2015 Regular Session

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enacted to read as follows:

HOUSE BILL NO. 625

BY REPRESENTATIVES SIMON, ARMES, COX, HARRISON, HAZEL, HODGES, HOFFMANN, HOWARD, ROBERT JOHNSON, LORUSSO, MORENO, JAY MORRIS, ORTEGO, PRICE, REYNOLDS, ST. GERMAIN, THIBAUT, AND WILLMOTT AND SENATORS NEVERS AND WALSWORTH

AN ACT

2 To amend and reenact Children's Code Articles 101, 625(A) and (D), 640(A), 641, 644(A)(7), 645(A), 646(D), 674, 675(B), 682(B)(5), 689, 700, 702(C)(5) and (J), 3 4 720(A), 724(B), 1133, and 1134 and R.S. 46:283(C)(1)(a)(introductory paragraph) 5 and to enact Children's Code Articles 640(C), 644(A)(8) and (9), 646(E), 682(B)(6), 6 684(E)(5), 702(K), 710(A)(4), 724.1, and R.S. 46:283(C)(1)(a)(v) and (D), relative 7 to children who enter state custody through child in need of care proceedings; to 8 authorize means of delivery of documents, notifications, and reports relating to such 9 proceedings; to require instruction to persons before the court relative to achieving 10 permanency in child placement; to provide for duties of persons to advise the court 11 of the whereabouts of relatives of children involved in child in need of care 12 proceedings; to provide relative to case plans and case review reports for children 13 involved in such proceedings; to provide relative to hearings and dispositions on 14 custody, safety plans, and permanency; to provide for notice of filing of surrender 15 of parental rights; to provide for temporary and successor guardianship; to establish 16 a standard applicable to parental decisions by foster caregivers; to provide relative 17 to training for prospective foster care providers; and to provide for related matters. 18 Be it enacted by the Legislature of Louisiana: 19 Section 1. Children's Code Articles 101, 625(A) and (D), 640(A), 641, 644(A)(7), 20 645(A), 646(D), 674, 675(B), 682(B)(5), 689, 700, 702(C)(5) and (J), 720(A), 724(B), 1133, 21 and 1134 are hereby amended and reenacted and Children's Code Articles 640(C),

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644(A)(8) and (9), 646(E), 682(B)(6), 684(E)(5), 702(K), 710(A)(4), and 724.1 are hereby

CODING: Words in struck through type are deletions from existing law; words underscored are additions.

Art. 101. Preamble

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The people of Louisiana recognize the family as the most fundamental unit of human society; that preserving families is essential to a free society; that the relationship between parent and child is preeminent in establishing and maintaining the well-being of the child; that parents have the responsibility for providing the basic necessities of life as well as love and affection to their children; that parents have the paramount right to raise their children in accordance with their own values and traditions; that parents should make the decisions regarding where and with whom the child shall reside, the educational, moral, ethical, and religious training of the child, the medical, psychiatric, surgical, and preventive health care of the child, and the discipline of the child; that children owe to their parents respect, obedience, and affection; that the role of the state in the family is limited and should only be asserted when there is a serious threat to the family, the parents, or the child; and that extraordinary procedures established by law are meant to be used only when required by necessity, and then with due respect for the rights of the parents, the children, and the institution of the family, and only to the extent that such procedures are not prohibited by the Louisiana Constitution of 1974, as amended.

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Art. 625. Advice of rights and responsibilities of parents, counsel, and department; absent parents

A.(1) At the continued custody or continued safety plan hearing, the court shall advise the parents and may advise the child, insofar as practicable, of:

- (1) (a) The nature of the proceedings in terms understandable to the child.
- (2) (b) The nature of the allegations in terms understandable to the child.
 - (3) (c) The right to an adjudication hearing.
 - (4) (d) The right to be represented by counsel and the right of indigent parents to representation by the Indigent Parents' Representation Program in accordance with Children's Code Article 608.
 - (2) At the continued custody or continued safety plan hearing, the court shall request the parent and all counsel of record to provide an electronic mail address at

