

2016 Regular Session

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

BY REPRESENTATIVE MORENO

CHILDREN/PARENTAL RIGHTS: Provides for the termination of parental rights in certain circumstances

1 AN ACT

2 To amend and reenact Children's Code Article 1015 and to enact Children's Code Article
3 1004(I), relative to the termination of parental rights; to provide relative to parties
4 who may petition for termination of parental rights; to provide relative to grounds
5 for termination of parental rights; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Article 1015 is hereby amended and reenacted and
8 Children's Code Article 1004(I) is hereby enacted to read as follows:

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

10 * * *

11 I. When a child is conceived as the result of a sex offense as defined in R.S.
12 15:541, the victim of the sex offense who is the custodial parent may petition pro se
13 or through counsel to terminate the rights of the perpetrator of the sex offense.

14 * * *

15 Art. 1015. Grounds

16 The grounds for termination of parental rights are:

17 (1) Conviction of murder of the child's other parent.

18 (2) Unjustified intentional killing of the child's other parent.

1 (3) Conviction of a sex offense as defined in R.S. 15:541 by the natural
2 parent which resulted in the conception of the child.

3 ~~(3)~~(4) Misconduct of the parent toward this child or any other child of the
4 parent or any other child which constitutes extreme abuse, cruel and inhuman
5 treatment, or grossly negligent behavior below a reasonable standard of human
6 decency, including but not limited to the conviction, commission, aiding or abetting,
7 attempting, conspiring, or soliciting to commit any of the following:

8 (a) Murder.

9 (b) Unjustified intentional killing.

10 (c) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).

11 (d) Rape.

12 (e) Sodomy.

13 (f) Torture.

14 (g) Starvation.

15 (h) A felony that has resulted in serious bodily injury.

16 (i) Abuse or neglect which is chronic, life threatening, or results in gravely
17 disabling physical or psychological injury or disfigurement.

18 (j) Abuse or neglect after the child is returned to the parent's care and
19 custody while under department supervision, when the child had previously been
20 removed for his safety from the parent pursuant to a disposition judgment in a child
21 in need of care proceeding.

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

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

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

3 ~~(4)~~(5) Abandonment of the child by placing him in the physical custody of
4 a nonparent, or the department, or by otherwise leaving him under circumstances
5 demonstrating an intention to permanently avoid parental responsibility by any of the
6 following:

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

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

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

15 ~~(5)~~(6) Unless sooner permitted by the court, at least one year has elapsed
16 since a child was removed from the parent's custody pursuant to a court order; there
17 has been no substantial parental compliance with a case plan for services which has
18 been previously filed by the department and approved by the court as necessary for
19 the safe return of the child; and despite earlier intervention, there is no reasonable
20 expectation of significant improvement in the parent's condition or conduct in the
21 near future, considering the child's age and his need for a safe, stable, and permanent
22 home.

23 ~~(6)~~(7) The child is in the custody of the department pursuant to a court order
24 or placement by the parent; the parent has been convicted and sentenced to a period
25 of incarceration of such duration that the parent will not be able to care for the child
26 for an extended period of time, considering the child's age and his need for a safe,
27 stable, and permanent home; and despite notice by the department, the parent has
28 refused or failed to provide a reasonable plan for the appropriate care of the child
29 other than foster care.

1 ~~(7)~~(8) The relinquishment of an infant pursuant to Chapter 13 of Title XI of
2 this Code.

3 ~~(8)~~(9) The commission of a ~~felony rape~~ sex offense as defined in R.S.
4 15:541 by the natural parent which resulted in the conception of the child.

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)]

HB 1135 Original

2016 Regular Session

Moreno

Abstract: Provides for parties who may petition for termination of parental rights in certain circumstances.

Present law provides for parties that may petition for termination of parental rights and provides the grounds under which an individual's parental rights may be terminated.

Proposed law adds the victim of a sex offense who is the custodial parent to the list of persons who may petition for termination of parental rights when the victim wishes to terminate the parental rights of the perpetrator.

Proposed law expands the grounds for termination of parental rights to include an individual who has been convicted of or who has committed a sex offense defined in present law (R.S. 15:541).

(Amends Ch.C. Art. 1015; Adds Ch.C. Art. 1004(I))