

2022 Regular Session

HOUSE BILL NO. 885

BY REPRESENTATIVE MIKE JOHNSON

CHILDREN/ABUSE: Provides for the use of prehearing videotape as evidence in administrative appeals of justified reports of child abuse or neglect

1 AN ACT

2 To enact Children's Code Article 616.1.1(C), relative to the appeal and review of
3 determinations of justified reports of child abuse or neglect; to provide for
4 administrative appeals; to provide for the protected person's testimony; to provide
5 for the admissibility of prehearing videotape; to provide for the duties of the
6 Department of Children and Family Services; to provide for subpoenas; to provide
7 for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Article 616.1.1(C) is hereby enacted to read as follows:

10 Art. 616.1.1. Appeal and review; correction of central registry entries; procedure;
11 prehearing videotape

12 * * *

13 C.(1) A prehearing videotape of the protected person shall be admissible in
14 an administrative appeal taken pursuant to this Article if the videotape complies with
15 the provisions of Articles 326 and 327. However, if the protected person is not in the
16 custody of the department, the inability of the department to locate the protected
17 person shall not render the prehearing videotape inadmissible. The department shall
18 attempt to make the protected person available to testify if called to testify by the
19 individual appealing the decision. The division of administrative law judge may,
20 however, consider this in determining the weight of the evidence.

1 (2) Nothing in this Article shall be construed to preclude a subpoena being
2 issued for the protected person. The protected person's testimony may be taken in
3 any manner authorized by Chapter 8 of Title III of this Code.

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

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 885 Original

2022 Regular Session

Mike Johnson

Abstract: Provides for the admissibility of prehearing videotape of a protected person as evidence in an administrative appeal of a determination of a justified report of abuse.

Proposed law provides that a prehearing videotape of a protected person in a child in need of care proceeding shall be admissible in an administrative appeal of a determination of a justified report of abuse if the videotape complies with present law provisions regarding admissibility of videotape as evidence.

Present law provides, generally, that videotape evidence is admissible only if the protected person is able to testify.

Proposed law retains present law but provides that for an administrative appeal of a justified report of abuse if the protected person is not in the custody of the department, the inability of the department to locate the protected person shall not render the prehearing videotape inadmissible.

Proposed law provides that the department shall attempt to make the protected person available to testify if called to testify by the individual appealing the decision. The division of administrative law judge may, however, consider this in determining the weight of the evidence.

Proposed law provides that proposed law shall not preclude a subpoena being issued for the protected person.

Proposed law provides that the protected person's testimony may be taken in any manner authorized by present law provisions related to the videotaping of protected persons.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds Ch.C. Art. 616.1.1(C))