

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 578 by Representative Nancy Landry

ADOPTION: Provides for intercountry adoptions

Synopsis of Senate Amendments

1. Makes technical amendments to provide for consistency.

Digest of Bill as Finally Passed by Senate

Present law (Ch.C. Art. 1281.3) provides definitions for the following terms: (1) "agency" or "child placing agency", (2) "birth certificate", (3) "child", (4) "department", and (5) "foreign orphan".

Proposed law changes present law to incorporate terminology used in the Intercountry Adoption Act. Provides the following definitions: (1) "agency" or "child placing agency", (2) "birth certificate", (3) "Convention adoptee" or "Hague Convention adoptee", (5) "foreign orphan", and (6) "Hague Convention Adoption" or "Hague adoption" or "Convention adoption" and "orphan adoption" or "Non-Hague adoption".

Present law (Ch.C. Art.1281.4(A)) defines the two types of intercountry adoption in Louisiana as recognition of a foreign decree of adoption and adoption of a foreign orphan.

Proposed law changes present law to mean adoption or recognition of a foreign decree of adoption of a foreign orphan from a country outside the U.S. that is not a party to the Hague Adoption Convention and adoption or recognition of a foreign decree of adoption of a convention adoptee from a Hague Adoption Convention country.

Present law (Ch.C. Art.1281.5) provides that no foreign orphan, in an intercountry adoption, may be placed in prospective parents' home prior to obtaining certification for adoption as per Ch.C. Arts. 1171-1173.

Proposed law retains present law but changes "foreign orphan" to "child" and requires prior approval from USCIS.

Present law (Ch.C. Art.1281.6(A)(intro. para.)) provides for the venue in an intercountry adoption.

Proposed law retains present law but deletes "of a foreign orphan".

Present law (Ch.C. Art.1281.7) provides for the persons whose consent is required in an intercountry adoption and that the parental rights of the parents of any child who has qualified as a foreign orphan are deemed to be terminated. Further requires any custodial or supervisory agency which placed the foreign orphan for adoption to consent to the adoption. Allows the court to grant the adoption without the consent of an agency if the adoption is in the best interest of the child and the court has made a finding that the agency has unreasonably withheld consent.

Proposed law retains present law but extends applicability to a "convention adoptee" and requires the court to make a finding that the adoption is in the best interest of the child and that the agency unreasonably withheld consent.

Present law (Ch.C. Art.1281.9) provides that a U.S. citizen and spouse or unmarried U.S. citizen who is at least 25 years old may petition for an intercountry adoption.

Proposed law retains present law but requires that the spouse be either a U.S. citizen or have lawful immigration status.

Present law (Ch.C. Art.1282.1(A)) provides for petition's contents, form, and attachments for recognition of a foreign adoption. Further requires certain documentation to accompany the petition.

Proposed law retains present law but narrows it to recognition of a Non-Hague Convention Country adoption and requires a copy of the child's immigrant visa or resident alien card be included.

Present law (Ch.C. Art.1282.2(3)) provides that the court shall issue a judgment recognizing a foreign adoption if it finds that the child has qualified as a foreign orphan and is in the U.S. in accord with Immigration and Naturalization Service (INS) regulations.

Proposed law retains present law but changes "INS" to "federal regulations".

Present law (Ch.C. Art.1282.5) provides that the adopted child's name may be changed in a final decree of recognition of a foreign adoption and if changed it shall be the same surname as adoptive parent.

Proposed law retains present law but changes "final decree of recognition of a foreign adoption" to "final decree of adoption" and additionally requires the clerk of court to forward his certificate of the decree of name change to the state registrar of vital records who shall issue a new certificate of live birth in the new name if changed.

Present law (Ch.C. Art.1283.1) provides for the contents and form of the petition of adoption of a foreign orphan. Further requires certain documentation to accompany the petition.

Proposed law retains present law but narrows applicability to Non-Hague Convention Country adoptions and requires a certified copy of the documentation of orphan status certified by the USCIS, rather than by the Immigration and Naturalization Service, and a copy of the child's immigrant visa or permanent resident card accompany the petition.

Present law (Ch.C. Art.1283.2(B)(1)) provides for reimbursement of reasonable medical expenses incurred by the "natural mother".

Proposed law retains present law but changes "natural mother" to "biological mother".

