

2017 Regular Session

SENATE BILL NO. 81

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

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CURATORSHIP. Provides for curatorship. (8/1/17)

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AN ACT

To amend and reenact Children's Code Articles 405(A) and (B), 1016(A), and 1025.4(A)(2), and to enact Children's Code Articles 116(4.1), 643(C), 1004(D)(6), 1015(10), and 1023(C), relative to curators; to provide for definitions; to provide for the payment of fees; to provide relative to unidentified parents; to provide relative to termination of parental rights; to provide relative to right to counsel; to provide relative to conference scheduling; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Articles 405(A) and (B), 1016(A), and 1025.4(A)(2) are hereby amended and reenacted and Children's Code Articles 116(4.1), 643(C), 1004(D)(6), 1015(10), 1023(C) are hereby enacted to read as follows:

Art. 116. Definitions

Except where the context clearly indicates otherwise, these definitions apply for the following terms used throughout this Code.

\* \* \*

**(4.1) "Diligent effort to locate" means efforts made by a curator that, under the circumstances known to the curator, are reasonably calculated to**

1 locate an absentee. Such efforts may include a review of court records,  
 2 department records, law enforcement records, vital records, military records,  
 3 directory assistance, internet search sites, and licensing agencies. Publication  
 4 shall not be required except as specifically provided in this Code.

\* \* \*

Comments - 2017

7 The list in Article 116(4.1) is illustrative only. What constitutes a diligent  
 8 effort is decided on a case-by-case basis. The capacity to conduct searches on the  
 9 Internet has become readily available and is highly effective; thus, preference should  
 10 be given to internet searches, particularly in lieu of or prior to publication.

\* \* \*

12 Art. 405. Court or witness fees; travel expenses

13 A. Except as otherwise provided by law, no court or witness fees shall be  
 14 allowed against any party to a petition, and no salaried officer of the state or of any  
 15 parish or municipality therein shall be entitled to receive any fee for the service or  
 16 for attendance in court in any such proceedings. ~~At~~ **Except as otherwise provided**  
 17 **in R.S. 13:4521, all** other persons acting under orders of the court may be paid in the  
 18 same manner as in the district court for services or service of process and attendance  
 19 or serving as witnesses, the fees provided by law for like services in cases before the  
 20 district court.

21 B. The court may authorize the payment of necessary travel expenses to  
 22 witnesses attending in response to summons ~~and the payment of curator fees to be~~  
 23 ~~fixed by the court. Such~~ **Travel** expenses, when authorized by the court, shall be  
 24 paid from the general fund of the parish or other funds available to the court. **Except**  
 25 **in proceedings initiated by the state, the court may authorize the payment of**  
 26 **curator expenses and fees, which, if so authorized, shall be fixed by the court**  
 27 **and paid by petitioners.**

\* \* \*

29 Art. 643. Service; absentee **or unidentified** parent; curator ad hoc

\* \* \*

31 **C. If the father is unidentified, it is not necessary to appoint a curator ad**



1 to be the biological father of the child.

2 (d) A recent certificate from the putative father registry indicating that  
3 no person is listed or registered as the child's father.

4 (e) A recent certificate from the clerk of court in the parish in which the  
5 child was born indicating that no acknowledgment with respect to this child has  
6 been recorded.

7 \* \* \*

8 Art. 1016. Right to counsel

9 A. The child and the **identified** parent shall each have the right to be  
10 represented by separate counsel in a termination proceeding brought under this Title.  
11 Neither the child nor anyone purporting to act on his behalf may be permitted to  
12 waive the child's right to counsel.

13 \* \* \*

14 Art. 1023. Service; absentee parent; **unidentified father**

15 \* \* \*

16 C. If the father is unidentified, it is not necessary to appoint a curator ad  
17 hoc for that parent. The father shall be considered unidentified if the biological  
18 father's name is not provided on the birth certificate, there is no presumed  
19 father, and no party to the proceedings is able to provide a first and last name  
20 of a putative father or alias sufficient to provide a reasonable possibility of  
21 identification and location.

22 \* \* \*

23 Art. 1025.4. Prehearing and scheduling conference; order

24 A. At the appearance, on its own motion or on motion of counsel, the court  
25 shall direct counsel for the petitioner, for the parents, and for the child to appear  
26 before it for a conference to consider the following:

27 \* \* \*

28 (2) Efforts to identify and locate an **unidentified or** absent parent and  
29 relatives or other individuals willing and able to offer a wholesome and stable home

1 for the child.

2 \* \* \*

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The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

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DIGEST

SB 81 Engrossed

2017 Regular Session

Bishop

Proposed law in Children's Code defines "diligent effort to locate" in curatorship proceedings to be efforts by the curator, under circumstances known to the curator, that are reasonably calculated to locate the absentee. Provides that these efforts may include review of court records, department records, law enforcement records, vital records, military records, directory assistance, internet search sites, and licensing agencies. Provides that publication is not required unless specifically provided in the Children's Code.

Present law (Ch.C. Art. 405) provides for payment of curator fees from the parish or other funds available to the court.

Proposed law delineates responsibility for payment of curator expenses and fees depending upon whether the petitioner is the state or a private party.

Proposed law further provides relative to procedures for unidentified parents, including that it is not necessary to appoint a curator ad hoc for an unidentified father, and grounds and procedures relative to termination of parental rights, right to counsel and service, and prehearing and scheduling conferences.

Effective August 1, 2017.

(Amends Ch.C. Arts. 405(A) and (B), 1016(A), and 1025.4(A)(2); adds Ch.C. Arts. 116(4.1), 643(C), 1004(D)(6), 1015(10), and 1023(C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Added language relative to unidentified parents and termination of parental rights, right to counsel and service, and prehearing and scheduling conferences.