

Regular Session, 2013

HOUSE BILL NO. 578

BY REPRESENTATIVE NANCY LANDRY

(On Recommendation of the Louisiana State Law Institute)

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

1 AN ACT

2 To amend and reenact Children's Code Articles 1281.3(1), (2), (3), and (5), 1281.4(A)(1)
3 and (2), 1281.5, 1281.6(A)(introductory paragraph), 1281.7, 1281.9, the heading of
4 Chapter 2 and 1282.1(A)(introductory paragraph) and (B), 1282.2(3), 1282.5, the
5 heading of Chapter 3 and 1283.1(A)(introductory paragraph) and (B), 1283.2(B)(1),
6 1283.4, 1283.10(C), the heading of Article 1283.13, 1283.15, and 1283.16 and to
7 enact Children's Code Articles 1281.3(6), Chapter 4 of Title XII-A of the Children's
8 Code, to be comprised of Articles 1284.1 through 1284.5, and Chapter 5 of Title
9 XII-A of the Children's Code, to be comprised of Articles 1285.1 through 1285.17,
10 relative to intercountry adoptions; to provide for intercountry adoption definitions;
11 to provide for types of intercountry adoptions; to provide for procedures for
12 recognition of foreign adoption decrees; to provide for procedures for adoption of
13 foreign orphans and Hague Convention adoptees; to provide for name changes and
14 issuance of a new birth certificate; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. Children's Code Articles 1281.3(1), (2), (3), and (5), 1281.4(A)(1) and
17 (2), 1281.5, 1281.6(A)(introductory paragraph), 1281.7, 1281.9, the heading of Chapter 2
18 and 1282.1(A)(introductory paragraph) and (B), 1282.2(3), 1282.5, the heading of Chapter
19 3 and 1283.1(A)(introductory paragraph) and (B), 1283.2(B)(1), 1283.4, 1283.10(C), the
20 heading of Article 1283.13, 1283.15, and 1283.16 are hereby amended and reenacted and
21 Children's Code Articles 1281.3(6), Chapter 4 of Title XII-A of the Children's Code,
22 comprised of Articles 1284.1 through 1284.5, and Chapter 5 of Title XII-A of the Children's
23 Code, comprised of Articles 1285.1 through 1285.17, are hereby enacted to read as follows:

1 Art. 1281.3. Definitions

2 As used in this Title:

3 (1) "Agency" or "child placing agency" includes the Department of Children
4 and Family Services, the corresponding department of any other state, and those
5 private agencies and institutions licensed for the placement of children for adoption
6 by the Department of Children and Family Services or by the corresponding
7 department of any other state. Any person offering or providing intercountry
8 adoption services shall be accredited by the Department of State in accordance with
9 the Intercountry Adoption Universal Accreditation Act of 2012.

10 (2) "Birth certificate" means ~~the child's official birth certificate~~
11 documentation of the child's record of birth acceptable to the United States
12 Citizenship and Immigration Services and, if the ~~certificate~~ document is not in
13 English, a certified translation of the ~~certificate~~ document.

14 (3) ~~"Child" means a person under seventeen years of age and not~~
15 ~~emancipated by marriage.~~ "Convention adoptee" or "Hague Convention adoptee"
16 means a child living in a Hague Convention country who is under the age of sixteen
17 at the time a Form I-800, Petition to Classify Convention Adoptee as an Immediate
18 Relative, is filed on his behalf and who is found by the Department of State and
19 United States Citizenship and Immigration Services to meet the definition of
20 "Convention Adoptee" under Section 101(b)(1)(G) of the Immigration and
21 Nationality Act (8 USC 1101(b)(1)(G)).

