Regular Session, 2014 SENATE BILL NO. 290 BY SENATOR JOHNS **ACT No. 486** 

1	AN ACT
2	To amend and reenact Children's Code Articles 603(27), 612(A)(2), 615(B)(2), 619, 620,
3	624(A), (C)(1) and (D), the introductory paragraph of 625(A), 627(E) and (F), and
4	632(A) and (C) and to enact Children's Code Articles 626(E) and 627(G), relative to
5	child in need of care; to provide relative to terms and definitions; to provide relative
6	to child abuse reporting and investigation; to provide with respect to assignment of
7	reports for investigation and assessment; to provide with respect to disposition of
8	reports; to provide relative to procedures for protection of a child; to provide with
9	respect to instanter orders of custody; to provide relative to continued custody
10	hearing and custody order; to provide relative to rights and responsibilities of certain
11	person; to provide relative time for filing of petition; to provide relative to grounds
12	for continued safety plan; and to provide for related matters.
13	Be it enacted by the Legislature of Louisiana:
14	Section 1. Children's Code Articles 603(27), 612(A)(2), 615(B)(2), 619, 620,
15	624(A), (C)(1) and (D), the introductory paragraph of 625(A), 627(E) and (F), and 632(A)
16	and (C) are hereby amended and reenacted and Children's Code Articles 626(E) and 627(G)
17	are hereby enacted to read as follows:
18	Art. 603. Definitions
19	As used in this Title:
20	* * *
21	(27) "Safety plan" means a short-term plan for the purpose of assuring a
22	child's immediate health and safety by imposing conditions for the child to safely
23	remain in the home, or, after a child has been removed from the home, for the
24	continued placement of the child with a custodian and terms for contact between the
25	child and his parents or other persons.
26	* * *
27	Art. 612. Assignment of reports for investigation and assessment

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1

A.

\*

2 (2) Reports of high and intermediate levels of risk shall be investigated promptly. This investigation shall include a preliminary investigation as to the 3 4 nature, extent, and cause of the abuse or neglect and the identity of the person actually responsible for the child's condition. This preliminary investigation shall 5 include an interview with the child and his parent or parents or other caretaker and 6 7 shall include consideration of all available medical information provided to the department pertaining to the child's condition. Such preliminary investigation shall 8 9 also include an immediate assessment of any existing visitation or custody order or 10 agreement involving the alleged perpetrator and the child. The department shall request a temporary restraining order pursuant to Article 617, or a protective order 11 12 pursuant to Article 618, or an instanter safety plan order pursuant to Article 619 13 or Article 620 if the department determines that any such previously ordered 14 visitation or custody would put the child's health and safety at risk. Admission of the 15 investigator on school premises or access to the child in school shall not be denied 16 by school personnel. However, the request for a temporary restraining order or a 17 protective order in accordance with this Article shall not independently confer 18 exclusive jurisdiction on the juvenile court in accordance with Article 303. \* \* 19 20 Art. 615. Disposition of reports \* 21 22 B. After investigation, the local child protection unit shall make one of the 23 following determinations: \* \* 24 (2) The report appears to be justified, in that there is evidence of child abuse, 25 or neglect, and a protective order or instanter safety plan order would eliminate 26 27 the need for removal of the child in order to protect him from further abuse, in which case it may apply for a temporary restraining order or protective order authorized by 28 29 Article 617 and Article 618, or an instanter safety plan order authorized by 30 Article 619 or Article 620.

