

2022 Regular Session

HOUSE BILL NO. 360

BY REPRESENTATIVE HILFERTY

(On Recommendation of the Louisiana State Law Institute)

CHILDRENS CODE: Provides for the continuous revision of the Children's Code

1 AN ACT

2 To amend and reenact Children's Code Articles 320(B), (C), and (D), 335(D) and (E),

3 502(1)(introductory paragraph) and (5), 575, 601, 603(2)(introductory paragraph),

4 (18), (20), (25), (26), and (27), 607(A) and (C), 608(A)(introductory paragraph), (3),

5 and (4), (B), and (C), 612(A)(2) and (4), 615(B)(1), 619(A)(1), (B), and (C), 620(A),

6 (B), and (C), 621(A) and (B), 622(B)(introductory paragraph), (1), (2), and (3),

7 623(A) and (B), 624(A), (C)(1), (F), and (H), 625(D)(1), 626, 627(C), 635.1, 638,

8 639, 640(A) and (C), 646.1(B)(2) and (D), 672.1(B), 673, 675(A) and (B)(1), (2), (3),

9 (6)(a), and (8), 677(B) and (C), 681(A)(introductory paragraph) and (1), 682(A) and

10 (B)(introductory paragraph), (4), and (5), 683(A), (B), and (D), 684(B) and (C),

11 700(A)(introductory paragraph) and (1), 702(C)(1) and (4), (E), (G), and (J), 710(A)

12 and (D), 716, 722(A)(2) and (4) and (B), 724.1(C)(2) and (4), 1003(1)(introductory

13 paragraph) and (10), 1016(A) and (B), 1021, and 1404(13), and to enact Children's

14 Code Articles 335(F) and (G), 603(28) through (32), 1019.1, and 1019.2, relative to

15 the continuous revision of the Children's Code; to provide for the determination of

16 indigency; to provide for the appointment of counsel; to provide for the preparation

17 of the record; to provide for definitions; to provide authorization to the Indigent

18 Parents' Representation Program; to provide for Child in Need of Care proceedings;

19 to provide for the safety of a child; to provide for reasonable efforts of the

20 Department of Children and Family Services; to provide for the welfare of a child;

1 to provide for the removal of a child; to remove outdated language; to provide for a
2 continued safety plan hearing; to provide for notice of court orders; to provide for
3 service made on a child; to authorize service by commercial courier; to provide for
4 the confirmation of electronic delivery; to provide for a child to remain in the
5 custody of a parent; to require written reasons for removal; to provide for return of
6 the child; to provide for modification of judgments; to provide a cross reference; and
7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Articles 320(B), (C), and (D), 335(D) and (E),
10 502(1)(introductory paragraph) and (5), 575, 601, 603(2)(introductory paragraph), (18), (20),
11 (25), (26), and (27), 607(A) and (C), 608(A)(introductory paragraph), (3), and (4), (B), and
12 (C), 612(A)(2) and (4), 615(B)(1), 619(A)(1), (B), and (C), 620(A), (B), and (C), 621(A) and
13 (B), 622(B)(introductory paragraph), (1), (2), and (3), 623(A) and (B), 624(A), (C)(1), (F),
14 and (H), 625(D)(1), 626, 627(C), 635.1, 638, 639, 640(A) and (C), 646.1(B)(2) and (D),
15 672.1(B), 673, 675(A) and (B)(1), (2), (3), (6)(a), and (8), 677(B) and (C),
16 681(A)(introductory paragraph) and (1), 682(A) and (B)(introductory paragraph), (4), and
17 (5), 683(A), (B), and (D), 684(B) and (C), 700(A)(introductory paragraph) and (1),
18 702(C)(1) and (4), (E), (G), and (J), 710(A) and (D), 716, 722(A)(2) and (4) and (B),
19 724.1(C)(2) and (4), 1003(1)(introductory paragraph) and (10), 1016(A) and (B), 1021, and
20 1404(13) are hereby amended and reenacted and Children's Code Articles 335(F) and (G),
21 603(28) through (32), 1019.1, and 1019.2 are hereby enacted to read as follows:

22 Art. 320. Indigency determination

23 * * *

24 B. ~~The~~ Except as provided in Article 608, the determination of the indigency
25 of any person entitled to counsel ~~under~~ in accordance with this Code may be made
26 by the court at any stage of the proceedings. If necessary, ~~he~~ the person shall be
27 allowed to summon witnesses to testify before the court concerning ~~his~~ the person's
28 financial ability to employ counsel.

1 C.(1) In determining whether a person is indigent and entitled to the
2 appointment of counsel, the court shall consider whether ~~he~~ the person is a needy
3 person and the extent of ~~his~~ the person's ability to pay.

4 ~~(1)~~(2) The court shall consider such factors as income, property owned,
5 outstanding obligations, and the number and ages of dependents.

6 ~~(2)~~(3) Release on bail shall not alone disqualify either an adult or child for
7 appointment of counsel.

8 D. In each case, subject to the penalty of perjury, the person shall certify in
9 writing ~~such~~ the material factors relating to ~~his~~ the person's ability to pay as the court
10 prescribes.

11 * * *

12 Art. 335. Preparation of record; costs

13 * * *

14 D. If a child desires a transcript for appeal, ~~he or his~~ or for supervisory writ,
15 the child or the parents of the child shall pay not be assessed the cost of transcription
16 of the record ~~unless the court determines that the child and his parents lack means~~
17 to pay such cost or any other costs associated with the preparation of the record.

18 E. If a parent, in a proceeding brought pursuant to Title V, VI, VII, X, or XI
19 of this Code, desires a transcript for appeal or for supervisory writ, the parent shall
20 pay the cost of transcription of the record unless the court determines that the parent
21 is unable to pay due to poverty or lack of means. The appointment of counsel for the
22 parent in a proceeding shall create a rebuttable presumption that the parent is unable
23 to pay the costs associated with the preparation of the appellate record or the costs
24 for the transcription of the contested proceedings for inclusion in the appeal or
25 supervisory writ. If the court finds that the presumption has been rebutted, the court
26 shall provide written reasons for its finding.

27 F. If the court finds that the interests of justice so require, the court may
28 waive the costs of transcription of the record or for supervisory writ for any other
29 party with a right to an appeal who is unable to pay due to poverty or lack of means.

1 E: G. Failure of the clerk to prepare and lodge the record on appeal either
2 timely or correctly shall not prejudice the appeal.

3 Comments - 2022

4 Paragraph G of this Article places a burden on the clerk of court to prepare
5 and lodge the record. If the exclusive responsibility for preparing and lodging the
6 record is on the clerk, the clerk's negligence should not affect the appeal. Therefore,
7 an appeal shall not be dismissed solely upon the failure of the clerk to prepare and
8 lodge the record timely or correctly.

9 * * *

10 Art. 502. Definitions

11 For the purposes of this Title, the following terms have the following
12 meanings, unless the context clearly indicates otherwise:

13 (1) "Abuse" means any one of the following acts ~~which~~ that seriously
14 endanger the physical, mental, or emotional ~~health~~ welfare and safety of the child:

15 * * *

16 (5) "Neglect" means the unreasonable refusal or failure of a parent or
17 caretaker to supply the child with necessary food, clothing, shelter, care, treatment,
18 or counseling for any injury, illness, or condition of the child, as a result of which the
19 child's physical, mental, or emotional ~~health~~ welfare and safety is substantially
20 threatened or impaired. Consistent with ~~Children's Code~~ Article 606(B), the inability
21 of a parent or caretaker to provide for a child's basic support, supervision, treatment,
22 or services due to inadequate financial resources shall not, for that reason alone, be
23 considered neglect. Whenever, in lieu of medical care, a child is being provided
24 treatment in accordance with the tenets of a well-recognized religious method of
25 healing ~~which~~ that has a reasonable, proven record of success, the child shall not, for
26 that reason alone, be considered to be neglected or maltreated. However, nothing
27 ~~herein~~ in this Subparagraph shall prohibit the court from ordering medical services
28 for the child when there is substantial risk of harm to the child's ~~health or welfare~~ or
29 safety.