1	which the parent is withing to receive service and notice of future proceedings. The
2	court shall advise the parent that once an electronic mail address is provided, all
3	service and notice of future proceedings may be sent electronically until such time
4	he provides notice to the court and all parties in writing or in open court that he is no
5	longer able to receive service or notice at such address.
6	* * *
7	D.(1) The court shall also direct all persons before the court to identify the
8	name, address, and whereabouts of each parent and any relative or other individual
9	willing and able to offer a wholesome and stable home for the child.
10	(2) The court shall advise all persons before the court of their responsibility
11	in achieving timely permanency for the child, and further shall direct all such
12	individuals to identify the name, address, and whereabouts of all grandparents, all
13	parents of a sibling where such parent has legal custody of such sibling, and all other
14	adult relatives of the child.
15	* * *
16	Art. 640. Service and return; resident parent
17	A. If a parent resides within the state, service of the petition, summons, and
18	notice shall be made personally or by domiciliary service or by certified mail as soon
19	as possible, and not less than fifteen days prior to commencement of the adjudication
20	hearing on the matter, by any of the following means:
21	(1) Personal service.
22	(2) Domiciliary service.
23	(3) Certified mail.
24	(4) Electronic mail to the electronic mail address expressly designated by the
25	parent in a pleading, at the continued custody or continued safety plan hearing, or at
26	any other hearing at which the parent personally appeared before the court.
27	* * *
28	C. Service by electronic mail is complete upon transmission but is not
29	effective if the serving party learns the transmission did not reach the party to be
30	served.

1	Art. 641. Service and return; nonresident parent
2	A. If a parent does not reside within this state, service of the petition and
3	notice, and summons if issued by the court, shall be made by certified mail, return
4	receipt requested, to the address indicated in the petition, not less than five days prior
5	to commencement of the adjudication hearing on the matter by any of the following
6	means:
7	(1) Certified mail, return receipt requested, to the address indicated in the
8	petition.
9	(2) Electronic mail to the electronic mail address expressly designated by the
10	parent in a pleading, at the continued custody or continued safety plan hearing, or at
11	any other hearing at which the parent personally appeared before the court.
12	B. The If service was made by certified mail, the person effecting the service
13	shall file the return receipt as proof of service.
14	C. Service by electronic mail is complete upon transmission but is not
15	effective if the serving party learns the transmission did not reach the party to be
16	served.
17	* * *
18	Art. 644. Duties of curator ad hoc
19	A. The curator ad hoc shall make a diligent effort to locate the parent and
20	notify him of the pendency and nature of the proceedings. Such notice shall include:
21	* * *
22	(7) The parent's responsibility to support the achievement of timely
23	permanency for the child.
24	(8) The parent's responsibility to advise the department and the court in
25	writing of the whereabouts, including the address, cellular number, telephone
26	number, and any other contact information, of all grandparents, all parents of a
27	sibling where such parent has legal custody of such sibling, and all other adult

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relatives of the child.

1	(9) The possibility that a judicial certification for adoption proceeding may
2	be initiated if the child remains in the custody of the state.
3	* * *
4	Art. 645. Department of Children and Family Services to provide information
5	concerning the parents' location; cooperation of the department
6	A. Notwithstanding any other provision of the law to the contrary, the
7	department shall obtain and provide to the district attorney with any request for a
8	petition all available information pertinent to the location of every parent, including
9	names and addresses of known relatives and any parents of a sibling where such
10	parent has legal custody of the sibling, and any information available from the parent
11	locator service. If a curator ad hoc is appointed, the department shall supply this
12	information to him within fifteen days of its receipt of a copy of the order appointing
13	the curator ad hoc. This duty shall be a continuing one as long as the child remains
14	subject to the jurisdiction of the court.
15	* * *
16	Art. 646. Answer; appearance; objection
17	* * *
18	D. At this hearing, the parent shall be asked to provide an electronic mail
19	address at which the parent is willing to receive service and notice of future
20	proceedings. The court shall advise the parent that once an electronic mail address
21	is provided, all service and notice of future proceedings may be sent electronically
22	until such time he provides notice to the court and all parties in writing or in open
23	court that he is no longer able to receive service or notice at such address.
24	\underline{E} . The court may schedule future hearings and serve notice in open court.
25	* * *
26	Art. 674. Filing
27	A. Copies A copy of the case plan shall be filed with the court ten days
28	before any scheduled disposition, permanency, or case review hearing. Upon filing,
29	the department shall mail copies provide a copy of the case plan to counsel of record
30	either by mail or electronic mail and shall mail them a copy by certified mail to any

