

2024 Regular Session

HOUSE BILL NO. 855

BY REPRESENTATIVE BERAULT

CHILDREN/ADOPTION: Provides relative to adoptive placement

1 AN ACT

2 To amend and reenact Children's Code Articles 103.1(B)(4), 702(G), 1025.1(B), the heading  
3 of Title XI of the Children's Code, 1107.1 through 1107.4, 1107.5(A)(4), (B) through  
4 (E), 1107.6(C), 1107.8, 1107.9, 1108 through 1112, 1113, 1114 through 1118,  
5 1119(A) and (C), 1120, 1121, 1122(A)(1), (4), and (5), (B)(1) through (6), (8)  
6 through (13), (C), (D), (E), (F), and (G), 1123, 1124, 1126, 1127(A) and (D),  
7 1127.1(A) and (B), 1128, 1129, 1130(A), (B), (D), and (E), 1130.1, 1131, 1132(A),  
8 (B)(2), (D), 1133(A), 1134(A)(introductory paragraph), 1135(B)(1), (3), and (4),  
9 1136, 1137(A), (C), (D), and (E), 1138(A), (B), (C), and (E), 1139, 1142(D), 1144,  
10 1145(A), 1146(A), (B)(1) and (3), 1147, 1148, 1171, 1175, 1180(A)(introductory  
11 paragraph), (3), and (C), 1196(D) and (E), 1200(A) and (C), 1209(B), 1218(A),  
12 1224, 1229(B) and (C), 1231(B), 1240(A), 1243.2(A) and (C), 1244.1(A) and (B),  
13 1245(B)(introductory paragraph) and (C), 1247, 1254(B), 1256(A), 1269.3(E)(3) and  
14 (F), 1269.5(B), 1270(A)(2), 1283.7(B), 1285.7(B), Code of Civil Procedure Articles  
15 10(A)(1) and 5091.2, and R.S. 14:125.2(A)(2), to enact Children's Code Articles  
16 1122(A)(6), (B)(15) through (17), 1134(A)(3), 1137(F) and (G), 1138(F), 1178(G)  
17 and (H), 1223(I) and (J), and 1245(B)(3), and to repeal Children's Code Articles  
18 1122(G), 1141, 1209(C), 1225, 1226, 1229(D), 1231(C), 1244(C), 1244.1(D),  
19 1254(C), 1283.7(C), and 1285.7(C), relative to an act of adoptive placement; to  
20 provide for service; to provide relative to background checks; to provide relative to  
21 diligent efforts in locating an absent father; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. Children's Code Articles 103.1(B)(4), 702(G), 1025.1(B), the heading of  
3 Title XI of the Children's Code, 1107.1 through 1107.4, 1107.5(A)(4), (B), (C), (D), and (E),  
4 1107.6(C), 1107.8 through 1112, 1113, 1114 through 1118, 1119(A) and (C), 1120, 1121,  
5 1122(A)(1), (4), and (5), (B)(1) through (6), (8) through (13), (C), (D), (E), (F), and (G),  
6 1123, 1124, 1126, 1127(A) and (D), 1127.1(A) and (B), 1128, 1129, 1130(A), (B), (D), and  
7 (E), 1130.1, 1131, 1132(A), (B)(2), (D), 1133(A), 1134(A)(introductory paragraph),  
8 1135(B)(1), (3), and (4), 1136, 1137(A), (C), (D), and (E), 1138(A), (B), (C), and (E), 1139,  
9 1142(D), 1144, 1145(A), 1146(A), (B)(1) and (3), 1147, 1148, 1171, 1175,  
10 1180(A)(introductory paragraph) and (3) and (C), 1196(D) and (E), 1200(A) and (C),  
11 1209(B), 1218(A), 1224, 1229(B) and (C), 1231(B), 1240(A), 1243.2(A) and (C), 1244.1(A)  
12 and (B), 1245(B)(introductory paragraph) and (C), 1247, 1254(B), 1256(A), 1269.3(E)(3)  
13 and (F), 1269.5(B), 1270(A)(2), 1283.7(B), and 1285.7(B) are hereby amended and  
14 reenacted and Children's Code Articles 1122(A)(6), (B)(15) through (17), 1134(A)(3),  
15 1137(F) and (G), 1138(F), 1178(G) and (H), 1223(I) and (J), and 1245(B)(3) are hereby  
16 enacted to read as follows:

17 Art. 103.1. Applicability of Indian Child Welfare Act

18 \* \* \*

19 B. Child custody proceedings to which the federal Indian Child Welfare Act  
20 and the regulations promulgated thereunder apply include the following:

21 \* \* \*

22 (4) A transfer of custody, ~~a surrender for adoption~~ an Act of Adoptive  
23 Placement, and any other voluntary proceeding.

24 \* \* \*

25 Art. 702. Permanency hearing

26 \* \* \*

27 G. When reunification is determined to be the permanent plan for the child,  
28 the court shall advise the parents that it is their obligation to achieve the case plan  
29 goals and correct the conditions that require the child to be in care within the time

1 period specified by the court. Otherwise, an alternative permanent plan for the child  
2 shall be selected and a petition to terminate parental rights may be filed. When  
3 adoption is the permanent plan for the child, the court shall advise the parent of the  
4 authority to voluntarily ~~surrender~~ place the child and to consent to the adoption prior  
5 to the filing of a petition to terminate parental rights.

6 \* \* \*

7 Art. 1025.1. Appearance to answer petition

8 \* \* \*

9 B. The court may also permit the parent to consent to judgment in  
10 accordance with Article 1025.2 or execute a ~~surrender~~ an Act of Intent for Adoptive  
11 Placement for adoption in accordance with Article 1122.

12 \* \* \*

13 TITLE XI

14 ~~SURRENDER~~ PLACEMENT OF PARENTAL RIGHTS

15 \* \* \*

16 CHAPTER 2-A. ~~INTENT TO SURRENDER~~ INTENT FOR ADOPTIVE PLACEMENT

17 PROCESS

18 Art. 1107.1. ~~Intent to surrender for adoption~~ Intent for Adoptive Placement

19 During her pregnancy or thereafter, a mother of a child may execute an ~~intent~~  
20 ~~to surrender~~ Act of Intent for Adoptive Placement for adoption in accordance with  
21 Chapter 2-A of this Title.

22 Art. 1107.2. ~~Intent to surrender for adoption~~ Act of Intent for Adoptive Placement;  
23 purpose; limitations

24 A. The purpose of an ~~act of intent to surrender for adoption~~ Act of Intent for  
25 Adoptive Placement is to facilitate early planning for the child who may be  
26 ~~surrendered~~ placed by the mother for adoption and to provide due notice at the  
27 earliest possible time to any alleged or adjudicated father who may have an interest  
28 in the child's custody.



1           (4) The court in which the ~~act of intent to surrender for adoption~~ Act of  
2           Intent for Adoptive Placement will be filed.

3           B. The ~~act of intent to surrender for adoption~~ Act of Intent for Adoptive  
4           Placement shall also recite the following declarations:

5           (1) Whether the ~~act of intent to surrender for adoption~~ Act of Intent for  
6           Adoptive Placement is being executed prior to or after the birth of the child.

7           (2) That she has no mental incapacity and is under no interdiction that  
8           impairs her capacity to consent to the ~~surrender~~ placement of her child.

9           (3) That, if required by Article 1113, she is joined in the ~~act of intent to~~  
10           ~~surrender for adoption~~ Act of Intent for Adoptive Placement by her parents or tutor.

11           (4) That she has been informed and understands that the ~~act of intent to~~  
12           ~~surrender for adoption~~ Act of Intent for Adoptive Placement is only in anticipation  
13           of adoption and does not mean that she agrees to surrender the child.

14           (5) That she has been informed and understands that her rights as the parent  
15           of the child are not being terminated by execution of this ~~act of intent to surrender~~  
16           ~~for adoption~~ Act of Intent for Adoptive Placement .

17           (6) That she has been informed and understands that the ~~act of intent to~~  
18           ~~surrender for adoption~~ Act of Intent for Adoptive Placement is being executed for  
19           the purpose of determining whether the alleged father will oppose her plans for  
20           ~~surrendering~~ placing her child for adoption.

21           (7) That she has been informed and understands that if the alleged father  
22           responds by filing a timely written objection, he will receive notice of any motion  
23           for hearing to determine his parental rights that she may thereafter file or of any  
24           ~~surrender~~ placement she may thereafter execute and will be given notice of a hearing  
25           on his opposition and will be given an opportunity to present evidence to  
26           acknowledge his paternity, to demonstrate his fitness as a parent, and to demonstrate  
27           his commitment to the child.

1 (8) That she has been informed and understands that if the father does not  
2 respond by filing a timely written objection, that his potential parental rights may be  
3 terminated by the court upon the court's approval of her ~~surrender~~ placement.

4 (9) That she freely and voluntarily executes the ~~act of intent to surrender for~~  
5 ~~adoption~~ Act of Intent for Adoptive Placement and understands that she is not  
6 required to execute it and that failing to execute it will not prevent her from later  
7 deciding to ~~surrender~~ place her child for adoption.

8 C. In a private adoption, the ~~act of intent to surrender for adoption~~ Act of  
9 Intent for Adoptive Placement shall also recite that the pregnant female or mother  
10 has consulted with and been fully advised by an attorney about the meaning of these  
11 declarations and the consequences of the ~~act of intent to surrender for adoption~~ Act  
12 of Intent for Adoptive Placement, other than the attorney, associate, partner,  
13 shareholder, or employee of the attorney's law firm or corporation for the prospective  
14 adoptive parent.

15 D. The ~~act of intent to surrender for adoption~~ Act of Intent for Adoptive  
16 Placement shall be in authentic form and shall be dated and signed by the pregnant  
17 female or mother and her representative, if applicable. If required by Article 1113,  
18 it shall also be signed by the minor's parents or tutor, or the written consent of the  
19 court shall be attached.

20 E. The ~~act of intent to surrender for adoption~~ Act of Intent for Adoptive  
21 Placement shall contain the requirements in substantially the following form:

22 "INTENT TO ~~SURRENDER~~ PLACE A CHILD FOR ADOPTION

23 STATE OF LOUISIANA"

24 PARISH OF (NAME OF PARISH)

25 BEFORE ME, the undersigned notary public, and in the presence of the two  
26 undersigned competent witnesses who are over the age of eighteen, personally came  
27 and appeared:

28 (NAME OF MOTHER)

1 a female of the age of (AGE), who is (MARITAL STATUS), and domiciled in the  
2 Parish of (NAME OF PARISH), who being first duly sworn, did depose and state:

3 (1) She is pregnant and expects to deliver a child on or about (EXPECTED  
4 DELIVERY DATE).

5 OR

6 [She is the mother of (CHILD'S NAME), born on (DATE OF BIRTH) in the  
7 (PARISH/COUNTY OF BIRTH), State of (STATE OF BIRTH).]

8 (2) The father of the child is [is believed to be] (FATHER'S NAME), and his  
9 address is (ADDRESS).

