
DIGEST

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HB 855 Original

2024 Regular Session

Berault

Abstract: Provides relative to adoptive placement.

Proposed law changes references to "surrender" or "act of surrender" in present law to "place" or "Act of Adoptive Placement".

Present law (Ch.C. Art. 1122(A)) provides for the contents of the surrender form.

Proposed law changes present law to name the form the "adoptive placement" form and to also take into consideration whether the child is an Indian child as defined by Ch.C. Art.116(6.1).

Proposed law adds additional declarations to the adoptive placement form as follows:

- (1) The parent is capable of understanding the act and has not been interdicted.
- (2) The parent understands that upon its execution, the act cannot be revoked, cancelled, or reversed, and all parental rights are terminated unless a court finds fraud or duress or the adoption cannot be completed.
- (3) The minor child is not an Indian child as defined by Ch.C. Art 116(6.1).
- (4) The parent is not on active duty as of the date he signs the act.
- (5) No action taken obligates the parent to sign the act.
- (6) The parent understands the words of the act.

Present law (Ch.C. Arts. 1133 and 1134) provides for the notice of the filing of the surrender to the resident or nonresident father by way of registered or certified mail or electronic mail.

Proposed law expands present law to change the form from "surrender" to "Act of Adoptive Placement" and to provide that any other means of service provided by C.C.P. Art. 1313 are proper.

Present law (Ch.C. Art. 1135) provides that a declaration by the surrendering mother in the act of surrender that the father is unknown is sufficient proof that the father is unknown and diligent effort was made to identify him.

Proposed law changes present law to provide that a diligent effort is when a declaration is made under oath by the placing mother in the Act of Adoptive Placement that the father is not known and his identity is not reasonably ascertainable, and the mother provides support which can be attached to the Act of Adoptive Placement and filed in the record.

Present law (Ch.C. Art. 1136) provides that the court shall appoint a curator to appoint the father if his whereabouts are unknown as indicated in a surrender.

Proposed law changes present law the court shall appoint a curator if the mother identifies the father, declares she does not know how to contact him, or reasonable options of contacting him are not known.

Present law also provides that upon motion of the attorney for the adoptive parent, if the father has not been located within 30 days from appointment of a curator, the court shall terminate the father's rights.

Proposed law repeals present law.

Present law (Ch.C. Art. 1137) provides that the notice of opposition to adoption shall be filed within 15 days after service of the act of surrender.

Proposed law changes reference of "surrender" to "Act of Adoptive Placement" and provides that the 15 day period is prescriptive.

Proposed law provides that the court shall not order visitation between the child and the alleged father until the hearing on the merits of the objection and provides the time line for scheduling the hearing.

Proposed law provides that if the alleged father fails to timely object to the adoption, parental rights are terminated.

Proposed law provides that if the alleged father timely objects to the adoption, the ruling on the objection shall be based on Ch.C. Art. 1015.

Present law (Ch.C. Art. 1138) provides for proof of the father's substantial commitment to his parental responsibilities.

Proposed law expands present law to require that the father provide financial support for basic needs like food, medical expenses, and shelter and that the father can support the child without depending exclusively on his relatives or friends.

Proposed law provides that if the court finds the father has established parental rights, the father may be required to pay a sum for child support retroactive from the date of opposition.

Proposed law provides that if the child has resided with prospective adoptive parents and bonded

with the family, the court should consider recommendations of a child custody expert when ordering the custody plan.

Present law (Ch.C. Art. 1139) provides that if the court maintains that no adoption can take place without the consent of the opposing parent, a surrender executed by the other parent shall be dissolved.

Proposed law provides that after the court makes its ruling, it shall speedily decide to whom temporary custody is awarded and consider the father, the mother, or any other suitable person.

Present law (Ch.C. Art. 1142) provides that the alleged father shall be served with a copy of the motion to terminate parental rights unless his rights have been terminated, the father has executed an act of surrender, the father has consented to the adoption, or the father has executed a release of claims.

Proposed law repeals present law.

Present law (Ch.C. Art. 1144) provides for the requirements for the placement report.

Proposed law expands present law to provide that the report include:

- (1) The date and time of the visit.
- (2) The individuals present at the time of the visit.
- (3) The location of the visit.
- (4) The duration of the visit.
- (5) An assessment of adjustment of both the child and the adoptive parent.
- (6) An assessment of the attachment and bonding between the child and the adoptive parent.
- (7) An assessment of the child's health.
- (8) A description of changes since last contact.
- (9) A summary of the visit.
- (10) The signature of a person conducting the visit or phone contact.

Proposed law provides that the agency shall utilize a social worker to ensure that the family's home is consistent with the home study report and the child is reasonably safe and healthy.