unrepresented parent at his last known address or send the copy by electronic mail at the electronic mail address expressly designated by the parent in a pleading, at the continued custody or continued safety plan hearing, or at any other hearing at which the parent personally appeared before the court, unless otherwise ordered by the court for good cause.

B. Service by electronic mail is complete upon transmission but is not effective if the serving party learns the transmission did not reach the party to be served.

Art. 675. Case plan purpose; contents

10 * * *

- B. The case plan shall at least include all of the following:
- (1) A description of the type of home or institution in which the child is placed, including a discussion of the child's health and safety, the appropriateness of the placement, and the reasons why the placement, if a substantial distance from the home of the parents or in a different state, is in the best interests of the child.
- (2) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate the safe return of the child to his own home or other permanent placement of the child, or both, and address the needs of the child while in foster care, including a plan for visitation and a discussion of the appropriateness of the services that have been provided to the child under the plan.
- (3) A plan for assuring that the child is afforded the greatest opportunity for normalcy through engagement in age- or developmentally appropriate activities on a regular basis. The child shall be consulted in an age-appropriate manner about their interests and opportunities available to them. Recognizing the greatest opportunity for normalcy lies in the day to day decisions affecting the child's activities, the child's caretaker should be supported in making those decisions through the use of the reasonable and prudent parent standards as set forth in R.S. 46:283.

1 (4) If the child has been committed to the custody of a person other than the 2 parents, the plan shall recommend an amount the parents are obligated to contribute 3 for the cost of care and treatment of their child in accordance with Article 685. 4 (5) When appropriate for a child fifteen fourteen years of age or older, the 5 plan shall include a written description of the programs and services which will help 6 the child prepare for the transition from foster care to independent living. 7 (3) (6)(a) For a child fifteen fourteen years of age or older, the plan shall 8 include a written, individualized, and thorough transitional plan, developed in 9 collaboration with the child and any agency, department, or individual assuming his 10 custody, care, or responsibility. 11 (a) (b) The transitional plan shall identify the programs, services, and 12 facilities that will be used to assist the child in achieving a successful transition. The 13 transitional plan shall address the needs of the child, including but not limited to 14 education, health, permanent connections, living arrangements, and, if appropriate, 15 independent living skills and employment. 16 (b) (c) The department shall ensure that all records in its files relevant to 17 securing needed services in the community in which the child will live shall be 18 immediately transmitted to the appropriate service provider. 19 (4) (7)(a) Documentation of the efforts the agency is making to safely return 20 the child home or to finalize the child's placement in an alternative safe and 21 permanent home in accordance with the child's permanent plan. 22 (b) For children whose permanent plan is adoption or placement in another 23 permanent home, this documentation shall include child-specific recruitment efforts 24 such as the use of state, regional, and national adoption exchanges, including 25 electronic exchange systems, to facilitate orderly and timely in-state and interstate 26 placements. 27 (c) For children whose permanent plan is guardianship, the documentation 28 shall include the facts and circumstances supporting guardianship, including the 29 reasons that the plan is in the best interest of the child and that reunification with a 30 parent and adoption are not appropriate permanent plans. The documentation shall