30 * * *

1 Art. 575. Duties of the program; qualifications of counsel

2 A. The program shall provide qualified legal counsel, which shall include
3 ~~curatorship~~ curator ad hoc appointments, to indigent or absent parents in child abuse
4 and neglect cases in accordance with the provisions of ~~R.S. 15:185.1~~ Articles 608
5 and 1016 and R.S. 15:141 through 183 and 185.1 through 185.9.

6 B. Legal representation, which shall include ~~curatorship~~ curator ad hoc
7 appointments, of indigent or absent parents in child abuse and neglect cases shall
8 comply with standards promulgated by the Louisiana Public Defender Board, or any
9 successor to that board in accordance with ~~R.S. 15:185.1~~ R.S. 15:141 through 183
10 and 185.1 through 185.9 to ensure competent and fair representation.

11 C. The Indigent Parents' Representation Program, through its governing
12 authority, may adopt policies to provide representation to indigent parents prior to
13 the commencement of court proceedings.

14 * * *

15 Art. 601. Purpose

16 The purpose of this Title is to protect children whose physical or mental
17 ~~health and~~ welfare and safety is substantially at risk of harm by physical abuse,
18 neglect, or exploitation and who may be further threatened by the conduct of others,
19 by providing for the reporting of suspected cases of abuse, exploitation, or neglect
20 of children; by providing for the investigation of ~~such~~ complaints; and by providing,
21 if necessary, for the resolution of child in need of care proceedings in the courts. The
22 proceedings shall be conducted expeditiously to avoid delays in achieving
23 permanency for children. This Title is intended to provide the greatest possible
24 protection as promptly as possible for ~~such~~ children. The ~~health~~ welfare, safety, and
25 best interest of the child shall be the paramount concern in all proceedings ~~under~~
26 pursuant to this Title. This Title shall be construed in accordance with Article 102.
27 This Title shall be administered and interpreted to avoid unnecessary interference
28 with family privacy and trauma to the child, and yet, at the same time, authorize the

1 protective and preventive intervention needed for the ~~health~~ welfare, safety, and
2 well-being of children.

3 * * *

4 Art. 603. Definitions

5 As used in this Title:

6 * * *

7 (2) "Abuse" means any one of the following acts ~~which~~ that seriously
8 endanger the physical, mental, or emotional ~~health~~ welfare and safety of the child:

9 * * *

10 (18) "Neglect" means the refusal or unreasonable failure of a parent or
11 caretaker to supply the child with necessary food, clothing, shelter, care, treatment,
12 or counseling for any injury, illness, or condition of the child, as a result of which the
13 child's physical, mental, or emotional ~~health~~ welfare and safety is substantially
14 threatened or impaired. Neglect includes prenatal neglect. Consistent with Article
15 606(B), the inability of a parent or caretaker to provide for a child due to inadequate
16 financial resources shall not, for that reason alone, be considered neglect. Whenever,
17 in lieu of medical care, a child is being provided treatment in accordance with the
18 tenets of a well-recognized religious method of healing ~~which~~ that has a reasonable,
19 proven record of success, the child shall not, for that reason alone, be considered to
20 be neglected or maltreated. However, nothing ~~herein~~ in this Subparagraph shall
21 prohibit the court from ordering medical services for the child when there is
22 substantial risk of harm to the child's ~~health or welfare~~ or safety.

23 * * *

24 (20) "Other suitable individual" means a person with whom the child enjoys
25 a close, established, significant relationship, yet not a blood relative, including a
26 neighbor, godparent, teacher, and or close friend of the parent. ~~"Relative" for the~~
27 ~~purpose of this Title means an individual with whom the child has established a~~
28 ~~significant relationship by blood, adoption, or affinity.~~

29 * * *

1 (25) "Protective capacity" means the cognitive, behavioral, and emotional
2 knowledge, abilities, and practices that prevent or control threats of danger to
3 children.

4 (26) "Reasonable efforts" means the exercise of ordinary diligence and care
5 by the department caseworkers and supervisors and shall assume the availability of
6 a reasonable program of services to children and their families throughout the
7 pendency of a case pursuant to the obligations imposed on the state by federal and
8 state law to provide services and supports designed and intended to prevent or
9 eliminate the need for removing a child from the child's home, to reunite families
10 after separation, and to achieve safe permanency for children. Reasonable efforts
11 shall be determined by the particular facts and circumstances of each case, including
12 the individualized needs of each child and the family, the imminence and potential
13 severity of the threat of danger, the strengths of each child and the family, and the
14 community of support available to the family. In making reasonable efforts, the
15 welfare and safety of the child shall be the paramount concern.

16 (27) "Relative" means an individual with whom the child has established a
17 significant relationship by blood, adoption, or affinity.

18 (26) (28) "Removal" means placing a child in the custody of the state or with
19 someone other than the parent or caretaker during or after the course of an
20 investigation of abuse and neglect to secure the child's ~~protection and safeguard the~~
21 ~~child's~~ welfare and safety.

22 (29) "Safe" and "safety" mean the condition of not being unsafe. A child is
23 unsafe when there is a threat of danger to the child, the child is vulnerable to the
24 threat, and the parent or caretaker have insufficient protective capacity to manage or
25 control the threat.

26 (27) (30) "Safety plan" means a plan for the purpose of assuring a child's
27 ~~health~~ welfare and safety by imposing conditions for the child to safely remain in the
28 home, or, after a child has been removed from the home, for the continued placement

1 of the child with a custodian and terms for contact between the child and ~~his~~ the
2 child's parents or other persons.

3 (31) "Threat of danger" exists when the behavior of a parent or caretaker or
4 the family situation indicates imminent serious harm to the child's physical, mental,
5 or emotional welfare and safety.

6 (32) "Vulnerable" means the inability to protect oneself from identified
7 threats of danger.

8 * * *

9 Art. 607. Child's right to appointed counsel; payment

10 A. The court shall appoint the ~~program~~ entity designated for the jurisdiction
11 by the Louisiana Supreme Court to provide qualified, independent counsel for the
12 child in any order issued in accordance with Article 619(C) or 620 at the time the
13 order setting the first court hearing is signed. Neither the child nor anyone
14 purporting to act on ~~his~~ behalf of the child may be permitted to waive this right.

15 * * *

16 C. If the court finds that the parents of the child are financially able, ~~it~~ the
17 court may order the parents to pay some or all of the costs of the child's
18 representation in accordance with ~~Children's Code~~ Articles 320 and 321.

19 * * *

20 Art. 608. Parents' right to counsel; payment

21 A. The parents of a child who is the subject of a child in need of care
22 proceeding shall be entitled to qualified, independent counsel ~~at the continued~~
23 ~~custody hearing~~ after the court issues any order in accordance with Article 619(C)
24 or 620 or at the filing of a petition and at all stages of the proceedings thereafter. If
25 the court does not issue an order in accordance with Article 619(C) or 620, the right
26 to counsel shall attach upon the filing of a petition. At all proceedings governed by
27 Chapter 6 of this Title, the parents shall be presumed to be indigent. Thereafter,
28 indigence shall be determined in accordance with Article 320. ~~This right~~ The right
29 to counsel may be waived by a parent if the court determines that the parent choosing

1 to waive ~~his~~ the right to representation has been instructed by the court about ~~his~~ the
2 rights and the possible consequences of waiver. Before accepting a waiver of
3 counsel, the court shall ensure each of the following:

4 * * *

5 (3) The parent has been informed by the court that a proceeding brought
6 ~~under~~ in accordance with this Title may ultimately result in a termination of parental
7 rights and a complete and permanent separation of the parent from the child.