Proposed law provides that the home study visits should be within seven days of the date the child

first began to live with the prospective family. Thereafter, a visit and assessment shall be completed every 60 days until the hearing on the merits of the adoption request. A minimum of three visits is required prior to the hearing on the merits of the adoption petition, including the visit prior to the final decree.

Present law (Ch.C. Art. 1171) provides for the exceptions for prior approval of private adoptive placement.

Proposed law adds an exception that having obtained a valid and continuing order of legal custody rendered in favor of the adoptive parents by a court of competent jurisdiction where the child who is the subject of the adoption is the subject of the court order.

Present law (Ch.C. Art. 1175) provides that prospective adoptive parents who have not previously obtained a certification for adoption may apply to have a child placed in their home.

Proposed law changes present law to provide that a current certification for adoption as provided for in Ch.C. Art. 1171 through 1173 is the preferred method for approving a home for adoptive placement.

Proposed law (Ch.C. Art. 1178) provides that if a court grants a request for adoptive placement, the court shall immediately issue both of the following orders:

- (1) That the office of state police, La. Bureau of Criminal Identification and Information or any other entity conduct a search on the prospective parents.
- (2) That the department conduct a search for complaints of child abuse.

Present law (Ch.C. Art. 1200) provides that the payment of expenses may not be made contingent on the placement of the child for adoption, relinquishment of the child, or consent to the adoption, and the parent shall have no right to seek reimbursement of any payments.

Proposed law changes present law to provide that all expenses shall be paid only when incurred. If special conditions exist supporting retroactive payment or reimbursement, these special conditions shall be clearly disclosed and approved by the court before disbursement.

Present law (Ch.C. Arts. 1209, 1231, 1254, 1283.7 and 1285.7) provide that intervention of a party in interest shall be for the limited purpose of presenting evidence as to the best interest of the child.

Proposed law repeals present law and provides that intervention is limited to those having a substantial caretaking relationship with the child who possess credible and substantial evidence that the adoption will not serve the child's best interest.

Proposed law (Ch.C. Art. 1223) provides that it is prohibited to accept payment from more than one potential adoption petitioner or his agent and if a parent does accept multiple payments, he shall reimburse the money.

Present law (Ch.C. Art. 1244.1) provides that the answer and opposition to an intrafamily adoption shall be filed within 15 days from the time of service of the filing of an intrafamily adoption petition.

Proposed law changes present law to provide that the opposition shall be filed within 15 days if the person is a resident and 30 days if the person is a nonresident. Proposed law also provides that the attorney shall advocate for the best interest of the child.

Present law provides that notice shall be served on the opposing petitioner pursuant to Ch.C. Art. 1144.

Proposed law repeals present law.

(Amends Ch.C Arts. 103.1(B)(4), 702(G), 1025.1(B), the heading of Title XI of the Ch.C., 1107.1 through 1107.4, 1107.5(A)(4), (B) through (E), 1107.6(C), 1107.8, 1107.9, 1108 through 1112, 1113, 1114 through 1118, 1119(A) and (C), 1120, 1121, 1122(A)(1), (4), and (5), (B)(1) through (6), (8) through (13), (C), (D), (E), (F), and (G), 1123, 1124, 1126, 1127(A) and (D), 1127.1(A) and (B), 1128, 1129, 1130(A), (B), (D), and (E), 1130.1, 1131, 1132(A), (B)(2), (D), 1133(A), 1134(A)(intro. para.), 1135(B)(1), (3), and (4), 1136, 1137(A), (C), (D), and (E), 1138(A), (B), (C), and (E), 1139, 1142(D), 1144, 1145(A), 1146(A), (B)(1) and (3), 1147, 1148, 1171, 1175, 1180(A)(intro. para.), (3), and (C), 1196(D) and (E), 1200(A) and (C), 1209(B), 1218(A), 1224, 1229(B) and (C), 1231(B), 1240(A), 1243.2(A) and (C), 1244.1(A) and (B), 1245(B)(intro. para.) and (C), 1247, 1254(B), 1256(A), 1269.3(E)(3) and (F), 1269.5(B), 1270(A)(2), 1283.7(B), 1285.7(B), C.C.P. Arts. 10(A)(1) and 5091.2, and R.S. 14:125.2(A)(2); Adds Ch.C. Arts. 1122(A)(6), (B)(15) through (17), 1134(A)(3), 1137(F) and (G), 1138(F), 1178(G) and (H), 1223(I) and (J), and 1245(B)(3); Repeals Ch.C. Art. 1122(G), 1141, 1209(C), 1225, 1226, 1229(D), 1231(C), 1244(C), 1244.1(D), 1254(C), 1283.7(C), and 1285.7(C)