1	also address the suitability and commitment of the proposed guardian to offer a
2	wholesome, stable home for the child throughout minority.
3	(d) For children whose permanent plan is placement in the least restrictive,
4	most family-like alternative permanent living arrangement, the documentation shall
5	include the intensive, ongoing, and as of the date of the hearing, efforts made by the
6	department to return the child home or secure a placement for the child with a fit and
7	willing relative, including adult siblings, a legal guardian, or an adoptive parent.
8	(5) (8) Assessment of the child's relationships with his parents, grandparents,
9	and siblings, including a plan for assuring that continuing contact with any relative
10	by blood, adoption, or affinity with whom the child has an established and significant
11	relationship is preserved while the child is in foster care. The preservation of such
12	relationships shall be considered when the child's permanent plan is adopted.
13	(6) (9) Documentation of the compelling reasons for determining that filing
14	a petition for termination of parental rights would not be in the best interest of the
15	child, when appropriate.
16	* * *
17	Art. 682. Removal of a child from parental custody or control
18	* * *
19	B. If the court concludes that the child is to be removed from his parents'
20	custody, it shall:
21	* * *
22	(5) <u>Inform the parties and all persons before the court of their continuing</u>
23	responsibility to support the achievement of timely permanency for the child and
24	further direct such individuals to advise the department and the court in writing of
25	the whereabouts, including the address, cellular number, telephone number, and any
26	other contact information, of all grandparents, all parents of a sibling where such

parent has legal custody of such sibling, and all other adult relatives of the child.

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1	(6) Inform the parents of their obligation to support their child, including
2	their obligation to contribute to the care and treatment of their child as provided in
3	Article 685.
4	* * *
5	Art. 684. Judgment of disposition
6	* * *
7	E. In all cases in which the child is removed from his parents' custody and
8	assigned to the department, the court shall advise the parties and all persons before
9	the court of the following:
10	* * *
11	(5) The continuing responsibility of all persons before the court to support
12	the achievement of timely permanency for the child and the requirement that those
13	persons advise the department and the court in writing of the whereabouts, including
14	the address, cellular number, telephone number, and any other contact information,
15	of all grandparents, all parents of a sibling where such parent has legal custody of
16	such sibling, and all other adult relatives of the child.
17	* * *
18	Art. 689. Case review reports; service
19	A. Copies A copy of the report shall be served by certified mail to the last
20	known address upon counsel of record either by mail or electronic mail and upon any
21	unrepresented party either by certified mail at his last known address or by the
22	department by electronic mail at the electronic mail address expressly designated by
23	the party in a pleading, at the continued custody or continued safety plan hearing, or
24	at any other hearing at which the party personally appeared before the court prior to
25	or at the same time it is filed with the court.
26	B. Service by electronic mail is complete upon transmission but is not
27	effective if the serving party learns the transmission did not reach the party to be
28	served.
29	* * *

ENROLLED

1	Art. 700. Order; appear
2	A. At the conclusion of the case review hearing, the court may take one of
3	the following actions:
4	(1) Approve the plan as consistent with the health and safety of the child and
5	order compliance by all parties.
6	(2) Find that the case plan is not appropriate, in whole or in part, based on
7	the evidence presented at the contradictory hearing, and order the department to
8	revise the case plan accordingly.
9	B. The At the conclusion of the case review hearing, the court shall inform
10	the parents that of all of the following:
11	(a) (1) It is their obligation to cooperate with the department, comply with
12	the requirements of the case plan, including their duty to keep the department
13	apprised of their current address, and to correct the conditions requiring the child to
14	be in care.
15	(2) It is their continuing responsibility to support the achievement of timely
16	permanency for the child and to advise the department and the court in writing of the
17	whereabouts, including the address, cellular number, telephone number, and any
18	other contact information, of all grandparents, all parents of a sibling where such
19	parent has legal custody of such sibling, and all other adult relatives of the child.
20	(b) (3) A termination of parental rights petition may be filed based on their
21	failure to comply with the case plan, failure to make significant measurable progress
22	toward achieving case plan goals and to correct the conditions requiring the child to
23	be in care, or on any other ground authorized by Article 1015.
24	(2) Find that the case plan is not appropriate, in whole or in part, based on
25	the evidence presented at the contradictory hearing and order the department to
26	revise the case plan accordingly.
27	B. C. Any person directly affected may appeal the findings or orders of the
28	court rendered pursuant to this Article.
29	* * *

