## 2017 Regular Session

#### **ENROLLED**

## 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.

1	AN ACT
2	To amend and reenact Children's Code Articles 405(A) and (B), 1016(A), and 1025.4(A)(2),
3	and to enact Children's Code Articles 116(4.1), 643(C), 1004(D)(6), 1015(10), and
4	1023(C), relative to curators; to provide for definitions; to provide for the payment
5	of fees; to provide relative to unidentified parents; to provide relative to termination
6	of parental rights; to provide relative to right to counsel; to provide relative to
7	conference scheduling; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. Children's Code Articles 405(A) and (B), 1016(A), and 1025.4(A)(2) are
10	hereby amended and reenacted and Children's Code Articles 116(4.1), 643(C), 1004(D)(6),
11	1015(10), 1023(C) are hereby enacted to read as follows:
12	Art. 116. Definitions
13	Except where the context clearly indicates otherwise, these definitions apply
14	for the following terms used throughout this Code.
15	* * *

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1	(4.1) "Diligent effort to locate" means efforts made by a curator that,
2	under the circumstances known to the curator, are reasonably calculated to
3	locate an absentee. Such efforts may include a review of court records,
4	department records, law enforcement records, vital records, military records,
5	directory assistance, internet search sites, and licensing agencies. Publication
6	shall not be required except as specifically provided in this Code.
7	* * *
8	Comments - 2017
9 10 11 12	The list in Article 116(4.1) is illustrative only. What constitutes a diligent effort is decided on a case-by-case basis. The capacity to conduct searches on the Internet has become readily available and is highly effective; thus, preference should be given to internet searches, particularly in lieu of or prior to publication.
13	* * *
14	Art. 405. Court or witness fees; travel expenses
15	A. Except as otherwise provided by law, no court or witness fees shall be
16	allowed against any party to a petition, and no salaried officer of the state or of any
17	parish or municipality therein shall be entitled to receive any fee for the service or
18	for attendance in court in any such proceedings. All <b>Except as otherwise provided</b>
19	in R.S. 13:4521, all other persons acting under orders of the court may be paid in the
20	same manner as in the district court for services or service of process and attendance
21	or serving as witnesses, the fees provided by law for like services in cases before the
22	district court.
23	B. The court may authorize the payment of necessary travel expenses to
24	witnesses attending in response to summons and the payment of curator fees to be
25	fixed by the court. Such Travel expenses, when authorized by the court, shall be
26	paid from the general fund of the parish or other funds available to the court. <b>Except</b>
27	in proceedings initiated by the state, the court may authorize the payment of
28	curator expenses and fees, which, if so authorized, shall be fixed by the court
29	and paid by petitioners.
30	* * *
31	Art. 643. Service; absentee or unidentified parent; curator ad hoc