8 (4) The parent has been informed by the court that if ~~he~~ the parent is unable
9 to afford an attorney, one will be provided by the Indigent Parents' Representation
10 Program.

11 * * *

12 B. If a parent of a child is financially unable to afford counsel or is presumed
13 indigent in accordance with Paragraph A of this Article, the ~~court shall refer the~~
14 ~~parent for representation by the Indigent Parents' Representation Program~~
15 ~~administered by the Louisiana Public Defender Board~~ district public defender office
16 shall provide for representation, unless the Louisiana Public Defender Board has
17 contracted to provide for representation in accordance with R.S. 15:185.3(B)(12) or
18 any other provision of law.

19 C. ~~If a parent of the child is entitled to representation by the Indigent Parents'~~
20 ~~Representation Program, the~~ The unavailability of counsel to represent the parent
21 shall be good cause for a continuance of the continued custody hearing for up to
22 three days, and the hearing shall not proceed until a qualified, independent attorney
23 is provided to the parent.

24 * * *

25 Art. 612. Assignment of reports for investigation and assessment

26 A.

27 * * *

28 (2) Reports of high and intermediate levels of risk shall be investigated
29 promptly. This investigation shall include a preliminary investigation as to the

1 nature, extent, and cause of the abuse or neglect and the identity of the person
 2 actually responsible for the child's condition. This preliminary investigation shall
 3 include an inquiry as to whether there is reason to know that the child is an Indian
 4 child. This preliminary investigation shall also include an interview with the child
 5 and ~~his parent or~~ the child's parents or other caretaker and shall include consideration
 6 of all available medical information provided to the department pertaining to the
 7 child's condition. This preliminary investigation shall also include an immediate
 8 assessment of any existing visitation or custody order or agreement involving the
 9 alleged perpetrator and the child. The department shall request a temporary
 10 restraining order pursuant to Article 617, a protective order pursuant to Article 618,
 11 or an instanter safety plan order pursuant to Article 619 or ~~Article~~ 620 if the
 12 department determines that any such previously ordered visitation or custody would
 13 put the child's ~~health~~ welfare and safety at risk. Admission of the investigator on
 14 school premises or access to the child in school shall not be denied by school
 15 personnel. However, the request for a temporary restraining order or a protective
 16 order in accordance with this Article shall not independently confer exclusive
 17 jurisdiction on the juvenile court in accordance with Article 303.

18 * * *

19 (4) During the investigation of a report from a treating health care
 20 practitioner of physical abuse of a child who is not in custody of the state, at the
 21 request and expense of the child's parent or caregiver the department shall provide
 22 copies of all medical information pertaining to the child's condition or treatment
 23 obtained during the investigation to a board certified child abuse pediatrician for
 24 purposes of conducting an independent review of the information. Any resulting
 25 report shall be provided to the department and to the child's parent or caretaker and
 26 shall be utilized in the department's ~~on-going~~ ongoing assessment of risk and to
 27 determine what action may be necessary to protect the ~~health~~ welfare and safety of
 28 the child. Nothing in this Subparagraph shall be construed to prohibit granting an
 29 instanter removal order pursuant to Article 615(B).

30 * * *

1 Art. 615. Disposition of reports

2 * * *

3 B. After investigation, the local child protection unit shall make one of the
4 following determinations:

5 (1) The child appears to be a child in need of care and ~~his~~ the child's
6 immediate removal is necessary for ~~his~~ protection from further abuse or neglect, in
7 which case, whenever ~~such~~ extraordinary justification arises, it the local child
8 protection unit shall apply for an instanter removal order to place the child in the
9 custody of a ~~suitable~~ relative or other suitable individual capable of protecting the
10 ~~health~~ welfare and safety of the child or the state as authorized ~~under~~ by Articles 619
11 and 620 and shall notify the district attorney as soon as possible.

12 * * *

13 Art. 619. Instanter custody orders; instanter safety plan orders

14 A.(1) A peace officer, district attorney, or employee of the local child
15 protection unit of the department may file a verified complaint alleging facts
16 showing that there are reasonable grounds to believe that the child is in need of care
17 and that emergency removal or the implementation of a safety plan is necessary to
18 secure the child's ~~protection~~ welfare and safety.

19 * * *

20 B.(1) If removal of the child is requested, the court shall immediately
21 determine whether reasonable efforts, as defined by Article 603, have been made by
22 the department to prevent or eliminate the need for the child's removal, ~~including~~.
23 In making the determination, the court shall consider all of the following:

24 (a) ~~whether~~ Whether the department has requested a temporary restraining
25 order pursuant to Article 617;

26 (b) Whether the department has request a protective order pursuant to Article
27 618; ~~or a~~.

28 (c) Whether the department has requested an instanter safety plan order
29 pursuant to this ~~article~~ Article.

1 (d) Any services or support offered or attempted prior to the request for an
2 instanter order to control the threat of danger or substitute for diminished or absent
3 caretaker protective capacity.

4 (2) In making and determining reasonable efforts, the child's ~~health~~ welfare
5 and safety shall be the paramount concern.

6 (3) However, the court may authorize the removal of the child even Even if
7 the department's efforts have not been reasonable, the court may authorize the
8 removal of the child if the court determines that removal is necessary to secure the
9 safety of the child and that additional efforts would not keep the child safe from
10 identified threats of danger.

11 C.(1) Upon presentation of the verified complaint, the court shall
12 immediately determine whether emergency removal or the issuance of a an instanter
13 safety plan order is necessary to secure the child's protection welfare and safety.

14 (2) If the court ~~determines~~ finds that ~~the child's welfare cannot be~~
15 ~~safeguarded without removal,~~ continuation in the home would be contrary to the
16 welfare and safety of the child, the court shall immediately issue a written instanter
17 order directing that the child be placed in the provisional custody of a ~~suitable~~
18 relative or other suitable individual capable of protecting the ~~health~~ welfare and
19 safety of the child or that the child be taken into the custody of the state. The order
20 shall contain written findings of fact supporting the necessity for the child's removal
21 ~~in order to safeguard his welfare.~~ If the child has been ordered into the custody is
22 given to of a suitable relative or other suitable individual, a safety plan shall be made
23 an order of the court and shall direct the provisional custodian to adhere to the
24 conditions of the safety plan. The safety plan shall set forth conditions of contact
25 with parents or other ~~third parties~~ suitable individuals.

26 (3) If, upon request by the state, the court determines that with the issuance
27 of a safety plan order, ~~that the child's welfare~~ and safety can be ~~safeguarded~~ secured
28 without removal, the court shall immediately issue a written instanter safety plan
29 order directing compliance with the terms of the safety plan. The order shall contain

1 written findings of fact supporting the necessity for the safety plan to safeguard his
2 ~~welfare~~. The safety plan shall set forth conditions as determined by or agreed upon
3 by the state as necessary for the ~~protection of the child's health~~ welfare and safety
4 while remaining in the home.

5 (4) If the court determines that emergency removal or the issuance of a
6 safety plan order is not necessary to secure the child's ~~protection~~ welfare and safety,
7 the court shall issue a written order denying the request for custody or for the
8 implementation of a safety plan.

9 * * *

10 Art. 620. Oral instanter orders

11 A. In exceptional circumstances, the facts supporting the issuance of an
12 instanter order and the exceptional circumstances may be relayed orally, including
13 telephonically, to the judge and ~~his~~ the order directing that a child be taken into
14 custody or, upon request by the state, that a an instanter safety plan order be
15 implemented may be issued orally.