HB NO. 625	ENROLLED

1	Art. 702. Permanency hearing
2	* * *
3	C. The court shall determine the permanent plan for the child that is most
4	appropriate and in the best interest of the child in accordance with the following
5	priorities of placement:
6	* * *
7	(5)(a) Placement in the least restrictive, most family-like alternative
8	permanent living arrangement. The department shall document in the child's case
9	plan and its report to the court the compelling reason for recommending this plan
10	over the preceding higher priority alternatives.
11	(b) The permanent plan provided for in this Paragraph may be considered
12	only if the child is sixteen years of age or older.
13	* * *
14	J. In the case of a child fifteen fourteen years of age or older, the hearing
15	shall include a review of the transitional plan developed with the child and the
16	agency in accordance with Subparagraph (B)(3) (B)(6) of Article 675.
17	K. In any permanency hearing for a child whose permanent plan is
18	placement in the least restrictive, most family-like alternative permanent living
19	arrangement, the court or administrative body conducting the hearing shall ask the
20	child about the desired permanency outcome for the child.
21	* * *
22	Art. 710. Order; appeal
23	A. In a written judgment, the court shall make findings of fact regarding:
24	* * *
25	(4) For children whose permanent plan is placement in the least restrictive.
26	most family-like alternative permanent living arrangement, why, as of the date of the
27	hearing, the plan is the best permanency plan for the child and provide compelling

1	reasons why it continues to not be in the best interests of the child to return home,
2	be placed for adoption, be placed with a legal guardian, or be placed with a fit and
3	willing relative.
4	* * *
5	Art. 720. Motion for guardianship
6	A. After a child has been adjudicated to be in need of care, a motion for
7	guardianship may be filed by the department, parent, or counsel for the child, or,
8	when the guardian is deceased, an individual previously named as a successor
9	guardian by the guardian in a guardianship subsidy agreement with the department;
10	or the department may submit a case plan along with the case review report to the
11	court and all counsel of record recommending guardianship in accordance with
12	Children's Code Articles 674, 688, and 689.
13	* * *
14	Art. 724. Motion for modification of guardianship; termination of guardianship
15	* * *
16	B.(1) The department, counsel for the child, the guardian, a parent permitted
17	to intervene under Children's Code Article 707, or the court on its own motion Any
18	of the following parties may seek to enforce, modify or terminate a guardianship
19	order <u>:</u>
20	(a) The department.
21	(b) Counsel for the child.
22	(c) The guardian or, if the guardian is incapacitated, an individual previously
23	named as a successor guardian by the guardian in a guardianship subsidy agreement
24	with the department.
25	(d) A parent permitted to intervene under Children's Code Article 707.
26	(e) The court on its own motion.
27	(2) A copy of the motion to modify shall be personally served on the parents,
28	and the court shall promptly notify the programs representing the child and indigent
29	parents, respectively, in child in need of care proceedings.
30	* * *

1	Art. 724.1. Temporary guardianship; designated successor guardian; construction
2	A.(1) A guardian who has entered into a guardianship subsidy agreement
3	with the department may name an individual as a successor guardian in the
4	agreement for the purpose of continued eligibility of the subsidy in the event of the
5	death or incapacity of the guardian.
6	(2) Nothing relative to the subsidy agreement provided for in this Subsection
7	shall be construed to confer any right of legal guardianship, as such legal
8	guardianship shall be established or modified pursuant to Articles 720 through 724
9	exclusively.
10	B. An individual who has been named as a successor guardian in the
11	guardianship subsidy agreement may request an ex parte order of temporary
12	guardianship of the child in a motion for guardianship or modification of
13	guardianship pursuant to Article 720 or 724.
14	C. An ex parte order of temporary guardianship of the child may be granted
15	to the named successor only if all of the following conditions are satisfied:
16	(1) The current guardian is incapacitated or deceased.
17	(2) It clearly appears from specific facts shown by a verified motion or by
18	supporting affidavit that the individual is able to provide a safe, stable, and
19	wholesome home for the child pending the hearing.
20	(3) The mover was previously named as a successor guardian in a
21	guardianship subsidy agreement with the department as shown by the agreement.
22	(4) The mover certifies to the court in writing the efforts he has undertaken
23	to give notice to the child's parents, the department, and the child's attorney of the
24	request for the ex parte order granting temporary guardianship or the reasons
25	supporting his claim that notice should not be required.
26	D. An ex parte order of temporary guardianship shall:
27	(1) Continue until a hearing on the motion for guardianship or modification
28	of guardianship is held and guardianship is established or denied by the court.