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3   hoc for that parent. The father shall be considered unidentified if the biologics     4   father's name is not provided on the birth certificate, there is no presume     5   father, and no party to the proceedings or the mother, if not a party, is able to     6   provide a first and last name of a putative father or alias sufficient to provide     7   a reasonable possibility of identification and location.     8   * * *     9   Art. 1004. Petition for termination of parental rights; authorization to file     10   * * *     11   D. The department may petition for the termination of parental rights of the     12   parent of the child when any of the following apply:     13   * * *     14   (6) The child is in foster care and, despite diligent efforts by the     15   department to identify the child's father, his identity is unknown and     16   termination is authorized by Article 1015(10).     17   * * *     18   Art. 1015. Grounds     19   The grounds for termination of parental rights are:     20   * * *     21   (10) The child is in the custody of the department pursuant to a courd     23   identity of the child's father remains unknown and all the following h	1	* * *
4   father's name is not provided on the birth certificate, there is no presume     5   father, and no party to the proceedings or the mother, if not a party, is able to     6   provide a first and last name of a putative father or alias sufficient to provide     7   a reasonable possibility of identification and location.     8   * * *     9   Art. 1004. Petition for termination of parental rights; authorization to file     10   * * *     11   D. The department may petition for the termination of parental rights of the     12   parent of the child when any of the following apply:     13   * * *     14   (6) The child is in foster care and, despite diligent efforts by the     15   department to identify the child's father, his identity is unknown and     16   termination is authorized by Article 1015(10).     17   * * *     18   Art. 1015. Grounds     19   The grounds for termination of parental rights are:     20   * * *     21   (10) The child is in the custody of the department pursuant to a com     22   order for at least one year, unless sooner permitted by the court, and the     23   identity of the child's father remains unknown and all the following hav	2	<b>C. If the father is unidentified, it is not necessary to appoint a curator ad</b>
5   father, and no party to the proceedings or the mother, if not a party, is able to     6   provide a first and last name of a putative father or alias sufficient to provid     7   a reasonable possibility of identification and location.     8   * * *     9   Art. 1004. Petition for termination of parental rights; authorization to file     10   * * *     11   D. The department may petition for the termination of parental rights of the     12   parent of the child when any of the following apply:     13   * * *     14   (6) The child is in foster care and, despite diligent efforts by the     15   department to identify the child's father, his identity is unknown and     16   termination is authorized by Article 1015(10).     17   * * *     18   Art. 1015. Grounds     19   The grounds for termination of parental rights are:     20   * * *     21   (10) The child is in the custody of the department pursuant to a com     22   order for at least one year, unless sooner permitted by the court, and the     23   identity of the child's father remains unknown and all the following have     24   occurred:     25   (a) In the course	3	hoc for that parent. The father shall be considered unidentified if the biological
6   provide a first and last name of a putative father or alias sufficient to provide a reasonable possibility of identification and location.     8   * * * *     9   Art. 1004. Petition for termination of parental rights; authorization to file     10   * * *     11   D. The department may petition for the termination of parental rights of the     12   parent of the child when any of the following apply:     13   * * *     14   (6) The child is in foster care and, despite diligent efforts by the     15   department to identify the child's father, his identity is unknown and     16   termination is authorized by Article 1015(10).     17   * * *     18   Art. 1015. Grounds     19   The grounds for termination of parental rights are:     20   * * *     21   (10) The child is in the custody of the department pursuant to a court     22   order for at least one year, unless sooner permitted by the court, and the     23   identity of the child's father remains unknown and all the following have     24   occurred:     25   (a) In the course of investigating the case and providing services to the     24   family the department has been unable to learn the identity of the fath	4	father's name is not provided on the birth certificate, there is no presumed
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8   * * *     9   Art. 1004. Petition for termination of parental rights; authorization to file     10   * * *     11   D. The department may petition for the termination of parental rights of the     12   parent of the child when any of the following apply:     13   * * *     14   (6) The child is in foster care and, despite diligent efforts by the     15   department to identify the child's father, his identity is unknown and     16   termination is authorized by Article 1015(10).     17   * * *     18   Art. 1015. Grounds     19   The grounds for termination of parental rights are:     20   * * *     21   (10) The child is in the custody of the department pursuant to a court     22   order for at least one year, unless sooner permitted by the court, and the     23   identity of the child's father remains unknown and all the following have     24   occurred:     25   (a) In the course of investigating the case and providing services to the     24   occurred:     25   (b) No party to the proceedings or the mother, if not a party, is able for     28   provide a first and last name of a putative father or alias sufficient to	6	provide a first and last name of a putative father or alias sufficient to provide
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10   * * *     11   D. The department may petition for the termination of parental rights of the parent of the child when any of the following apply:     13   * * *     14   (6) The child is in foster care and, despite diligent efforts by the department to identify the child's father, his identify is unknown and termination is authorized by Article 1015(10).     16   termination is authorized by Article 1015(10).     17   * * *     18   Art. 1015. Grounds     19   The grounds for termination of parental rights are:     20   * * *     21   (10) The child is in the custody of the department pursuant to a court order for at least one year, unless sooner permitted by the court, and the identity of the child's father remains unknown and all the following have occurred:     23   (a) In the course of investigating the case and providing services to the family the department has been unable to learn the identity of the father.     27   (b) No party to the proceedings or the mother, if not a party, is able to provide a first and last name of a putative father or alias sufficient to provide	8	* * *
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29 <u>a reasonable possibility of identification and location.</u>	29	a reasonable possibility of identification and location.
30 (c) The department has obtained all of the following:	30	(c) The department has obtained all of the following:

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# **ENROLLED**

1	(i) A certified copy of the child's birth certificate with no one indicated
2	thereon as the father of the child, or the father listed has been determined not
3	to be the biological father of the child.
4	(ii) A recent certificate from the putative father registry indicating that
5	no person is listed or registered as the child's father.
6	(iii) A recent certificate from the clerk of court in the parish in which the
7	child was born indicating that no acknowledgment with respect to this child has
8	been recorded.
9	* * *
10	Art. 1016. Right to counsel
11	A. The child and the <b><u>identified</u></b> parent shall each have the right to be
12	represented by separate counsel in a termination proceeding brought under this Title.
13	Neither the child nor anyone purporting to act on his behalf may be permitted to
14	waive the child's right to counsel.
15	* * *
16	Art. 1023. Service; absentee parent; unidentified father
17	* * *
18	<b>C.</b> If the father is unidentified, it is not necessary to appoint a curator ad
19	hoc for that parent. The father shall be considered unidentified if the biological
20	father's name is not provided on the birth certificate, there is no presumed
21	father, and no party to the proceedings or the mother, if not a party, is able to
22	provide a first and last name of a putative father or alias sufficient to provide
23	a reasonable possibility of identification and location.
24	* * *
25	Art. 1025.4. Prehearing and scheduling conference; order
26	A. At the appearance, on its own motion or on motion of counsel, the court
27	shall direct counsel for the petitioner, for the parents, and for the child to appear
28	before it for a conference to consider the following:
29	* * *
30	(2) Efforts to identify and locate an <b>unidentified or</b> absent parent and

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relatives or other individuals willing and able to offer a wholesome and stable home
for the child.

\* \* \*

# PRESIDENT OF THE SENATE

# SPEAKER OF THE HOUSE OF REPRESENTATIVES

# GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_