

SENATE BILL NO. 9

BY SENATOR PRICE (On Recommendation of the Louisiana State Law Institute)

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

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AN ACT

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To amend and reenact Children's Code Articles 603(2)(e), 680, 1022, and 1226, R.S.

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13:1139 and 1587.1(C), R.S. 15:1082, 1098.1(A), and 1099.1, R.S. 24:175(B) and

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176(B), R.S. 44:3(A)(6), and R.S. 46:1251(B), 1901(B), 2411, and 2417(C), and to

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repeal Children's Code Article 606(A)(6), (7), and (8), relative to the continuous

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revision of the Children's Code; to provide for definitions; to provide for the grounds

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for a child in need of care; to provide for the rights of the parties in a disposition

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hearing; to provide for service of nonresident parents; to provide for references to the

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Children's Code; to provide for Comments; and to provide for related matters.

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Be it enacted by the Legislature of Louisiana:

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Section 1. Children's Code Articles 603(2)(e), 680, 1022, and 1226 are hereby

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amended and reenacted to read as follows:

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Art. 603. Definitions

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As used in this Title:

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(2) "Abuse" means any one of the following acts which seriously endanger

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the physical, mental, or emotional health and safety of the child:

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(e) Female genital mutilation as defined by R.S. 14:43.4 **of the child or of**

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a sister of the child.

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Comments - 2021

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This revision incorporates the substance of Subparagraphs (A)(6), (7), and (8) of Article 606 within the definition of "abuse" in this Article. "Commercial sexual exploitation" as referenced in Subparagraph (2)(b) is defined in Paragraph (9.1) and already incorporates human trafficking (R.S. 14:46) and trafficking of children for sexual purposes (R.S. 14:46.3), which had previously been duplicated in Article 606(A)(6) and (7). Subparagraph (2)(e) is revised to include language from Article 606(A)(8) with regard to female genital mutilation of a sister of the child.

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Art. 680. Disposition hearing; rights of parties; evidence

A. All parties have the right to testify, the right to confront and cross-examine adverse witnesses, the right to present evidence and witnesses, and the right to counsel.

B. The court shall consider the report of the predisposition investigation, the case plan, any reports of mental evaluation, and all other evidence offered by the ~~child or the state~~ parties relating to the proper disposition. The court may consider evidence which would not be admissible at the adjudication hearing.

* * *

Art. 1022. Service; nonresident parent

If a parent against whom a proceeding is instituted does not reside within this state, service of citation shall be made by registered or certified mail to the address indicated in the petition, return receipt required, not less than five days prior to commencement of the hearing on the matter.

* * *

Art. 1226. Service; nonresident parent

If a parent upon whom service is required under Article 1224 does not reside within this state, service shall be made by registered or certified mail to the address indicated in the petition, return receipt required, not less than thirty days prior to commencement of the hearing on the petition.

Section 2. R.S. 13:1139 and 1587.1(C) are hereby amended and reenacted to read as follows:

§1139. Transfer of cases

~~A. Repealed by Acts 2011, No. 340, §3, eff. June 29, 2011.~~

~~B:~~ It is the express intent of this Section that the jurisdiction conferred by law, particularly the ~~Louisiana Code of Juvenile Procedure~~ Children's Code, upon; Orleans Parish Juvenile Court shall be the same as it was prior to the enactment of Act 620 of 1976 and shall remain unchanged, except as otherwise provided in the ~~Louisiana Code of Juvenile Procedure~~ Children's Code. Said The court shall

1 continue to be known as Orleans Parish Juvenile Court, notwithstanding its change
2 of name effected by Act 620 of the Regular Session of the Legislature of 1976 and
3 the subsequent repeal of the provisions of ~~said~~ **that** Act shall not be construed or
4 interpreted to change its jurisdiction, its powers, its duties, its various departments
5 or its personnel, except as herein set forth and provided.