10 (3) To the best of her knowledge, the alleged father:

11 (a) Has not executed a notarial act of acknowledgment of the child.

12 (b) Has not admitted his paternity of the child by registering with the  
13 putative father registry.

14 (c) Has not informally acknowledged his paternity of this child.

15 (d) Has not had his paternity of this child established by court judgment.

16 OR

17 [The paternity of this child has been established by the judgment of the  
18 (NAME OF COURT) \_\_\_\_\_ on (DATE) finding that (FATHER'S NAME) is  
19 the father.]

20 (4) The court in which this ~~act of intent to surrender for adoption~~ Act of  
21 Intent for Adoptive Placement is to be filed is (NAME OF JUVENILE COURT)  
22 located in (CITY AND PARISH OF COURT).

23 (5) Affiant declares that she has no mental incapacity and is under no  
24 interdiction that impairs her capacity to ~~surrender~~ place the child.

25 (6) Affiant declares that she has been informed and understands that this ~~act~~  
26 ~~of intent to surrender for adoption~~ Act of Intent for Adoptive Placement is only in  
27 anticipation of adoption and does not mean that she agrees to ~~surrender~~ place the  
28 child nor does her refusal to sign this ~~intent to surrender for adoption~~ Act of Intent



1 OR

2 [Affiant declares that she is under the age of eighteen and that (NAME OF  
3 JUVENILE COURT) located in (CITY AND PARISH OF COURT) has given its  
4 written consent for her execution of this ~~act of intent to surrender for adoption~~ Act  
5 of Intent for Adoptive Placement.]

6 (13) Affiant declares that she has consulted with and been fully advised by  
7 an attorney about the meaning of these declarations and the consequences of this ~~act~~  
8 ~~of intent to surrender for adoption~~ Act of Intent for Adoptive Placement, other than  
9 the attorney for the prospective adoptive parent or an associate, partner, shareholder,  
10 or employee of the prospective adoptive parent's attorney's law firm or corporation.

11 Sworn to, signed, and notarized, after being carefully read and explained to  
12 (NAME OF MOTHER) in the presence of the undersigned notary and witnesses on  
13 this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

14 \_\_\_\_\_

15 AFFIANT MOTHER

16 WITNESSES:

17 \_\_\_\_\_

18 \_\_\_\_\_

19 (ADDITIONAL SIGNATURE(S) IN PRIVATE ADOPTION IF THE MOTHER IS  
20 A MINOR)

21 \_\_\_\_\_

22 PARENT(S)/TUTOR OF MINOR MOTHER

23 \_\_\_\_\_

24 NOTARY PUBLIC AND SEAL

25 (REQUIRED ADDITIONAL ATTACHMENT(S) IF THE ACT OF INTENT ~~TO~~  
26 ~~SURRENDER FOR ADOPTION~~ FOR ADOPTIVE PLACEMENT IS FOR A  
27 PRIVATE ADOPTION:

28 (AFFIDAVIT OF ATTORNEY FOR MOTHER)

1 (REQUIRED ADDITIONAL ATTACHMENT IF THE ~~SURRENDER~~  
2 PLACEMENT IS BY A MINOR MOTHER WHOSE PARENT(S) OR TUTOR  
3 REFUSE TO JOIN IN THE INTENT TO ~~SURRENDER FOR ADOPTION~~  
4 ADOPTIVE PLACEMENT:

5 (WRITTEN CONSENT OF THE COURT)

6 Art. 1107.6. Failure to file timely objection to adoption; termination of parental  
7 rights

8 \* \* \*

9 C. The court shall, upon motion, render an order terminating the parental  
10 rights of both parents if:

11 (1) A motion for hearing to determine the father's rights or a ~~surrender~~  
12 placement by the mother is filed within ninety days of the filing of the ~~intent to~~  
13 surrender Act of Intent for Adoptive Placement.

14 (2) The ~~surrender Act of Intent for Adoptive Placement~~ is filed in court in  
15 accordance with Article 1131.

16 (3) In accordance with Article 1131(C), the court finds that the ~~surrender~~  
17 placement meets the requirements of this Title.

18 \* \* \*

19 Art. 1107.8. Notice of filing of act of intent to surrender for adoption; form;  
20 objection and form

21 A. The notice of filing of a mother's intent ~~to surrender for adoption for~~  
22 adoptive placement shall contain the following information in substantially the  
23 following form:

24 "NOTICE OF FILING OF ACT OF INTENT ~~TO SURRENDER~~  
25 ~~FOR ADOPTION~~ FOR ADOPTIVE PLACEMENT

26 Be advised that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
27 \_\_\_\_\_ (MOTHER'S NAME) voluntarily filed an act of intent ~~to surrender~~  
28 ~~for adoption for~~ adoptive placement of her minor child, namely \_\_\_\_\_, born

1 on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the Parish/County of \_\_\_\_\_,  
2 State of \_\_\_\_\_.

3 OR

4 [Be advised that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
5 \_\_\_\_\_(MOTHER'S NAME) voluntarily filed an act of intent to  
6 ~~surrender for adoption~~ for adoptive placement of her expected child to be born on or  
7 about \_\_\_\_\_, 20\_\_.]

8 The ~~act of intent to surrender for adoption~~ Act of Intent for Adoptive  
9 Placement names you as the father of this child. The act of ~~intent to surrender for~~  
10 ~~adoption~~ for adoptive placement does not bind the mother to follow through with  
11 plans to ~~surrender~~ place her child for adoption. She may change her mind. Its only  
12 purpose is to determine whether you will oppose plans for ~~surrendering~~ placing this  
13 child for adoption.

14 You may attempt to oppose the proposed adoption of this child only by filing  
15 a written objection with this court within fifteen days after you receive this notice.  
16 In your objection, you must provide the court with an address where you can be  
17 contacted about further proceedings, if any, regarding the child's adoption.

18 A form for your use is attached.

19 Note that this objection must be signed under oath before a notary public  
20 after you have proved your identity. If the objection does not have the notary's  
21 signature, it is not effective.

22 If you do file such a written objection:

23 (1) You will have the right to receive notice of any ~~surrender~~ placement for  
24 adoption that the mother may hereafter sign giving up her parental rights to the child.

25 (2) You will also have the right to be given notice of any hearing scheduled  
26 by the court to decide whether your parental rights should be terminated. At that  
27 hearing, you must show that you are claiming or have acknowledged paternity of the  
28 child and must prove that you have assumed parental responsibility for the child, that  
29 you are a fit parent, and that you are willing and able to take custody of the child.

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

1 At that hearing, the court will decide whether your efforts have been sufficient to  
2 preserve your parental rights regarding this child and to prevent the child's adoption.

3 These notices will be served upon you at the address you provide in your  
4 written objection.

5 If you do not file a written, notarized objection within fifteen days from the  
6 time you receive this notice, then you waive notice and service of future ~~surrender~~  
7 placement or adoption proceedings, you have no cause of action to challenge the  
8 child's adoption, and all rights you may have as the child's alleged father may be  
9 terminated by order of this court and the child may be adopted if the mother does  
10 decide to sign a ~~surrender~~ placement of the child for adoption.

11 These are serious consequences. You are urged to contact a lawyer to advise  
12 you further."

13 B. With every notice of the filing of an ~~act of intent to surrender for adoption~~  
14 Act of Intent for Adoptive Placement, this form must be included for the alleged  
15 father's use:

16 "OBJECTION TO ADOPTION

17 \_\_\_\_\_ (Court File #)

18 STATE OF LOUISIANA

19 PARISH OF (NAME OF PARISH)

20 I, \_\_\_\_\_ (FATHER'S NAME), have received  
21 notice of an ~~act of intent to surrender for adoption~~ Act of Intent for Adoptive  
22 Placement filed by \_\_\_\_\_ (NAME OF PREGNANT  
23 FEMALE OR MOTHER), which names me as the father.

24 I believe that I am the father of this child.

25 I object to any adoption of this child.

26 I can be reached for notification of any ~~surrender~~ placement for adoption  
27 executed by the mother and any hearing on my opposition to the adoption of this  
28 child at

29 \_\_\_\_\_

1 (ADDRESS: STREET, CITY AND ZIP CODE).

2 I understand that all notices will be made at that address unless I notify the  
3 court listed below in writing of a different address. If I move without notifying the  
4 court, I understand that the court will rule that no further attempts need to be made  
5 to contact me about any adoption of this child.

6 \_\_\_\_\_

7 (SIGNATURE)

8 \_\_\_\_\_

9 (PRINT NAME)

10 SWORN TO AND SUBSCRIBED BEFORE ME, Notary, on this the  
11 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ (CITY),  
12 Louisiana.

13 \_\_\_\_\_

14 NOTARY PUBLIC AND SEAL

15 In order to be effective, this objection must either be mailed by registered or  
16 certified mail or filed by you or your representative with the following court:

17 JUVENILE COURT OF \_\_\_\_\_ PARISH

18 (Address)"

19 Art. 1107.9. Notice of filing of ~~intent to surrender for adoption~~ Act of Intent for  
20 Adoptive Placement; service upon identified alleged fathers, residents and  
21 nonresidents

22 Notice of filing of an ~~intent to surrender for adoption~~ Act of Intent for  
23 Adoptive Placement shall be given by personal service or by registered or certified  
24 mail, return receipt requested, delivery restricted to the addressee, to any alleged or  
25 adjudicated and identified father.

26 CHAPTER 3. AUTHORITY ~~TO SURRENDER~~ FOR ADOPTIVE PLACEMENT

27 Art. 1108. Authority to surrender

28 A. Subject to the provisions for capacity found in Chapter 4 of this Title any  
29 parent may execute a voluntary ~~act of surrender~~ Act of Adoptive Placement.

1 B. If the parents are dead or are unknown, the child's tutor may execute the  
2 ~~act of surrender for adoption~~ Act of Adoptive Placement.

3 Art. 1109. Domiciliary requirements

4 A ~~surrendering~~ placing parent must be domiciled in this state for at least eight  
5 months, unless a prospective adoptive parent has been domiciled in this state for at  
6 least eight months, or the child is in the custody of the Department of Children and  
7 Family Services.

8 Art. 1110. Nature of authority

9 The ~~surrender~~ placement of a child for adoption by one parent shall have no  
10 effect upon the parental rights of any other parent.

11 CHAPTER 4. CAPACITY ~~TO SURRENDER~~ FOR ADOPTIVE PLACEMENT

12 Art. 1111. Capacity generally

13 Except as provided hereinafter in this Chapter, any parent has the capacity  
14 to ~~surrender~~ place his or her child for adoption.

15 Art. 1112. Inability due to court intervention

16 A. Except as provided herein, a parent may not execute a private ~~surrender~~  
17 placement once custody of that child has been removed from the parent by order of  
18 a juvenile court and the child has been placed in the legal custody of any person or  
19 agency or if the child is the subject of a pending termination of parental rights  
20 proceeding.

