

RÉSUMÉ DIGEST

ACT 272 (HB 360)

2022 Regular Session

Hilferty

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

New law retains existing law but provides an exception for child in need of care cases.

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

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

New 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.

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

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

New law retains existing law but changes the terminology used within the definitions from "health and safety" to the broader phrase "health, welfare, and safety".

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

New law retains existing law and provides correct cross-references. New 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.

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

New law changes the terminology used within existing law from "health and safety" to the broader phrase "health, welfare, and safety".

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

New law retains existing law but changes the terminology used within the definitions from "health and safety" to the broader phrase "health, welfare, and safety".

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

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

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

New law retains existing law and authorizes counsel for the child to be appointed upon the issuance of an instanter order.

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

New law retains existing law and also authorizes the right to counsel to attach upon the issuance of an instanter order or upon the filing of a petition. New 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.

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

New law changes the terminology used in existing law from "health and safety" to the broader phrase "health, welfare, and safety".

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

New law changes the terminology used in existing law from "health and safety" to the broader phrase "health, welfare, and safety".

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

New law changes the terminology used in existing law from "health and safety" to the broader phrase "health, welfare, and safety".

New 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.

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

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

New 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.

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

New law provides that when an instanter custody or safety plan order is signed, the court shall hold a hearing within three days from issuance of the order.

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

New law retains existing law and clarifies terminology.

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

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

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

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

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

New law retains existing law and clarifies terminology.

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

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

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

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

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

New law retains existing law and clarifies terminology.

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

New law retains existing law and clarifies terminology.

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

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

Existing law (Ch.C. Art. 700) provides for court orders and appeal of the orders.

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

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

New law retains existing law and clarifies terminology.

Existing law (Ch.C. Art. 710) provides for court orders and appeal of the orders.

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

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

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

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

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

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

New law retains existing law and clarifies terminology.

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

New law retains existing law but changes the terminology within the definitions from "health and safety" to the broader phrase "health, welfare, and safety".

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

New law retains existing law and clarifies terminology.

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

New 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.

New 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.

New 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.

New 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.

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

New law retains existing law and provides a cross-reference.

Effective August 1, 2022.

(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)