22 * * *

23 (5) "Foreign orphan" means a ~~foreign-born~~ child living in a Non-Hague
24 Convention country (a) who is under the age of sixteen at the time a ~~visa petition~~
25 Form I-600, Petition to Classify Orphan as an Immediate Relative is filed on his
26 behalf and: ~~whose parents have both died or disappeared, or abandoned or deserted~~
27 ~~him, or who has become separated or lost from both parents; whose sole surviving~~
28 ~~parent is incapable of providing for the child's care and has in writing irrevocably~~
29 ~~released the child for emigration and adoption, or who is a child born outside of~~
30 ~~marriage whose father acknowledges paternity and signs a relinquishment along with~~

1 ~~the mother.~~ who is found by the Department of State or United States Citizenship
 2 and Immigration Service to meet the definition of "orphan" under Section
 3 101(b)(1)(F) of the Immigration and Nationality Act (8 USC 1101(b)(1)(F)); or (b)
 4 who is under the age of eighteen and is a biological sibling of a child previously
 5 adopted by the same applicant(s) who is petitioning on his behalf.

6 (6) "Hague Convention adoption" or "Hague adoption" or "Convention
 7 adoption" means the adoption of a child habitually residing in any country outside
 8 the United States that is a party to the Hague Adoption Convention. "Orphan
 9 adoption" or "Non-Hague adoption" refers to the adoption of a child from a country
 10 that is not a party to the Hague Adoption Convention.

11 Comments 2013

12 (a) Accreditation and approval is governed by Sections 201 et seq. of the
 13 Intercountry Adoption Act. See 22 CFR 96. 22 CFR 96.2 defines "adoption
 14 services" to include identifying a child for adoption and arranging an adoption;
 15 securing the necessary consent for termination of parental rights and for adoption;
 16 performing a background study on a child or a home study on a prospective adoptive
 17 parent(s) and reporting on such a study; making a non-judicial determination of the
 18 best interests of a child and the appropriateness of an adoptive placement for the
 19 child; monitoring a case after a child has been placed with a prospective adoptive
 20 parent(s) until final adoption; and when necessary on account of disruption prior to
 21 final decree, assuming custody and providing or facilitating the provision of child
 22 care or any other social service pending an alternative placement.

23 (b) U.S. Citizenship and Immigration Services birth certificates and other
 24 documentation requirements are governed by 8 CFR 103.2.

25 (c) Definition of "foreign orphan" is found in Section 101(b)(1)(F) of the
 26 Immigration and Nationality Act (8 USC 1101(b)(1)(F)) and is referenced in 8 CFR
 27 204.3.

28 (d) Definition of "convention adoptee" is found in Section 101(b)(1)(G) of
 29 the Immigration and Nationality Act (8 USC 1101(b)(1)(G)) and is referenced in 8
 30 CFR 204.300 - 314.

31 Art. 1281.4. Types of adoption

32 A. This Title sets forth the exclusive procedures for intercountry adoption
 33 of foreign orphans in Louisiana. There are two types of intercountry adoptions of
 34 foreign orphans in Louisiana:

35 (1) ~~Recognition~~ Adoption or recognition of a foreign decree of adoption of
 36 a foreign orphan from a country outside the United States that is not a party to the
 37 Hague Adoption Convention.

1 (2) Adoption or recognition of a foreign ~~orphan~~ decree of adoption of a
2 convention adoptee from a country outside the United States that is a party to the
3 Hague Adoption Convention.

4 * * *

5 Comment 2013

6 A Hague Convention country is defined in 22 CFR 96.2 as a country that is
7 a party to the Convention and with which the Convention is in force for the United
8 States.

9 A current listing of Hague Convention member countries can be accessed at
10 <http://adoption.state.gov/hagueconvention/countries.php>.

11 Art. 1281.5. Prior approval of adoptive placement

12 No ~~foreign orphan~~ child who is the subject of an intercountry adoption shall
13 be placed in the home of the prospective adoptive parents prior to their obtaining a
14 certification for adoption, ~~as provided for in~~ that meets the requirements of Articles
15 1171 through 1173 and prior to approval from the United States Citizenship and
16 Immigration Services.

17 Comment 2013

18 Notice of approval is provided by the USCIS on I-171H or I-797 forms.

19 Art. 1281.6. Venue in intercountry adoption

20 A. A proceeding for ~~the an~~ intercountry adoption of a ~~foreign orphan~~ may
21 be commenced in either:

22 * * *

23 Art. 1281.7. Persons whose consent is required

24 A. The parental rights of the parents of any child who has qualified as a
25 foreign orphan or a convention adoptee are deemed to be terminated and no further
26 consent to adoption or relinquishment of parental rights shall be required.