21 B. Upon notice to the department and after a contradictory hearing, if  
22 requested by the department, a parent may, with approval of the court, execute a  
23 private ~~surrender~~ placement of a child in the legal custody of the department to the  
24 foster parent with whom the child was placed by the department.

25 Art. 1113. Minor parents

26 A. Except as otherwise provided ~~herein~~, if a parent ~~executing a surrender in~~  
27 ~~a private adoption is a minor~~ who is a minor wants to execute an Act of Adoptive  
28 Placement, the parents or tutor of the minor must join in the ~~surrender~~ Act of  
29 Adoptive Placement unless the minor parent has been judicially emancipated under

1 Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379  
2 through 384, or with court authorization pursuant to Paragraph C of this Article.

3 B. When the parents of the minor are ~~separated or~~ divorced, only the parent  
4 who has legal custody of the minor must join in the ~~surrender~~ minor's Act of  
5 Adoptive Placement.

6 C. When the minor's parents or tutor refuse to join in the act or cannot be  
7 located, the court may authorize the minor to ~~surrender~~ sign an Act of Adoptive  
8 Placement without the required consent if it finds that the minor is sufficiently  
9 mature and well-informed to ~~surrender~~ release all rights to his child for adoption or  
10 that the ~~surrender~~ placement is otherwise in the ~~child's~~ minor's best interest.

11 ~~D. In an intrafamily adoption, the parents or tutor of the minor parent must~~  
12 ~~join in the minor's consent to his child's adoption unless the court finds that the~~  
13 ~~minor is sufficiently mature and well-informed to surrender his child for adoption~~  
14 ~~or that the surrender is otherwise in the child's best interest.~~

15 ~~E. A minor may surrender to an agency without the consent of the parents~~  
16 ~~or tutor of the minor.~~

17 Art. 1114. Mentally incapacitated parents

18 Any parent who has been interdicted or who the court finds to be mentally  
19 incapable of giving a knowing and voluntary ~~surrender~~ placement shall not execute  
20 an ~~act of surrender~~ Act of Adoptive Placement. Any ~~act of surrender~~ Act of  
21 Adoptive Placement executed by an interdicted or mentally incapacitated parent is  
22 subject to annulment under Chapter 12 of this Title.

## 23 CHAPTER 5. AUTHORITY TO ACCEPT ~~SURRENDER~~ PLACEMENT

24 Art. 1115. Authority generally; preplacement approval

25 A. A ~~surrender~~ placement may be made to any person or agency qualified  
26 to petition for the adoption of the child.

27 B. Prior to the execution of a ~~surrender~~ an Act of Adoptive Placement for  
28 private adoption pursuant to Chapter 10 of Title XII, each prospective adoptive  
29 parent shall obtain preplacement approval as required by Chapter 2 of Title XII.

1 C. Either a certification for adoption or a court order approving the adoptive  
2 placement, completed or brought current within the previous twelve months, shall  
3 be provided to the attorney for the prospective adoptive parents for filing with the  
4 surrender placement.

5 Art. 1116. Agency adoption; acceptance by agency

6 In order for a surrender placement to an agency to be effective, the surrender  
7 placement shall be accepted in writing by the agency in the form of an authentic act.

8 Art. 1117. Domiciliary requirements; acceptance of surrender placement

9 A. If a ~~surrendering~~ placing parent is not domiciled in this state, then the  
10 agency shall be domiciled in this state or be accepting the surrender placement of a  
11 child who is in the custody of the Department of Children and Family Services.

12 B. In order for a surrender placement to an agency to be effective, the agency  
13 accepting the surrender placement shall either be the Department of Children and  
14 Family Services or have been issued a child-placing or adoption license by the  
15 department.

16 Art. 1118. Effect of acceptance

17 The person or agency to whom a child is ~~surrendered~~ placed shall exercise  
18 all rights and responsibilities as legal custodian of the child.

19 Art. 1119. Anonymity; limitations upon attorney as representative

20 A. For purposes of insuring anonymity in private adoptions, an attorney at  
21 law licensed to practice in this state may be named in the surrender placement as  
22 representative of the accepting person. The named attorney may facilitate transfer  
23 of the child to the accepting person.

24 \* \* \*

25 C. The prospective adoptive parent need not be informed of the identity of  
26 the ~~surrendering~~ placing parent nor be shown the petition or other documents  
27 connected with the adoption proceeding, including any certification for adoption or  
28 court order approving the adoptive placement as required by Chapter 2 of Title XII.

1 Art. 1120. Pre-~~surrender~~ placement counseling; affidavit

2 A. Prior to the execution of any ~~surrender~~ placement, a ~~surrendering~~ placing  
3 parent shall participate in a minimum of two counseling sessions relative to the  
4 surrender with a licensed social worker, licensed psychologist, medical psychologist,  
5 licensed psychiatrist, licensed counselor, or a counselor employed by a licensed  
6 child-placing agency.

7 B. The counselor shall execute an affidavit attesting that the ~~surrendering~~  
8 placing parent attended a minimum of two sessions, and stating whether the  
9 ~~surrendering~~ placing parent appeared to understand the nature and consequences of  
10 his intended act. The affidavit of the counselor shall be attached to the ~~act of~~  
11 ~~surrender~~ Act of Adoptive Placement.

12 C. If, in the opinion of the counselor, there is any question concerning the  
13 parent's mental capacity to ~~surrender~~ place the child, the basis for these concerns  
14 shall be stated in the affidavit. If indicated, the affidavit shall contain a specific  
15 recommendation for any further evaluation that may be needed to ascertain the  
16 parent's capacity.

17 D. If he is a major, any ~~surrendering~~ placing father of a child may waive the  
18 counseling otherwise mandated by Paragraph A of this Article. In this case, the  
19 attorney or counselor shall execute an affidavit attesting to the father's waiver and  
20 that he appeared to understand the nature and consequences of his intended act. The  
21 affidavit of the counselor or attorney shall be attached to the ~~act of surrender~~ Act of  
22 Adoptive Placement.

23 Art. 1121. Legal counseling; affidavit

24 A. In all ~~surrenders~~ placements for private adoption, the ~~surrendering~~ placing  
25 parent and his representative, if applicable, or the child's tutor, as provided in Article  
26 1108, shall be represented at the execution of the act by an attorney at law licensed  
27 to practice law in Louisiana; however, the attorney representing such person shall not  
28 be the attorney who represents the person who is the prospective adoptive parent, or

1 an attorney who is an associate, partner, shareholder, or employee of the attorney,  
2 law firm, or corporation representing the prospective adoptive parent.

3 B. Counsel for the ~~surrendering~~ placing parent shall execute an affidavit of  
4 counsel, which shall be attached to the ~~Act of Surrender~~ Act of Adoptive Placement.

5 C. The affidavit of counsel shall recite that counsel for the ~~surrendering~~  
6 placing parent has fully explained to the parent the nature and effect of the Act of  
7 ~~Surrender~~ Adoptive Placement, including the penalties for making false statements  
8 in the ~~act of surrender~~ Act of Adoptive Placement provided in R.S. 14:125.2, and that  
9 the parent appeared to understand the explanation given, that the parent freely and  
10 voluntarily executed the ~~surrender~~ placement, and that a copy of the act as executed  
11 has been provided to the ~~surrendering~~ placing parent.

12 CHAPTER 7. ~~SURRENDER~~ VOLUNTARY ADOPTIVE PLACEMENT

13 REQUIREMENTS

14 Art. 1122. Contents of ~~surrender~~ Act of Adoptive Placement; form

15 A. Every Act of ~~Surrender~~ Adoptive Placement shall contain the following  
16 information:

17 (1) The name, parish of domicile, age, and marital status of the ~~surrendering~~  
18 placing parent.

19 \* \* \*

20 (4) The name and address of the ~~person~~ prospective adoptive parent, agency,  
21 or representative to whom ~~surrender is made~~ placement is made.

22 (5) The court in which the ~~surrender~~ Act of adoptive placement is to be filed  
23 as required by Article 1131.

24 (6) Whether the child is an "Indian Child" as defined by Children's Code  
25 Article 116(6.1).

26 B. The Act of ~~Surrender~~ Adoptive Placement shall also recite the following  
27 declarations:

28 (1) That the ~~act~~ Act of Adoptive Placement is not being executed earlier than  
29 (a) the third day following the birth of the child if it is an agency adoption, or (b) the

1 fifth day following the birth of a child if the adoption is a private adoption; or, when  
2 a father is ~~surrendering~~ placing earlier than the fifth day following the birth of the  
3 child, that (a) the adoption is an agency adoption, or (b) that the act is for private  
4 adoption and is being executed earlier than the fifth day following the birth of the  
5 child.

6 (2) That the parent ~~has no mental incapacity and is under no interdiction~~ is  
7 capable of understanding the concepts and consequences of this Act of Adoptive  
8 Placement and has not been interdicted by a court of competent jurisdiction.

9 (3) That the parent who is a minor is joined in the ~~act of surrender~~ Act of  
10 Adoptive Placement by the parents or tutor or has written consent of the court;  
11 ~~except in acts of surrender to an agency.~~

12 (4) That the parent has been informed and understands that upon its  
13 execution, the Act of ~~Surrender~~ is irrevocable of Adoptive Placement cannot be  
14 revoked, cancelled, or reversed, and that by signing it, the parent permanently  
15 terminates all rights they may have ~~any rights~~ as a parent of the child ~~are~~  
16 ~~permanently terminated by execution of the Act of Surrender unless it is nullified~~  
17 ~~due to fraud or duress or is dissolved by a court of competent jurisdiction~~ a court of  
18 competent jurisdiction cancels it because it found the parent was a victim of fraud  
19 or duress or the adoption cannot be completed.

20 (5) That the parent freely and voluntarily ~~surrenders~~ places custody of the  
21 child for the purpose of permanent placement and adoption.

22 (6) That the ~~parent consents to an adoption which consent is final and~~  
23 ~~irrevocable~~ minor child is not an "Indian Child" as defined by Children's Code  
24 Article 116(6.1) and as far as the mother knows, neither the alleged father or any  
25 member of his family is, or has been, registered as a member of an American Indian  
26 tribe or Alaskan Village.

27 \* \* \*

28 (8) That the parent has been informed of the provisions of the voluntary  
29 registration law, as provided for in Chapter 15 of Title XII, whereby contact can be

1 established between the parent and the ~~surrendered~~ adopted child upon the child's  
2 reaching majority if both the ~~surrendering~~ placing parent and the adopted person  
3 register and fulfill all registration requirements.

4 (9) That either a ~~surrendering~~ placing parent, the agency accepting the  
5 ~~surrender~~ Act of Adoptive Placement, or the adoptive parents are domiciled in this  
6 state, or that the child is in the custody of the Department of Children and Family  
7 Services.

8 (10) That the parent has been informed and fully advised of the provisions  
9 of R.S. 14:125.2 and 14:286, and the penalties provided therein, by an attorney, other  
10 than the attorney, associate, or partner of the law firm representing the adoptive  
11 parent. This includes employees and shareholders of any firm, company,  
12 corporation, or limited liability partnership that may be representing the adoptive  
13 parents.

