

ACT No. 124

2015 Regular Session

HOUSE BILL NO. 625

BY REPRESENTATIVES SIMON, ARMES, COX, HARRISON, HAZEL, HODGES, HOFFMANN, HOWARD, ROBERT JOHNSON, LORUSSO, MORENO, JAY MORRIS, ORTEGO, PRICE, REYNOLDS, ST. GERMAIN, THIBAUT, AND WILLMOTT AND SENATORS NEVERS AND WALSWORTH

1 AN ACT

2 To amend and reenact Children's Code Articles 101, 625(A) and (D), 640(A), 641,
3 644(A)(7), 645(A), 646(D), 674, 675(B), 682(B)(5), 689, 700, 702(C)(5) and (J),
4 720(A), 724(B), 1133, and 1134 and R.S. 46:283(C)(1)(a)(introductory paragraph)
5 and to enact Children's Code Articles 640(C), 644(A)(8) and (9), 646(E), 682(B)(6),
6 684(E)(5), 702(K), 710(A)(4), 724.1, and R.S. 46:283(C)(1)(a)(v) and (D), relative
7 to children who enter state custody through child in need of care proceedings; to
8 authorize means of delivery of documents, notifications, and reports relating to such
9 proceedings; to require instruction to persons before the court relative to achieving
10 permanency in child placement; to provide for duties of persons to advise the court
11 of the whereabouts of relatives of children involved in child in need of care
12 proceedings; to provide relative to case plans and case review reports for children
13 involved in such proceedings; to provide relative to hearings and dispositions on
14 custody, safety plans, and permanency; to provide for notice of filing of surrender
15 of parental rights; to provide for temporary and successor guardianship; to establish
16 a standard applicable to parental decisions by foster caregivers; to provide relative
17 to training for prospective foster care providers; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Children's Code Articles 101, 625(A) and (D), 640(A), 641, 644(A)(7),
20 645(A), 646(D), 674, 675(B), 682(B)(5), 689, 700, 702(C)(5) and (J), 720(A), 724(B), 1133,
21 and 1134 are hereby amended and reenacted and Children's Code Articles 640(C),
22 644(A)(8) and (9), 646(E), 682(B)(6), 684(E)(5), 702(K), 710(A)(4), and 724.1 are hereby
23 enacted to read as follows:

1 Art. 101. Preamble

2 The people of Louisiana recognize the family as the most fundamental unit
 3 of human society; that preserving families is essential to a free society; that the
 4 relationship between parent and child is preeminent in establishing and maintaining
 5 the well-being of the child; that parents have the responsibility for providing the
 6 basic necessities of life as well as love and affection to their children; that parents
 7 have the paramount right to raise their children in accordance with their own values
 8 and traditions; that parents should make the decisions regarding where and with
 9 whom the child shall reside, the educational, moral, ethical, and religious training of
 10 the child, the medical, psychiatric, surgical, and preventive health care of the child,
 11 and the discipline of the child; that children owe to their parents respect, obedience,
 12 and affection; that the role of the state in the family is limited and should only be
 13 asserted when there is a serious threat to the family, the parents, or the child; and that
 14 extraordinary procedures established by law are meant to be used only when required
 15 by necessity, and then with due respect for the rights of the parents, the children, and
 16 the institution of the family, and only to the extent that such procedures are not
 17 prohibited by the Louisiana Constitution of 1974, as amended.

18 * * *

19 Art. 625. Advice of rights and responsibilities of parents, counsel, and department;
 20 absent parents

21 A.(1) At the continued custody or continued safety plan hearing, the court
 22 shall advise the parents and may advise the child, insofar as practicable, of:

23 ~~(1)~~ (a) The nature of the proceedings in terms understandable to the child.

24 ~~(2)~~ (b) The nature of the allegations in terms understandable to the child.

25 ~~(3)~~ (c) The right to an adjudication hearing.

26 ~~(4)~~ (d) The right to be represented by counsel and the right of indigent
 27 parents to representation by the Indigent Parents' Representation Program in
 28 accordance with Children's Code Article 608.

29 (2) At the continued custody or continued safety plan hearing, the court shall
 30 request the parent and all counsel of record to provide an electronic mail address at

1 Art. 641. Service and return; nonresident parent

2 A. If a parent does not reside within this state, service of the petition and
3 notice, and summons if issued by the court, shall be made ~~by certified mail, return~~
4 ~~receipt requested, to the address indicated in the petition,~~ not less than five days prior
5 to commencement of the adjudication hearing on the matter by any of the following
6 means:

7 (1) Certified mail, return receipt requested, to the address indicated in the
8 petition.

9 (2) Electronic mail to the electronic mail address expressly designated by the
10 parent in a pleading, at the continued custody or continued safety plan hearing, or at
11 any other hearing at which the parent personally appeared before the court.