27 B. Consent to the adoption shall be required of ~~the~~ any custodial or
28 supervisory agency which has placed the foreign orphan for adoption, except that the
29 court may grant the adoption without the consent of ~~the an~~ agency if the court finds
30 that the adoption is in the best interest of the child and there is a finding that the

1 agency has unreasonably withheld its consent.

2 * * *

3 Art. 1281.9. Persons who may petition for intercountry adoption

4 A United States citizen and his spouse jointly who is a United States citizen
5 or has lawful immigration status may petition jointly, or an unmarried United States
6 citizen at least twenty-five years of age, may petition for intercountry adoption ~~of a~~
7 ~~foreign orphan~~. At least one petitioner shall be a domiciliary of Louisiana. When
8 one joint petitioner dies after the petition has been filed, the adoption proceedings
9 may continue as though the survivor was a single original petitioner.

10 Comment 2013

11 Requirements for the petitioner eligibility are more fully explained in 8 CFR
12 204.3. Form I-600A determines the eligibility and suitability of the prospective
13 adoption parents.

14 CHAPTER 2. NON-HAGUE CONVENTION COUNTRY ADOPTIONS

15 RECOGNITION OF FOREIGN ADOPTIONS

16 Art. 1282.1. Petition; contents; form

17 A. The petition for recognition of foreign adoption shall be styled: "In re
18 _____, Applying for Recognition of Foreign Adoption from a Non-Hague
19 Convention Country." The petition or an attached exhibit shall state:

20 * * *

21 B. The petition shall be accompanied by a certification for adoption, a
22 certified copy of the ~~Immigration and Naturalization Service~~ documentation of
23 orphan status, documentary proof of citizenship status, a copy of the child's
24 immigrant visa or resident alien card, the original or a certified copy of a valid
25 foreign adoption decree, together with a notarized translation, and the original or
26 certified copy of a valid birth certificate, together with a notarized translation, and
27 an affidavit of fees and expenses.

28 Comment 2013

29 Form I-600 is used to determine whether the child qualifies as an orphan
30 under Section 101(b)(1)(F) of the Immigration and Nationality Act (8 USC
31 1101(b)(1)(F)) and 8 CFR 204.3(b). The requirement for documentation of orphan
32 status would be met by an IR3 or IR4 stamp on the child's visa or by approval of the

1 Form I-604 report that addresses the child's eligibility under the Immigration and
2 Nationality Act provided in a Form I-171 or Form I-797. Documentation of
3 citizenship includes a permanent resident card or certificate of citizenship. Children
4 with an IR-3 immigrant visa automatically acquire citizenship upon entry to the
5 United States and a Certificate of Citizenship is provided by the U.S. Citizenship and
6 Immigration Services.

7 Art. 1282.2. Findings

8 The court shall issue a judgment recognizing the foreign adoption and
9 rendering a final decree of adoption upon finding that:

10 * * *

11 (3) The child has qualified as a foreign orphan and is in the United States in
12 accordance with applicable ~~Immigration and Naturalization Service~~ federal
13 regulations.

14 * * *

15 Art. 1282.5. Change of name

16 The full name of the adopted child may be changed in the final decree of
17 ~~recognition of foreign~~ adoption and, if changed, the surname shall be the same as that
18 of the adoptive parent. In accordance with R.S. 40:79, the clerk of court shall
19 forward, on a form supplied by the Department of Children and Family Services, his
20 certificate of the decree to the state registrar, who shall make a new certificate of live
21 birth of the person adopted, in the new name if the name has been changed in the
22 decree.