16 B. ~~In such cases, an~~ An affidavit containing the information previously
17 relayed orally, including telephonically, shall be filed with the clerk of the court
18 within twenty-four hours and a written order shall be issued. The written order shall
19 include the court's findings of fact supporting the necessity for the child's removal
20 or the implementation of a an instanter safety plan order ~~in order to safeguard his~~
21 ~~welfare~~ and, if the child has been removed, shall determine the child's custodian in
22 accordance with Article 619.

23 C. The affidavit filed after the child has been placed shall indicate whether
24 the child was released to ~~his~~ the child's parents or remains removed.

25 * * *

1 Art. 621. Taking child into custody without a court order

2 A. A peace officer or probation officer of the court may take a child into
3 custody without a court order if ~~he has~~ there are reasonable grounds to believe that
4 the child's surroundings are such as to endanger ~~his~~ the child's welfare and safety and
5 immediate removal appears to be necessary ~~for his protection~~. The peace officer
6 shall have the responsibility to promptly notify and release the child to the
7 department.

8 B. Employees of the department ~~must~~ shall secure an instanter order before
9 taking a child into custody.

10 * * *

11 Art. 622. Placement pending a continued custody hearing

12 * * *

13 B. Unless the best interest of the child requires a different placement, a child
14 who appears to be a child in need of care and whose immediate removal is necessary
15 ~~for his protection from further abuse or neglect~~ shall be placed, pending a continued
16 custody hearing, in accordance with ~~this priority~~ the following priorities of
17 placement:

18 (1) In the home of a ~~suitable~~ relative who is of the age of majority and with
19 whom the child has been living in a ~~wholesome and stable~~ and safe environment if
20 the relative is willing and able to continue to offer such environment for the child
21 pending an adjudication hearing and if ~~he~~ the relative agrees to the safety plan.

22 (2) In the home of a ~~suitable~~ relative who is of the age of majority if the
23 relative is willing and able to offer a ~~wholesome and stable~~ and safe environment for
24 the child pending an adjudication hearing and if ~~he~~ the relative agrees to the safety
25 plan.

26 (3) In the home of a suitable individual who is of the age of majority if ~~he~~
27 the individual is willing and able to offer a ~~wholesome and stable~~ and safe
28 environment for the child pending an adjudication hearing and if ~~he~~ the individual
29 agrees to the safety plan.

30 * * *

1 Art. 623. Notice; right to be heard

2 A. The department shall give notice of any ~~court hearing order~~ regarding the
3 child issued in accordance with Article 619(C) or 620 to his the child's parents, the
4 district defender or other entity designated for the jurisdiction by the Indigent
5 Parents' Representation Program for representing parents, the entity designated for
6 the jurisdiction by the Louisiana Supreme Court to provide qualified, independent
7 counsel for the child, and other parties. ~~It~~ The department shall also give ~~such~~ notice
8 regarding any child in foster care to any foster parent, pre-adoptive parent, and
9 relative providing care. The department shall notify the court of each party's address
10 and shall have a continuing duty to provide current information to the court about
11 each party's whereabouts.

12 B. The notice shall state the date, time, and place of ~~the~~ any scheduled
13 hearing and inform the recipient of his the right to attend and be heard. The notice
14 to the district defender and the entity designated for the jurisdiction by the Louisiana
15 Supreme Court to provide qualified, independent counsel for the child shall also
16 include a copy of the verified complaint, the affidavit required in Article 620(B), and
17 any order issued by the court.

18 * * *

19 Art. 624. Continued custody hearing; continued safety plan hearing; federal Indian
20 Child Welfare Act

21 A. If a child is not released to the care of ~~his parents~~ the parent, a hearing
22 shall be held by the court within three days after the child's removal or entry into
23 custody. An order setting the hearing shall provide for appointment of counsel for
24 the child and notice to the ~~program~~ entity approved to represent children. If a an
25 instanter safety plan order has been ~~ordered,~~ signed, a parent or child may file a
26 motion for a continued safety plan hearing at any time prior to the answer hearing,
27 and a hearing shall be held by the court within ~~three~~ seven days from the ~~issuance of~~
28 ~~the safety plan order,~~ unless the parents are in agreement with the safety plan. The
29 ~~parents' signature on the safety plan shall constitute evidence of their agreement with~~

1 ~~the plan~~ date of the filing of the motion. The continued safety plan hearing shall be
2 conducted in accordance with the procedural and evidentiary rules applicable to
3 continued custody hearings.

4 * * *

5 C.(1) If it appears from the record that, after diligent efforts by the
6 department, the parent cannot be found or has been served a summons or notified by
7 the department to appear at the continued custody or continued safety plan hearing
8 and fails to appear at the hearing, then the hearing may be held in the parent's
9 absence.

10 * * *

11 F. The child and ~~his~~ the child's parents may introduce evidence, call
12 witnesses, be heard on their own behalf, and cross-examine witnesses called by the
13 state.

14 * * *

15 H. A ~~suitable~~ relative or other suitable individual who seeks to become the
16 custodian of the child shall provide evidence of a willingness and ability to provide
17 a ~~wholesome and stable~~ and safe environment for the child and to protect the ~~health~~
18 welfare and safety of the child pending an adjudication hearing. ~~He~~ The relative or
19 other suitable individual shall affirm a continued acceptance of the terms of the
20 safety plan.

21 * * *

22 Art. 625. Advice of rights and responsibilities of parents, counsel, and department;
23 absent parents

24 * * *

25 D.(1) The court shall direct all persons before the court to identify the name,
26 address, and whereabouts of each parent and any relative or other suitable individual
27 willing and able to offer a ~~wholesome and stable~~ and safe home for the child.

28 * * *

1 Art. 626. Grounds for continued custody; reasonable efforts; grounds for continued
2 safety plan

3 A. The court may authorize continued custody of a child prior to
4 adjudication if there are reasonable grounds to believe the child is in need of care and
5 that continued custody is necessary for ~~his safety and protection~~ the welfare and
6 safety of the child.

7 B. Except as otherwise provided in Article 672.1, the court shall determine
8 whether the department has made reasonable efforts as defined in Article 603 to
9 prevent or eliminate the need for removal of the child from ~~his~~ the home and, after
10 removal, to make it possible for the child to safely return home. The ~~child's health~~
11 welfare and safety of the child shall be the paramount concern. These determinations
12 ~~must~~ shall be supported by findings of fact contained in the continued custody order
13 issued pursuant to Article 627.

14 C. ~~If the department's first contact with the family occurred during an~~
15 ~~emergency in which the child could not safely remain at home even with reasonable~~
16 ~~in-home services provided to the family, the department shall be deemed to have~~
17 ~~made reasonable efforts to prevent or eliminate the need for removal.~~ The court shall
18 deem efforts to prevent or eliminate the need for removal to be reasonable if the
19 circumstances in which the department first encountered the family precluded those
20 efforts.

21 D. The court may authorize the removal of the child even if the department's
22 efforts have not been reasonable, ~~and~~ if the court determines that removal is
23 necessary to secure the welfare and safety of the child and that additional efforts
24 would not keep the child safe from identified threats of danger. The court may
25 impose ~~such~~ any sanctions it deems appropriate pursuant to Article 712.

26 E. The court may authorize, with the consent of the state, continued
27 implementation of a safety plan prior to the adjudication if there are reasonable
28 grounds to believe that the child is in need of care and that the continued
29 implementation of the safety plan is necessary for ~~his safety and protection~~ the

1 welfare and safety of the child. The safety plan shall continue to set forth conditions
2 as determined or agreed upon by the state as necessary for the protection of the
3 ~~child's health and safety~~ welfare and safety of the child while remaining in the home.

