

Regular Session, 2012

HOUSE BILL NO. 912

BY REPRESENTATIVE NANCY LANDRY

ADOPTION: Provides procedures for intrafamily adoptions

1 AN ACT

2 To amend and reenact Children's Code Articles 1247 through 1250 and 1252(A), relative to
3 intrafamily adoptions; to provide relative to notice to certain persons; to provide for
4 the filing of an answer; to provide for redacting of social security numbers; to
5 provide for service of process; to provide relative to investigations by the
6 Department of Children and Family Services; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Articles 1247 through 1250 and 1252(A) are hereby
9 amended and reenacted to read as follows:

10 Art. 1247. ~~Service of process~~ Notice of filing petition

11 A. ~~A copy of the petition for intrafamily adoption together with all exhibits~~
12 ~~shall be served by registered or certified mail, return receipt requested, postage~~
13 ~~prepaid, or by commercial courier as defined in R.S. 13:3204(D), when the person~~
14 ~~to be served is located outside of this state, and properly addressed to the department.~~

15 B. Except when waived in accordance with the provisions of Title XI or XII,
16 notice of the filing of the petition for intrafamily adoption shall be issued by the clerk
17 and served, together with a copy of the petition, on every parent whose consent to
18 the adoption is required pursuant to Article 1193 and whose parental rights have not
19 been terminated by a court of competent jurisdiction, and shall state:

1 Notice

2 Louisiana law provides that under certain circumstances your consent to the
3 adoption of your child may be dispensed with and you can permanently lose your
4 rights as a parent by final decree of adoption. An intrafamily adoption petition has
5 been filed requesting the court to grant an adoption and terminate your parental
6 rights to your child. A copy of the petition is attached to this notice. If you do not
7 file a written answer ~~and~~ stating your opposition to the adoption within fifteen days
8 of receiving this notice you will lose the right to object to the adoption. If you
9 choose to file a written answer ~~and~~ stating your opposition to the adoption you must
10 file it with the clerk of court at _____. ~~A court hearing of your case has~~
11 ~~been scheduled for the ___ day of ___ at the ___ division of ___ court in the~~
12 ~~parish of _____. If you fail to appear, the court can grant the adoption and terminate~~
13 ~~your rights despite your absence. Only if you file an answer stating your opposition~~
14 ~~to the adoption will you have an opportunity to present your opposition to the~~
15 ~~adoption. If you file an answer stating your opposition, the court will set a hearing,~~
16 ~~and you will receive notice of the hearing of your opposition.~~

17 If you do not file an answer stating your opposition, and if the court at the
18 ~~trial~~ adoption hearing finds that the facts set out in the petition are true and that
19 adoption is in the best interests of your child, the court can enter a judgment ending
20 your rights to your child. If the judgment terminates your parental rights, you will
21 no longer have any rights to visit or to have custody of your child or make any
22 decisions affecting your child, and your child will be legally freed to be adopted.

23 This is a very serious matter. You should contact an attorney immediately
24 so that ~~you can be prepared for the court hearing~~ he or she can help you determine
25 your rights. You have the right to hire an attorney and to have him or her represent
26 you. If you cannot afford to hire an attorney and you oppose the adoption, your
27 answer stating your opposition ~~must~~ may request that the court determine if you have
28 the right to have an attorney appointed. ~~You may also call the telephone number on~~
29 ~~the attached form for information concerning free legal aid. Whether If you have~~

1 filed an answer stating your opposition, whether or not you decide to hire an
2 attorney, you will have the right to attend the hearing of your case, to call witnesses
3 on your behalf, and to question those witnesses brought against you.

4 You may call the telephone number on the attached form for information
5 concerning free legal aid. If you have any questions concerning this notice, you may
6 call the telephone number of the clerk's office which is _____.

7 C.B. If the adoption petition names an alleged or adjudicated father and his
8 parental rights have not been terminated by a court of competent jurisdiction, he
9 shall be served with notice of the filing of the petition in accordance with Articles
10 1133, 1134, and 1136 and thereafter, his rights shall be determined in accordance
11 with the provisions of Articles 1137 through 1143.

