



1 Section 1. Children's Code Articles 101, 625(A) and (D), 640(A), 641, 644(A)(7),  
2 645(A), 646(D), 674, 675(B), 682(B)(5), 689, 700, 702(C)(5) and (J), 720(A), 724(B), 1133,  
3 and 1134 are hereby amended and reenacted and Children's Code Articles 644(A)(8) and (9),  
4 646(E), 682(B)(6), 684(E)(5), 702(K), 710(A)(4), and 724.1 are hereby enacted to read as  
5 follows:

6 Art. 101. Preamble

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

23 \* \* \*

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

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

- 28 ~~(1)~~ (a) The nature of the proceedings in terms understandable to the child.
- 29 ~~(2)~~ (b) The nature of the allegations in terms understandable to the child.







1 at the electronic mail address expressly designated by the parent in a pleading, at the  
2 continued custody or continued safety plan hearing, or at any other hearing at which  
3 the parent personally appeared before the court, unless otherwise ordered by the  
4 court for good cause.

5 Art. 675. Case plan purpose; contents

6 \* \* \*

7 B. The case plan shall at least include all of the following:

8 (1) A description of the type of home or institution in which the child is  
9 placed, including a discussion of the child's health and safety, the appropriateness of  
10 the placement, and the reasons why the placement, if a substantial distance from the  
11 home of the parents or in a different state, is in the best interests of the child.

12 (2) A plan for assuring that the child receives safe and proper care and that  
13 services are provided to the parents, child, and foster parents in order to improve the  
14 conditions in the parents' home, facilitate the safe return of the child to his own home  
15 or other permanent placement of the child, or both, and address the needs of the child  
16 while in foster care, including a plan for visitation and a discussion of the  
17 appropriateness of the services that have been provided to the child under the plan.

18 (3) A plan for assuring that the child is afforded the greatest opportunity for  
19 normalcy through engagement in age- or developmentally appropriate activities on  
20 a regular basis. The child shall be consulted in an age-appropriate manner about  
21 their interests and opportunities available to them. Recognizing the greatest  
22 opportunity for normalcy lies in the day to day decisions affecting the child's  
23 activities, the child's caretaker should be supported in making those decisions  
24 through the use of the reasonable and prudent parent standards as set forth in R.S.  
25 46:283.

26 (4) If the child has been committed to the custody of a person other than the  
27 parents, the plan shall recommend an amount the parents are obligated to contribute  
28 for the cost of care and treatment of their child in accordance with Article 685.

1           (5) When appropriate for a child ~~fifteen~~ fourteen years of age or older, the  
2 plan shall include a written description of the programs and services which will help  
3 the child prepare for the transition from foster care to independent living.

4           ~~(3)~~ (6)(a) For a child ~~fifteen~~ fourteen years of age or older, the plan shall  
5 include a written, individualized, and thorough transitional plan, developed in  
6 collaboration with the child and any agency, department, or individual assuming his  
7 custody, care, or responsibility.

8           ~~(a)~~ (b) The transitional plan shall identify the programs, services, and  
9 facilities that will be used to assist the child in achieving a successful transition. The  
10 transitional plan shall address the needs of the child, including but not limited to  
11 education, health, permanent connections, living arrangements, and, if appropriate,  
12 independent living skills and employment.

13           ~~(b)~~ (c) The department shall ensure that all records in its files relevant to  
14 securing needed services in the community in which the child will live shall be  
15 immediately transmitted to the appropriate service provider.

16           ~~(4)~~ (7)(a) Documentation of the efforts the agency is making to safely return  
17 the child home or to finalize the child's placement in an alternative safe and  
18 permanent home in accordance with the child's permanent plan.

19           (b) For children whose permanent plan is adoption or placement in another  
20 permanent home, this documentation shall include child-specific recruitment efforts  
21 such as the use of state, regional, and national adoption exchanges, including  
22 electronic exchange systems, to facilitate orderly and timely in-state and interstate  
23 placements.

24           (c) For children whose permanent plan is guardianship, the documentation  
25 shall include the facts and circumstances supporting guardianship, including the  
26 reasons that the plan is in the best interest of the child and that reunification with a  
27 parent and adoption are not appropriate permanent plans. The documentation shall  
28 also address the suitability and commitment of the proposed guardian to offer a  
29 wholesome, stable home for the child throughout minority.





1 Art. 684. Judgment of disposition

2 \* \* \*

3 E. In all cases in which the child is removed from his parents' custody and  
4 assigned to the department, the court shall advise the parties and all persons before  
5 the court of the following:

6 \* \* \*

7 (5) The continuing responsibility of all persons before the court to support  
8 the achievement of timely permanency for the child and the requirement that those  
9 persons advise the department and the court in writing of the whereabouts, including  
10 the address, cellular number, telephone number, and any other contact information,  
11 of all grandparents, all parents of a sibling where such parent has legal custody of  
12 such sibling, and all other adult relatives of the child.