14 (11) In an adoption arranged by the Department of Children and Family  
15 Services, that the execution of the surrender is made without conditions of any kind.  
16 Failure to comply with any formal or informal agreement for post-adoption  
17 continuing contact shall not nullify the ~~surrender~~ placement nor constitute cause for  
18 its revocation.

19 (12) Whether a ~~surrendering~~ placing mother does or does not wish to be  
20 notified of the hearing of any opposition to the adoption filed pursuant to Article  
21 1137.

22 (13) Whether a ~~surrendering~~ placing parent does or does not wish the future  
23 release of identifying information in the event of a medical necessity for which  
24 information is needed in order to treat the child.

25 \* \* \*

26 (15) That the legal or alleged parent is not on active duty with any branch of  
27 the United States Armed Services as of the date he signs the Act of Adoptive  
28 Placement.

1           (16) That no action has been taken, documents signed, or monies received  
2           by the placing parent, or paid on behalf of the placing parent that obligate the placing  
3           parent to sign the Act of Adoptive Placement.

4           (17) That the parent has read the words of the Act of Adoptive Placement,  
5           understands them, and does not have any questions that remain unanswered.

6           C. The Act of ~~Surrender~~ Adoptive Placement shall recite that the parent has  
7           received a minimum of two pre-~~surrender~~ placement counseling sessions or that, in  
8           the case of the father, he has waived such counseling in accordance with the  
9           requirements of Article 1120. It shall further state that the agency or individual  
10          accepting the ~~surrender~~ adoptive placement has no knowledge of any question  
11          concerning the mental capacity of the parent that has not been resolved by the court  
12          pursuant to Article 1130.1.

13          ~~D. An act of private surrender adoptive placement shall also recite that the~~  
14          ~~parent has consulted with and been fully advised by an attorney, other than the~~  
15          ~~attorney, associate, partner, shareholder, or employee of the attorney's law firm or~~  
16          ~~corporation for the prospective adoptive parent, about the meaning of these~~  
17          ~~declarations and the effects of the act of surrender in accordance with Article 1123.~~

18          E. D. The Act of ~~Surrender~~ Adoptive Placement shall be in authentic form  
19          and shall be dated and signed by the ~~surrendering~~ placing parent, the attorney for the  
20          ~~surrendering~~ placing parent, if applicable, and either the adoptive parent or attorney  
21          representing the adoptive parent who wishes to remain anonymous, or a  
22          representative of the agency. If required by Article 1113, it shall also be signed by  
23          the minor's parents or tutor, or the written consent of the court shall be attached.

24          F. E. The Act of ~~Surrender~~ Adoptive Placement for a ~~surrendering~~ placing  
25          mother shall contain the requirements in substantially the following form:

26          "VOLUNTARY ACT OF ~~SURRENDER FOR ADOPTION~~ ADOPTIVE  
27          PLACEMENT (FOR A ~~SURRENDERING~~ MOTHER OF A CHILD)  
28          STATE OF LOUISIANA  
29          PARISH OF (NAME OF PARISH)



1           If the ~~surrender~~ placement is for private adoption, the Person or  
2           Representative to whom this child is hereby ~~surrendered~~ placed is (NAME OF  
3           PERSON OR REPRESENTATIVE), whose address is (ADDRESS), hereby accepts  
4           this ~~surrender~~ placement from a ~~surrendering~~ placing parent who is domiciled in this  
5           state or on behalf of adoptive parents domiciled in this state. (NAME OF PERSON  
6           OR REPRESENTATIVE) declares that he has no knowledge of any question  
7           concerning the parent's capacity to execute a ~~surrender~~ placement that has not been  
8           resolved by the court pursuant to Article 1130.1.

9           (5) The court in which this ~~surrender~~ placement is to be filed is (NAME OF  
10          JUVENILE COURT) located in (CITY AND PARISH OF COURT) and that said  
11          court has jurisdiction over the status of the child by virtue of either a ~~surrendering~~  
12          placing parent, a prospective adoptive parent, or a legal guardian being domiciled in  
13          this state, or that the child is in the custody of the Department of Children and  
14          Family Services.

15          (6) Affiant declares that this Act of ~~Surrender~~ Adoptive Placement is not  
16          being executed earlier than the third day following the birth of the child for agency  
17          adoptions or the fifth day following the birth of the child in a ~~surrender~~ placement  
18          for private adoption.

19          (7) Affiant declares that she has no mental incapacity and is under no  
20          interdiction.

21          (8) Affiant declares that she has been informed and understands that her  
22          rights as a parent of the child are permanently and irrevocably terminated by  
23          execution of this Act of ~~Surrender~~ Adoptive Placement; however, she understands  
24          that it may be declared null due to fraud or duress and may be dissolved if the  
25          adoption cannot be accomplished.

26          (9)(a) Affiant declares that she freely and voluntarily ~~surrenders~~ places  
27          custody of the child for the purpose of placement and adoption.

28          (b) Affiant declares that she has been informed and understands that it is  
29          unlawful to willfully and knowingly make a written or oral false statement about the

1 biological paternity of a child and has been advised that the penalties for such falsity  
2 are either a fine of ten thousand dollars or imprisonment for not more than five years,  
3 or both.

4 (10) Affiant declares that she consents to an adoption, which consent is final  
5 and irrevocable upon execution of this ~~surrender~~ placement.

6 (11) Affiant declares that she waives notice of the filing and service of any  
7 pleading of any sort in any subsequent adoption proceeding regarding the child  
8 ~~surrendered~~ placed.

9 (12) Affiant declares that she has been informed of the provisions of the  
10 voluntary registration law, whereby contact may be established with the ~~surrendered~~  
11 placed child upon the child's reaching the age of eighteen years if both the  
12 ~~surrendering~~ placing parent and the adopted person register and fulfill all registration  
13 requirements.

14 (13) Affiant declares that she has attended a minimum of two pre-~~surrender~~  
15 placement counseling sessions relative to this ~~surrender~~ placement of her child for  
16 adoption.

17 (14) Affiant declares that she has been informed and fully advised of the  
18 provisions of R.S. 14:125.2 and the penalties provided therein by an attorney, other  
19 than the attorney, associate, partner, shareholder, or employee of the attorney's law  
20 firm or corporation for the prospective adoptive parent.

21 (ADDITIONAL DECLARATION IF THE ~~SURRENDER~~ PLACEMENT

22 IS FOR AN AGENCY ADOPTION ARRANGED BY  
23 THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES)

24 (15) Affiant declares that the execution of this ~~surrender~~ placement is made  
25 without conditions of any kind. Failure to comply with any formal or informal  
26 agreement for post-adoption continuing contact will not nullify the ~~surrender~~  
27 placement nor constitute cause for revocation.

28 (ADDITIONAL DECLARATIONS IF THE ~~SURRENDER~~ PLACEMENT

29 IS FOR A PRIVATE ADOPTION)

1 (16) Affiant declares that she is eighteen years of age or older.

2 OR

3 Affiant declares that she is under the age of eighteen and that (NAME OF  
4 PARENTS OR TUTOR) join in this ~~surrender~~ placement.

5 OR

6 Affiant declares that she is under the age of eighteen and that (NAME OF  
7 JUVENILE COURT) located in (CITY AND PARISH OF COURT) has given its  
8 written consent for her ~~surrender~~ placement.

9 (17) Affiant declares that she has consulted with and been fully advised by  
10 an attorney other than the attorney for the prospective adoptive parents about the  
11 meaning of these declarations and the consequences of this Act of ~~Surrender~~  
12 Adoptive Placement.

13 (18) Affiant declares that she does or does not wish to be notified of the  
14 hearing of any opposition to the adoption filed pursuant to Article 1137.

15 (19) Affiant declares that she does or does not wish the future release of  
16 identifying information in the event of a medical necessity for which information is  
17 needed in order to treat the child.

18 (20) Affiant declares that she has been informed and understands that the  
19 Statement of Family History will be given to the adoptive parents at the time of  
20 placement and made available, upon request, to the adopted person at the age of  
21 eighteen years or older.

22 Sworn to, signed, and notarized, after being carefully read and explained to  
23 (NAME OF ~~SURRENDERING~~ PLACING PARENT) in the presence of the  
24 undersigned notary and witnesses on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

25 WITNESSES:

26 \_\_\_\_\_

27 \_\_\_\_\_

28 (If agency adoption:)

29 \_\_\_\_\_





1 the putative father registry that admitted his paternity of this child/expected child.  
2 He has/has not informally acknowledged his paternity of this child/expected child.  
3 His paternity of this child/expected child has/has not been established by court  
4 judgment.

5 (3) The natural mother of the child/expected child is (MOTHER'S NAME),  
6 and her last known address was (ADDRESS OR UNKNOWN).

7 (4) The agency to whom this child is hereby ~~surrendered~~ placed is (NAME  
8 OF PERSON, AGENCY OR REPRESENTATIVE), whose address is (ADDRESS),  
9 who hereby accepts this ~~surrender~~ placement is domiciled in this state. The (NAME  
10 OF AGENCY) declares that he has no knowledge of any question concerning the  
11 parent's capacity to execute a ~~surrender~~ placement that has not been resolved by the  
12 court pursuant to Article 1130.1.

13 OR

14 If the ~~surrender~~ placement is for private adoption, the Person or  
15 Representative to whom this child is hereby ~~surrendered~~ placed is (NAME OF  
16 PERSON OR REPRESENTATIVE), whose address is (ADDRESS), hereby accepts  
17 this ~~surrender~~ placement from a ~~surrendering~~ placing parent who is domiciled in this  
18 state or on behalf of adoptive parents domiciled in this state. (NAME OF PERSON  
19 OR REPRESENTATIVE) declares that he has no knowledge of any question  
20 concerning the parent's capacity to execute a ~~surrender~~ placement that has not been  
21 resolved by the court pursuant to Article 1130.1.

22 (5) The court in which this ~~surrender~~ placement is to be filed is (NAME OF  
23 JUVENILE COURT) located in (CITY AND PARISH) and that said court has  
24 jurisdiction over the status of the child by virtue of either a ~~surrendering~~ placing  
25 parent, a prospective adoptive parent, or a legal guardian being domiciled in this  
26 state, or that the child is in the custody of the Department of Children and Family  
27 Services.

28 (6) Affiant declares that this Act of ~~Surrender~~ Adoptive Placement is/is not  
29 being executed earlier than the third day following the birth of the child for agency



1 Affiant declares that he consents to an adoption, which consent is final and  
2 irrevocable upon the execution of this ~~surrender~~ placement.

3 (11) Affiant declares that he waives notice of the filing and service of any  
4 pleading of any sort in any subsequent adoption proceeding regarding the child  
5 ~~surrendered~~ placed.

