

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

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Articles 1178(E), 1208(B)(4) and (5), 1230(B)(4) and (5),
9 and 1253(B)(4) and (5) are hereby amended and reenacted and Children's Code Articles
10 1178(F), 1208(B)(6), 1230(B)(6), and 1253(B)(6) are hereby 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 (5) The report of any validated complaints of child abuse or neglect
22 concerning the petitioner.

23 ~~(5)~~ (6) The testimony of the parties.

24 * * *

25 Art. 1230. Hearing; petition for private adoption

26 * * *

27 B. At this hearing the court shall consider:

28 * * *

1 (4) The report of any criminal records ~~or validated complaints of child abuse~~
 2 ~~or neglect~~ concerning the petitioner, including the nature of the offenses, the number
 3 of the offenses, and the length of time between the offenses and between the last
 4 offense committed and the petition for private adoption. The existence of a criminal
 5 record of the petitioner shall not be automatic grounds for the court to refuse to grant
 6 a private adoption.

7 (5) The report of any validated complaints of child abuse or neglect
 8 concerning the petitioner.

9 ~~(5)~~ (6) The testimony of the parties.

10 * * *

11 Art. 1253. Hearing; petition for intrafamily 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 intrafamily adoption. The existence of a
 19 criminal record of the petitioner shall not be automatic grounds for the court to
 20 refuse to grant an intrafamily adoption.

21 (5) The report of any validated complaints of child abuse or neglect
 22 concerning the petitioner.

23 ~~(5)~~ (6) The testimony of the parties.

24 * * *

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)]

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 homes 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) and (5), 1230(B)(4) and (5), and 1253(B)(4) and (5); Adds Ch.C. Arts. 1178(F), 1208(B)(6), 1230(B)(6), and 1253(B)(6))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Added provisions clarifying that the requirement of the court to consider the nature of offenses, number of offenses committed, and length of time between offenses and between the last offense committed and the application for court approval pertains, to offenses on the prospective adoptive parents' criminal record and not to reports of child abuse.