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1	* * *
2	Art. 619. Instanter orders of custody orders; instanter safety plan orders
3	A.(1) A peace officer, district attorney, or employee of the local child
4	protection unit of the department may file a verified complaint alleging facts
5	showing that there are reasonable grounds to believe that the child is in need of care
6	and that emergency removal or the implementation of a safety plan is necessary
7	to secure the child's protection.
8	(2) After the complaint has been filed, the parent is without authority to place
9	the child with any individual or institution except the department until legal custody
10	is returned to the parent or the safety plan is terminated.
11	B. The If removal of the child is requested, the court shall immediately
12	determine whether reasonable efforts have been made by the department to prevent
13	or eliminate the need for the child's removal, including whether the department has
14	requested a temporary restraining order pursuant to Article 617, or a protective order
15	pursuant to Article 618, or a safety plan order pursuant to this article. In making
16	and determining reasonable efforts, the child's health and safety shall be the
17	paramount concern. However, the court may authorize the removal of the child even
18	if the department's efforts have not been reasonable.
19	C. (1) Upon presentation of the verified complaint, the court shall
20	immediately determine whether emergency removal or the issuance of a safety plan
21	order is necessary to secure the child's protection.
22	(2) If the court determines that the child's welfare cannot be safeguarded
23	without removal, the court shall immediately issue a written instanter order directing
24	that the child be placed in the provisional custody of a suitable relative or other
25	suitable individual capable of protecting the health and safety of the child or taken
26	into the custody of the state. The order shall contain written findings of fact
27	supporting the necessity for the child's removal in order to safeguard his welfare. H
28	the court determines that emergency removal is not necessary to secure the child's
29	protection, the court shall issue a written order denying the request for custody. If
30	custody is given to a suitable relative or other suitable individual, the $\underline{a}$ safety plan

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1 shall be made an order of the court and shall direct the provisional custodian to 2 adhere to the conditions of the safety plan. The safety plan shall set forth conditions 3 of contact with parents or other third parties. 4 (3) If, upon request by the state, the court determines that with the issuance of a safety plan order that the child's welfare can be safeguarded 5 without removal, the court shall immediately issue a written instanter order 6 7 directing compliance with the terms of the safety plan. The order shall contain written findings of fact supporting the necessity for the safety plan to safeguard 8 9 his welfare. The safety plan shall set forth conditions as determined by or 10 agreed upon by the state as necessary for the protection of the child's health and 11 safety while remaining in the home. 12 (4) If the court determines that emergency removal or the issuance of a 13 safety plan order is not necessary to secure the child's protection, the court shall 14 issue a written order denying the request for custody or for the implementation of 15 <u>a safety plan</u>. 16 D. An instanter order shall be executed by either an employee of the local 17 child protection unit or any peace officer having territorial jurisdiction over the child. 18 E. Any peace officer having territorial jurisdiction over the child is authorized to serve a summons upon a parent or caretaker, commanding him to appear at court 19 20 for a continued custody or continued safety plan hearing. The summons shall expressly notify the parent or caretaker that the court may issue a binding order in 21 22 his absence if he fails to appear. A copy of the summons shall be filed in the record 23 as proof of service. An employee of the local child protection unit shall provide 24 written notice to the parents or caretaker of the date, time, and location of the continued custody or continued safety plan hearing. 25 Art. 620. Oral instanter orders 26 27 A. In exceptional circumstances, the facts supporting the issuance of an instanter order and the exceptional circumstances may be relayed orally, including 28 29 telephonically, to the judge and his order directing that a child be taken into custody 30 or, upon request by the state, that a safety plan order be implemented may be