6 (12) Affiant declares that he has been informed of the provisions of the  
7 voluntary registration law, whereby contact may be established with the ~~surrendered~~  
8 placed child upon the child's reaching the age of eighteen years if both the  
9 ~~surrendering~~ placing parent and the adopted person register and fulfill all registration  
10 requirements.

11 (13) Affiant declares that he has attended a minimum of two pre-placement  
12 counseling sessions relative to the ~~surrender~~ placement of this child for adoption.

13 OR

14 Affiant declares that he waives pre-~~surrender~~ placement counseling relative  
15 to the ~~surrender~~ placement of this child for adoption.

16 (14) Affiant declares that he has been informed and fully advised of the  
17 provisions of R.S. 14:125.2 and the penalties provided therein by an attorney, other  
18 than the attorney, associate, partner, shareholder, or employee of the attorney's law  
19 firm or corporation for the prospective adoptive parent.

20 (ADDITIONAL DECLARATION IF THE ~~SURRENDER~~ PLACEMENT IS  
21 FOR AN AGENCY ADOPTION ARRANGED BY THE DEPARTMENT OF  
22 CHILDREN AND FAMILY SERVICES)

23 (15) Affiant declares that the execution of this ~~surrender~~ placement is made  
24 without conditions of any kind. Failure to comply with any formal or informal  
25 agreement for post-adoption continuing contact will not nullify the ~~surrender~~  
26 placement nor constitute cause for revocation.

27 (ADDITIONAL DECLARATIONS IF THE ~~SURRENDER~~ PLACEMENT  
28 IS FOR A PRIVATE ADOPTION)

29 (16) Affiant declares that he is eighteen years of age or older.

1 OR

2 Affiant declares that he is under the age of eighteen and that (NAME OF  
3 PARENTS OR TUTOR) join in this ~~surrender~~ placement.

4 OR

5 Affiant declares that he is under the age of eighteen and that (NAME OF  
6 JUVENILE COURT) located in (CITY AND PARISH OF COURT) has given its  
7 written consent for his ~~surrender~~ placement.

8 (17) Affiant declares that he has consulted with and been fully advised by  
9 an attorney other than the attorney for the prospective adoptive parents about the  
10 meaning of these declarations and the consequences of this Act of ~~Surrender~~  
11 Adoptive Placement.

12 (18) Affiant declares that he does or does not wish the future release of  
13 identifying information in the event of a medical necessity for which information is  
14 needed in order to treat the child.

15 (19) Affiant declares that he has been informed and understands that the  
16 Statement of Family History will be given to the adoptive parents at the time of  
17 placement and made available, upon request, to the adopted person at the age of  
18 eighteen years or older.

19 Sworn to, signed, and notarized, after being carefully read and explained to  
20 (NAME OF ~~SURRENDERING~~ PLACING PARENT) in the presence of the  
21 undersigned notary and witnesses on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

22 WITNESSES:  
23 \_\_\_\_\_  
24 \_\_\_\_\_

25 (If agency adoption:)  
26 \_\_\_\_\_  
27 ~~SURRENDERING~~ PLACING FATHER  
28 \_\_\_\_\_  
29 AGENCY REPRESENTATIVE

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

1 (If private adoption:)

2 \_\_\_\_\_

3 ~~SURRENDERING~~ PLACING FATHER

4 \_\_\_\_\_

5 ATTORNEY FOR ~~SURRENDERING~~ PLACING FATHER

6 \_\_\_\_\_

7 ADOPTING PARENTS

8 OR

9 \_\_\_\_\_

10 ATTORNEY FOR ADOPTING PARENTS

11 (if anonymity to be protected)

12 [Additional signature(s) in private adoption if the ~~surrendering~~ placing father is a  
13 minor

14 \_\_\_\_\_

15 PARENT(S)/TUTOR OF MINOR

16 ~~SURRENDERING~~ PLACING FATHER]

17 \_\_\_\_\_

18 NOTARY PUBLIC AND SEAL ATTACHMENTS:

19 ( ) AFFIDAVIT OF MENTAL HEALTH COUNSELOR or  
20 AFFIDAVIT OF WAIVER OF COUNSELING

21 ( ) STATEMENT OF FAMILY HISTORY

22 [Required additional attachment if the ~~surrender~~ placement is for private  
23 adoption:

24 ( ) AFFIDAVIT OF ATTORNEY FOR ~~SURRENDERING~~ PLACING  
25 PARENT]

26 [Required additional attachment if the ~~surrender~~ placement is by a minor  
27 father whose parent(s) or tutor refuse to join in the Act of ~~Surrender~~ Adoptive  
28 Placement for a private adoption:

29 ( ) WRITTEN CONSENT OF COURT]"

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

1           H: G. A copy of the Act of ~~Surrender~~ Adoptive Placement shall be made  
2 available to a surrendering parent at the time it is executed, or upon request, at any  
3 time thereafter.

4 Art. 1123. Effect of ~~surrender~~ placement; verification of judgment of adoption

5           A. An Act of ~~Surrender~~ Adoptive Placement shall be irrevocable upon  
6 execution except as provided in Article 1130.

7           B. An authentic act of voluntary ~~surrender~~ placement executed by a parent  
8 grants the legal custody of the child identified in the act to the agency or person  
9 named or represented in the act and grants the irrevocable consent of the  
10 ~~surrendering~~ placing parent and his representative, if applicable, or the child's tutor,  
11 to the subsequent adoption of the child ~~surrendered~~ placed to the agency or to the  
12 adoption of the child by the person named or represented in the act except as  
13 provided in Paragraph D.

14           C. The agency, firm, or lawyer facilitating the adoption shall provide the  
15 ~~surrendering~~ placing parent, upon request, with a notarized statement that the final  
16 judgment of adoption was legally rendered. The statement shall not disclose the  
17 identity of the adoptive parents.

18           D. If for any reason an adoption cannot be accomplished, the Act of  
19 ~~Surrender~~ Adoptive Placement may be dissolved by a court of competent  
20 jurisdiction.

21 Art. 1124. Requirement of family information

22           A. A ~~surrendering~~ placing parent shall execute a Statement of Family  
23 History which shall be attached to the Act of ~~Surrender~~ Adoptive Placement, shall  
24 be included in the sealed adoption record, and shall be given to the prospective  
25 adoptive parents at the time of placement and made available, upon request, to the  
26 adopted person at the age of eighteen years or older.

27           B. A ~~surrendering~~ placing parent shall execute an affidavit attesting to the  
28 parent's execution of the Statement of Family History which shall be included in the

1 sealed adoption record only and shall not be given to the prospective adoptive  
2 parents or the adopted person.

3 C. The form for the affidavit shall be substantially as follows:

4 STATE OF \_\_\_\_\_

5 PARISH/COUNTY OF \_\_\_\_\_

6 AFFIDAVIT

7 BEFORE ME, the undersigned authority, personally came and appeared

8 \_\_\_\_\_

9 ~~SURRENDERING~~ PLACING PARENT

10 who declares that he/she has executed a true and correct Statement of Family History  
11 to provide the adoptive parents of the minor child with nonidentifying medical  
12 genetic information in accordance with the provisions of Louisiana Children's Code  
13 Articles 1124 through 1127.

14 Affiant understands and agrees that the nonidentifying Statement of Family  
15 History will be attached to the Act of ~~Surrender~~ Adoptive Placement and included  
16 in the sealed adoption record. Affiant further understands that the Statement of  
17 Family History will be given to the prospective adoptive parent(s) at the time of  
18 placement and made available, upon request, to the adopted person at the age of  
19 eighteen years or older.

20 Affiant has been informed that this affidavit shall be included in the sealed  
21 adoption record only and will not be given to the adoptive parents or the minor child.

22 \_\_\_\_\_

23 SIGNATURE OF ~~SURRENDERING~~ PLACING PARENT

24 \_\_\_\_\_

25 NAME OF ~~SURRENDERING~~ PLACING PARENT

26 SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF

27 \_\_\_\_\_, 20\_\_\_\_.

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\_\_\_\_\_  
NOTARY PUBLIC

\* \* \*

Art. 1126. Fiduciary duty; breach; good faith exception

A. The agency or person to whom a ~~surrender~~ placement is made shall have the duty to make a good faith effort to obtain the Statement of Family History required by Articles 1124 and 1125, to deliver it to prospective adoptive parents upon placement, and to make it available, upon request, to the adopted person at the age of eighteen years or older. If the Statement of Family History is subsequently transferred to another agency or person, the new custodian of the information assumes responsibility to the adopted person.

B. Failure to comply with the provisions of this Chapter or the intentional or willful falsification of information shall constitute a breach of fiduciary duty, punishable by a fine of not less than one hundred nor more than five hundred dollars. Should the agency or person to whom a ~~surrender~~ placement is made fail to obtain all information required for the Statement of Family History, the agency or person shall document by affidavit the good faith efforts made to obtain such information and that such efforts were unproductive.

Art. 1127. Request for disclosure of nonidentifying medical records or genetic information

A. Any adopted person, or if still a minor, his legal representative on his behalf, or a ~~surrendering~~ placing biological parent, may, upon written request, obtain nonidentifying medical or genetic information from the agency, firm, or lawyer without the necessity of filing a motion for disclosure as required by the provisions of Chapter 5 of Title XII of this Code.

\* \* \*

D. For the purposes of this Article, an "agency, firm, or lawyer" shall include an agency, firm, or lawyer that is no longer licensed or authorized by the state for the

1 placement of children for adoption, but was licensed or authorized by the state to  
2 perform such service at the time the child was ~~surrendered~~ placed.

3 Art. 1127.1. Maintenance of medical report; transfer of adoption records

4 A. After adoptive placement of the child, the agency, firm, or lawyer  
5 facilitating the ~~surrender~~ placement or person to whom a ~~surrender~~ placement is  
6 made shall have a continuing duty to maintain these records and supplement them  
7 if additional nonidentifying medical or genetic information is received about the  
8 adopted person or his biological relatives.

9 B. Upon a request in accordance with Article 1127, the agency, firm, or  
10 lawyer facilitating the ~~surrender~~ placement shall disclose such information.

11 \* \* \*

12 CHAPTER 9. FOREIGN ~~SURRENDERS~~ PLACEMENTS

13 Art. 1128. Validity of ~~surrender~~ placement; Statement of Family History

14 A. A ~~surrender~~ placement or consent to adoption executed by a  
15 nondomiciliary parent in accordance with the laws of the state of his domicile shall  
16 be recognized as valid and given the force and effect accorded it by the laws of the  
17 foreign state.

18 B. The agency or individual to whom the child was ~~surrendered~~ placed shall  
19 be responsible for securing the parent's execution of a Statement of Family History  
20 set forth in Article 1125. All other rights and duties set forth in Chapter 8 of Title  
21 XI shall be applicable.

22 Art. 1129. Proof of law

23 A person asserting the validity of a ~~surrender~~ placement or consent executed  
24 in a foreign state shall produce sufficient proof of the laws of the foreign state  
25 governing the requirements for form and content and the force and effect accorded  
26 a properly executed act.

