

Regular Session, 2014

SENATE BILL NO. 586

BY SENATORS DORSEY-COLOMB AND BUFFINGTON

CHILDREN. Provides relative to adoptions and prohibits the re-homing of a child. (8/1/14)

AN ACT

To amend and reenact Children's Code Articles 1217, 1239, 1255, 1282.3, 1283.14, 1284.3, 1285.14 and R.S. 15:87.1(C)(1) and to enact R.S. 14:46.4, relative to children; to provide relative to adoptions; to prohibit the re-homing of a child; to provide certain definitions, terms, conditions, procedures, prohibitions, crimes, penalties, and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Articles 1217, 1239, 1255, 1282.3, 1283.14, 1284.3, and 1285.14 are hereby amended and reenacted to read as follows:

Art. 1217. Final decree; **notice**; standard

**A. The court, as a part of the final decree, shall provide notice of the provisions of R.S. 14:46.4 to the parties.**

**B.** The court, after hearing and after taking into consideration information from all sources concerning the adoption, may enter a final decree of agency adoption, or it may deny the adoption. The basic consideration shall be the best interests of the child.

\* \* \*

1 Art. 1239. Final decree; **notice**; standard

2 **A. The court, as a part of the final decree, shall provide notice of the**  
3 **provisions of R.S. 14:46.4 to the parties.**

4 **B.** The court, after hearing and after taking into consideration information  
5 from all sources concerning the adoption, may enter a final decree of private  
6 adoption, or it may deny the adoption. The basic consideration shall be the best  
7 interests of the child.

8 \* \* \*

9 Art. 1255. Final decree; **notice**; standard

10 **A. The court, as a part of the final decree, shall provide notice of the**  
11 **provisions of R.S. 14:46.4 to the parties.**

12 **B.** The court, after hearing and after taking into consideration information  
13 from all sources concerning the intrafamily adoption, may enter a final decree of  
14 adoption, or it may deny the adoption. The basic consideration shall be the best  
15 interests of the child.

16 ~~**B.**~~**C.** When a court has granted custody to either the child's grandparents or  
17 his parent married to the stepparent petitioner, there shall be a rebuttable  
18 presumption that this adoption is in the best interests of the child.

19 \* \* \*

20 Art. 1282.3. Final decree; **notice**; standard

21 **A. The court, as a part of the final decree, shall provide notice of the**  
22 **provisions of R.S. 14:46.4 to the parties.**

23 **B.** The court, after taking into consideration all documents filed concerning  
24 the adoption, may enter a final decree of adoption, or it may deny recognition of the  
25 adoption. The basic consideration shall be the best interest of the child.

26 \* \* \*

27 Art. 1283.14. Final decree; **notice**; standard

28 **A. The court, as a part of the final decree, shall provide notice of the**  
29 **provisions of R.S. 14:46.4 to the parties.**

1           **B.** The court, after hearing and after taking into consideration information  
2 from all sources concerning the adoption, may enter a final decree of adoption, or it  
3 may deny the adoption. The basic consideration shall be the best interest of the child.

4                                   \*           \*           \*

5 Art. 1284.3. Final decree; **notice**; standard

6           **A. The court, as a part of the final decree, shall provide notice of the**  
7 **provisions of R.S. 14:46.4 to the parties.**

8           **B.** The court, after taking into consideration all documents filed concerning  
9 the adoption, may enter a final decree of adoption, or it may deny recognition of the  
10 adoption. Recognition may be refused only if the adoption is manifestly contrary to  
11 public policy, taking into account the best interests of the child.

12                                   \*           \*           \*

13 Art. 1285.14. Final decree; **notice**; standard

14           **A. The court, as a part of the final decree, shall provide notice of the**  
15 **provisions of R.S. 14:46.4 to the parties.**

16           **B.** The court, after a hearing and after taking into consideration information  
17 from all sources concerning the adoption, may enter a final decree of adoption, or it  
18 may deny the adoption. The basic consideration shall be the best interest of the child.

19                                   \*           \*           \*

20 Section 2. R.S. 14:46.4 is hereby enacted to read as follows:

21 **§46.4. Re-homing of a child**

22           **A. Re-homing of a child is:**

23           **(1) A transaction, or any action taken to facilitate such transaction,**  
24 **through electronic means or otherwise by a parent or any individual or entity**  
25 **with custody of a child who intends to avoid or divest himself of permanent**  
26 **parental responsibility by placing the child in the physical custody of a**  
27 **nonrelative, without court approval, unless Paragraph B of this Section applies.**  
28 **Actions include but are not limited to transferring, recruiting, harboring,**  
29 **transporting, providing, soliciting, or obtaining a child for such transaction.**

1           (2) The selling, transferring, or arranging for the sale or transfer of a  
2           minor child to another person or entity for money or any thing of value or to  
3           receive such minor child for such payments or thing of value.

4           (3) Assisting, aiding, abetting, or conspiring in the commission of any act  
5           prohibited in Subsections (1) and (2) of this Section by any person or entity,  
6           regardless of whether money or any thing of value has been promised to or  
7           received by the person.

