaP, IPV, Hib,         |                          | 4-6 yrs. MMR # 2, DTaP, OPV         |                          |
| <input type="checkbox"/>      | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 6 mo. DTaP, Hib,              |                          | 11-12 yrs. MMR # 2, Var, Hep B      |                          |
| <input type="checkbox"/>      | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 6-18 mo. Hep B, IPV           |                          | 11-16 yrs. Td (tetanus, diphtheria) |                          |

Has the minor child had the following illnesses?

- |                                    |                          |                          |                          |
|------------------------------------|--------------------------|--------------------------|--------------------------|
| YES                                | NO                       | YES                      | NO                       |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pertussis (P) (Whooping Cough)     |                          | Rheumatic Fever          |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rubella (R) (Measles)              |                          | Tonsillitis              |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mumps (M)                          |                          | Convulsions              |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Chicken Pox (Var)                  |                          | Asthma                   |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rotavirus (Rv)                     |                          | Polio (IPV)              |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scarlet Fever                      |                          | Allergies, specify       |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Diphtheria (D) _____               |                          |                          |                          |
| <input type="checkbox"/>           | <input type="checkbox"/> |                          |                          |
| Surgery, operations, specify _____ |                          |                          |                          |

1 ( ) ( ) Glandular Disturbances, specify \_\_\_\_\_  
2 Does the ~~minor~~ child have or has ~~he~~ **the child** had any other serious illnesses or medical  
3 conditions?  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8

\* \* \*

9 Art. 1132. Notice of filing of surrender; form

10 \* \* \*

11 D. The notice of the surrender shall be issued by the clerk and shall contain the  
12 following information in substantially the following form:

13 "NOTICE OF FILING OF SURRENDER

14 Be advised that on the \_\_\_ day of \_\_\_, 20\_\_\_, an authentic Act of Surrender  
15 executed by \_\_\_\_\_ was filed wherein she surrendered for adoption her ~~minor~~ child,  
16 namely \_\_\_\_\_, born on the \_\_\_ day of \_\_\_\_\_, \_\_, in the Parish of \_\_\_\_\_, State of  
17 \_\_\_\_\_.

18 The Act of Surrender alleges that you are the father of this child. You may  
19 attempt to oppose the adoption of this child only by filing a written objection with  
20 this court within fifteen days after you receive this notice.

21 If you file a written objection timely, the court will then hold a hearing within  
22 twenty days of the filing of the opposition, to determine whether you have  
23 established or forfeited your parental rights.

24 To establish your parental rights to oppose the adoption, you must acknowledge  
25 that you are the father of the child or be found to be the father by court order as a  
26 result of blood tests. Thereafter, you must also demonstrate to the court that you are  
27 a fit parent who is willing and able to assume the legal and physical care of your  
28 child. You must also demonstrate that you have made a substantial commitment to  
29 your parental responsibilities by providing or attempting to provide substantial and  
30 consistent support for the mother during pregnancy or after the child's birth and by  
31 frequently and consistently visiting or attempting to visit the child after birth.

32 If you fail to file a written motion of opposition, or if, after a hearing on a motion  
33 timely filed, the court finds that you have failed to establish your parental right to

1 oppose the adoption, the court will order the termination of any and all parental  
2 rights you may have and the child may be subject to adoption."

3 \* \* \*

4 Art. 1170. Types of adoption

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

7 \* \* \*

8 Art. 1200. Fee disclosure; permissible reimbursement of expenses; court review;  
9 report

10 \* \* \*

11 B. Only the following services provided by the Department of Children and  
12 Family Services, or payments made through a licensed adoption agency; or an  
13 adoption attorney, are permissible and not a violation of R.S. 14:286:

14 \* \* \*

15 (7)

16 \* \* \*

17 (a) Living expenses in accordance with this Subparagraph may be paid for a  
18 reasonable time before the birth of her child and for no more than forty-five days  
19 after the birth and may include the following:

20 \* \* \*

21 (iii) Food for the mother and any ~~minor~~ children residing in her home.