1 CHAPTER 10. ~~SURRENDER~~ PLACEMENT PROCEDURE IN GENERAL

2 Art. 1130. Time limitations

3 A. No Act of ~~Surrender~~ Adoptive Placement for private adoption by a  
4 mother shall be executed earlier than five days following the birth of the child.

5 B. ~~A~~ An alleged or adjudicated father may execute an Act of ~~Surrender~~  
6 Adoptive Placement under Children's Code Article 1122 or a release under  
7 Children's Code Article 1196 prior to the birth of the child or at any time after the  
8 birth. However, any ~~surrender~~ Act of Adoptive Placement executed by a father for  
9 private adoption earlier than the fifth day following the birth of the child shall not be  
10 irrevocable until the fifth day following the birth of the child.

11 \* \* \*

12 D. An alleged or adjudicated father may execute an ~~act of surrender~~ Act of  
13 Adoptive Placement prior to the birth of the child or at any time after the birth. His  
14 ~~surrender placement~~ shall be irrevocable upon execution.

15 E. No Act of ~~Surrender~~ Adoptive Placement by a birth mother or father as  
16 defined in Children's Code Article 1193 for agency adoption shall be executed earlier  
17 than three days following the birth of the child.

18 Art. 1130.1. Authority of the court to determine parental capacity

19 A. If parental capacity is questioned by the counselor providing pre-  
20 ~~surrender placement~~ counseling as provided in Article 1120(C), a ~~surrender~~  
21 placement may not be executed unless authorized by the court pursuant to one of the  
22 following:

23 (1) Review of further evaluative information as recommended in Article  
24 1120(C) and a finding that such evaluation provides sufficient support of the parent's  
25 ability to understand the nature and consequences of the ~~act of surrender~~ Act of  
26 Adoptive Placement.

27 (2) After a hearing and consideration of all available information and the  
28 questioning of the parent, the court finds that the parent sufficiently understands the  
29 nature and consequences of the ~~act of surrender~~ Act of Adoptive Placement.

1           B. The court's findings shall be made in writing and the ~~surrender~~ placement  
2 shall be executed only upon order by the court.

3           Art. 1131. Filing of ~~surrender~~ Act of Adoptive Placement; institution of records  
4 check

5           A. Within three days after the ~~surrender~~ adoptive placement becomes  
6 irrevocable under Article 1123, exclusive of legal holidays, the agency or attorney  
7 for the prospective adoptive parents shall file the following:

8           (1) The authentic ~~act of voluntary surrender~~ Act of Adoptive Placement;  
9 ~~together with.~~

10           (2) a A preliminary estimate and accounting of fees and charges in  
11 accordance with Article 1201 or 1223.1, ~~and~~

12           (3) ~~any~~ Any certification for adoption or court order approving the adoptive  
13 placement required by Chapter 2 of Title XII in a court of proper venue as authorized  
14 by Article 1180.

15           ~~B. If the parent has previously executed an intent to surrender for adoption,~~  
16 ~~pursuant to Chapter 2-A of this Title, the surrender shall be filed in that same court.~~

17           ~~C.~~B. The ~~surrender~~ Act of Adoptive Placement, and certification for  
18 adoption or court order approving the adoptive placement if required, may be filed  
19 later than ~~three~~ seven days after execution only with leave of court for good cause  
20 shown.

21           ~~D.~~C. Upon filing, the court shall promptly review the ~~surrender~~ Act of  
22 Adoptive Placement and any accompanying documents to ensure their sufficiency  
23 in accordance with Article 1104. If any document fails to comply with the  
24 requirements of this Title, the court shall immediately notify all counsel of record  
25 and may refuse to accept the ~~surrender~~ Act of Adoptive Placement until such time  
26 as the defects are remedied. If the ~~surrender~~ Act of Adoptive Placement and  
27 documents are found to comply with the requirements of this Title, the court shall  
28 enter an order approving the ~~surrender~~ Act of Adoptive Placement and immediately  
29 notify all counsel of record.

1           E. ~~Upon the filing of any court order approving the adoptive placement~~  
2 ~~pursuant to Article 1178, the court shall immediately issue both of the following~~  
3 ~~orders:~~

4           (1) ~~That the sheriff or the office of state police, Louisiana Bureau of~~  
5 ~~Criminal Identification and Information, conduct a records check for all federal~~  
6 ~~arrests and convictions and all state arrests and convictions in this and any other~~  
7 ~~states in which either of the prospective adoptive parents has been domiciled.~~  
8 ~~Prospective adoptive parents shall submit a set of fingerprints to the sheriff or the~~  
9 ~~office of state police.~~

10           (2) ~~That the department conduct a records check for validated complaints of~~  
11 ~~child abuse or neglect in this or any other state in which either of the prospective~~  
12 ~~adoptive parents has been domiciled since becoming a major, involving either~~  
13 ~~prospective adoptive parent.~~

14           F. ~~Each order shall state the full name, date of birth, social security number,~~  
15 ~~and former and current state of domicile since becoming a major of each prospective~~  
16 ~~adoptive parent.~~

17           G. ~~The sheriff or the office of state police, Louisiana Bureau of Criminal~~  
18 ~~Identification and Information, and the department shall accord priority to these~~  
19 ~~orders and shall provide a certificate indicating all information discovered or that no~~  
20 ~~information has been found.~~

21           H. D. ~~Failure to file within three days as required by Paragraph A of this~~  
22 ~~Article shall not affect the final adoption.~~

23           Art. 1132. Notice of filing of surrender; form

24           A. If a mother of a child born outside of marriage has executed a ~~surrender~~  
25 an Act of Adoptive Placement and identifies the child's alleged or adjudicated father,  
26 the agency or individual to whom the child was ~~surrendered~~ placed shall exercise due  
27 diligence in attempting to locate him and to offer pre-~~surrender~~ placement counseling  
28 in accordance with Article 1120.

1           B. Upon approval of the mother's ~~surrender~~ placement by the court, notice  
2 of the filing of the mother's ~~surrender~~ placement shall be served upon the alleged or  
3 adjudicated father unless any of the following apply:

4                                   \*       \*       \*

5           (2) He has executed a ~~surrender~~ an Act of Adoptive Placement in accordance  
6 with this Title.

7                                   \*       \*       \*

8           D. The notice of the ~~surrender~~ an Act of Adoptive Placement shall be issued  
9 by the clerk and shall contain the following information in substantially the  
10 following form:

11                                   "NOTICE OF FILING OF ~~SURRENDER~~

12   ACT OF ADOPTIVE PLACEMENT

13           Be advised that on the \_\_\_ day of \_\_\_, 20\_\_\_, an authentic Act of ~~Surrender~~  
14 Adoptive Placement executed by \_\_\_\_\_ was filed wherein she ~~surrendered~~ placed  
15 for adoption her minor child, namely \_\_\_\_\_, born on the \_\_\_ day of \_\_\_\_\_, \_\_, in  
16 the Parish of \_\_\_\_\_, State of \_\_\_\_\_.

17           The Act of ~~Surrender~~ Adoptive Placement alleges that you are the father of  
18 this child. You may attempt to oppose the adoption of this child only by filing a  
19 written objection with this court within fifteen days after you receive this notice.

20           If you file a written objection timely, the court will then hold a hearing within  
21 twenty days of the filing of the opposition, to determine whether you have  
22 established or forfeited your parental rights.

23           To establish your parental rights to oppose the adoption, you must  
24 acknowledge that you are the father of the child or be found to be the father by court  
25 order as a result of blood tests. Thereafter, you must also demonstrate to the court  
26 that you are a fit parent who is willing and able to assume the legal and physical care  
27 of your child. You must also demonstrate that you have made a substantial  
28 commitment to your parental responsibilities by providing or attempting to provide  
29 substantial and consistent support for the mother during pregnancy or after the child's

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

1 birth and by frequently and consistently visiting or attempting to visit the child after  
2 birth.

3 If you fail to file a written motion of opposition, or if, after a hearing on a  
4 motion timely filed, the court finds that you have failed to establish your parental  
5 right to oppose the adoption, the court will order the termination of any and all  
6 parental rights you may have and the child may be subject to adoption."

7 Art. 1133. Notice of filing of ~~surrender~~ Act of Adoptive Placement; service upon  
8 resident alleged or adjudicated father

9 A. Notice of the filing of a mother's ~~surrender~~ Act of Adoptive Placement  
10 shall be promptly served upon the alleged or adjudicated father. Notice of the filing  
11 shall not be required if an alleged or adjudicated father waives notice of service. If  
12 he resides within this state, service shall be made by any of the 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 (3) Any other proper means of service provided for under Code of Civil  
19 Procedure Article 1313.

20 \* \* \*

21 Art. 1134. Notice of filing of ~~surrender~~ Act of Adoptive Placement; service upon  
22 nonresident alleged or adjudicated father

23 A. Notice of the filing of a mother's ~~surrender~~ Act of Adoptive Placement  
24 shall be promptly served upon the alleged or adjudicated father. Notice of the filing  
25 shall not be required if an alleged or adjudicated father waives notice of service. If  
26 he does not reside within this state, service shall be made by any of the following  
27 means:

28 \* \* \*



1 child's alleged or adjudicated father but declares she does not know how to  
2 reasonably contact him, or service of the legal notice for an alleged or adjudicated  
3 father is returned due and diligent and other reasonable options of contacting him are  
4 not known, the court shall expeditiously appoint an attorney for this absentee and a  
5 notice of filing of an Act of Adoptive Placement under Children's Code Article 1132  
6 shall be served on this attorney.

7 B. ~~The court must appoint a curator for an alleged or adjudicated father~~  
8 ~~whose whereabouts are unknown within five days, exclusive of legal holidays, from~~  
9 ~~the date of the filing of an act of surrender indicating that his whereabouts are~~  
10 ~~unknown or from the receipt of a return indicating that he cannot be served. The~~  
11 ~~curator shall begin a diligent effort as defined in Children's Code Article 116 to~~  
12 ~~locate the alleged or adjudicated father within seven days, exclusive of legal~~  
13 ~~holidays, from the date of his appointment.~~

14 C. ~~Upon motion of the agency or attorney for the prospective adoptive~~  
15 ~~parent, which motion may be filed thirty days after the appointment of the curator,~~  
16 ~~and upon finding that a diligent effort has been made to locate the alleged or~~  
17 ~~adjudicated father, but that he has not been located within thirty days from the~~  
18 ~~appointment of the curator, the court shall terminate the alleged or adjudicated~~  
19 ~~father's parental rights.~~

20 ~~D.~~ For purposes of this Article, the following is sufficient proof that the  
21 ~~alleged or adjudicated father's whereabouts are unknown and that a diligent effort~~  
22 ~~was made to locate him~~ father cannot be reasonably contacted and the court may  
23 terminate any potential or inchoate rights he may have in and to the child:

24 (1) A declaration under oath by the ~~surrendering~~ placing mother in the ~~act~~  
25 ~~of surrender~~ Act of Adoptive Placement that his address is unknown or evidence that  
26 attempts to contact him at the address indicated in the ~~act of surrender~~ Act of  
27 Adoptive Placement have been unsuccessful.