23 CHAPTER 3. NON-HAGUE CONVENTION COUNTRY ADOPTIONS

24 ADOPTION OF A FOREIGN ORPHAN

25 Art. 1283.1. Petition; contents; form

26 A. The petition for adoption of a foreign orphan shall be styled: "In re
27 _____, Applying for Adoption of Foreign Orphan from a Non-Hague
28 Convention Country." The petition or an attached exhibit shall state:

29 * * *

30 B. The petition shall be accompanied by a certification for adoption, a
31 certified copy of the ~~Immigration and Naturalization Service~~ United States
32 Citizenship and Immigration Services documentation of orphan status, a copy of the

1 child's immigrant visa or permanent resident card, the original or a certified copy of
2 a valid foreign custody decree, together with a notarized translation, and the original
3 or certified copy of a valid birth certificate, together with a notarized translation, and
4 an affidavit of fees and expenses.

5 Comment 2013

6 The requirement for documentation of orphan status would be met by an IR3
7 or IR4 stamp on the child's visa. Children with IR-4 visas do not acquire automatic
8 citizenship upon entry to the United States, but become permanent residents and
9 receive a permanent resident card (green card).

10 Art. 1283.2. Permissible reimbursement of expenses

11 * * *

12 B. Payments made by or on behalf of the adoptive parents or their
13 representative to the department or to a child-placing agency or its agent or any
14 broker for reimbursement of the following expenses are permissible and not a
15 violation of R.S. 14:286:

16 (1) Reasonable medical expenses, including hospital, testing, nursing,
17 pharmaceutical, travel, or other similar expenses incurred by the ~~natural~~ biological
18 mother for prenatal care and those medical and hospital expenses incurred by the
19 biological mother and child incident to birth.

20 * * *

21 Art. 1283.4. Service of process

22 A copy of the petition for adoption of a foreign orphan together with all
23 exhibits shall be served by registered or certified mail, return receipt requested,
24 postage prepaid and properly addressed to the department and on any agency having
25 legal custody of the child. ~~Two copies of the same petition need not be served on the~~
26 ~~department.~~

27 * * *

28 Art. 1283.10. Continuing duties of department

29 * * *

30 C. A second confidential report must be presented to the court preceding the
31 hearing on the final decree of ~~approval of foreign~~ adoption. The findings of this

1 report shall be based upon the same ~~considerations~~ findings as prescribed in Article
2 1283.5 and shall disclose any changed conditions and all new pertinent information.

3 * * *

4 Art. 1283.13. Petition for final decree following interlocutory decree

5 * * *

6 Art. 1283.15. Effect of final decree

7 ~~Upon a final decree of approval of foreign adoption, the parents of the child~~
8 ~~are relieved of all their legal duties and divested of all their legal rights with regard~~
9 ~~to the adopted child, and the adopted child is relieved of all of his legal duties and~~
10 ~~divested of all his legal rights with regard to the parents, except the right of the child~~
11 ~~to inherit from his parents.~~ The final decree of adoption shall have the same force
12 and effect as any final decree of adoption rendered by a court of this state and
13 automatically entitles the child to United States citizenship under the Intercountry
14 Adoption Act.

15 Comment 2013

16 Proof of citizenship may be obtained by filing of an N-600 application with
17 the U.S. Citizenship and Immigration Services upon issuance of a full and final
18 decree of adoption.

19 Art. 1283.16. Change of name; issuance of birth certificate

20 The full name of the adopted child may be changed in the final decree of
21 foreign orphan adoption and, if changed, the surname shall be the same as that of the
22 adoptive parent. In accordance with R.S. 40:79, the clerk of court shall forward, on
23 a form supplied by the Department of Children and Family Services, his certificate
24 of the decree to the state registrar, who shall make a new certificate of live birth of
25 the person adopted in the new name if the name has been changed in the decree.

26 * * *

1 CHAPTER 4. HAGUE CONVENTION COUNTRY ADOPTIONS

2 RECOGNITION OF FOREIGN ADOPTION

3 Art. 1284.1. Petition; contents; form

4 A. The petition for recognition of foreign adoption shall be styled: "In re
 5 _____ , Applying for Recognition of Foreign Adoption from a Hague
 6 Convention Country." The petition or an attached exhibit shall state:

7 (1) The full name, address, age, occupation, and marital status of each
 8 petitioner, at least one of whom is a domiciliary of the state of Louisiana.