1	(2) Provide the date on which the ex parte order is signed and the date and
2	hour of the hearing on the motion for guardianship or modification of the
3	guardianship.
4	* * *
5	Art. 1133. Notice of filing of surrender; service upon resident alleged or adjudicated
6	father
7	A. Notice of the filing of a mother's surrender shall be promptly served upon
8	the alleged or adjudicated father. Notice of the filing shall not be required if an
9	alleged or adjudicated father waives notice of service. If he resides within this state,
10	service shall be made by either registered or certified mail, return receipt requested,
11	postage prepaid and properly addressed to his last known address any of the
12	following means:
13	(1) Registered or certified mail, return receipt requested, postage prepaid and
14	properly addressed to his last known address.
15	(2) Electronic mail at the electronic mail address expressly designated by the
16	father in a pleading, at the continued custody or continued safety plan hearing, or at
17	any other hearing at which he personally appeared before the court.
18	B. Service by electronic mail is complete upon transmission but is not
19	effective if the serving party learns the transmission did not reach the party to be
20	served.
21	Art. 1134. Notice of filing of surrender; service upon nonresident alleged or
22	adjudicated father
23	A. Notice of the filing of a mother's surrender shall be promptly served upon
24	the alleged or adjudicated father. Notice of the filing shall not be required if an
25	alleged or adjudicated father waives notice of service. If he does not reside within
26	this state, service shall be made by either registered or certified mail, return receipt
27	requested, postage prepaid and properly addressed to his last known address any of
28	the following means:
29	(1) Registered or certified mail, return receipt requested, postage prepaid and
30	properly addressed to his last known address.

1	(2) Electronic mail at the electronic mail address expressly designated by the
2	father in a pleading, at the continued custody or continued safety plan hearing, or at
3	any other hearing at which he personally appeared before the court.
4	B. Service by electronic mail is complete upon transmission but is not
5	effective if the serving party learns the transmission did not reach the party to be
6	served.
7	Section 2. R.S. 46:283(C)(1)(a)(introductory paragraph) is hereby amended and
8	reenacted and R.S. 46:283(C)(1)(a)(v) and (D) are hereby enacted to read as follows:
9	§283. Determination of fitness; award of contract
10	* * *
11	C.(1)(a) After January 1, 1984, no new contract for foster care services shall
12	be awarded to any person who has not completed a training program approved by the
13	department, including that includes but is not limited to the following areas:
14	* * *
15	(v) Knowledge and skills relating to the reasonable and prudent parent
16	standard for participation by the child in age- or developmentally appropriate
17	activities as defined in Subsection D of this Section.
18	* * *
19	D.(1) For purposes of this Section, the following definitions shall apply:
20	(a) "Age- or developmentally appropriate" means activities or items that are
21	generally accepted as suitable for children of the same chronological age or level of
22	maturity or that are determined to be developmentally appropriate for a child, based
23	on the development of cognitive, emotional, physical, and behavioral capacities that
24	are typical for an age or age group; and in the case of a specific child, activities or
25	items that are suitable for the child based on the developmental stages attained by the
26	child with respect to the cognitive, emotional, physical, and behavioral capacities of
27	the child.
28	(b) "Reasonable and prudent parent standard" means the standard
29	characterized by careful and sensible parental decisions that maintain the health,
30	safety, and best interests of a child while at the same time encouraging the emotional

HB NO. 625 **ENROLLED** 1 and developmental growth of the child, that a caregiver shall use when determining 2 whether to allow a child in foster care under the responsibility of the state to 3 participate in extracurricular, enrichment, cultural, social, and sporting activities. 4 (2) Nothing in this Section shall be construed to authorize any decision that 5 conflicts with the residual parental rights, as defined in Children's Code Article 116, 6 of a parent of a child. 7 Section 3. This Act shall become effective upon signature by the governor or, if not 8 signed by the governor, upon expiration of the time for bills to become law without signature 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become 11 effective on the day following such approval. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____