4 Art. 627. Continued custody order; special provisions; appointments; continued
5 safety plan order

6 * * *

7 C. If the court finds that the child can be safely returned home under a
8 protective order pending adjudication, the court may order return of the child and
9 issue ~~such~~ protective orders as are deemed necessary for the ~~protection and~~ welfare
10 and safety of the child.

11 * * *

12 Art. 635.1. Notice to counsel

13 Upon the filing of the petition, the court shall provide notice and a copy of
14 the petition to the ~~program~~ entity designated for the jurisdiction to provide counsel
15 for the child in accordance with ~~Children's Code~~ Article 607, and to the ~~program~~
16 entity representing indigent parents in accordance with ~~Children's Code~~ Article 608.

17 * * *

18 Art. 638. Service of petition; parent; child

19 A copy of the petition and the notice of the nature of the hearing and the
20 rights of the parent, as provided for in Article 639, shall be served, in a sealed
21 envelope, upon every parent of the child. A copy of the petition and the notice of the
22 nature of the hearing shall be served on the child through the entity designated for
23 the jurisdiction to provide counsel for the child.

24 Art. 639. Notice of nature of proceedings; parental rights; form

25 The following notice shall be served with a petition and summons on every
26 parent whose child is the subject of a child in need of care proceeding:

27 "NOTICE

1 Louisiana law provides that the ~~health~~ wealth and safety of your child or
2 children are of paramount importance and you can lose some or all of your parental
3 rights regarding your children under certain circumstances.

4 The state has filed a petition ~~which~~ that claims that your child is abused or
5 neglected or is otherwise in need of care and asks the court to hold a hearing to
6 determine whether these circumstances exist. If the court rules that your child is
7 being abused or neglected or is otherwise in need of care, as defined by Louisiana
8 law, your rights to have custody of your child, to visit your child, or to make
9 decisions affecting your child will be seriously affected. You may also become
10 liable for paying the costs of your child's care if custody is awarded to some other
11 individual or to the state. If your child cannot be safely returned home and the court
12 grants custody to some other suitable individual or to the state, a petition to terminate
13 your parental rights may be filed.

14 You have the right to hire an attorney and are encouraged to do so. When
15 you come to court, if you cannot afford to hire an attorney, you may qualify to have
16 the court appoint one for you at state expense.

17 Whether or not you decide to hire an attorney, you have the right to attend all
18 hearings of your case and must attend as summoned, and the right to call witnesses
19 on your behalf, and to question those witnesses brought against you."

20 Art. 640. Service and return; child; resident parent; counsel

21 A. ~~If~~ For a child, through counsel, and for a parent who resides within the
22 state, service of the petition, summons, and notice shall be made as soon as possible,
23 and not less than fifteen days prior to commencement of the adjudication hearing on
24 the matter, by any of the following means:

25 (1) Personal service.

26 (2) Domiciliary service.

27 (3) Certified mail.

28 (4) Electronic mail to the electronic mail address provided by counsel for the
29 child or expressly designated by the parent in a pleading, at the continued custody

1 or continued safety plan hearing, or at any other hearing at which the parent
2 personally appeared before the court.

3 (5) Actual delivery by a commercial courier.

4 * * *

5 C. Service by electronic mail is complete upon transmission, ~~but is not~~
6 ~~effective if the serving party learns the transmission did not reach the party to be~~
7 ~~served~~ provided that the sender receives an electronic confirmation of delivery.

8 * * *

9 Art. 646.1. Prehearing conference

10 * * *

11 B. The prehearing conference may be conducted either in person or by
12 telephone to consider any of the following:

13 * * *

14 (2) Efforts to identify and locate an absent parent, and relatives or other
15 individuals willing and able to offer a ~~wholesome and stable~~ and safe home for the
16 child.

17 * * *

18 D. If ~~any party's~~ for any party counsel fails to obey a prehearing order, or to
19 appear at the prehearing and scheduling conference, or is substantially unprepared
20 to participate in the conference, or fails to participate in good faith, the court, upon
21 its own motion or on the motion of a party, after hearing, may make such orders as
22 are just, including orders provided in Code of Civil Procedure Article 1471(A)(2),
23 (3), and (4). In lieu of or in addition to any other sanction, the court may require the
24 party or ~~his~~ for the party counsel, or both, to pay the reasonable expenses incurred
25 by noncompliance with this Paragraph, including attorney fees.

26 * * *

27 Art. 672.1. Reunification efforts determination

28 * * *

1 B. The department shall have the burden of demonstrating by clear and
2 convincing evidence that reunification efforts are not required, considering the ~~health~~
3 welfare and safety of the child and the child's need for permanency.

4 * * *

5 Art. 673. Case plan

6 Within sixty days after a child enters the custody of a child care agency, the
7 custodian shall develop a case plan detailing the custodian's efforts toward achieving
8 a permanent placement for the child. The ~~health~~ welfare and safety of the child shall
9 be the paramount concern in the development of the case plan.

10 * * *

11 Art. 675. Case plan purpose; contents

12 A. The case plan shall be designed to achieve placement in the least
13 restrictive, most family-like, and most appropriate setting available, and in close
14 proximity to the parents' homes, consistent with the best interest and special needs
15 of the child. The ~~health~~ welfare and safety of the child shall be the paramount
16 concern in the development of the case plan.

17 B. The case plan shall at least include all of the following:

18 (1) A description of the type of home or institution in which the child is
19 placed, including a discussion of the child's ~~health~~ welfare and safety, the
20 appropriateness of the placement, and the reasons why the placement, if a substantial
21 distance from the home of the parents or in a different state, is in the best ~~interests~~
22 interest of the child.

23 (2) A plan for assuring that the child receives safe and proper care and that
24 services are provided to the parents, child, and foster parents in order to improve the
25 conditions in the parents' home, facilitate the safe return of the child to ~~his~~ the child's
26 own home or other permanent placement of the child, or both, and address the needs
27 of the child while in foster care, including a plan for visitation and a discussion of
28 the appropriateness of the services that have been provided to the child ~~under~~ in
29 accordance with the plan.

1 (3) A plan for assuring that the child is afforded the greatest opportunity for
2 normalcy through engagement in age- or developmentally appropriate activities on
3 a regular basis. The child shall be consulted in an age-appropriate manner about ~~his~~
4 the child's interests and the available opportunities ~~available to him~~. Recognizing the
5 greatest opportunity for normalcy lies in the day-to-day decisions affecting the
6 child's activities, the ~~child's~~ caretaker should be supported in making those decisions
7 through the use of the reasonable and prudent parent standard as set forth in R.S.
8 46:283.

9 * * *

10 (6)(a) For a child fourteen years of age or older, the plan shall include a
11 written, individualized, and thorough transitional plan, developed in collaboration
12 with the child and any agency, department, or individual assuming ~~his~~ custody, care,
13 or responsibility of the child.

14 * * *

15 (8) Assessment of the ~~child's~~ relationships ~~with his~~ between the child and the
16 parents, grandparents, and siblings, including a plan for assuring that continuing
17 contact with any relative by blood, adoption, or affinity with whom the child has an
18 established and significant relationship is preserved while the child is in foster care.
19 The preservation of ~~such~~ these relationships shall be considered when the ~~child's~~
20 permanent plan is adopted.

21 * * *

22 Art. 677. Case plan review

23 * * *

24 B. If no party files a written response objecting to the case plan and the court
25 finds that the plan protects the ~~health~~ welfare and safety of the child and is in the best
26 interest of the child, the court shall render an order approving the plan.