9 (2) The name by which the child is known to petitioners.

10 (3) The place and date of the birth of the child if known; if not known, then
 11 the approximate age of the child.

12 (4) The date and circumstances under which the child was adopted in a
 13 foreign country and entered the home of the petitioner.

14 (5) Any relationship existing between the petitioner and the child.

15 B. The petition shall be accompanied by a Hague Adoption Certificate issued
 16 by a United States consular officer pursuant to 22 CFR 42.24(j) and a copy of the
 17 child's IH-3 visa. Documents related to a convention adoption shall require no
 18 authentication in order to be admissible unless a specific and supported claim is
 19 made that the documents are false, have been altered, or are otherwise unreliable.

20 Comment 2013

21 Children with an IH-3 visa automatically acquire citizenship upon entry to
 22 the United States. A Certificate of Citizenship is provided by the U. S. Citizenship
 23 and Immigration Services.

24 Art. 1284.2. Findings

25 The court shall issue a judgment recognizing the foreign adoption and
 26 rendering a final decree of adoption upon finding that:

27 (1) At least one of the adoptive parents is a domiciliary of the state of
 28 Louisiana.

29 (2) The original or a certified copy of the foreign adoption decree, together
 30 with a notarized transcript, has been filed and is presumed to have been granted in
 31 accordance with the law of the foreign country.

CHAPTER 5. ADOPTION OF A HAGUE CONVENTION ADOPTEE

Art. 1285.1. Petition; contents; form

A. The petition for adoption of a Hague Convention adoptee shall be styled:

"In re _____, Applying for Adoption of Hague Convention Adoptee." The petition or an attached exhibit shall state:

(1) The full name, address, age, occupation, and marital status of each petitioner.

(2) The name by which the child is known to petitioners as well as the name under which the birth of the child is recorded.

(3) The place and date of the birth of the child if known; if not known, then the approximate age of the child.

(4) The date and circumstances under which the child entered the home of the petitioner.

(5) Any relationship existing between the petitioner and the child.

B. The petition shall be accompanied by a Hague Custody Declaration issued by a United States consular officer and a copy of the child's IH-4 visa or a certificate from the United States Secretary of State that the legal custody of the child was granted in compliance with federal law. Documents related to a convention adoption shall require no authentication in order to be admissible unless a specific and supported claim is made that the documents are false, have been altered or are otherwise unreliable.

Comment 2013

Children with IH-4 visas do not acquire automatic citizenship upon entry to the United States, but become permanent residents and receive a permanent resident card (green card). A certificate of citizenship may be obtained by filing an N-600 form with the U.S. Citizenship and Immigration Services.

Art. 1285.2. Permissible reimbursement of expenses

A. The petitioner shall file with the petition a preliminary estimate and accounting of fees and charges in accordance with Article 1285.3. The petitioner also shall file a final Adoption Disclosure Affidavit with the court not later than ten days prior to the date scheduled for the final hearing on the adoption.

1 B. Payments made by or on behalf of the adoptive parents or their
2 representative to the department or to a child-placing agency or its agent or any
3 broker for reimbursement of the following expenses are permissible and not a
4 violation of R.S. 14:286:

5 (1) Reasonable medical expenses, including hospital, testing, nursing,
6 pharmaceutical, travel, or other similar expenses incurred by the biological mother
7 for prenatal care and those medical and hospital expenses incurred by the biological
8 mother and child incident to birth.

9 (2) Reasonable medical expenses, including hospital, testing, nursing,
10 pharmaceutical, travel, or other similar expenses and foster care expenses incurred
11 on behalf of the child prior to the decree of adoption.

12 (3) Reasonable expenses incurred by the department or the agency for
13 adjustment counseling and training services provided to the adoptive parents and for
14 home studies or investigations.

15 (4) Reasonable administrative expenses incurred by the department or the
16 agency, including overhead, court costs, travel costs, donations required by an
17 orphanage, notarial and interpreter fees, emigration permit costs, and attorney fees.