Present law (Ch.C. Art.1283.4) provides for the service of process of the petition for adoption and states that two copies of the petition need not be served on the department.

Proposed law retains present law but deletes that provision stating that two copies of the petition need not be served on the department.

Present law (Ch.C. Art.1283.15) provides for the final decree of adoption's effect to include relieving the parents of the child of all duties and rights in regard to the child and conversely with the child in regards to the parents with the exception of inheritance rights.

Proposed law deletes present law and provides that the final decree has the same force and effect as final decree of adoption and automatically entitles the child to U.S. citizenship under the Inter-country Adoption Act.

Present law (Ch.C. Art.1283.16) provides that the adopted child's name may be changed in the final decree and if changed it shall be the surname of the adoptive parent.

Proposed law retains present law but adds that the clerk of court shall forward a copy of the certificate of final decree of the adoption of the foreign orphan to the state registrar of vital records who shall issue a new certificate of live birth to include the new name if changed in

the decree.

Proposed law (Ch.C. Art. 1284.1) provides the content and form of a petition to recognize a foreign adoption from a Hague Convention Country. It requires an attachment of the child's and petitioners' personal information to include the circumstances of the child's adoption in the foreign country and any relationship between the child and petitioners. It also requires attachment of a Hague Adoption Certificate and a copy of the child's IH-3 visa.

Proposed law (Ch.C. Art. 1284.2) requires the court to render a final decree of adoption upon finding the following: (1) at least one of the adoptive parents is a domiciliary of Louisiana, (2) the original or a certified copy of the foreign adoption decree and a notarized transcript has been filed, (3) the foreign adoption has been completed in accordance with the Hague Convention and the Intercountry Adoption Act, (4) the child is either a permanent resident or a naturalized citizen of the U.S., and (5) the petitioners have the ability to care for, maintain, and educate the child.

Proposed law (Ch.C. Art. 1284.3) authorizes the court to either grant or deny the final decree of adoption, but requires the adoption to be contrary to public policy, taking into account the best interests of the child, in order for the court to deny the final decree.

Proposed law (Ch.C. Art. 1284.4) provides that the final decree of adoption has the same force and effect of a final decree of adoption rendered by a state court.

Proposed law (Ch.C. Art.1284.5) provides that the adopted child's name may be changed in the final decree of recognition of foreign adoption and if changed it shall be the surname of the adoptive parent. It also provides that the clerk of court shall forward a copy of the certificate of final decree of the adoption of the foreign orphan to the state registrar of vital records who shall issue a new certificate of live birth to include the new name if changed in the decree.

Proposed law (Ch.C. Art.1285.1) provides for the content, form and attachments for a petition to adopt a Hague Convention adoptee. Requires attachment of a Hague Custody Declaration, a copy of the child's IH-4 visa, or a certificate from the Secretary of State that the child's legal custody was granted in compliance with federal law. Provides that documents related to a Convention adoption do not need to be authenticated to be admissible unless there is a specific and supported claim of falsity or alteration.

Proposed law (Ch.C. Art.1285.2) requires a petitioner to file a preliminary estimate and accounting of fees and charges and to file a final affidavit not later than ten days prior to the final adoption hearing. Provides for permissible expenditures made by or on behalf of the adoptive parents or representative to include medical expenses incurred by the biological mother and on behalf of the child, counseling and training provided to the adoptive parents, the department's administrative expenses, emigration permit costs and attorney fees. Further requires the adoptive parents to pay expenses imposed by the department. Authorizes the court to reduce unreasonable expenses, to issue an injunction prohibiting disbursements that are not permitted, to inform the district attorney for consideration of criminal charges, or to refuse to approve the adoption.

Proposed law (Ch.C. Art.1285.3) provides the form of the adoption disclosure affidavit of fees and expenses. Requires the petitioners to certify the correctness of the information provided and to acknowledge that the information will be sent to the department. Affirms the confidentiality of the affidavit's information.

Proposed law (Ch.C. Art.1285.4) requires a copy of the petition for adoption of a Hague Convention adoptee to be served on the department and any agency having legal custody of the child.