6 * * *

7 §1587.1. Juvenile Court of the parish of Orleans; clerk of court; bailiffs; minute
8 clerks; stenographers and other personnel; probation officers

9 * * *

10 C. All employees of the probation department and probation services for the
11 Juvenile Court for the Parish of Orleans on and after the effective date of this Act
12 shall be transferred to and provided by the Louisiana Department of Health ~~and~~
13 ~~Human Resources~~ in accordance with existing statutes, subject to the rules and
14 regulations of the Louisiana civil service system or its successor. The duties of
15 probation officers shall be fixed in accordance with the provisions of the Children's
16 ~~Code of Juvenile Procedure~~ and of R.S. 46:1251 through ~~R.S. 46:1256~~. The salaries,
17 related benefits, and operational expenses incurred in the provision of probation
18 services shall be at the expense of the state and sufficient funds therefor shall be
19 budgeted by the legislature.

20 * * *

21 Section 3. R.S. 15:1082, 1098.1(A), and 1099.1 are hereby amended and reenacted
22 to read as follows:

23 §1082. Definitions

24 The definitions provided in ~~R.S. 13:1569 and in Article 13 of the code of~~
25 ~~juvenile procedure~~ the Children's Code shall be applicable to this Part, unless the
26 context clearly indicates otherwise.

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28 §1098.1. Construction of Subpart; controlling law

29 A. To the extent that the provisions of this Subpart are inconsistent with any
30 other statutory law, the provisions of this Subpart shall be ~~deemed~~ considered

1 controlling, except that all provisions of the Children's Code of Juvenile Procedure
2 relative to the placement of juveniles in shelter care facilities and detention centers
3 shall be ~~deemed~~ **considered** controlling.

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5 §1099.1. Construction of Subpart; controlling law

6 To the extent that the provisions of this Subpart are inconsistent with any
7 other statutory law, the provisions of this Subpart shall be ~~deemed~~ **considered**
8 controlling, except that all provisions of the Children's Code of Juvenile Procedure
9 relative to the placement of juveniles in shelter care facilities and detention centers
10 shall be ~~deemed~~ **considered** controlling.

11 Section 4. R.S. 24:175(B) and 176(B) are hereby amended and reenacted to read as
12 follows:

13 §175. Severability

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15 B. This Section shall apply to acts of the legislature affecting general, and
16 local and special laws, and statutes of the state, including the Louisiana Revised
17 Statutes of 1950, the Civil Code ~~of the state of Louisiana~~, the ~~Louisiana~~ Code of
18 Civil Procedure, the ~~Louisiana~~ Code of Criminal Procedure, the ~~Louisiana~~ Code of
19 Evidence, and the ~~Louisiana~~ **Children's Code of Juvenile Procedure**.

20 §176. Repeal

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22 B. This Section shall apply to acts of the legislature affecting general, and
23 local and special laws, and statutes of the state, including the Louisiana Revised
24 Statutes of 1950, the Civil Code ~~of the state of Louisiana~~, the ~~Louisiana~~ Code of
25 Civil Procedure, the ~~Louisiana~~ Code of Criminal Procedure, the ~~Louisiana~~ Code of
26 Evidence, and the ~~Louisiana~~ **Children's Code of Juvenile Procedure**.

27 Section 5. R.S. 44:3(A)(6) is hereby amended and reenacted to read as follows:

28 §3. Records of prosecutive, investigative, and law enforcement agencies and
29 communications districts

30 A. Nothing in this Chapter shall be construed to require disclosures of

1 records, or the information contained therein, held by the offices of the attorney
 2 general, district attorneys, sheriffs, police departments, Department of Public Safety
 3 and Corrections, marshals, investigators, public health investigators, correctional
 4 agencies, communications districts, intelligence agencies, Council on Peace Officer
 5 Standards and Training, Louisiana Commission on Law Enforcement and
 6 Administration of Criminal Justice, or publicly owned water districts of the state,
 7 which records are:

8 * * *

9 (6) Records concerning status offenders as defined in the Children's Code
 10 of Juvenile Procedure.