27 C. If the court does not approve the case plan, ~~it~~ the court shall enter specific
28 written reasons for finding that the plan does not protect the ~~health~~ welfare and safety
29 of the child or is otherwise not in the best interest of the child.

30 * * *

1 Art. 681. Dispositional alternatives

2 A. In a case in which a child has been adjudicated to be in need of care, the
3 ~~child's health and safety~~ welfare and safety of the child shall be the paramount
4 concern; If the child can safely remain in or return to the custody of the parent, the
5 court shall place the child in the custody of the parent under terms and conditions
6 deemed to be in the best interest of the child, including but not limited to the
7 issuance of a protective order pursuant to Article 618 or a safety plan order. If the
8 child cannot safely remain in or return to the custody of the parent, and the court may
9 do any of the following:

10 (1) Place Order the child ~~in the~~ into the legal custody of a ~~parent or such~~
11 relative or other suitable person individual on ~~such~~ terms and conditions ~~as~~ deemed
12 to be in the best interest of the child, including but not limited to the issuance of a
13 protective order pursuant to Article 618.

14 * * *

15 Art. 682. Removal of a child from parental custody or control

16 A. The court shall not remove a child from the custody of ~~his parents~~ the
17 parent unless ~~his~~ continuation in the home would be contrary to the welfare and
18 safety of the child and the welfare and safety of the child cannot, in the opinion of
19 the court, be adequately ~~safeguarded~~ secured without ~~such~~ removal. Except as
20 otherwise provided in Article 672.1, in support of any ~~such~~ disposition removing a
21 child from the parental home, the court shall determine whether the department has
22 made reasonable efforts to prevent or eliminate the need for removal of the child
23 ~~from his home~~ and, after removal, to reunify the parent and child or to finalize ~~the~~
24 ~~child's~~ placement in an alternative safe and permanent home in accordance with the
25 ~~child's~~ permanent plan including, if appropriate, through an interstate placement.
26 The ~~child's health and safety~~ welfare and safety of the child shall be the paramount
27 concern in the court's consideration of removal. The department shall have the
28 burden of demonstrating reasonable efforts.

1 B. If the court concludes that the child is to be removed from ~~his parents'~~
2 ~~custody~~ the custody of the parent, ~~it~~ the court shall do all of the following:

3 * * *

4 (4) Inform the parties and all persons before the court that it is their
5 continuing responsibility to notify the department and the court in writing regarding
6 the whereabouts, including address, cellular number, telephone number, and any
7 other contact information, of an absent parent and the identity and whereabouts,
8 including address, cellular number, telephone number, and any other contact
9 information, of any relative or other suitable individual willing and able to offer a
10 ~~wholesome and stable~~ and safe home for the child.

11 (5) Inform the parties and all persons before the court of their continuing
12 responsibility to support the achievement of timely permanency for the child and
13 further direct ~~such~~ all individuals to advise the department and the court in writing
14 of the whereabouts, including the address, cellular number, telephone number, and
15 any other contact information, of all grandparents, all parents of a sibling where ~~such~~
16 the parent has legal custody of ~~such~~ the sibling, and all other adult relatives of the
17 child.

18 * * *

19 Art. 683. Disposition; generally

20 A. The court shall impose the least restrictive disposition of the alternatives
21 enumerated in Article 681 ~~which~~ that the court finds is consistent with the
22 circumstances of the case; and the health welfare and safety of the child; ~~and the best~~
23 ~~interest of society.~~

24 B. ~~The~~ If the court determines that the child cannot safely remain in or return
25 to the custody of the parent, the court shall place the child in the custody of a relative
26 unless the court has made a specific finding that ~~such~~ the placement is not in the best
27 interest of the child. The court shall give specific written reasons for its findings,
28 which shall be made a part of the record of the proceeding.

29 * * *

1 D. In committing a child to the custody of ~~an~~ another suitable individual or
2 a private agency or institution, the court shall, whenever practicable, select ~~a person~~
3 an individual, agency, or institution of the same religious affiliation as the child or
4 ~~his~~ the parents.

5 * * *

6 Art. 684. Judgment of disposition

7 * * *

8 B. The court shall enter a written order approving the case plan or specific
9 written reasons why ~~it~~ the court finds the plan does not protect the ~~health~~ welfare and
10 safety of the child or is otherwise not in the best interest of the child.

11 C. When the child is to be removed from the custody of the parent, the court
12 shall enter findings that continuation in the home would be contrary to the welfare
13 and safety of the child. Except as otherwise provided in Article 672.1, when the
14 child is to be removed from ~~his parents' custody~~ the custody of the parent, in support
15 of its determination of whether reasonable efforts, as defined in Article 603, have
16 been made to prevent removal, the court shall enter findings, including a ~~brief~~
17 description of what preventive and reunification efforts, or both, were made and why
18 ~~further~~ additional efforts ~~could or could not have prevented or shortened the~~
19 ~~separation of the family~~ would not keep the child safe from identified threats of
20 danger. If a child is to be or has been placed out-of-state, the court shall determine
21 and enter findings on whether the placement is safe, appropriate, and in the best
22 interest of the child.

23 * * *

24 Art. 700. Order; appeal

25 A. At the conclusion of the case review hearing, the court shall make a
26 finding as to whether the child can safely return to the custody of the parent and shall
27 order return of custody to the parent if it is safe to do so. The court order shall give
28 specific written reasons for the findings. If the court finds that the child cannot be

1 safely returned to the parent under terms and conditions deemed to be in the best
2 interest of the child, the court may take one of the following actions:

3 (1) Approve the plan as consistent with the ~~health~~ welfare and safety of the
4 child and order compliance by all parties.

5 * * *

6 Art. 702. Permanency hearing

7 * * *

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

11 (1) Return the child to the legal custody of the parents within a specified
12 time period consistent with the child's age and need for a safe and permanent home.
13 In order for reunification to remain as the permanent plan for the child, the parent
14 ~~must be complying~~ shall be in compliance with the case plan and making significant
15 measurable progress toward achieving its goals and correcting the conditions
16 requiring the child to be in care.

17 * * *

18 (4) Placement in the legal custody of a relative who is willing and able to
19 offer ~~a safe, wholesome, and stable~~ and safe home for the child.

20 * * *

21 E. Except as otherwise provided in Article 672.1, the court shall determine
22 whether the department has made reasonable efforts, as defined in Article 603, to
23 reunify the parent and child or to finalize the child's placement in an alternative safe
24 and permanent home in accordance with the ~~child's~~ permanent plan. The ~~child's~~
25 ~~health and safety will~~ be the paramount concern in the court's determination of the
26 permanent plan.

27 * * *

28 G. When reunification is determined to be the permanent plan for the child,
29 the court shall advise the parents that it is their obligation to achieve the case plan

1 goals and correct the conditions that require the child to be in care within the time
2 period specified by the court. Otherwise, an alternative permanent plan for the child
3 ~~will~~ shall be selected and a petition to terminate parental rights may be filed. When
4 adoption is the permanent plan for the child, the court ~~will~~ shall advise the parent of
5 ~~his~~ the authority to voluntarily surrender the child and to consent to the adoption
6 prior to the filing of a petition to terminate parental rights.

7 * * *

8 J. In the case of a child fourteen years of age or older, the hearing shall
9 include a review of the transitional plan developed with the child and the ~~agency~~
10 department in accordance with ~~Subparagraph (B)(6) of Article 675(B)(6).~~

11 * * *

12 Art. 710. Order; appeal

13 A. In a written judgment, the court shall make findings of fact regarding:

14 (1) Whether the child can safely return to the custody of the parent, and
15 shall order return of custody to the parent if it is safe to do so.