12 B. ~~The~~ If service was made by certified mail, the person effecting the service
13 shall file the return receipt as proof of service.

14 C. Service by electronic mail is complete upon transmission but is not
15 effective if the serving party learns the transmission did not reach the party to be
16 served.

17 * * *

18 Art. 644. Duties of curator ad hoc

19 A. The curator ad hoc shall make a diligent effort to locate the parent and
20 notify him of the pendency and nature of the proceedings. Such notice shall include:

21 * * *

22 (7) The parent's responsibility to support the achievement of timely
23 permanency for the child.

24 (8) The parent's responsibility to advise the department and the court in
25 writing of the whereabouts, including the address, cellular number, telephone
26 number, and any other contact information, of all grandparents, all parents of a
27 sibling where such parent has legal custody of such sibling, and all other adult
28 relatives of the child.

1 (9) The possibility that a judicial certification for adoption proceeding may
2 be initiated if the child remains in the custody of the state.

3 * * *

4 Art. 645. Department of Children and Family Services to provide information
5 concerning the parents' location; cooperation of the department

6 A. Notwithstanding any other provision of the law to the contrary, the
7 department shall obtain and provide to the district attorney with any request for a
8 petition all available information pertinent to the location of every parent, including
9 names and addresses of known relatives and any parents of a sibling where such
10 parent has legal custody of the sibling, and any information available from the parent
11 locator service. If a curator ad hoc is appointed, the department shall supply this
12 information to him within fifteen days of its receipt of a copy of the order appointing
13 the curator ad hoc. This duty shall be a continuing one as long as the child remains
14 subject to the jurisdiction of the court.

15 * * *

16 Art. 646. Answer; appearance; objection

17 * * *

18 D. At this hearing, the parent shall be asked to provide an electronic mail
19 address at which the parent is willing to receive service and notice of future
20 proceedings. The court shall advise the parent that once an electronic mail address
21 is provided, all service and notice of future proceedings may be sent electronically
22 until such time he provides notice to the court and all parties in writing or in open
23 court that he is no longer able to receive service or notice at such address.

24 E. The court may schedule future hearings and serve notice in open court.

25 * * *

26 Art. 674. Filing

27 A. ~~Copies~~ A copy of the case plan shall be filed with the court ten days
28 before any scheduled disposition, permanency, or case review hearing. Upon filing,
29 the department shall ~~mail copies~~ provide a copy of the case plan to counsel of record
30 either by mail or electronic mail and shall mail ~~them~~ a copy by certified mail to any

1 unrepresented parent at his last known address or send the copy by electronic mail
 2 at the electronic mail address expressly designated by the parent in a pleading, at the
 3 continued custody or continued safety plan hearing, or at any other hearing at which
 4 the parent personally appeared before the court, unless otherwise ordered by the
 5 court for good cause.

6 B. Service by electronic mail is complete upon transmission but is not
 7 effective if the serving party learns the transmission did not reach the party to be
 8 served.

9 Art. 675. Case plan purpose; contents

10 * * *

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

12 (1) A description of the type of home or institution in which the child is
 13 placed, including a discussion of the child's health and safety, the appropriateness of
 14 the placement, and the reasons why the placement, if a substantial distance from the
 15 home of the parents or in a different state, is in the best interests of the child.

16 (2) A plan for assuring that the child receives safe and proper care and that
 17 services are provided to the parents, child, and foster parents in order to improve the
 18 conditions in the parents' home, facilitate the safe return of the child to his own home
 19 or other permanent placement of the child, or both, and address the needs of the child
 20 while in foster care, including a plan for visitation and a discussion of the
 21 appropriateness of the services that have been provided to the child under the plan.

22 (3) A plan for assuring that the child is afforded the greatest opportunity for
 23 normalcy through engagement in age- or developmentally appropriate activities on
 24 a regular basis. The child shall be consulted in an age-appropriate manner about
 25 their interests and opportunities available to them. Recognizing the greatest
 26 opportunity for normalcy lies in the day to day decisions affecting the child's
 27 activities, the child's caretaker should be supported in making those decisions
 28 through the use of the reasonable and prudent parent standards as set forth in R.S.
 29 46:283.

1 (4) If the child has been committed to the custody of a person other than the
2 parents, the plan shall recommend an amount the parents are obligated to contribute
3 for the cost of care and treatment of their child in accordance with Article 685.

4 (5) When appropriate for a child ~~fifteen~~ fourteen years of age or older, the
5 plan shall include a written description of the programs and services which will help
6 the child prepare for the transition from foster care to independent living.

7 (3) ~~(6)(a)~~ For a child ~~fifteen~~ fourteen years of age or older, the plan shall
8 include a written, individualized, and thorough transitional plan, developed in
9 collaboration with the child and any agency, department, or individual assuming his
10 custody, care, or responsibility.

