

Regular Session, 2013

HOUSE BILL NO. 219

BY REPRESENTATIVE JEFFERSON

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

ADOPTION: Provides criteria for prospective adoptive parents

1 AN ACT

2 To amend and reenact Children's Code Articles 1178(E), 1208(B)(4), 1230(B)(4), and  
3 1253(B)(4) and to enact Children's Code Article 1178(F), relative to adoptions; to  
4 provide for criteria of prospective adoptive parents; to provide factors for the court  
5 to consider when a prospective adoptive parent has a criminal record; and to provide  
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Articles 1178(E), 1208(B)(4), 1230(B)(4), and  
9 1253(B)(4) are hereby amended and reenacted and Children's Code 1178(F) is hereby  
10 enacted to read as follows:

11 Art. 1178. Order and revocation

12 \* \* \*

13 E. The court shall render a decision that is in the best interest of the child and  
14 shall consider all relevant factors including those provided in Article 1177(B).

15 F.(1) The existence of a criminal record of a prospective adoptive parent  
16 shall not be automatic grounds to disapprove placement of the child with the  
17 prospective adoptive parents. The court shall consider all of the following:

18 (a) The nature of the offenses.

19 (b) The number of the offenses committed.

1           (c) The length of time between offenses and between the last offense  
2           committed and the application for court approval.

3           (2) Subsequent to the entry of an order approving an adoptive placement, if  
4           the result of a criminal records check or the results of abuse or neglect validated  
5           complaint records check indicate that the prospective adoptive parents failed to  
6           disclose such unfavorable information at the hearing, the court may issue an instanter  
7           order taking protective custody of the child, pursuant to Article 619, if this  
8           information, if known, together with other evidence presented at the hearing would  
9           have resulted in the court's disapproval of the adoptive placement.

10                                 \*       \*       \*

11           Art. 1208. Hearing; petition for agency adoption

12                                 \*       \*       \*

13           B. At this hearing the court shall consider:

14                                 \*       \*       \*

15           (4) The report of any criminal records or validated complaints of child abuse  
16           or neglect concerning the petitioner-, including the nature of the offenses, the number  
17           of the offenses, and the length of time between the offenses and between the last  
18           offense committed and the petition for agency adoption. The existence of a criminal  
19           record of the petitioner shall not be automatic grounds for the court to refuse to grant  
20           an agency adoption.

21                                 \*       \*       \*

22           Art. 1230. Hearing; petition for private adoption

23                                 \*       \*       \*

24           B. At this hearing the court shall consider:

25                                 \*       \*       \*

26           (4) The report of any criminal records or validated complaints of child abuse  
27           or neglect concerning the petitioner-, including the nature of the offenses, the number  
28           of the offenses, and the length of time between the offenses and between the last  
29           offense committed and the petition for private adoption. The existence of a criminal

1 record of the petitioner shall not be automatic grounds for the court to refuse to grant  
2 a private adoption.

3 \* \* \*

4 Art. 1253. Hearing; petition for intrafamily adoption

5 \* \* \*

6 B. At this hearing the court shall consider:

7 \* \* \*

8 (4) The report of any criminal records or validated complaints of child abuse  
9 or neglect concerning the petitioner-, including the nature of the offenses, the number  
10 of the offenses, and the length of time between the offenses and between the last  
11 offense committed and the petition for intrafamily adoption. The existence of a  
12 criminal record of the petitioner shall not be automatic grounds for the court to  
13 refuse to grant an intrafamily adoption.

14 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Jefferson

HB No. 219

**Abstract:** Provides factors for the court to consider when a prospective adoptive parent has a criminal record.

Present law (Ch.C. Art. 1178) requires the court to render a decision approving or disapproving placement of a child with the prospective adoptive parents after a hearing on the matter and requires the court to include specific reasons when disapproving placement. Further authorizes the court to place a child into protective custody after having rendered an order approving placement of the child with the prospective adoptive parents if the prospective adoptive parent failed to disclose information contained in the criminal record check that would have resulted in the court's disapproval of the placement.

Present law also requires the court to consider the following with respect to preplacement approval of adoptive home in private adoptions:

- (1) The moral fitness, including a prior criminal record, of the prospective adoptive parent.
- (2) The mental and physical health of the prospective adoptive parent.
- (3) The financial capacity of the prospective adoptive parent to provide for the child.

- (4) The capacity of the prospective adoptive parent to provide love, affection, and guidance to the child.
- (5) The environment of the home and neighborhood of the prospective adoptive parent for placement of the child.
- (6) The names and ages of other family members in the prospective adoptive home and their attitudes toward the proposed adoption.
- (7) The stability and permanence of the prospective adoptive home.

Proposed law retains present law and requires the court to render a decision that is in the best interest of the child considering those factors established in present law.

Proposed law further prohibits the court from disapproving the placement of a child with the prospective adoptive parent solely based on the existence of the prospective adoptive parent's criminal record. Requires the court to consider all of the following:

- (1) The nature of the offenses.
- (2) The number of offenses committed.
- (3) The length of time between offenses and between the last offense committed and the application for court approval of adoptive placement.

Present law (Ch. C. Arts. 1208, 1230, and 1253) provides the procedure for the court in setting a hearing on a petition for agency, private, and intrafamily adoptions. Further provides at a hearing, the court shall consider:

- (1) Any motion to intervene.
- (2) Any other issues in dispute.
- (3) The confidential report of the Dept. of Children and Family Services.
- (4) Any criminal record or report of abuse concerning the petitioner.
- (5) The testimony of the parties.

Proposed law retains present law and requires the court, in conjunction with considering the petitioner's criminal record, to consider all of the following:

- (1) The nature of the offenses.
- (2) The number of offenses committed.
- (3) The length of time between offenses and between the last offense committed and the application for court approval of adoptive placement.

Proposed law further provides that the existence of a petitioner's criminal record does not, by itself, serve as a bar to the petitioner adopting.

(Amends Ch.C. Arts. 1178(E), 1208(B)(4), 1230(B)(4), and 1253(B)(4); Adds Ch.C. Art. 1178(F))