16 ~~(1)~~ (2) The permanent plan that is most appropriate and in the best interest
17 of the child in accordance with the priorities of Article 702(D).

18 ~~(2)~~ (3) Except as otherwise provided in Article 672.1, whether the
19 department has made reasonable efforts, as defined in Article 603, to reunify the
20 parent and child or to finalize the child's placement in an alternative safe and
21 permanent home in accordance with the child's permanent plan.

22 ~~(3)~~ (4) Whether an out-of-state placement is safe, appropriate, and otherwise
23 in the best interest of the child.

24 ~~(4)~~ (5) For children whose permanent plan is placement in the least
25 restrictive, most family-like alternative permanent living arrangement, why, as of the
26 date of the hearing, the plan is the best permanency plan for the child and provide
27 compelling reasons why it continues to not be in the best ~~interests~~ interest of the
28 child to return home, be placed for adoption, be placed with a legal guardian, or be
29 placed with a ~~fit and willing~~ relative.

30 * * *

1 D. Any person directly affected may appeal the findings or orders of the
2 court rendered pursuant to this Article or Article 716.

3 * * *

4 Art. 716. Modification of judgment of disposition

5 A judgment of disposition may be modified if the court finds that the
6 conditions and circumstances justify the modification. A judgment of disposition
7 shall be modified to return custody of the child to the parent, under terms and
8 conditions the court deems to be in the best interest of the child, if the court finds
9 that the child can be safely returned to the parent.

10 * * *

11 Art. 722. Grounds; hearing; order

12 A. The mover shall have the burden of proving all of the following by clear
13 and convincing evidence:

14 * * *

15 (2) ~~Neither adoption nor reunification with a parent is in the best interest of~~
16 ~~the child.~~ Adoption is not in the best interest of the child and the child cannot be
17 safely reunified with the parent within a reasonable time.

18 * * *

19 (4) The proposed guardian is able to provide a ~~safe, stable, and wholesome~~
20 stable and safe home for the child for the duration of minority.

21 B. If the child is twelve years of age or older, the court shall solicit and
22 consider ~~his wishes~~ the wishes of the child in the matter.

23 * * *

24 Art. 724.1. Temporary guardianship; designated successor guardian; construction

25 * * *

26 C. An ex parte order of temporary guardianship of the child may be granted
27 to the named successor only if all of the following conditions are satisfied:

28 * * *

1 (2) It clearly appears from specific facts shown by a verified motion or by
2 supporting affidavit that the individual is able to provide a ~~safe, stable, and~~
3 ~~wholesome~~ stable and safe home for the child pending the hearing.

4 * * *

5 (4) The mover certifies to the court in writing the efforts ~~he has~~ undertaken
6 to give notice to the ~~child's parents~~ parent of the child, the department, and the ~~child's~~
7 attorney for the child of the request for the ex parte order granting temporary
8 guardianship or the reasons supporting his claim that notice should not be required.

9 * * *

10 Art. 1003. Definitions

11 As used in this Title:

12 (1) "Abuse" means any of the following acts ~~which~~ that seriously endanger
13 the physical, mental, or emotional ~~health~~ welfare and safety of the child:

14 * * *

15 (10) "Neglect" means the refusal or failure of a parent or caretaker to supply
16 the child with necessary food, clothing, shelter, care, treatment, or counseling for any
17 injury, illness, or condition of the child, as a result of which the child's physical,
18 mental, or emotional ~~health~~ welfare and safety is substantially threatened or
19 impaired. Whenever, in lieu of medical care, a child is being provided treatment in
20 accordance with the tenets of a well-recognized religious method of healing ~~which~~
21 that has a reasonable, proven record of success, the child shall not, for that reason
22 alone, be considered to be neglected or abused. Disagreement by the parent
23 regarding the need for medical care shall not, by itself, be grounds for termination
24 of parental rights. However, nothing ~~herein~~ in this Subparagraph shall prohibit the
25 court from ordering medical services for the child when there is substantial risk of
26 harm to the child's ~~health or welfare~~ or safety.

27 * * *

1 Art. 1016. Right to counsel

2 A. The child and the identified parent shall each have the right to be
3 represented by separate counsel in a termination proceeding brought ~~under in~~
4 accordance with this Title. Neither the child nor anyone purporting to act on ~~his~~
5 behalf of the child may be permitted to waive the child's right to counsel.

6 B. The court shall appoint the ~~program~~ entity designated for the jurisdiction
7 by the Louisiana Supreme Court to provide qualified, independent counsel for the
8 child in such a proceeding.

9 * * *

10 Art. 1019.1. Notice to counsel

11 Upon the filing of the petition, the court shall provide notice and a copy of
12 the petition to the entity designated for the jurisdiction to provide counsel for the
13 child in accordance with Article 607, and to the entity representing indigent parents
14 in accordance with Article 608.

15 Art. 1019.2. Service of petition; parent; child

16 A copy of the petition and the notice of the nature of the hearing and the
17 rights of the parent, as provided for in Article 1020, shall be served, in a sealed
18 envelope, upon every parent of the child. A copy of the petition and the notice of the
19 nature of the hearing shall be served on the child through the entity designated for
20 the jurisdiction to provide counsel for the child.

21 * * *

22 Art. 1021. Service and return; child; resident parent; counsel

23 ~~If a parent against whom a proceeding is instituted resides within the state,~~
24 ~~service of citation shall be made either personally or by domiciliary service not less~~
25 ~~than five days prior to commencement of the hearing on the matter.~~

26 A. For a child, through counsel, and for a parent who resides within the state,
27 service of the petition, summons, and notice shall be made as soon as possible, and
28 not less than fifteen days prior to commencement of the adjudication hearing on the
29 matter, by any of the following means:

- 1 (1) Personal service.
- 2 (2) Domiciliary service.
- 3 (3) Certified mail.
- 4 (4) Electronic mail to the electronic mail address provided by counsel for the
5 child or expressly designated by the parent in a pleading, at the continued custody
6 or continued safety plan hearing, or at any other hearing at which the parent
7 personally appeared before the court.

8 (5) Actual delivery by a commercial courier.
9 B. The person effecting service shall execute a return and, if service was
10 made by certified mail, the return receipt shall be attached thereto.

11 C. Service by electronic mail is complete upon transmission, provided that
12 the sender receives an electronic confirmation of delivery.

* * *

Art. 1404. Definitions

As used in this Title:

* * *

17 (13) "MHAS" means Mental Health Advocacy Service, as established by
18 R.S. 28:64 and Article 1405.

* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 360 Original

2022 Regular Session

Hilferty

Abstract: Provides for the continuous revision of the Children's Code.

Present law (Ch.C. Art. 320) provides for the determination of indigency at any stage of the proceedings.

Proposed law retains present law but provides an exception for child in need of care cases.

Present law (Ch.C. Art. 335) provides for the preparation of the record for appeal and sets forth who pays the costs.

Proposed law provides that if a child requests a transcript for appeal or supervisory writ, neither the child nor his parents shall be assessed costs.

Proposed law further provides that if a parent requests a transcript for appeal or supervisory writ, the parent shall pay the costs unless the court determines that the parent is unable to pay due to poverty or lack of means.

Proposed law authorizes the court to waive the costs of transcription for any other party if justice so requires.

Present law (Ch.C. Art. 502) provides definitions of "abuse" and "neglect".

Proposed law retains present law but changes the terminology within the definitions from "health and safety" to the broader phrase "welfare and safety".

Present law (Ch.C. Art. 575) requires the Indigent Parents' Representation Program to provide legal counsel to indigent or absent parents.

Proposed law retains present law and provides correct cross-references. Proposed law further provides that the Indigent Parents' Representation Program may adopt policies to provide counsel to indigent parents prior to the commencement of court proceedings.