Proposed law (Ch.C. Art.1285.5) requires the department to investigate the proposed adoption and to submit a confidential report to the court that includes its findings on the

following: (1) the conditions with respect to the availability of the child for adoption, (2) the physical and mental condition of the child, (3) other factors regarding the suitability of the child for adoption in petitioner's home, (4) the moral and financial fitness of the petitioner, and (5) the conditions of the proposed adoptive home with respect to health, adjustment, and other advantages or disadvantages to the child. Authorizes the department to delegate the performance of this investigation to an authorized Hague Convention home study preparation agency while maintaining responsibility for ensuring the accuracy and thoroughness of the resulting report and for the safety and welfare of the child.

Proposed law (Ch.C. Art.1285.6) requires the court to set a hearing not less than 30 nor more than 60 days after the filing of a petition for adoption of a Hague Convention adoptee. Requires the court to consider any motion to intervene, any other issues in dispute, the department's confidential report, the report of any criminal records or validated complaints of child abuse or neglect concerning the petitioner, and the testimony of the parties. Further requires the court to solicit and consider the wishes of the child to be adopted if the child is 12 years of age or older.

Proposed law (Ch.C. Art.1285.7) prohibits intervention in agency adoption proceedings unless there is good cause shown. Further limits an intervention to persons with a substantial caretaking relationship and requires presentation of evidence as to the best interest of the child.

Proposed law (Ch.C. Art.1285.8) authorizes the court to either grant or deny the interlocutory decree of adoption.

Proposed law (Ch.C. Art.1285.9) authorizes the court to render a final decree of adoption at the first hearing if a licensed agency placed the child in the petitioner's home and the child has lived in the home for at least six months prior to the hearing.

Proposed law (Ch.C. Art.1285.10) requires the department to maintain contact with the proposed adoptive home before the final decree of adoption. Authorizes the department to delegate performance of its duties to a licensed private adoption agency. Requires a home visit within 30 days before the final decree of adoption and that a second confidential report be issued to the court preceding the hearing on the final decree of approval.

Proposed law (Ch.C. Art.1285.11) provides that the interlocutory decree shall be null and void if no petition for a final decree of adoption is filed within two years of the granting of the interlocutory decree.

Proposed law (Ch.C. Art.1285.12) authorizes the court, for good cause shown, to revoke the interlocutory decree of adoption. Requires that all parties originally served to be notified prior to the signing of the order of revocation.

Proposed law (Ch.C. Art.1285.13) provides for the petition for a final decree of adoption following an interlocutory decree. Requires the child to have lived with the petitioner for at least one year and at least six months to have elapsed after the granting of an interlocutory decree. Requires the petition be served on the department only.

Proposed law (Ch.C. Art.1285.14) authorizes the court to either grant or deny the petition for a final decree and that the basic consideration is the best interest of the child.

Proposed law (Ch.C. Art.1285.15) provides that the final decree of adoption relieves the parents of all legal duties and divests them of all legal rights with regard to the adopted child, and the adopted child is relieved of all of his legal duties and divested of all his legal rights with regard to the parents, except the right to inherit from his parents. Further provides that a final decree automatically entitles the child to U.S. citizenship under the Intercountry Adoption Act.

Proposed law (Ch.C. Art.1285.16) provides that the child's name may be changed in the final

decree of adoption and, if changed, the surname shall be the same as that of the adoptive parent. It also provides that the clerk of court shall forward, his certificate of the decree to the state registrar of vital records who shall make a new certificate of live birth to include any name change.

Proposed law (Ch.C. Art.1285.17) authorizes the court, upon refusal to grant the final decree of adoption because it is not in the child's best interest, to remove the child from the petitioner.

Proposed law adds comments under Children's Code Arts. 1281.1, 1281.8, 1282.4 and 1283.8.

(Amends Ch.C. Arts. 1281.3(1), (2), (3), and (5), 1281.4(A)(1) and (2), 1281.5, 1281.6(A)(intro. para.), 1281.7, 1281.9, the heading of Chapter 2 and 1282.1(A)(intro. para.) and (B), 1282.2(3), 1282.5, the heading of Chapter 3 and 1283.1(A)(intro. para.) and (B), 1283.2(B)(1), 1283.4, 1283.10(C), the heading of Art. 1283.13, 1283.15, and 1283.16; Adds Ch.C. Arts. 1281.3(6), 1284.1-1284.5, and 1285.1-1285.17)