11 ~~(a)~~ (b) The transitional plan shall identify the programs, services, and
12 facilities that will be used to assist the child in achieving a successful transition. The
13 transitional plan shall address the needs of the child, including but not limited to
14 education, health, permanent connections, living arrangements, and, if appropriate,
15 independent living skills and employment.

16 ~~(b)~~ (c) The department shall ensure that all records in its files relevant to
17 securing needed services in the community in which the child will live shall be
18 immediately transmitted to the appropriate service provider.

19 ~~(4)~~ (7)(a) Documentation of the efforts the agency is making to safely return
20 the child home or to finalize the child's placement in an alternative safe and
21 permanent home in accordance with the child's permanent plan.

22 (b) For children whose permanent plan is adoption or placement in another
23 permanent home, this documentation shall include child-specific recruitment efforts
24 such as the use of state, regional, and national adoption exchanges, including
25 electronic exchange systems, to facilitate orderly and timely in-state and interstate
26 placements.

27 (c) For children whose permanent plan is guardianship, the documentation
28 shall include the facts and circumstances supporting guardianship, including the
29 reasons that the plan is in the best interest of the child and that reunification with a
30 parent and adoption are not appropriate permanent plans. The documentation shall

1 also address the suitability and commitment of the proposed guardian to offer a
2 wholesome, stable home for the child throughout minority.

3 (d) For children whose permanent plan is placement in the least restrictive,
4 most family-like alternative permanent living arrangement, the documentation shall
5 include the intensive, ongoing, and as of the date of the hearing, efforts made by the
6 department to return the child home or secure a placement for the child with a fit and
7 willing relative, including adult siblings, a legal guardian, or an adoptive parent.

8 ~~(5)~~ (8) Assessment of the child's relationships with his parents, grandparents,
9 and siblings, including a plan for assuring that continuing contact with any relative
10 by blood, adoption, or affinity with whom the child has an established and significant
11 relationship is preserved while the child is in foster care. The preservation of such
12 relationships shall be considered when the child's permanent plan is adopted.

13 ~~(6)~~ (9) Documentation of the compelling reasons for determining that filing
14 a petition for termination of parental rights would not be in the best interest of the
15 child, when appropriate.

16 * * *

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

18 * * *

19 B. If the court concludes that the child is to be removed from his parents'
20 custody, it shall:

21 * * *

22 (5) Inform the parties and all persons before the court of their continuing
23 responsibility to support the achievement of timely permanency for the child and
24 further direct such individuals to advise the department and the court in writing of
25 the whereabouts, including the address, cellular number, telephone number, and any
26 other contact information, of all grandparents, all parents of a sibling where such
27 parent has legal custody of such sibling, and all other adult relatives of the child.

1 (6) Inform the parents of their obligation to support their child, including
2 their obligation to contribute to the care and treatment of their child as provided in
3 Article 685.

4 * * *

5 Art. 684. Judgment of disposition

6 * * *

7 E. In all cases in which the child is removed from his parents' custody and
8 assigned to the department, the court shall advise the parties and all persons before
9 the court of the following:

10 * * *

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

17 * * *

18 Art. 689. Case review reports; service

19 A. Copies ~~A copy~~ of the report shall be served ~~by certified mail to the last~~
20 ~~known address~~ upon counsel of record either by mail or electronic mail and upon any
21 unrepresented party either by certified mail at his last known address or by the
22 department by electronic mail at the electronic mail address expressly designated by
23 the party in a pleading, at the continued custody or continued safety plan hearing, or
24 at any other hearing at which the party personally appeared before the court prior to
25 or at the same time it is filed with the court.

26 B. Service by electronic mail is complete upon transmission but is not
27 effective if the serving party learns the transmission did not reach the party to be
28 served.

29 * * *

1 Art. 700. Order; appeal

2 A. At the conclusion of the case review hearing, the court may take one of
3 the following actions:

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

6 (2) Find that the case plan is not appropriate, in whole or in part, based on
7 the evidence presented at the contradictory hearing, and order the department to
8 revise the case plan accordingly.

9 B. ~~The~~ At the conclusion of the case review hearing, the court shall inform
10 the parents ~~that~~ of all of the following:

11 ~~(a)~~ (1) It is their obligation to cooperate with the department, comply with
12 the requirements of the case plan, including their duty to keep the department
13 apprised of their current address, and to correct the conditions requiring the child to
14 be in care.

15 (2) It is their continuing responsibility to support the achievement of timely
16 permanency for the child and to advise the department and the court in writing of the
17 whereabouts, including the address, cellular number, telephone number, and any
18 other contact information, of all grandparents, all parents of a sibling where such
19 parent has legal custody of such sibling, and all other adult relatives of the child.