18 (5) Any other specific service or fee the court finds is reasonable and
19 necessary.

20 C. The payment of expenses permitted by Paragraph B of this Article may
21 not be made contingent on the placement of a child for adoption, relinquishment of
22 the child, or consent to the adoption.

23 D. Adoptive parents shall pay to the department any of the expenses listed
24 in Paragraph B of this Article which may be imposed by the department. Such
25 payments shall be imposed solely at the discretion of the department. The
26 department shall not include payment of the expenses listed in Paragraph B of this
27 Article as a requirement for adoption.

28 E. If a court determines from an accounting that an amount that is going to
29 be or has been disbursed for expenses permitted by Paragraph B of this Article is

1 unreasonable, it shall order a reduction in the amount disbursed, or to be disbursed,
2 and order the person who received the disbursement to refund that portion.

3 F. If a court determines from an accounting that an amount is going to be or
4 has been disbursed for expenses not permitted by Paragraph B of this Article, it may:

5 (1) Issue an injunction prohibiting the disbursement or order the person who
6 received the disbursement to refund it.

7 (2) Inform the district attorney for the consideration of criminal charges
8 pursuant to R.S. 14:286.

9 (3) If in the best interest of the child, the court may also refuse to approve
10 the adoption.

11 G. The court shall not issue a final decree of adoption until it has reviewed
12 and approved the final accounting.

13 H. A copy of the Adoption Disclosure Affidavit and all orders of the court
14 pursuant to this Article shall be mailed to the office of children and family services,
15 Department of Children and Family Services.

16 Comment 2013

17 Hague Convention Article 32 provides that no one shall derive improper
18 financial or other gain from an activity related to an intercountry adoption; only costs
19 and expenses, including reasonable professional fees of persons involved in the
20 adoption, may be charged or paid; and that directors, administrators, and employees
21 of bodies involved in an adoption shall not receive remuneration that is unreasonably
22 high in relation to services rendered.

23 Art. 1285.3. Adoption disclosure affidavit of fees and charges

24 A. Each petition for an adoption shall be accompanied by an affidavit
25 executed by the petitioner and petitioner's attorney containing an accounting of fees
26 and charges paid or agreed to be paid by or on behalf of the petitioner in connection
27 with the adoption.

28 B. The affidavit shall not include any identifying information as to the
29 biological parents, their families, or the child's birth name.

30 C. The form for the affidavit shall be as follows:

"ADOPTION DISCLOSURE AFFIDAVIT

BEFORE ME, the undersigned authority, personally came and appeared

_____ (petitioner) and _____ (attorney for petitioner), who, being first

duly sworn, did depose and state:

In the matter of the adoption by _____ (petitioner's name):

(1) We report the following fees and charges, or other things of value given
in connection with this adoption paid to any agency or individual:

Actual Estimated due: Due or paid to:

\$ \$

A. Agency administrative expenses:

1. Attorney fees

2. Court costs

3. Travel costs

4. Overhead

5. Other (Specify)

B. Agency Mental Health Counseling expenses:

1. Counseling for adoptive parents

2. Home study evaluations

3. Counseling for the child

4. Other (Specify)

C. Medical expenses for biological mother:

1. Medical

2. Travel

3. Other (Specify)

D. Medical/foster care expenses for child:

1. Medical

2. Travel

3. Other (Specify)

E. Other expenses (Specify):

1 (2) We certify that to the best of our knowledge no other fees, charges, or
2 things of value other than court costs have been given or shall be given by anyone
3 in connection with this adoption.

4 (3) We declare that this disclosure statement has been examined by each of
5 us and that its contents are true to the best of our information, knowledge, and belief.

6 (4) We understand that each of us has a continuing obligation to supplement
7 and amend this affidavit as necessary.

8 (5) We understand that this information will be transmitted to the office of
9 adoption services, Department of Children and Family Services. We further
10 understand that it may be released by written authorization of the court for purposes
11 of a grand jury investigation pursuant to R.S. 14:286 or for an ethical investigation
12 by the Committee on Professional Responsibility of the Louisiana State Bar
13 Association.

