

Regular Session, 2014

HOUSE BILL NO. 445

BY REPRESENTATIVE NANCY LANDRY

(On Recommendation of the Louisiana State Law Institute)

CHILDRENS CODE: Provides for court-ordered criminal background checks in connection with certain adoptions and provides for the petition for intrafamily adoptions

1 AN ACT

2 To amend and reenact Children's Code Articles 1131(E)(1) and (G), 1173(B), 1243(A)(1),  
3 and 1243.2(A)(1) and (C), and to repeal Children's Code Article 1243(C), relative  
4 to adoptions; to provide for court-ordered criminal background checks in an adoptive  
5 placement following a surrender, in preplacement home studies, and in intrafamily  
6 adoptions; to provide for who may petition for an intrafamily adoption; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Articles 1131(E)(1) and (G), 1173(B), 1243(A)(1), and  
10 1243.2(A)(1) and (C) are hereby amended and reenacted to read as follows:

11 Art. 1131. Filing of surrender; institution of records check

12 \* \* \*

13 E. Upon the filing of any court order approving the adoptive placement  
14 pursuant to Article 1178, the court shall immediately issue both of the following  
15 orders:

16 (1) That the ~~sheriff or the~~ office of state police, Louisiana Bureau of  
17 Criminal Identification and Information; conduct a records check for all federal  
18 arrests and convictions and all state arrests and convictions in this and any other  
19 states in which either of the prospective adoptive parents has been domiciled.

1 Prospective adoptive parents shall submit a set of fingerprints to the ~~sheriff or the~~  
2 office of state police, Louisiana Bureau of Criminal Identification and Information.

3 \* \* \*

4 G. The ~~sheriff or the~~ office of state police, Louisiana Bureau of Criminal  
5 Identification and Information, and the department shall accord priority to these  
6 orders and shall provide a certificate indicating all information discovered or that no  
7 information has been found.

8 \* \* \*

9 Art. 1173. Preplacement home study; requirements

10 \* \* \*

11 B. The ~~sheriff~~ office of state police, Louisiana Bureau of Criminal  
12 Identification and Information and the department shall conduct and accord priority  
13 to requests for a criminal records check for all federal and state arrests and  
14 convictions and validated complaints of child abuse or neglect, respectively, in this  
15 or any other state of each prospective adoptive parent, and shall provide a certificate  
16 indicating all information discovered or that no information has been found, all in  
17 accordance with the applicable rules and regulations promulgated by the department.

18 \* \* \*

19 Art. 1243. Persons who may petition for intrafamily adoption

20 A. A stepparent, stepgrandparent, great-grandparent, grandparent, or  
21 collaterals within the twelfth degree may petition to adopt a child if all of the  
22 following elements are met:

23 (1) The petitioner is related to the child by blood, adoption, or affinity  
24 through a ~~parent recognized as having parental rights~~ the mother of the child or  
25 through a father who is filiated to the child in accordance with the Civil Code.

26 \* \* \*

27 Comment - 2014

28 The Civil Code provides that a man may be filiated to a child when the child  
29 is born during his marriage to the mother or within three hundred days from the date  
30 of termination of the marriage (C.C. Art. 185), when he marries the mother of the  
31 child and acknowledges the child by authentic act or by signing the birth certificate

1 (C.C. Art. 195), when he acknowledges the child by authentic act or by signing the  
2 birth certificate (C.C. Art. 196), by judgment of paternity (C.C. Art. 198), or by  
3 adoption (C.C. Art. 199). Proof of a father's filiation in accordance with the Civil  
4 Code, as provided in the 2014 revision to this Article, permits the filiated father's  
5 relative to petition for intrafamily adoption but does not necessitate the father's  
6 consent to adoption unless his consent is specifically required under Ch.C. Art. 1193.

7 \* \* \*

8 Art. 1243.2. Institution of records check

9 A. Upon the filing of a petition, the court shall immediately issue both of the  
10 following orders:

11 (1) That the ~~local sheriff or the~~ office of state police, Louisiana Bureau of  
12 Criminal Identification and Information; conduct a records check for all federal  
13 arrests and convictions and all state arrests and convictions for each of the  
14 prospective adoptive parents. Prospective adoptive parents shall submit a set of  
15 fingerprints to the ~~sheriff or the~~ office of state police, Louisiana Bureau of Criminal  
16 Identification and Information.

17 \* \* \*

18 C. The ~~sheriff or the~~ office of state police, Louisiana Bureau of Criminal  
19 Identification and Information, and the department shall accord priority to these  
20 orders and shall provide a certificate indicating all information discovered, or that  
21 no information has been found.

22 Section 2. Children's Code Article 1243(C) is hereby repealed in its entirety.

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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)]

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Nancy Landry

HB No. 445

**Abstract:** Provides that, in order to comply with applicable law, requests for criminal background checks in certain adoptions shall go to the Louisiana Bureau of Criminal Identification and Information to conduct certain criminal background checks for adoption purposes, and provides for who may petition for an intrafamily adoption.

Present law (Ch.C. Art. 1131(E)(1)) provides for a court order, following court approval of an adoptive placement, for a criminal background check by the sheriff or Louisiana Bureau of Criminal Identification and Information.

Proposed law retains present law but deletes reference to the sheriff.

Present law (Ch.C. Art. 1131(G)) provides that the sheriff or Louisiana Bureau of Criminal Identification and Information shall give priority to the court-ordered criminal background check.

Proposed law retains present law but deletes reference to the sheriff.

Present law (Ch.C. Art. 1173(B)) provides that the sheriff or Louisiana Bureau of Criminal Identification and Information shall conduct a criminal background check for a preplacement home study.

Proposed law retains present law but deletes reference to the sheriff.

Present law (Ch.C. Art. 1243) specifies who may petition for an intrafamily adoption to include several categories of family relationships and the requirements thereunder, provides that if one joint petitioner dies the adoption proceedings may continue in the name of the survivor, and defines a parent recognized as having parental rights.

Proposed law retains much of the present law but changes the requirement that the petitioner be related through a child's parent having parental rights to the requirement that the petitioner be related to the child's mother or father who is filiated to the child.

Proposed law repeals the definition of a "parent recognized as having parental rights".

Present law (Ch.C. Art. 1243.2.2(A)(1)) provides for a court order, upon the filing of a petition for an intrafamily adoption, for a criminal background check by the sheriff or Louisiana Bureau of Criminal Identification and Information.

Proposed law retains present law but deletes reference to the sheriff.

Present law (Ch.C. Art. 1243.2(C)) provides that the sheriff or Louisiana Bureau of Criminal Identification and Information shall give priority to court ordered criminal background check.

Proposed law retains present law but deletes reference to the sheriff.

(Amends Ch.C. Arts. 1311(E)(1) and (G), 1173(B), 1243(A)(1), and 1243.2(A)(1) and (C); Repeals Ch.C. Art. 1243(C))