

2021 Regular Session

SENATE BILL NO. 143

BY SENATORS MCMATH, ABRAHAM, ALLAIN, BARROW, BERNARD, BOUDREAUX, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, FIELDS, HENRY, HEWITT, JACKSON, LAMBERT, LUNEAU, MILLIGAN, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, REESE, SMITH AND WOMACK

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)

AN ACT

To amend and reenact Children's Code Article 702(D) and to enact Children's Code Article 672.3, relative to permanent placement of children in custody of the state; to provide for a diligent search for relatives; to provide for notice to relatives; to provide for priorities of placement; to provide for continuation of care in certain circumstances; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

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

A. Whenever custody of a child is assigned to the Department of Children and Family Services, the department shall conduct a diligent search for adult relatives of the child and for persons who have a significant relationship with the child to be completed no later than thirty days from the date the child was taken into custody. A diligent search shall include, at a minimum, all of the following:

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

14 (6) Appropriate inquiry during the course of hearings in the case in
15 accordance with 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 ten days before any scheduled disposition, case review, permanency
21 hearing, or as otherwise required by the court. Any additional information
22 obtained by the department subsequent to the initial filing shall be disclosed to
23 the court during the hearing.

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

27 (1) Specifies that the child has been or is being removed from parental
28 custody.

29 (2) Explains the options a relative has to participate in the care and

1 placement of the child and any options that may be lost by failing to respond to
2 the notice.

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

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

8 D. After the completion of the diligent search required by this Article,
9 the Department of Children and Family Services shall have a continuing duty
10 to search for relatives or other persons who have demonstrated an ongoing
11 commitment to a child and with whom it may be appropriate to place the child
12 until the relatives or persons are located, the court excuses the department from
13 conducting a diligent search, or permanency is achieved.

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

19 * * *

20 Art. 702. Permanency hearing

21 * * *

22 D.(1) The court shall consider a child's need for continuing contact with any
23 relative by blood, adoption, or affinity with whom the child has an established and
24 significant relationship in accordance with Article 1269.2 as one of several factors
25 in determining the permanent plan that is most appropriate and in the best interest
26 of the child.

27 (2)(a) In the case of a child under the age of six, the court may find that
28 continuation of the child's placement with the current caregiver is in the child's
29 best interest if the child is in a stable home environment where the child's

1 physical and emotional needs are met by a person who has a significant
2 relationship with the child, that no relative or other suitable caregiver has been
3 identified as a concurrent plan caregiver as part of the child's case plan or
4 report submitted to the court, and that it would be detrimental to the child's
5 well-being if the child is removed from the current caregiver. Upon such
6 finding, the department shall not make any change in placement absent prior
7 written notice to the court. Prior notice for a placement change is not required
8 when necessary to ensure the safety of the child, when the current caregiver
9 requests that the child be removed, or when a child is moving to the home of a
10 parent for the purpose of a trial placement.

11 (b) In the event of removal from a placement with a current caregiver
12 pursuant to Subparagraph (a) of this Paragraph, upon motion of the court,
13 motion of the current caregiver, or motion of the child, which is filed within
14 fifteen days of the change in placement, a contradictory hearing shall be held
15 to determine whether removal was in the best interest of the child.

16 (c) For the purposes of Subparagraph (a) of this Paragraph, a foster
17 parent, relative, or other suitable individual with whom a child under the age
18 of six has resided continuously for nine months or more is a person who has a
19 significant relationship with the child. Nothing in this Subparagraph shall be
20 construed to interfere with any rights afforded to biological parents.

21 * * *

22 Section 2. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

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

DIGEST

SB 143 Reengrossed

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 provide notice to the court of attempted relative searches ten days before any scheduled disposition, case review, permanency hearing, or as otherwise required by the court. 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 and other resources available to DCFS which may include school, 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 of the 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 child until the relatives or persons are located, the court excuses DCFS from conducting a diligent search, or permanency is achieved.

Proposed law provides that the court may excuse DCFS from considering a relative as a placement if the relative fails, after ninety days 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 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 in the case of a child under the age of six, the court may find that continuation of the child's placement with the current caregiver is in the child's best interest if the child is in a stable home environment where the child's physical and emotional needs are met by a person who has a significant relationship with the child, that no relative or other suitable caregiver has been identified as a concurrent plan caregiver as part of the child's case plan or report submitted to the court, and that it would be detrimental to the child's well-being if the child is removed from the current caregiver. Proposed law provides that upon a finding by the court, the department shall not make any change in placement absent prior written notice to the court. Proposed law provides that prior notice for a placement change is not required when necessary to ensure the safety of the child, when the current caregiver requests that the child be removed, or when a child is moving to the home of a parent for the purpose of a trial placement.

Proposed law provides that in the event of removal from a placement with a current caregiver pursuant to proposed law, upon motion of the court, motion of the current caregiver, or motion of the child, which is filed within fifteen days of the change in placement, a contradictory hearing shall be held to determine whether removal was in the best interest of the child.

Proposed law provides that for purposes of proposed law, a foster parent, relative or other suitable individual with whom a child under the age of six has resided continuously for nine

months or more is a person who has a significant relationship with the child. Proposed law provides that nothing in proposed law shall be construed to interfere with any rights afforded to biological parents.

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

(Amends Ch.C. Art. 702(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.

Senate Floor Amendments to engrossed bill

1. Provide that in making a diligent search for the relatives of the child the department will use databases and other resources and adds schools to the list of sources that may be searched.
2. Change the time frame for notice to the court of attempted relative searches from no later than 30 days from the date the child was removed to ten days before any scheduled disposition, case review, permanency hearing, or as otherwise required by the court.
3. Provide that DCFS has a continuing duty to search for relatives of the child until the relatives are located, the court excuses DCFS from conducting a diligent search, or permanency is achieved.
4. Revise the provisions specific to children under age six to remove the rebuttable presumption that the child should not be removed with a prohibition on DCFS from moving the child from a person the child has a significant relationship with without prior written notice to the court, except when removal is necessary to ensure the safety of the child, if the current caregiver requests the removal, or when the child is removed to be with a parent.
5. Provide for a contradictory hearing upon motion of the court, motion of the current caregiver, or motion of the child, if the motion is filed within 15 days of change in placement of a child under the age of six to determine if removing the child was in the best interest of the child.

6. Changes the time frame for a caregiver forming a significant relationship with the child from six months to nine months.
7. Provide that nothing in proposed law shall be construed to interfere with any rights afforded biological parents.