12 Art. 1248. Service; resident parent

13 A. If a parent upon whom service is required under Article 1247 resides
14 within this state, service shall be made either personally or by domiciliary service not
15 less than thirty days prior to the commencement of the hearing on the petition.

16 B. If any social security numbers are contained in the petition or in any of
17 the exhibits attached to the petition, they may be redacted from the copies being
18 served.

19 Art. 1249. Service; nonresident parent

20 A. If a parent upon whom service is required under Article 1247 does not
21 reside within this state, service shall be made by certified or registered mail, return
22 receipt requested, postage prepaid, or by commercial courier as defined in R.S.
23 13:3204(D), to the address indicated in the petition, ~~return receipt required,~~ not less
24 than thirty days prior to commencement of the hearing on the petition.

25 B. If any social security numbers are contained in the petition or in any of
26 the exhibits attached to the petition, they may be redacted from the copies being
27 served.

1 Art. 1250. Service; absentee parent; curator ad hoc

2 A. If a parent upon whom service is required ~~under~~ pursuant to Article 1247
3 cannot be served in accordance with the provisions of Article 1248 or 1249, the court
4 shall appoint an attorney at law as curator ad hoc for the parent and service shall be
5 made upon the curator ad hoc.

6 B. If any social security numbers are contained in the petition or in any of
7 the exhibits attached to the petition, they may be redacted from the copies being
8 served.

9 ~~B.C.~~ Upon appointment of the curator ad hoc, a copy of the letter of
10 appointment shall be forwarded to the department.

11 ~~C.D.~~ The fees and costs of the curator ad hoc shall be paid by the petitioner,
12 notwithstanding any provision of law to the contrary.

13 * * *

14 Art. 1252. Duties of department; home study; confidential report

15 A. The department ~~need~~ shall not investigate the proposed intrafamily
16 adoption except upon order of the court. If the court orders an investigation, it may
17 request any information which it deems relevant and require that the department
18 submit a confidential report of its findings to the court.

19 * * *

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)]

Nancy Landry

HB No. 912

Abstract: Removes conflicting provisions relative to service of process, clarifies notice provided to parents who may oppose an adoption, and authorizes the redacting of social security numbers in documents being served.

Present law (Ch.C. Art. 1247(A)) provides that a copy of the petition for intrafamily adoption together with all exhibits shall be served by registered or certified mail, return receipt requested, postage prepaid, or by commercial courier when the person to be served is located outside of this state, and properly addressed to the department.

Proposed law repeals present law.

Present law (Ch.C. Art. 1249) provides that if a parent upon whom service is required under Article 1247 does not reside within this state, service shall be made by certified or registered mail to the address indicated in the petition, return receipt required, not less than 30 days prior to commencement of the hearing on the petition.

Proposed law provides that if a parent upon whom service is required under Article 1247 does not reside within this state, service shall be made by certified or registered mail, return receipt requested, postage prepaid, or by commercial courier as defined in R.S. 13:3204(D), to the address indicated in the petition not less than 30 days prior to commencement of the hearing on the petition.

Present law provides for the form of the notice required to be served on a parent whose parental rights have not been terminated.

Proposed law retains present law and specifies that the parent shall file an answer stating his opposition and further specifies that the parent is required to file his answer stating his opposition in order to have an opportunity to present his opposition at a hearing to the adoption.

Proposed law provides that the notice shall inform the parent of the importance of contacting an attorney so that the parent will be informed of his rights.

Present law provides procedures for service of the petition for adoption on resident and nonresident parents, and curators ad hoc appointed for absent parents.

Proposed law provides that any social security numbers contained in the petition or any exhibits being served may be redacted.

Present law authorizes DCFS to investigate any proposed intrafamily adoption, but requires DCFS to investigate a proposed intrafamily adoption when ordered to do so by the court.

Proposed law amends present law to provide that DCFS shall not investigate a proposed intrafamily adoption except upon order of the court.

(Amends Ch.C. Arts. 1247-1250 and 1252(A))