13 \* \* \*

14 Art. 689. Case review reports; service

15 ~~Copies~~ A copy of the report shall be served ~~by certified mail to the last~~  
16 ~~known address~~ upon counsel of record either by mail or electronic mail and upon any  
17 unrepresented party either by certified mail at his last known address or by the  
18 department by electronic mail at the electronic mail address expressly designated by  
19 the party in a pleading, at the continued custody or continued safety plan hearing, or  
20 at any other hearing at which the party personally appeared before the court prior to  
21 or at the same time it is filed with the court.

22 \* \* \*

23 Art. 700. Order; appeal

24 A. At the conclusion of the case review hearing, the court may take one of  
25 the following actions:

26 (1) Approve the plan as consistent with the health and safety of the child and  
27 order compliance by all parties.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

\* \* \*

(5) Placement of a child sixteen years of age or older in the least restrictive, most family-like alternative permanent living arrangement. The department shall document in the child's case plan and its report to the court the compelling reason for recommending this plan over the preceding higher priority alternatives.

\* \* \*

J. In the case of a child ~~fifteen~~ fourteen years of age or older, the hearing shall include a review of the transitional plan developed with the child and the agency in accordance with Subparagraph ~~(B)(3)~~ (B)(6) of Article 675.

K. In any permanency hearing for a child whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, the court or administrative body conducting the hearing shall ask the child about the desired permanency outcome for the child.

\* \* \*

Art. 710. Order; appeal

A. In a written judgment, the court shall make findings of fact regarding:

\* \* \*

(4) For children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, why, as of the date of the hearing, the plan is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.

\* \* \*

Art. 720. Motion for guardianship

A. After a child has been adjudicated to be in need of care, a motion for guardianship may be filed by the department, parent, ~~or~~ counsel for the child, or, when the guardian is deceased, an individual previously named as a successor guardian by the guardian in a guardianship subsidy agreement with the department;

1 or the department may submit a case plan along with the case review report to the  
2 court and all counsel of record recommending guardianship in accordance with  
3 Children's Code Articles 674, 688, and 689.

4 \* \* \*

5 Art. 724. Motion for modification of guardianship; termination of guardianship

6 \* \* \*

7 ~~B.(1) The department, counsel for the child, the guardian, a parent permitted~~  
8 ~~to intervene under Children's Code Article 707, or the court on its own motion~~ Any  
9 of the following parties may seek to enforce, modify or terminate a guardianship  
10 order:

11 (a) The department.

12 (b) Counsel for the child.

13 (c) The guardian or, if the guardian is incapacitated, an individual previously  
14 named as a successor guardian by the guardian in a guardianship subsidy agreement  
15 with the department.

16 (d) A parent permitted to intervene under Children's Code Article 707.

17 (e) The court on its own motion.

18 (2) A copy of the motion to modify shall be personally served on the parents,  
19 and the court shall promptly notify the programs representing the child and indigent  
20 parents, respectively, in child in need of care proceedings.

21 \* \* \*

22 Art. 724.1. Temporary guardianship; designated successor guardian; construction

23 A.(1) A guardian who has entered into a guardianship subsidy agreement  
24 with the department may name an individual as a successor guardian in the  
25 agreement for the purpose of continued eligibility of the subsidy in the event of the  
26 death or incapacity of the guardian.

27 (2) Nothing relative to the subsidy agreement provided for in this Subsection  
28 shall be construed to confer any right of legal guardianship, as such legal

1 guardianship shall be established or modified pursuant to Articles 720 through 724  
2 exclusively.

3 B. An individual who has been named as a successor guardian in the  
4 guardianship subsidy agreement may request an ex parte order of temporary  
5 guardianship of the child in a motion for guardianship or modification of  
6 guardianship pursuant to Article 720 or 724.

7 C. An ex parte order of temporary guardianship of the child may be granted  
8 to the named successor only if all of the following conditions are satisfied:

9 (1) The current guardian is incapacitated or deceased.

10 (2) It clearly appears from specific facts shown by a verified motion or by  
11 supporting affidavit that the individual is able to provide a safe, stable, and  
12 wholesome home for the child pending the hearing.

13 (3) The mover was previously named as a successor guardian in a  
14 guardianship subsidy agreement with the department as shown by the agreement.

15 (4) The mover certifies to the court in writing the efforts he has undertaken  
16 to give notice to the child's parents, the department, and the child's attorney of the  
17 request for the ex parte order granting temporary guardianship or the reasons  
18 supporting his claim that notice should not be required.

19 D. An ex parte order of temporary guardianship shall:

20 (1) Continue until a hearing on the motion for guardianship or modification  
21 of guardianship is held and guardianship is established or denied by the court.

