

2016 Regular Session

HOUSE BILL NO. 1135 (Substitute for House Bill No. 777 by Representative Moreno)

BY REPRESENTATIVE MORENO

1 AN ACT

2 To amend and reenact Children's Code Articles 1007 and 1015 and to enact Children's Code
3 Articles 1004(I) and 1015.1, relative to the termination of parental rights; to provide
4 relative to parties who may petition for termination of parental rights; to provide
5 relative to grounds for termination of parental rights; to provide relative to effects;
6 to provide for the confidentiality of petitioner's address; to provide regarding court
7 costs, other costs, and fees; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Articles 1007 and 1015 are hereby amended and
10 reenacted and Children's Code Articles 1004(I) and 1015.1 are hereby enacted to read as
11 follows:

12 Art. 1004. Petition for termination of parental rights; authorization to file

13 * * *

14 I. When a child is conceived as the result of a sex offense as defined in R.S.
15 15:541, the victim of the sex offense who is the custodial parent may petition to
16 terminate the rights of the perpetrator of the sex offense. Termination shall result in
17 the loss of custody, visitation, contact, and other parental rights of the perpetrator
18 regarding the child, but shall not affect the inheritance rights of the child. The
19 perpetrator shall be cast in judgment for court costs.

20 * * *

21 Art. 1007. Court records of proceedings

22 A. All records and reports which result from proceedings held pursuant to
23 the provisions of this Title are confidential and shall not be disclosed except as
24 otherwise provided by this Chapter, by Chapter 7 of this Title, or as may be
25 necessary to facilitate any order for continued contact as authorized by Article
26 1037.1.

1 (k) The parent's parental rights to one or more of the child's siblings have
 2 been terminated due to neglect or abuse, prior attempts to rehabilitate the parent have
 3 been unsuccessful, and the court has determined pursuant to Article 672.1, that
 4 current attempts to reunite the family are not required.

5 (l) Sexual exploitation or abuse, which shall include, but is not limited to acts
 6 which are prohibited by R.S. 14:43.1, 43.2, 46.3, 80, 81, 81.1, 81.2, 82.1(A)(2), 89,
 7 and 89.1.

8 (m) Human trafficking when sentenced pursuant to the provisions of R.S.
 9 14:46.2(B)(2) or (3).

10 ~~(4)~~(5) Abandonment of the child by placing him in the physical custody of
 11 a nonparent, or the department, or by otherwise leaving him under circumstances
 12 demonstrating an intention to permanently avoid parental responsibility by any of the
 13 following:

14 (a) For a period of at least four months as of the time of the hearing, despite
 15 a diligent search, the whereabouts of the child's parent continue to be unknown.

16 (b) As of the time the petition is filed, the parent has failed to provide
 17 significant contributions to the child's care and support for any period of six
 18 consecutive months.

19 (c) As of the time the petition is filed, the parent has failed to maintain
 20 significant contact with the child by visiting him or communicating with him for any
 21 period of six consecutive months.

22 ~~(5)~~(6) Unless sooner permitted by the court, at least one year has elapsed
 23 since a child was removed from the parent's custody pursuant to a court order; there
 24 has been no substantial parental compliance with a case plan for services which has
 25 been previously filed by the department and approved by the court as necessary for
 26 the safe return of the child; and despite earlier intervention, there is no reasonable
 27 expectation of significant improvement in the parent's condition or conduct in the
 28 near future, considering the child's age and his need for a safe, stable, and permanent
 29 home.

1 ~~(6)~~(7) The child is in the custody of the department pursuant to a court order
 2 or placement by the parent; the parent has been convicted and sentenced to a period
 3 of incarceration of such duration that the parent will not be able to care for the child
 4 for an extended period of time, considering the child's age and his need for a safe,
 5 stable, and permanent home; and despite notice by the department, the parent has
 6 refused or failed to provide a reasonable plan for the appropriate care of the child
 7 other than foster care.

8 ~~(7)~~(8) The relinquishment of an infant pursuant to Chapter 13 of Title XI of
 9 this Code.

10 ~~(8)~~(9) The commission of a ~~felony rape~~ sex offense as defined in R.S.
 11 15:541 by the natural parent which resulted in the conception of the child.

12 Art. 1015.1. Termination of parental rights, certain grounds; costs and fees

13 A. A petitioner shall not be required to prepay nor be cast with court costs
 14 or costs of service or subpoena for the filing of the petition pursuant to Article
 15 1015(3) or (9). The clerk of court shall immediately file and process the petition,
 16 regardless of the ability of the petitioner to pay court costs.

17 B. All court costs, attorney fees, costs of enforcement and modification
 18 proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in
 19 filing, maintaining, or defending any proceeding under Article 1015(3) or (9) shall
 20 be paid by the perpetrator of the sex offense, including all costs of medical and
 21 psychological care for the sexually abused adult, or for the child conceived as a
 22 result of the sex offense.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____