28 (2) A certified copy of the child's birth certificate, with no one indicated  
29 thereon as the father of the child.

1 (3) A certificate from the putative father registry indicating whether any  
2 person is listed registered as the child's father and if so registered, proof that no  
3 address is stated thereon or evidence that attempts to contact him at the address  
4 indicated on the registration form have been unsuccessful, which certificate must be  
5 dated more than fifteen days after the date the ~~act of surrender~~ Act of Adoptive  
6 Placement was executed by the ~~surrendering~~ placing mother.

7 (4) A certificate from the clerk of court where the child was born indicating  
8 whether any act of acknowledgment with respect to this child has been recorded and  
9 if so recorded, proof that no address is stated thereon or evidence that attempts to  
10 contact the alleged or adjudicated father at the address indicated on the  
11 acknowledgment have been unsuccessful, which certificate must be dated after  
12 fifteen days from the date the ~~act of surrender~~ Act of Adoptive Placement was  
13 executed by the ~~surrendering~~ placing mother.

14 (5) An affidavit executed by the ~~curator~~ court-appointed attorney detailing  
15 efforts made to locate the alleged or adjudicated father, ~~including but not limited to~~  
16 ~~proof of publication seeking his whereabouts.~~

17 E. D. If the alleged or adjudicated father of the child is located by the curator  
18 within thirty days of his appointment, the curator shall promptly file an affidavit with  
19 the court detailing efforts made to locate him, disclosing his location and certifying  
20 that he has been given oral or written notice of filing of surrender in conformity with  
21 Article 1132.

22 Art. 1137. Notice of opposition to adoption by alleged or adjudicated father; time  
23 limitations; appointment of counsel for the child; scheduling of hearing;  
24 paternity testing

25 A. An alleged or adjudicated father or his representative, if applicable, may  
26 oppose the proposed adoption of his child by filing with the clerk of court a clear and  
27 written declaration of intention to oppose the adoption. The notice of opposition  
28 shall be filed with the court indicated in the notice of filing of ~~surrender~~ the Act of  
29 Adoptive Placement within fifteen days after the time he was served with the notice

1 of ~~surrender~~ adoptive placement, or from the time he was served with notice of the  
2 filing of an adoption petition in the event that no ~~surrender~~ Act of Adoptive  
3 Placement was executed or filed. The fifteen-day period is prescriptive.

4 \* \* \*

5 C. The court shall set the opposition for contradictory hearing, which hearing  
6 shall be held within twenty days of the filing of the opposition. Unless another  
7 previous valid judgment of custody or visitation is in effect, the court shall not order  
8 visitation between the child and the alleged or adjudicated father until the hearing on  
9 the merits of his objection is concluded and only if he successfully establishes his  
10 right to visitation. The court shall schedule a hearing on the merits of the alleged or  
11 adjudicated opposition of the father no later than ninety days from the date he filed  
12 the written declaration. The court may allow only one continuance of the trial if  
13 based on good cause.

14 D. Notice of the hearing shall be served in accordance with Articles 1133  
15 and 1134 on the following:

16 (1) ~~the~~ The opposing father, based on the information he supplied in the  
17 notice of opposition.

18 (2) ~~the~~ The prospective adoptive parent or the child's current legal  
19 custodian;

20 (3) ~~counsel~~ Counsel appointed for the child, ~~and~~.

21 (4) ~~the~~ The mother of the child through the agency to whom the child was  
22 placed or through the attorney who represented the mother in a private ~~surrender~~  
23 placement unless otherwise waived in the Act of ~~Surrender~~ Adoptive Placement  
24 executed pursuant to Article 1122.

25 E. If paternity is at issue, on its own motion or motion of any party, the court  
26 shall issue an order for immediate blood or tissue sampling in accordance with the  
27 provisions of R.S. 9:396 et seq. and ~~shall order an expedited report~~ its costs to be  
28 initially paid by the alleged father. The hearing resolving this issue shall be held at  
29 the earliest time that the results of the testing can be reported to the court.

1           F. If the alleged or adjudicated father does not timely file a written objection,  
2           the court shall, upon motion, render a default judgment that deems his opportunity  
3           to object to the proposed adoption waived, and any potential rights he may possess  
4           are terminated.

5           G. If the alleged or adjudicated father timely objects to the proposed  
6           adoption, his objection is ruled pursuant to Children's Code Article 1015. Prospective  
7           parents shall prove the grounds for terminating the alleged or adjudicated rights of  
8           the father. A timely objection shall be governed under the provisions of Children's  
9           Code Article 1138.

10          Art. 1138. Hearing of opposition to adoption; establishment of parental rights

11           A. At the hearing of the opposition, the alleged or adjudicated father ~~must~~  
12           shall establish his parental rights by acknowledging that he is the father of the child  
13           and by proving that he has manifested a substantial commitment to his parental  
14           responsibilities and that he is a fit parent of his child.

15           B. Proof of the father's substantial commitment to his parental  
16           responsibilities requires a showing, in accordance with his means and knowledge of  
17           the mother's pregnancy or the child's birth, that he ~~either~~:

18           (1) Provided financial support, including but not limited to the payment of  
19           consistent support to the mother during her pregnancy for basic needs like food,  
20           medical expenses, and shelter, contributions to the payment of the medical expenses  
21           of pregnancy and birth, or contributions of consistent support of the child after birth;

22           (2) ~~that he frequently~~ Frequently and consistently visited the child after birth;  
23           ~~and that.~~

24           (3) ~~he~~ He is now willing and able to assume legal and physical care of the  
25           child without depending exclusively on his relatives or friends.

26           ~~(2)~~ (4) Was willing to provide such support and to visit the child and that he  
27           made reasonable attempts to manifest such a parental commitment, but was thwarted  
28           in his efforts by the mother or her agents, and that he is now willing and able to

1 assume legal and physical care of the child without depending exclusively on his  
2 relatives or friends.

3 C. The child, the mother of the child, and the prospective adoptive parents  
4 or current legal custodian may offer rebuttal evidence limited to the issues  
5 enumerated in Paragraphs A and B of this Article. However, the primary  
6 consideration shall be, and the court shall accept evidence concerning, the best  
7 interests of the child.

8 \* \* \*

9 E. If the court finds that the alleged or adjudicated father has established his  
10 parental rights, the court shall declare that no adoption may be granted without his  
11 consent. The court may also order the alleged or adjudicated father to reimburse the  
12 department, or the licensed private adoption agency, or other agency, or whoever has  
13 assumed liability for such costs, all or part of the medical expenses incurred for the  
14 mother and the child in connection with the birth of the child. The court may also  
15 order the alleged or adjudicated father to pay a sum for child support retroactive  
16 from the date of the opposition.

17 F. If the child has resided with the prospective adoptive family for a  
18 significant period and the child has bonded with this family, the court should  
19 consider the recommendations of a child custody expert when ordering any  
20 prospective custody plan to begin. Costs of the recommendation may be taxed as  
21 court costs.

22 Art. 1139. Order maintaining opposition; effect on other surrendering parent;  
23 service

24 A. If the court maintains an opposition and declares that no adoption can  
25 take place without the consent of the opposing parent, ~~a surrender~~ an Act of  
26 Adoptive Placement executed by the other parent of the child shall be dissolved.  
27 After the court makes its formal ruling, it shall speedily decide to whom temporary  
28 legal custody shall be awarded. It shall consider, in its discretion, the mother, the  
29 alleged or adjudicated father, or another qualified and suitable person. The mother



1 Art. 1144. Placement report

2 A. After filing of a surrender an Act of Adoptive Placement in accordance  
3 with the provisions of Article 1131, when the department is the legal custodian of the  
4 child, the department shall report to the court in detail concerning the child's  
5 permanent placement.

6 B. When the department is not the legal custodian of the child, ~~no later than~~  
7 ~~ninety days after the filing of the surrender,~~ and after the child's date of placement  
8 with the prospective adoptive family the agency or person to whom the surrender  
9 was made shall report in detail to the court concerning the child's adoptive placement  
10 and shall have a continuing duty to supplement the report immediately when there  
11 is any change in the child's placement prior to the filing of a petition for adoption.  
12 The information contained in the report shall include ~~among other relevant issues~~  
13 ~~whether all parental rights have been extinguished, the status of the child's placement~~  
14 ~~in an adoptive home, when the adoption petition is to be filed, and other information~~  
15 ~~that the court may require.~~ all of the following:

16 (1) The date and time of the visit.

17 (2) The individuals present at the time of the visit.

18 (3) The location of the visit.

19 (4) The duration of the visit.

20 (5) An assessment of adjustment of both the child and the adoptive parent.

21 (6) An assessment of the attachment and bonding between the child and the  
22 adoptive parent.

23 (7) An assessment of the child's health.

24 (8) A description of changes since last contact.

25 (9) A summary of the visit.

26 (10) The signature of a person conducting the visit or phone contact.

27 C. The agency or person to whom a mother made an adoptive placement  
28 shall utilize a social worker in the employ of a licensed private adoption agency,  
29 licensed social worker, licensed professional counselor, licensed psychologist,

1 medical psychologist, licensed psychiatrist, or licensed marriage and family therapist  
2 who shall visit and assess the child's environment to ensure the prospective adoptive  
3 family's home is consistent with their initial home study report and the child is  
4 reasonably safe and healthy. The child shall be observed in the home study during  
5 these visits.

6 D. The cadence for visiting and assessing the placement shall be:

7 (1) Within seven days of the date the child first began to live with the  
8 prospective family.

9 (2) Thereafter, a visit and assessment shall be completed every sixty days  
10 until the hearing on the merits of the adoption request.

11 (3) A minimum of three visits is required prior to the hearing on the merits  
12 of the adoption petition, including the visit prior to the final decree.

13 E. It shall be the duty of the agency or person to whom the mother made an  
14 adoptive placement to provide the court with these reports.

15 F. If problems are identified, the family shall be assisted directly and referred  
16 to a resource to address the concerns. The child and adoptive parent shall be  
17 provided assistance, consultation, and emotional support with situations and  
18 problems encountered in permanent placement through finalization. The adoptive  
19 family shall be provided with access to twenty-four hour crisis intervention services  
20 through finalization.

21 Art. 1145. Registration

22 A. If no permanent placement has been made within ninety days after a  
23 voluntary ~~surrender~~ placement to a child care agency, the child shall be registered  
24 by the appropriate child placement agency with the Louisiana Adoption Resource  
25 Exchange within the office of community resources of the department.

26 \* \* \*

27 Art. 1146. Permanency planning; review hearings; counsel for child

28 A. If no permanent placement has been made by the department within  
29 ninety days after a voluntary ~~surrender~~ placement to a child care agency, review

1 hearings shall be held in accordance with the provisions of Chapters 15 and 16 of  
2 Title VI of this Code.