20 ~~(b)~~ (3) A termination of parental rights petition may be filed based on their
21 failure to comply with the case plan, failure to make significant measurable progress
22 toward achieving case plan goals and to correct the conditions requiring the child to
23 be in care, or on any other ground authorized by Article 1015.

24 ~~(2) Find that the case plan is not appropriate, in whole or in part, based on~~
25 ~~the evidence presented at the contradictory hearing and order the department to~~
26 ~~revise the case plan accordingly.~~

27 B. C. Any person directly affected may appeal the findings or orders of the
28 court rendered pursuant to this Article.

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Art. 702. Permanency hearing

2 * * *

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

6 * * *

7 (5)(a) Placement in the least restrictive, most family-like alternative
8 permanent living arrangement. The department shall document in the child's case
9 plan and its report to the court the compelling reason for recommending this plan
10 over the preceding higher priority alternatives.

11 (b) The permanent plan provided for in this Paragraph may be considered
12 only if the child is sixteen years of age or older.

13 * * *

14 J. In the case of a child ~~fifteen~~ fourteen years of age or older, the hearing
15 shall include a review of the transitional plan developed with the child and the
16 agency in accordance with Subparagraph ~~(B)(3)~~ (B)(6) of Article 675.

17 K. In any permanency hearing for a child whose permanent plan is
18 placement in the least restrictive, most family-like alternative permanent living
19 arrangement, the court or administrative body conducting the hearing shall ask the
20 child about the desired permanency outcome for the child.

21 * * *

22 Art. 710. Order; appeal

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

24 * * *

25 (4) For children whose permanent plan is placement in the least restrictive,
26 most family-like alternative permanent living arrangement, why, as of the date of the
27 hearing, the plan is the best permanency plan for the child and provide compelling

1 reasons why it continues to not be in the best interests of the child to return home,
2 be placed for adoption, be placed with a legal guardian, or be placed with a fit and
3 willing relative.

4 * * *

5 Art. 720. Motion for guardianship

6 A. After a child has been adjudicated to be in need of care, a motion for
7 guardianship may be filed by the department, parent, ~~or~~ counsel for the child, or,
8 when the guardian is deceased, an individual previously named as a successor
9 guardian by the guardian in a guardianship subsidy agreement with the department;
10 or the department may submit a case plan along with the case review report to the
11 court and all counsel of record recommending guardianship in accordance with
12 Children's Code Articles 674, 688, and 689.

13 * * *

14 Art. 724. Motion for modification of guardianship; termination of guardianship

15 * * *

16 ~~B.(1) The department, counsel for the child, the guardian, a parent permitted~~
17 ~~to intervene under Children's Code Article 707, or the court on its own motion~~ Any
18 of the following parties may seek to enforce, modify or terminate a guardianship
19 order;

20 (a) The department.

21 (b) Counsel for the child.

22 (c) The guardian or, if the guardian is incapacitated, an individual previously
23 named as a successor guardian by the guardian in a guardianship subsidy agreement
24 with the department.

25 (d) A parent permitted to intervene under Children's Code Article 707.

26 (e) The court on its own motion.

27 (2) A copy of the motion to modify shall be personally served on the parents,
28 and the court shall promptly notify the programs representing the child and indigent
29 parents, respectively, in child in need of care proceedings.

30 * * *

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

2 A.(1) A guardian who has entered into a guardianship subsidy agreement
3 with the department may name an individual as a successor guardian in the
4 agreement for the purpose of continued eligibility of the subsidy in the event of the
5 death or incapacity of the guardian.

6 (2) Nothing relative to the subsidy agreement provided for in this Subsection
7 shall be construed to confer any right of legal guardianship, as such legal
8 guardianship shall be established or modified pursuant to Articles 720 through 724
9 exclusively.

10 B. An individual who has been named as a successor guardian in the
11 guardianship subsidy agreement may request an ex parte order of temporary
12 guardianship of the child in a motion for guardianship or modification of
13 guardianship pursuant to Article 720 or 724.

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

16 (1) The current guardian is incapacitated or deceased.

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

20 (3) The mover was previously named as a successor guardian in a
21 guardianship subsidy agreement with the department as shown by the agreement.

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

26 D. An ex parte order of temporary guardianship shall:

27 (1) Continue until a hearing on the motion for guardianship or modification
28 of guardianship is held and guardianship is established or denied by the court.

1 and developmental growth of the child, that a caregiver shall use when determining
2 whether to allow a child in foster care under the responsibility of the state to
3 participate in extracurricular, enrichment, cultural, social, and sporting activities.

4 (2) Nothing in this Section shall be construed to authorize any decision that
5 conflicts with the residual parental rights, as defined in Children's Code Article 116,
6 of a parent of a child.

7 Section 3. This Act shall become effective upon signature by the governor or, if not
8 signed by the governor, upon expiration of the time for bills to become law without signature
9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
11 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____