

2021 Regular Session

SENATE BILL NO. 143

BY SENATOR MCMATH

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

CHILDREN. Provides relative to permanent placement of children in custody of the state.
(gov sig)

1 AN ACT

2 To amend and reenact Children's Code Article 702(C)(2) and (D) and to enact Children's

3 Code Article 672.3, relative to permanent placement of children in custody of the

4 state; to provide for a diligent search for relatives; to provide for notice to relatives;

5 to provide for priorities of placement; to provide for continuation of care in certain

6 circumstances; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Article 702(C)(2) and (D) are hereby amended and
9 reenacted and Children's Code Article 672.3 is hereby enacted to read as follows:

10 **Art. 672.3. Diligent search for relatives; notice; failure to respond**

11 **A. Whenever custody of a child is assigned to the Department of**

12 **Children and Family Services, the department shall conduct a diligent search**

13 **for adult relatives of the child and for persons who have a significant**

14 **relationship with the child to be completed no later than thirty days from the**

15 **date the child was taken into custody. A diligent search shall include, at a**

16 **minimum, all of the following:**

17 **(1) Interviews with the child's parent during the course of an**

1 investigation, while child protective services are provided, and while the child
2 is in care.

3 (2) Interviews with the child.

4 (3) Interviews with identified relatives throughout the case.

5 (4) Interviews with any other person who is likely to have information
6 about the identity or location of adult relatives of the child or persons who have
7 a significant relationship with the child.

8 (5) Comprehensive searches of databases available to the Department
9 of Children and Family Services which may include searches of employment,
10 residence, utilities, vehicle registration, child support enforcement, law
11 enforcement, and corrections records or any other records likely to result in
12 identifying and locating adult relatives of the child or persons who have a
13 significant relationship with the child.

14 (6) Appropriate inquiry during the course of hearings in the case in
15 accordance with Children's Code Article 625(D).

16 (7) Any other reasonable means that are likely to identify relatives or
17 other persons who have demonstrated an ongoing commitment to the child.

18 B. The Department of Children and Family Services shall file with the
19 court information regarding attempts made pursuant to Paragraph A of this
20 Article no later than thirty days from the date the child was removed from
21 home, or as otherwise required by the court, and at each case review hearing
22 pursuant to Children's Code Article 692 and permanency hearing pursuant to
23 Children's Code Article 702.

24 C. All relatives to the alleged dependent child identified in the diligent
25 search required by this Article, subject to exceptions due to family or domestic
26 violence or other safety concerns, shall be provided with a notice that does all
27 of the following:

28 (1) Specifies that an alleged dependent child has been or is being
29 removed from parental custody.

1 **(2) Explains the options a relative has to participate in the care and**
2 **placement of the alleged dependent child and any options that may be lost by**
3 **failing to respond to the notice.**

4 **(3) Describes the process for becoming a licensed foster family home and**
5 **the additional services and supports available for children placed in approved**
6 **foster homes.**

7 **(4) Describes any financial assistance for which a relative may be**
8 **eligible.**

9 **D. After the completion of the diligent search required by this Article,**
10 **the Department of Children and Family Services shall have a continuing duty**
11 **to search for relatives or other persons who have demonstrated an ongoing**
12 **commitment to a child and with whom it may be appropriate to place the**
13 **alleged dependent child until the relatives or persons are found or until the**
14 **child is placed for adoption unless the court excuses the Department of Children**
15 **and Family Services from conducting a diligent search.**

16 **E. If a relative entitled to notice pursuant to this Article fails, after three**
17 **months from the date the relative receives the required notice, to demonstrate**
18 **an interest in and willingness to provide a permanent home for a child, the court**
19 **may excuse the Department of Children and Family Services from considering**
20 **the relative as a placement.**

21 * * *

22 Art. 702. Permanency hearing

23 * * *

24 C. The court shall determine the permanent plan for the child that is most
25 appropriate and in the best interest of the child in accordance with the following
26 priorities of placement:

27 * * *

28 **(2)(a) Adoption or kinship care with another member of the child's**
29 **extended family or a person who has a significant relationship with the child.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Brandi Cannon.

DIGEST

SB 143 Engrossed

2021 Regular Session

McMath

Present law provides for the placement of children into the custody of the Department of Children and Family Services (DCFS). Proposed law provides that DCFS shall conduct a diligent search for adult relatives of the child and for persons who have a significant relationship with the child no later than 30 days from the date the child was taken into custody. Proposed law provides that a diligent search shall include, at a minimum, interviews with the child's parent, the child, identified relatives, and any other person who is likely to have information about the identity or location of adult relatives of the child or persons who have a significant relationship with the child and comprehensive searches of databases available to DCFS which may include employment, residence, utilities, vehicle registration, child support enforcement, law enforcement, corrections records, and any other records likely to result in identifying and locating the person being sought.

Proposed law provides that all relatives to the alleged dependent child identified in the diligent search required by proposed law, subject to exceptions due to family or domestic violence or other safety concerns, shall be provided with a notice explaining the options a relative has to participate in the care and placement of the alleged dependent child and any options that may be lost by failing to respond to the notice.

Proposed law provides that DCFS shall have a continuing duty to search for relatives or other persons who have demonstrated an ongoing commitment to a child and with whom it may be appropriate to place the alleged dependent child until the relatives or persons are found or until the child is placed for adoption unless the court excuses DCFS from conducting a diligent search.

Proposed law provides that the court may excuse DCFS from considering a relative as a placement if the relative fails, after three months from the date the relative receives the required notice, to demonstrate an interest in and willingness to provide a permanent home for a child.

Present law provides that the court shall determine the permanent plan for the child that is most appropriate and in the best interest of the child in accordance with enumerated priorities of placement. Proposed law provides that the priority placement of adoption shall include kinship care with another member of the child's extended family or a person who has a significant relationship with the child. Proposed law provides that a foster parent or kinship caregiver with whom a child under age six has resided for six months or more is a person who has a significant relationship with the child and that, absent evidence to the contrary, the court may presume that continuation of the child's placement with the child's current caregivers is in the child's best interests.

Present law provides that the court shall consider a child's need for continuing contact with any relative by blood, adoption, or affinity with whom the child has an established and significant relationship. Proposed law provides that if the court finds that a child under age six has been living in a stable home environment with the current caregivers for the past six months, that no relative caregiver has been identified as the concurrent plan caregiver as part of the child's case submitted to the court, and that removal of the child from the caregivers would be detrimental to the child's emotional well-being, there shall be a rebuttable presumption that continuation of the child's placement with the current caregivers is in the child's best interests. Proposed law prohibits DCFS from making a change of placement without a contradictory hearing at which the department overcomes the rebuttable presumption and establishes that the removal is in the best interest of the child.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends Ch.C. Art. 702(C)(2) and (D); adds Ch.C. Art. 672.3)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Makes technical changes.
2. Specifies that inquiries regarding the location of relatives or other interested parties during court hearings shall be made in accordance with present law procedures.
3. Specifies that the results of the search for relatives or other caregivers shall be filed with the court in accordance with present law procedures.
4. Adds the requirement that no relative caregiver has been identified as the concurrent plan caregiver to the rebuttable presumption threshold test.
5. Clarifies that DCFS may only change the placement after a contradictory hearing at which the department overcomes the rebuttable presumption and establishes that the removal is in the best interest of the child.