8           **B. Re-homing does not include:**

9           (1) Placement of a child with a relative, stepparent, licensed adoption  
10          agency, licensed attorney, or the Department of Children and Family Services.

11          (2) Placement of a child by a licensed attorney or the Department of  
12          Children and Family Services.

13          (3) Temporary placement of a child by parents or custodians for  
14          designated short-term periods with a specified intent and time period for return  
15          of the child, due to incarceration, military service, medical treatment, or  
16          incapacity of a parent.

17          (4) Placement of a child in another state in accordance with the  
18          requirements of the Interstate Compact on the Placements of Children.

19          **C. Whoever commits the crime of re-homing of a child shall be fined not**  
20          **more than five thousand dollars and shall be imprisoned at hard labor for not**  
21          **more than five years.**

22          **D. It shall not be a defense to prosecution for a violation of this Section**  
23          **that the person being re-homed is actually a law enforcement officer or peace**  
24          **officer acting within the official scope of his duties.**

25          **E. The provisions of Chapter 1 of Title V of the Louisiana Children's**  
26          **Code regarding the multidisciplinary team approach applicable to children who**  
27          **have been abused or neglected, to the extent practical, shall apply to the**  
28          **children who are victims of the provisions of this Section.**

29          Section 3. R.S. 15:587.1(C)(1) is hereby amended and reenacted to read as follows:

§587.1. Provision of information to protect children

\* \* \*

C. The provisions of R.S. 15:825.3, R.S. 17:15, R.S. 46:51.2 and 1441.13, and Children's Code Article 424.1 shall govern the employment of persons who have been convicted of, or pled guilty or nolo contendere to, any of the following crimes:

(1) R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:32.6 through R.S. 14:32.8, R.S. 14:41 through R.S. 14:45, **R.S. 14:46.4**, R.S. 14:74, R.S. 14:78, R.S. 14:78.1, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:89.2, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, crimes of violence as defined in R.S.14:2(B), sex offenses as defined in R.S. 15:541, R.S. 14:106, R.S. 14:282, R.S. 14:283, R.S. 14:283.1, R.S. 14:284, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

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The original instrument was prepared by Angela Lockett De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

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#### DIGEST

Dorsey-Colomb (SB 586)

Present law in Children's Code provides procedures for adoption of a child. Provides that the court, after hearing and after taking into consideration information from all sources concerning the adoption, may enter a final decree of agency adoption, or it may deny the adoption. The basic consideration shall be the best interests of the child.

Proposed law retains present law and adds that the court, as a part of the final decree, shall provide notice of the provisions of proposed law to the parties concerning the crime of re-homing of a child.

Proposed law creates the crime of re-homing of a child, defined as:

- (1) A transaction, or any action taken to facilitate such transaction, through electronic means or otherwise by a parent or any individual or entity with custody of a child who intends to avoid or divest himself of permanent parental responsibility by placing the child in the physical custody of a nonrelative, without court approval, unless proposed law otherwise applies. Actions include but are not limited to transferring, recruiting, harboring, transporting, providing, soliciting, or obtaining a child for such transaction.
- (2) The selling, transferring, or arranging for the sale or transfer of a minor child to another person or entity for money or any thing of value or to receive such minor child for such payments or thing of value.

- (3) Assisting, aiding, abetting, or conspiring in the commission of any act prohibited in proposed law by any person or entity, regardless of whether money or any thing of value has been promised to or received by the person.

Proposed law provides that re-homing does not include placements made with a relative, stepparent, licensed adoption agency, licensed attorney, or the DCFS; placements made by a licensed attorney or the DCFS; temporary placements made by parents or custodians for designated short-term periods with a specified intent and time period for return of the child, due to incarceration, military service, medical treatment, or incapacity of a parent; and placement of child in another state in accordance with the requirements of the Interstate Compact on the Placements of Children.

Proposed law provides that whoever commits the crime of re-homing of a child shall be fined not more than \$5,000 and shall be imprisoned at hard labor for not more than five years.

Proposed law provides that it shall not be a defense to prosecution for a violation of proposed law that the person being re-homed is actually a law enforcement officer or peace officer acting within the official scope of his duties.

Proposed law provides that the provisions of present law regarding the multidisciplinary team approach applicable to children who have been abused or neglected, to the extent practical, shall apply to the children who are victims of the provisions of proposed law.

Present law provides that the provisions of present law shall govern the employment of persons who have been convicted of, or pled guilty or nolo contendere to, certain crimes.

Proposed law retains present law and adds the re-homing of a child.

Effective August 1, 2014.

(Amends Ch.C. Arts. 1217, 1239, 1255, 1282.3, 1283.14, 1284.3, and 1285.14 and R.S. 15:87.1(C)(1); adds R.S. 14:46.4)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Included language providing notice of re-homing crime in Ch. C. Art. 1284.3 concerning final decrees of adoption.