11 * * *

12 Section 6. R.S. 46:1251(B), 1901(B), 2411, and 2417(C) are hereby amended and
 13 reenacted to read as follows:

14 §1251. Juvenile probation; parole and intake services

15 * * *

16 B. The intake service provided hereunder shall be limited to examining and
 17 evaluating complaints that a child is a delinquent or is a child in need of supervision
 18 and advising the district attorney whether the best interests of the child would be
 19 served by the initiation of proceedings under the Children's Code of Juvenile
 20 Procedure, the signing of an informal adjustment agreement, referral to the
 21 Department of Children and Family Services, referral to a public or private agency
 22 for assistance, or any other legally permissible course of action. The personnel
 23 assigned to perform these duties shall not assume any prosecutorial functions except
 24 for the filing of a petition as authorized by the Children's Code of Juvenile
 25 Procedure Art. 45.

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27 §1901. Definitions

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29 B. When used in this Chapter, unless the context otherwise requires, the
 30 terms used herein shall have the meaning ascribed to them by R.S. 13:1569 or the

1 Children's Code of Juvenile Procedure Article 13.

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3 §2411. Definitions

4 Except where the context clearly indicates otherwise in this Chapter:

5 (1) "~~Case permanency plan~~" means the plan specified by R.S. 46:2418.

6 (2) "~~Case progress report~~" means the report specified by R.S. 46:2419.

7 (3) "Court" means any court which is exercising juvenile jurisdiction
8 pursuant to the Louisiana constitution and Code of Juvenile Procedure Constitution
9 of Louisiana and the Children's Code. If any court is comprised of separate
10 divisions or sections, each such division or section shall be deemed a court for the
11 purposes of this Chapter. Where applicable, "court" shall refer to the particular court
12 which exercises juvenile jurisdiction over the child whose case is to be reviewed.

13 (4)(2) "Department" means the Department of Children and Family Services.

14 (5)(3) "Foster care" means the provision of temporary twenty-four hour care
15 for a child for a planned period of time, when the child is placed away from his
16 parents or other person acting as his parent, and when the child is placed in a foster
17 family home, group home, or other child caring facility, but remains under the
18 supervision of the department.

19 (6)(4) "Mature child" means a child who is able to understand the
20 circumstances and implications of the situation in which he is involved and is able
21 to participate in the decision-making process without excessive anxiety or fear. A
22 child who is fourteen years of age or older is presumed to be a mature child.

23 (7)(5) "Parent" means the biological or adoptive parent whose parental rights
24 toward the child have not been terminated.

25 (8)(6) "Records" means any information in written form, pictures,
26 photographs, charts, graphs, recordings, or documents pertaining to the case being
27 reviewed.

28 * * *

29 §2417. Notification to local citizen review board of new cases

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1 C. Whenever a child has been placed in the custody of the department,
 2 voluntarily and not through a court proceeding, for reasons other than delinquency
 3 or need of supervision, as defined in ~~Article 13~~ of the **Children's Code of Juvenile**
 4 ~~Procedure~~, the department shall, within ten days, forward a copy of the placement
 5 agreement to the clerk of court in the judicial district where the child is located. The
 6 clerk of the court shall forward the placement agreement to a local citizen review
 7 board appointed by the court. If a judicial proceeding is subsequently commenced
 8 in another court, the citizen review board shall forward to the court where
 9 proceedings are pending all documents, records, and written information in its
 10 possession relative to the case. The receiving court shall make and retain additional
 11 copies of the case permanency plan, case progress reports, and observations and
 12 recommendations of the local citizen review board and shall assign the case and
 13 forward all documents, records, and written information to a new local board.

14 Section 7. Children's Code Article 606(A)(6), (7), and (8) are hereby repealed in their
 15 entirety.

16 Section 8. The Louisiana State Law Institute is hereby directed to print the following
 17 Comment to Children's Code Article 606:

18 Comments - 2021

19 This revision removes Subparagraphs (A)(6), (7), and (8) as separate grounds that
 20 a child is in need of care and incorporates the substance of those provisions within the
 21 definition of "abuse" in Article 603.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____