22 (2) Provide the date on which the ex parte order is signed and the date and  
23 hour of the hearing on the motion for guardianship or modification of the  
24 guardianship.

25 \* \* \*

26 Art. 1133. Notice of filing of surrender; service upon resident alleged or adjudicated  
27 father

28 Notice of the filing of a mother's surrender shall be promptly served upon the  
29 alleged or adjudicated father. Notice of the filing shall not be required if an alleged

1 or adjudicated father waives notice of service. If he resides within this state, service  
2 shall be made by ~~either registered or certified mail, return receipt requested, postage~~  
3 ~~prepaid and properly addressed to his last known address~~ any of the following  
4 means:

5 (1) Registered or certified mail, return receipt requested, postage prepaid and  
6 properly addressed to his last known address.

7 (2) Electronic mail at the electronic mail address expressly designated by the  
8 father in a pleading, at the continued custody or continued safety plan hearing, or at  
9 any other hearing at which he personally appeared before the court.

10 Art. 1134. Notice of filing of surrender; service upon nonresident alleged or  
11 adjudicated father

12 Notice of the filing of a mother's surrender shall be promptly served upon the  
13 alleged or adjudicated father. Notice of the filing shall not be required if an alleged  
14 or adjudicated father waives notice of service. If he does not reside within this state,  
15 service shall be made by ~~either registered or certified mail, return receipt requested,~~  
16 ~~postage prepaid and properly addressed to his last known address~~ any of the  
17 following means:

18 (1) Registered or certified mail, return receipt requested, postage prepaid and  
19 properly addressed to his last known address.

20 (2) Electronic mail at the electronic mail address expressly designated by the  
21 father in a pleading, at the continued custody or continued safety plan hearing, or at  
22 any other hearing at which he personally appeared before the court.

23 Section 2. R.S. 46:283(C)(1)(a)(introductory paragraph) is hereby amended and  
24 reenacted and R.S. 46:283(C)(1)(a)(v) and (D) are hereby enacted to read as follows:

25 §283. Determination of fitness; award of contract

26 \* \* \*

27 C.(1)(a) After January 1, 1984, no new contract for foster care services shall  
28 be awarded to any person who has not completed a training program approved by the  
29 department, ~~including that includes~~ but is not limited to the following areas:

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

\* \* \*  
  
\* \* \*

(v) Knowledge and skills relating to the reasonable and prudent parent standard for participation by the child in age- or developmentally appropriate activities as defined in Subsection D of this Section.

D. For purposes of this Section, the following definitions shall apply:

(1) "Age- or developmentally appropriate" means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(2) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. No decisions shall be made that conflict with the child's parents' residual parental rights.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become 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 625 Original

2015 Regular Session

Simon

**Abstract:** Revises various provisions of the Children's Code and statutory law relative to child in need of care proceedings, guardianship, and foster care.

**General Provisions**

Present law provides, generally, for actions known as child in need of care proceedings (CINC proceedings), which are brought by the state to protect children who are abused, neglected, abandoned, or endangered. Proposed law retains present law and adds provisions authorizing electronic delivery of documents, notifications, and reports relating to CINC proceedings; provisions relative to case plans for children in CINC proceedings; and provisions for temporary and successor guardianship.

Present law provides, generally, for duties of the Dept. of Children and Family Services (DCFS) and of caregivers with respect to children who are removed from their parents' custody and enter foster care. Proposed law retains present law and adds provisions relative to parental decisions by foster caregivers and participation in activities by foster children.

Present law stipulates that extraordinary procedures established by present law for state intervention in relationships between parents and children 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. Proposed law retains present law, and stipulates further that such procedures are to be used only to the extent that they are not prohibited by present La. constitution.

**Provisions Relative to Child in Need of Care (CINC) Proceedings**

Proposed law requires courts to request that each parent involved in CINC proceedings provide an email address at which he or she is willing to receive service and notice of future proceedings in each of the following instances:

- (1) At the continued custody or continued safety plan hearing.
- (2) At any appearance by a parent to answer a petition prior to the adjudication hearing.

Present law authorizes transmittal by mail of documents, notifications, and reports relating to CINC proceedings. Proposed law retains present law and adds authorizations for such materials to be transmitted by courts and DCFS via email in the following instances, provided that the receiving party has provided an email address for these purposes to the entity sending the materials:

- (1) Service of the petition, summons, and notice at the initiation of CINC proceedings to a parent of the child involved in the proceedings.
- (2) Transmittal of the case plan and case review reports for a child involved in CINC proceedings to a parent of the child.
- (3) If surrender of parental rights results from CINC proceedings, transmittal of the notice of filing of a father's or mother's surrender of parental rights to the other parent.