Present law (Ch.C. Art. 601) provides for the purpose of the Child In Need of Care proceedings.

Proposed law retains present law but changes the terminology from "health and safety" to the broader phrase "welfare and safety".

Present law (Ch.C. Art. 603) provides definitions of "abuse" and "neglect".

Proposed law retains present law but changes the terminology within the definitions from "health and safety" to the broader phrase "welfare and safety".

Proposed law moves the definition of "relative" from the definition of "other suitable individual" to its own Subparagraph.

Proposed law provides new definitions for "protective capacity", "reasonable efforts", "safe and safety", "threat of danger", and "vulnerable".

Present law (Ch.C. Art. 607) provides for the child's right to the appointment of counsel.

Proposed law retains present law and also authorizes counsel for the child to be appointed upon the issuance of an instanter order.

Present law (Ch.C. Art. 608) provides for the parent's right to counsel.

Proposed law retains present law and also authorizes the right to counsel to attach upon the issuance of an instanter order or upon the filing of a petition. Proposed law further provides that parents are presumed indigent until the court makes a determination and requires the district public defender or the La. Public Defender Board to provide representation.

Present law (Ch.C. Art. 612) provides for the investigation and assessment of abuse and neglect reports.

Proposed law retains present law but changes the terminology from "health and safety" to the broader phrase "welfare and safety".

Present law (Ch.C. Art. 615) provides for the disposition of abuse and neglect reports.

Proposed law retains present law but changes the terminology from "health and safety" to the broader phrase "welfare and safety".

Present law (Ch.C. Art. 619) provides for instanter custody orders and instanter safety plans for the removal of a child from the parental home.

Proposed law retains present law but changes the terminology from "health and safety" to the broader phrase "welfare and safety".

Proposed law further provides factors for the court's consideration in determining whether reasonable efforts were made to prevent removal of the child and, regardless, authorizes the court to remove the child if necessary to secure the safety of the child.

Present law (Ch.C. Art. 620) provides for oral instanter orders.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 621) provides for taking a child into custody without a court order.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 622) provides for placement of a child who appears to be in need of care.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 623) provides for notice of proceedings to a child's parents.

Proposed law retains present law and also requires notice to be given to the district defender or the entity designated for representing both parents and children.

Proposed law requires the notice to include a copy of the verified complaint, the affidavit upon which the instanter order is based, and any orders issued by the court.

Present law (Ch.C. Art. 624) provides for procedures related to the continued custody hearing.

Proposed law provides that when an instanter safety plan is signed, the child or his parents may request a hearing, which shall be held within seven days.

Present law (Ch.C. Art. 625) provides for advice of rights during the pendency of the case.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 626) provides for continued custody and reasonable efforts to secure the child.

Proposed law clarifies terminology and requires the court to determine if the efforts by the department to prevent removal are reasonable.

Present law (Ch.C. Art. 627) provides for continued custody orders.

Proposed law retains present law and corrects terminology.

Present law (Ch.C. Art. 635.1) provides for notice of the petition to the program designated to provide counsel for the child.

Proposed law retains present law and corrects terminology.

Present law (Ch.C. Art. 638) provides for service of the petition.

Proposed law retains present law and also requires service of the petition on the entity designated to provide counsel for the child.

Present law (Ch.C. Art. 639) provides a specific notice to be served on parents in a child in need of care proceeding.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 640) provides for service and return for resident parents.

Proposed law retains present law and also requires notice on the child through counsel for the child. Proposed law further provides for service by commercial courier and clarifies that electronic service is complete if the sender receives electronic confirmation of delivery.

Present law (Ch.C. Art. 646.1) provides for prehearing conferences.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 672.1) provides for reunification.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 673) provides for the creation of a case plan.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 675) provides for the contents of a case plan.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 677) provides for the review of a case plan.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 681) provides dispositional alternatives for a child adjudicated in need of care.

Proposed law authorizes the court to impose terms and conditions upon the parents to ensure the safety of the child while remaining in the home.

Present law (Ch.C. Art. 682) provides for the removal of a child from parental custody.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 683) provides for disposition alternatives for a child.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 684) provides for a judgment of disposition.

Proposed law retains present law, clarifies terminology, and requires the court to make specific findings supporting removal of the child from the parental home.

Present law (Ch.C. Art. 700) provides for courts orders and appeal thereof.

Proposed law retains present law, clarifies terminology, and requires the court to make specific findings as to whether the child can return to the custody of the parent.

Present law (Ch.C. Art. 702) provides for the permanency hearing.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 710) provides for courts orders and appeal thereof.

Proposed law retains present law, clarifies terminology, and requires the court to make specific findings as to whether the child can return to the custody of the parent.

Present law (Ch.C. Art. 716) provides for the modification of a judgment of disposition.

Proposed law retains present law and further requires a modification to return the child to the parent if the court finds that it is safe to do so.

Present law (Ch.C. Art. 722) provides for the burden of proof to place a child under guardianship.

Proposed law retains present law, clarifies terminology, and changes the standard for reunification from the child's best interest to the child's safety.

Present law (Ch.C. Art. 724.1) provides for temporary guardianship.

Proposed law retains present law and clarifies terminology.

Present law (Ch.C. Art. 1003), relative to the certification of children for adoption, provides definitions of "abuse" and "neglect".

Proposed law retains present law but changes the terminology within the definitions from "health and safety" to the broader phrase "welfare and safety".

Present law (Ch.C. Art. 1016) provides for the right to counsel for both the parent and the child.

Proposed law retains present law and corrects terminology.

Proposed law (Ch.C. Art. 1019.1) provides for notice to the entity providing counsel for either a child or a parent of a child.

Proposed law (Ch.C. Art. 1019.2) provides for service of the petition upon every parent and the entity designated to provide counsel for the child.

Present law (Ch.C. Art. 1021) provides for service for resident parents either personally or by domiciliary service at least five days prior to a hearing.

Proposed law requires notice on the child through counsel for the child and notice on the parent to be made as soon as possible, and not less than 15 days prior to a hearing.

Proposed law further provides for service by certified mail, electronic mail, or commercial courier and clarifies that electronic service is complete if the sender receives electronic confirmation of delivery.

Present law (Ch.C. Art. 1404) provides for the definition of Mental Health Advocacy Service.

Proposed law retains present law and provides a cross-reference.

(Amends Ch.C. Arts. 320(B), (C), and (D), 335(D) and (E), 502(1)(intro. para.) and (5), 575, 601, 603(2)(intro. para.), (18), (20), (25), (26), and (27), 607(A) and (C), 608(A)(intro. para.), (3), and (4), (B), and (C), 612(A)(2) and (4), 615(B)(1), 619(A)(1), (B), and (C), 620(A), (B), and (C), 621(A) and (B), 622(B)(intro. para.), (1), (2), and (3), 623(A) and (B), 624(A), (C)(1), (F), and (H), 625(D)(1), 626, 627(C), 635.1, 638, 639, 640(A) and (C), 646.1(B)(2) and (D), 672.1(B), 673, 675(A) and (B)(1), (2), (3), (6)(a), and (8), 677(B) and (C), 681(A)(intro. para.) and (1), 682(A) and (B)(intro. para.), (4), and (5), 683(A), (B), and (D), 684(B) and (C), 700(A)(intro. para.) and (1), 702(C)(1) and (4), (E), (G), and (J), 710(A) and (D), 716, 722(A)(2) and (4) and (B), 724.1(C)(2) and (4), 1003(1)(intro. para.) and (10), 1016(A) and (B), 1021, and 1404(13); Adds Ch.C. Arts. 335(F) and (G), 603(28)-(32), 1019.1, and 1019.2)