22 \* \* \*

23 Art. 1223. Fee disclosure; permissible reimbursement of expenses; court review;  
24 report

25 \* \* \*

26 B. Only the following services provided by the Department of Children and  
27 Family Services, or ~~payment~~ **payments** made through a licensed adoption agency;  
28 or an adoption attorney, are permissible and not a violation of R.S. 14:286:

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\* \* \*

(7)

\* \* \*

(a) Living expenses in accordance with this Subparagraph may be paid for a reasonable time before the birth of her child and for no more than forty-five days after the birth and may include the following:

\* \* \*

(iii) Food for the mother and any ~~minor~~ children residing in her home.

\* \* \*

Art. 1264. Post-adoption visitation rights of grandparents

Notwithstanding any provision of law to the contrary, the natural parents of a deceased parent whose child is thereafter adopted and the parents of a party who has forfeited the right to object to the adoption of ~~his~~ **the** child pursuant to Article 1245 may have limited visitation rights to the ~~minor~~ **adopted** child ~~so-adopted~~.

\* \* \*

Art. 1267. Burden of proof

The grandparents requesting limited visitation rights shall prove both of the following:

\* \* \*

(2) That ~~such~~ limited visitation rights would be in the best ~~interests~~ **interest** of the ~~minor~~ child.

\* \* \*

Art. 1409. Rights guaranteed

\* \* \*

T. The institution shall prohibit the mistreatment, neglect, or abuse of any ~~minor~~ child in any way.

\* \* \*

Art. 1428. Notice of admission

1 A. The director of the treatment facility shall notify the ~~minor patient's~~ minor's  
2 nearest relative, if known, or designated responsible party, if any, in writing of the  
3 minor's admission by emergency certificate as soon as reasonably possible.

4 **B. Within seventy-two hours after an admission of any minor to a treatment**  
5 **facility by emergency certificate, copies of the physician's and coroner's**  
6 **emergency certificates shall be delivered by the facility by personal delivery,**  
7 **email, or facsimile to the MHAS office located nearest to the treatment facility.**

8 \* \* \*

9 Art. 1436. Hearing; notice

10 A. Upon the filing of the petition, the court shall assign a time, not later than  
11 eighteen calendar days thereafter, ~~shall assign~~ and a place for a hearing upon the  
12 petition; and shall cause reasonable notice thereof to be ~~given~~ delivered at least ten  
13 days prior to the hearing to the minor, ~~his~~ the minor's attorney, ~~and~~ the petitioner,  
14 and the Louisiana Department of Health, bureau of legal services.

15 B. The notice shall inform the minor ~~respondent that he has a~~ of the right to be  
16 present at the hearing; ~~that he has a~~ the right to counsel; ~~that he,~~ and, if indigent or  
17 otherwise qualified, ~~has~~ the right to have counsel appointed ~~to represent him by~~ from  
18 the MHAS; ~~and that he has~~ the right to call and ~~cross-examine~~ cross-examine  
19 witnesses testifying at any hearing on ~~such application~~ the petition.

20 \* \* \*

21 Art. 1569. Temporary restraining order

22 A. Upon good cause shown in an ex parte proceeding, the court may enter a  
23 temporary restraining order, without bond, as ~~it~~ the court deems necessary to protect  
24 from abuse the petitioner, any children, or any person alleged to be ~~an~~ incompetent.  
25 Immediate and present danger of abuse shall constitute good cause for purposes of  
26 this Article. The order may include but is not limited to the following:

27 \* \* \*

28 (4) Prohibiting either party from the transferring, encumbering, or otherwise  
29 disposing of property mutually owned or leased by the parties, except when in the

1 ordinary course of business; or for the necessary support of the party or the ~~minor~~  
2 children.

3 \* \* \*

4 (7) Granting to the petitioner the exclusive care, possession, or control of any  
5 pets belonging to or under the care of the petitioner or ~~minor~~ children residing in the  
6 residence or household of either party, and directing the defendant to refrain from  
7 harassing, interfering with, abusing or injuring any pet, without legal justification,  
8 known to be owned, possessed, leased, kept, or held by either party or a ~~minor~~ child  
9 residing in the residence or household of either party.

10 \* \* \*

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

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

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

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