14 _____	_____
15 <u>Signature of Petitioner</u>	<u>Signature of Attorney</u>
16 _____	
17 <u>Address</u>	<u>Address</u>

18 SWORN TO AND SUBSCRIBED BEFORE ME ON THIS DAY OF .
19 _____

20 (NOTARY PUBLIC)"

21 D. Confidentiality of information contained in the adoption disclosure
22 affidavit shall be maintained as provided in Chapter 5 of Title XII of this Code, and
23 shall be released only in accordance with this Article or on written authorization of
24 the court for the purposes of a grand jury investigation of a violation of R.S. 14:286
25 or an ethical investigation by the Committee on Professional Responsibility of the
26 Louisiana State Bar Association.

27 Art. 1285.4. Service of process

28 A copy of the petition for adoption of a Hague Convention adoptee together
29 with all exhibits shall be served by registered or certified mail, return receipt

1 requested, postage prepaid, and properly addressed to the department and on any
2 agency having legal custody of the child.

3 Art. 1285.5. Duties of department; home study; confidential report

4 A. The department shall investigate the proposed adoption of the Hague
5 Convention adoptee and submit a confidential report of its findings to the court. The
6 findings shall include:

7 (1) The conditions with respect to the availability of the child for adoption.

8 (2) The physical and mental condition of the child.

9 (3) Other factors regarding the suitability of the child for adoption in
10 petitioner's home.

11 (4) The moral and financial fitness of the petitioner.

12 (5) The conditions of the proposed adoptive home with respect to health,
13 adjustment, and other advantages or disadvantages to the child.

14 B. The department may delegate the performance of this investigation to an
15 authorized Hague Convention home study preparation agency, but the department
16 remains responsible for ensuring the accuracy and thoroughness of the resulting
17 report and for the safety and welfare of the child. The department shall adopt,
18 promulgate, and enforce such rules and regulations as are necessary and appropriate
19 to implement this authorization in accordance with the Administrative Procedure
20 Act.

21 Art. 1285.6. Hearing

22 A. The court shall sign the order setting the time and place for the hearing
23 of the petition for adoption of the Hague Convention adoptee not less than thirty nor
24 more than sixty days after the filing of the adoption petition. The court may extend
25 this time for good cause, which may include a showing by the department that it has
26 been impossible to gather the necessary data within the time prescribed. The court
27 may reduce the time to a minimum of fifteen days with written approval of the
28 department and the petitioner.

29 B. At this hearing, the court shall consider:

30 (1) Any motion to intervene that has been filed.

1 (2) Any other issues in dispute.

2 (3) The confidential report of the department.

3 (4) The report of any criminal records or validated complaints of child abuse
4 or neglect concerning the petitioner.

5 (5) The testimony of the parties.

6 C. If the child to be adopted is twelve years of age or older, the court shall
7 solicit and consider his wishes in the matter.

8 Art. 1285.7. Intervention

9 A. Intervention in agency adoption proceedings shall not be allowed except
10 on motion to the court and a showing of good cause.

11 B. Such intervention shall be limited to persons having a substantial
12 caretaking relationship with the child for one year or longer, or any other person that
13 the court finds to be a party in interest.

14 C. The intervention of a party in interest shall be for the limited purpose of
15 presenting evidence as to the best interest of the child.

16 Art. 1285.8. Interlocutory decree

17 Upon due consideration of the factors enumerated in Article 1285.6(B), the
18 court may grant or refuse to grant an interlocutory decree during or after the hearing.
19 The basic consideration for this decree shall be the best interest of the child.

20 Comment 2013

21 Although an interlocutory decree is not required, extraordinary circumstances
22 may warrant such a request.

23 Art. 1285.9. Final decree at first hearing

24 Upon due consideration of the factors enumerated in Article 1285.6(B), the
25 court may render a final decree of adoption at the first hearing, without the necessity
26 of first entering an interlocutory decree, if the child was placed in the petitioner's
27 home by a licensed agency and the child has lived in that home for at least six
28 months prior to the hearing for adoption.