Proposed law requires that all persons before the court in CINC proceedings be advised of their responsibility in achieving timely permanency for the child. Requires further that the court direct all such persons to identify the name, address and whereabouts 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 in each of the following instances:

- (1) At the continued custody or continued safety plan hearing.
- (2) When a curator *ad hoc* gives notice to a parent of the pendency and nature of CINC proceedings.
- (3) At a disposition hearing in which a court concludes that a child is to be removed from his parents' custody.
- (4) At the conclusion of a case review hearing.

Proposed law authorizes DCFS to provide a copy of the case plan for a child involved in CINC proceedings by either mail or email to counsel of record.

Present law provides requirements for the content of case plans for children involved in CINC proceedings. Proposed law retains present law and adds requirements that the case plan also include the following:

- (1) 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.
- (2) For children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, documentation of the efforts made by DCFS to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent.

Present law, relative to permanency for children involved in CINC proceedings, requires that the court determine the permanent plan for the child that is most appropriate and in his best interest in accordance with a set of priorities of placement. Provides that one such priority is placement of a child in the least restrictive, most family-like alternative permanent living arrangement. Proposed law revises present law to stipulate that this placement priority applies to a child 16 years of age or older. Proposed law provides further that when this placement option is selected, the court or administrative body conducting the hearing shall ask the child about his desired permanency outcome.

Proposed law provides that for children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, the written judgment providing for this placement shall address the following:

- (1) The reason the plan is best for the child.
- (2) Compelling reasons why it is not in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative.

### **Provisions Relative to Guardianship**

Present law provides that after a child has been adjudicated to be in need of care, a motion for guardianship may be filed by DCFS, a parent, or counsel for the child. Proposed law adds that in cases when a guardian is deceased, an individual previously named as a

successor guardian by the guardian in an agreement with DCFS provided for in proposed law may file such motion.

Present law provides that DCFS, counsel for the child, the guardian, a parent permitted to intervene under present law, or the court on its own motion may seek to enforce, modify, or terminate a guardianship order. Proposed law adds that in cases when a guardian is incapacitated, an individual previously named as a successor guardian by the guardian in an agreement with DCFS provided for in proposed law may take such actions relative to a guardianship order.

Proposed law provides that a guardian who has entered into a guardianship subsidy agreement with DCFS may name an individual as a successor guardian for the purpose of continued eligibility of the subsidy in the event of the death or incapacity of the guardian. Stipulates that nothing in proposed law shall be construed to confer any right of legal guardianship, as such legal guardianship shall be established or modified pursuant to applicable provisions of present law exclusively.

Proposed law provides that an individual who has been named as a successor guardian may request an *ex parte* order of temporary guardianship of the child in a motion authorized by applicable provisions of present law. Provides that such order of temporary guardianship may be granted to the successor only if all of the following conditions are satisfied:

- (1) The current guardian is incapacitated or deceased.
- (2) It clearly appears from facts shown by a verified motion, or by supporting affidavit, that the individual is able to provide a safe, stable, and wholesome home for the child pending the hearing.
- (3) The mover was previously named as a successor guardian in a guardianship subsidy agreement with DCFS as shown by the agreement.
- (4) The mover certifies to the court in writing the efforts he has undertaken to give notice to the child's parents, DCFS, and the child's attorney of the request for the order granting temporary guardianship, or the reasons supporting his claim that notice should not be required.

Proposed law provides that an *ex parte* order of temporary guardianship shall:

- (1) Continue until a hearing on the motion for guardianship or modification of guardianship is held and guardianship is established or denied by the court.
- (2) Provide the date on which the order is signed and the date and hour of the hearing on the motion for guardianship or modification of the guardianship.

### **Provisions Relative to Foster Care**

Present law provides that no contract for foster care services shall be awarded to any person who has not completed a training program approved by DCFS that includes certain specified topics. Proposed law retains present law and adds to the training topics knowledge and skills relating to the reasonable and prudent parent standard for participation by the child in age- or developmentally appropriate activities as defined in proposed law.

Proposed law provides that for purposes of proposed law relative to foster care, the following definitions shall apply:

- (1) "Age- or developmentally appropriate" means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the

development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

- (2) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care to participate in extracurricular, enrichment, cultural, and social activities.

Proposed law stipulates that proposed law relative to the reasonable and prudent parent standard shall not be construed to authorize any decision that conflicts with the residual parental rights of a natural parent of a child.

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

(Amends Ch.C. Arts. 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), 720(A), 724(B), 1133, and 1134 and R.S. 46:283(C)(1)(a)(intro. para.); Adds Ch.C. Arts. 644(A)(8) and (9), 646(E), 682(B)(6), 684(E)(5), 702(K), 710(A)(4), 724.1, and R.S. 46:283(C)(1)(a)(v) and (D))