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1	issued orally.
2	B. In such cases, an affidavit containing the information previously relayed
3	orally, including telephonically, shall be filed with the clerk of the court within
4	twenty-four hours and a written order shall be issued. The written order shall include
5	the court's findings of fact supporting the necessity for the child's removal or the
6	implementation of a safety plan order in order to safeguard his welfare and, if the
7	child has been removed, shall determine the child's custodian in accordance with
8	Article 619.
9	C. The affidavit filed after the child has been placed shall indicate whether
10	the child was released to his parents or remains removed.
11	D. The department shall promptly notify the parents or caretaker of the nature
12	of the allegations and, if the child is not released, of the time and place of the
13	continued custody hearing.
14	E. If the court ordered the implementation of a safety plan, the
15	department shall promptly notify the parents or caretaker of the nature of the
16	allegations, the conditions of the safety plan, and the time and place of a
16 17	allegations, the conditions of the safety plan, and the time and place of a <u>continued safety plan order hearing.</u>
17	continued safety plan order hearing.
17 18	<u>continued safety plan order hearing.</u> * * *
17 18 19	<pre>continued safety plan order hearing.</pre>
17 18 19 20	continued safety plan order hearing.         *       *         *       *         Art. 624. Continued custody hearing: continued safety plan hearing         A. If a child is not released to the care of his parents, a hearing shall be held
17 18 19 20 21	continued safety plan order hearing.         *       *         *       *         Art. 624. Continued custody hearing; continued safety plan hearing         A. If a child is not released to the care of his parents, a hearing shall be held         by the court within three days after the child's removal or entry into custody. If a
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1	* * *
2	D. At this hearing, the state has the burden to prove the existence of a ground
3	for continued custody or the continued implementation of a safety plan pursuant
4	to Article 626.
5	* * *
6	Art. 625. Advice of rights and responsibilities of parents, counsel, and department;
7	absent parents
8	A. At the continued custody or continued safety plan hearing, the court shall
9	advise the parents and may advise the child, insofar as practicable, of:
10	* * *
11	Art. 626. Grounds for continued custody; reasonable efforts; grounds for continued
12	<u>safety plan</u>
13	* * *
14	E. The court may authorize, with the consent of the state, continued
15	implementation of a safety plan prior to the adjudication if there are reasonable
16	grounds to believe the child is in need of care and that the continued
16 17	grounds to believe the child is in need of care and that the continued implementation of the safety plan is necessary for his safety and protection. The
17	implementation of the safety plan is necessary for his safety and protection. The
17 18	implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon
17 18 19	implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the child's health and safety while
17 18 19 20	implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home.
17 18 19 20 21	<ul> <li>implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home.</li> <li>Art. 627. Continued custody order; special provisions; appointments; continued</li> </ul>
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<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> </ol>	implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home. Art. 627. Continued custody order; special provisions; appointments; continued safety plan order * * * E. The court shall order the appointment of counsel for the child and the appointment of a curator for any parent who is an absentee. The court may order the appointment of a court-appointed
<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> </ol>	implementation of the safety plan is necessary for his safety and protection. The safety plan shall continue to set forth conditions as determined or agreed upon by the state as necessary for the protection of the child's health and safety while remaining in the home. Art. 627. Continued custody order; special provisions; appointments; continued safety plan order * * * E. The court shall order the appointment of counsel for the child and the appointment of a curator for any parent who is an absentee. The court may order the appointment of a court-appointed special advocate. If the court finds that the child can safely remain in or return

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### **SB NO. 290**

### **ENROLLED**

1	F. If the court orders that the child be placed in the custody of a suitable
2	relative or other suitable individual, it shall make the $\underline{\mathbf{a}}$ safety plan part of its order.
3	<b><u>G. The court shall order the appointment of counsel for the child and the</u></b>
4	appointment of a curator for any parent who is an absentee. The court may
5	order the appointment of counsel for the parents or the appointment of a court-
6	appointed special advocate.
7	* * *
8	Art. 632. Time for filing of petition; child in custody
9	A. If a child is continued in custody prior to adjudication, or if a protective
10	order is issued, a petition requesting that the child be adjudicated in need of care
11	shall be filed within thirty days of the hearing to determine continued custody. If the
12	child remains in the home and a safety plan order has been issued, a petition
13	requesting that the child be adjudicated in need of care shall be filed within
14	forty-five days of the issuance of the safety plan order.
15	* * *
16	C. If no petition is filed within the applicable time period, the child shall be
17	returned to the parent or the safety plan shall automatically be terminated.

## PRESIDENT OF THE SENATE

# SPEAKER OF THE HOUSE OF REPRESENTATIVES

### GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_