1 Art. 1285.10. Continuing duties of department

2 A. After an interlocutory decree has been entered, the department shall
3 maintain contact with the proposed adoptive home directly or through another
4 agency in accordance with Paragraph B of this Article. The number of visits to the
5 home and the time for them shall be within the discretion of the department;
6 however, no less than two visits shall be made to the home, one of which shall occur
7 within thirty days before the final decree of adoption.

8 B. The department may delegate the performance of this investigation to a
9 licensed private adoption agency, but the department remains responsible for
10 ensuring the accuracy and thoroughness of the resulting report and for the safety and
11 welfare of the child. The department shall adopt, promulgate, and enforce such rules
12 and regulations as are necessary and appropriate to implement this authorization in
13 accordance with the Administrative Procedure Act.

14 C. A second confidential report must be presented to the court preceding the
15 hearing on the final decree of adoption. The findings of this report shall be based
16 upon the same findings as prescribed in Article 1285.5 and shall disclose any
17 changed conditions and all new pertinent information.

18 Art. 1285.11. Expiration of interlocutory decree

19 If no petition for a final decree is filed within two years after the granting of
20 an interlocutory decree, the latter shall become null and void unless good cause is
21 shown why an extension should be granted.

22 Art. 1285.12. Revocation of interlocutory decree

23 A. At any time before the entry of the final decree of adoption, the court for
24 good cause may revoke its interlocutory decree either on its own motion, on the
25 motion of the department, or on the motion of the petitioner or any person interested
26 in the child.

27 B. All parties upon whom service was originally made shall be notified at
28 least ten days prior to the signing of the order of revocation and shall be given an
29 opportunity to be heard upon their written request.

1 Art. 1285.17. Refusal of final decree

2 Upon refusal to grant a final decree to the petitioners for the reason that the
3 intercountry adoption is not in the best interest of the child, the court may remove
4 the child from the petitioner and reinstate the legal custodian or appoint a custodian.

5 Section 2. The Louisiana State Law Institute is hereby directed to add the following
6 respective comments under the following respective Children's Code Articles 1281.1,
7 1281.8, 1282.4, and 1283.8 to read as follows.

8 Art. 1281.1. Purpose

9 * * *

10 Comment 2013

11 The Intercountry Adoption Act (IAA) of 2000, PL106-279, 42 USC
12 14901-14954, 22 CFR 96.2, provided for United States implementation of the Hague
13 Convention on Protection of Children and Cooperation in Respect of Intercountry
14 Adoption. Pursuant to the Act, the Department of State serves as the central authority
15 of the United States for all Hague Convention adoptions and is responsible for
16 implementation of the Convention, including accreditation of agencies and persons
17 who provide international adoption services and maintaining an intercountry
18 adoption registry. The IAA preempts state adoption laws only to the extent state
19 laws are inconsistent with provisions of the Act. Intercountry adoptions taking place
20 from Non-Hague Convention countries, and therefore outside of the scope of the
21 Convention, are governed by the Immigration and Nationality Act, and are under the
22 jurisdiction of the U.S. Citizenship and Immigration Services of the Department of
23 Homeland Security.

24 * * *

25 Art. 1281.8. Birth certificate requirement

26 * * *

27 Comment 2013

28 U. S. Citizenship and Immigration Services requirements for birth certificates
29 and other documentation are governed by 8 CFR 103.2.

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31 Art. 1282.4. Effect of final decree

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Comment 2013

Although a foreign adoption decree is presumed valid on its face and formal recognition proceedings are not required by law, recognition by a Louisiana court provides a Louisiana adoption decree and allows for the issuance of a Louisiana birth certificate. When the adoption is full and final in the foreign country, citizenship is automatic and proof of citizenship will be received from U.S. Citizenship and Immigration Services without the need for further filing.

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Art. 1283.8. Interlocutory decree

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Comment 2013

Although an interlocutory decree is not required, extraordinary circumstances may warrant such a request.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____