3 B. When the department is not the legal custodian of the child review  
4 hearings shall be held as follows:

5 (1) A review hearing shall be held within ninety days after the filing of a  
6 ~~surrender~~ placement if a petition for adoption has not been filed. The court may  
7 waive the hearing if it has received and is satisfied with the placement report  
8 required by Article 1144.

9 \* \* \*

10 (3) In any case, a review hearing shall be held within nine months of the  
11 filing of the ~~surrender~~ placement and at least once every six months thereafter until  
12 a petition for adoption has been filed or until the court determines that the child is  
13 in a permanent placement.

14 \* \* \*

15 CHAPTER 12. ANNULMENT OF ~~SURRENDER~~ PLACEMENT

16 Art. 1147. Grounds

17 No ~~act of surrender~~ Act of Adoptive Placement shall be subject to annulment  
18 except upon proof of duress or fraud, notwithstanding any provision of law to the  
19 contrary.

20 Art. 1148. Time limitations; finality

21 No action to annul a ~~surrender~~ an Act of Adoptive Placement shall be brought  
22 for any reason after ninety days from its execution or after a decree of adoption has  
23 been entered, whichever is earlier.

24 \* \* \*

25 Art. 1171. Prior approval of private adoptive placement; exceptions

26 Except when the child is the stepchild, grandchild, great grandchild, sibling,  
27 niece, or nephew of one of the prospective adopting parents, no child who is the  
28 subject of a private adoption shall be placed in the home of the prospective adoptive  
29 parents prior to: ~~their either~~







1 Art. 1209. Intervention

2 \* \* \*

3 B. Such intervention shall be limited to persons having a substantial  
4 caretaking relationship with the child for one year or longer, or any ~~other person that~~  
5 ~~the court finds to be a party in interest~~ individual that possesses substantial evidence  
6 that the adoption will not serve the best interest of the child.

7 \* \* \*

8 Art. 1218. Effect of final decree

9 A. Except as otherwise provided in this Title, upon a final decree of agency  
10 adoption, the parents of the child whose rights have not been previously terminated  
11 by a ~~surrender~~ an Act of Adoptive Placement or a judgment of termination and all  
12 other blood relatives of the child are relieved of all their legal duties and divested of  
13 all their legal rights with regard to the adopted child, including the right of  
14 inheritance from the adopted child and his lawful descendants, and the adopted child  
15 is relieved of all of his legal duties and divested of all his legal rights with regard to  
16 the parents, except as provided in Paragraph B.

17 \* \* \*

18 Art. 1223. Fee disclosure; permissible reimbursement of expenses; court review;  
19 report

20 \* \* \*

21 I. A biological parent, his agent, or representative is prohibited from  
22 accepting payment under this Article from more than one potential adoption  
23 petitioner or an agent of the petitioner.

24 J. If a biological parent, her agent, or representative, has accepted money for  
25 living expenses from an initial potential adoptive parent and later decides to place  
26 the child for adoption in favor of a successor adoptive parent, agency, or attorney,  
27 the successor adoptive parent, agency, or attorney shall reimburse the initial

1 prospective adoptive parent the money already given to the biological parent for  
2 living expenses.

3 \* \* \*

4 Art. 1224. Service of process

5 ~~A. A copy of the petition for private adoption together with all exhibits shall~~  
6 ~~be served by registered or certified mail, return receipt requested, postage prepaid,~~  
7 ~~or by commercial courier as defined in R.S. 13:3204(D), when the person to be~~  
8 ~~served is located outside of this state, and properly addressed to the department. If~~  
9 ~~a private adoption was not initiated by an Act of Adoptive Placement, and a court has~~  
10 ~~not already adjudicated the rights of a person alleged to be the child's father, a copy~~  
11 ~~of a petition for private adoption shall be served on this person by 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 (3) Any other proper means of service provided for under Code of Civil  
19 Procedure Article 1313.

20 ~~B. Except when waived, notice of the filing of the petition shall be served~~  
21 ~~on any parent whose parental rights have not been terminated by a court of~~  
22 ~~competent jurisdiction:~~

23 ~~C. If the adoption petition names an alleged or adjudicated father and his~~  
24 ~~parental rights have not been terminated by a court of competent jurisdiction, he~~  
25 ~~shall be served with notice of the filing of the petition in accordance with Articles~~  
26 ~~1133, 1134, and 1136 and thereafter, his rights shall be determined in accordance~~  
27 ~~with the provisions of Articles 1137 through 1143.~~

28 \* \* \*

1 Art. 1229. Duties of attorney arranging the adoption; duties of the department; home  
2 study; confidential report

3 \* \* \*

4 B. The department or any authorized professional under Children's Code  
5 Article 1172 shall investigate the proposed private adoption and submit a  
6 confidential report of its findings to the court. The findings shall include:

7 (1) ~~The conditions with respect to the availability of the child for adoption.~~

8 (2) The physical and mental condition of the child.

9 (3) (2) Other factors regarding the suitability of the child for adoption in  
10 petitioner's home.

11 (4) (3) The moral and financial fitness of the petitioner.

12 (5) (4) The conditions of the proposed adoptive home with respect to health,  
13 adjustment, and other advantages or disadvantages to the child.

14 C. The department may delegate the performance of this investigation to a  
15 licensed private adoption agency, but the department remains responsible for  
16 ensuring the accuracy and thoroughness of the resulting report and for the safety and  
17 welfare of the child. The department shall adopt, promulgate, and enforce such rules  
18 and regulations as are necessary and appropriate to implement this authorization in  
19 accordance with the Administrative Procedure Act. The court may request the  
20 professional who completes the last post placement report to appear in front of it to  
21 answer its questions if the court has any concerns about information included or  
22 absent from the report.

23 \* \* \*

24 Art. 1231. Intervention

25 \* \* \*

26 B. Such intervention shall be limited to persons having a substantial  
27 caretaking relationship with the child for one year or longer, ~~or any other person that~~

1 ~~the court finds to be a party in interest~~ individual that possesses substantial evidence  
2 that the adoption will not serve the best interest of the child.

3 \* \* \*

4 Art. 1240. Effect of final decree

5 A. Except as otherwise provided in this Title, upon a final decree of private  
6 adoption, the parents of the child whose rights have not been previously terminated  
7 by ~~a surrender~~ an Act of Adoptive Placement or a judgment of termination and all  
8 other blood relatives of the child are relieved of all their legal duties and divested of  
9 all their legal rights with regard to the adopted child, including the right of  
10 inheritance from the adopted child and his lawful descendants, and the adopted child  
11 is relieved of all of his legal duties and divested of all his legal rights with regard to  
12 the parents, except as provided in Paragraph B.

13 \* \* \*

14 Art. 1243.2. Institution of records check

15 A. Upon the filing of a petition, the court shall immediately issue both of the  
16 following orders:

17 (1) That the ~~local sheriff or the~~ office of state police, Louisiana Bureau of  
18 Criminal Identification and Information or any other entity authorized and capable  
19 of searching and releasing the following information, conduct a records check for all  
20 federal arrests and convictions and all state arrests and convictions for each of the  
21 prospective adoptive parents. Prospective adoptive parents shall submit a set of  
22 fingerprints to the ~~sheriff or the~~ office of state police, Louisiana Bureau of Criminal  
23 Identification and Information, or any other entity authorized and capable of  
24 searching and releasing federal and state arrests and convictions in which either of  
25 the prospective adoptive parents have been domiciled since becoming a major.

26 (2) That the department conduct a records check for validated complaints of  
27 child abuse or neglect in ~~this or any other state in~~ Louisiana and facilitate this records  
28 check with any similar department in any other state in which either of the

1 prospective adoptive parents has been domiciled since becoming a major, involving  
2 either prospective adoptive parent.

3 \* \* \*

4 C. The sheriff or the office of state police, Louisiana Bureau of Criminal  
5 Identification and Information, ~~and the department,~~ or any other entity authorized  
6 and capable of searching and releasing federal and state arrests and convictions, shall  
7 accord priority to these orders and shall provide a certificate indicating all  
8 information discovered, or that no information has been found.

9 \* \* \*

10 Art. 1244.1. Opposition to intrafamily adoption; time limitations; appointment of  
11 counsel; attorney fees

12 A. A parent, whose rights have not been terminated in accordance with Title  
13 X or XI or who has not previously consented to the adoption in accordance with  
14 Article 1244, may oppose the adoption of his child by filing a clear and written  
15 answer and opposition to the adoption. The answer and opposition shall be filed  
16 with the court within fifteen days from the time of service of the filing of an  
17 intrafamily adoption petition if the person is a resident and thirty days if the person  
18 is a nonresident. The answer and objection shall include the factual basis for the  
19 objection.

20 B. Upon receipt of the opposition, the court shall appoint an attorney to  
21 represent the child, ~~subject to the limitations in Article 1121.~~ Neither the child nor  
22 anyone purporting to act on his behalf may be permitted to waive this right. The  
23 costs of the representation of the child shall be taxed as costs of court. The attorney  
24 shall advocate for the best interest of the child.

25 \* \* \*

1 Art. 1245. Parental consent not necessary; burden of proof

2 \* \* \*

3 B. When a petitioner authorized by Article 1243, or a stepparent has been  
4 granted sole or joint custody of the child by a court of competent jurisdiction and any  
5 one of the following conditions exists:

6 \* \* \*

7 (3) Any applicable grounds identified under Children's Code Article 1015.

8 C. When the spouse of a stepparent petitioner has been granted sole or joint  
9 custody of the child by a court of competent jurisdiction or is otherwise exercising  
10 lawful custody of the child, ~~and any one of the following conditions exists:~~

11 ~~(1) The other parent has refused or failed to comply with a court order of~~  
12 ~~support without just cause for a period of at least six months.~~

13 ~~(2) The other parent has refused or failed to visit, communicate, or attempt~~  
14 ~~to communicate with the child without just cause for a period of at least six months.~~

15 \* \* \*

16 Art. 1247. Notice of filing petition

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

22 Notice

23 Someone has requested to adopt your child. Louisiana law provides that  
24 under certain circumstances your consent to the adoption of your child may be  
25 dispensed with and you can permanently lose your rights as a parent by final decree  
26 of adoption. An intrafamily adoption petition has been filed requesting the court to  
27 grant an adoption and terminate your parental rights to your child. A copy of the  
28 petition is attached to this notice. If you do not file a written answer stating your  
29 opposition to the adoption within fifteen days of receiving this notice you will lose

1 the right to object to the adoption. If you choose to file a written answer stating your  
 2 opposition to the adoption you must file it with the clerk of court at  
 3 \_\_\_\_\_ where the action is pending. Only if you file an answer stating  
 4 your opposition to the adoption will you have an opportunity to present your  
 5 opposition to the adoption. If you file an answer stating your opposition, the court  
 6 will set a hearing, and you will receive notice of the hearing of your opposition. At  
 7 this hearing, the court will determine your legal status to the child, the appropriate  
 8 law that applies to the facts, and which facts it will deem true and relevant.

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

15 This is a very serious matter. You should ~~contact~~ consider contacting an  
 16 attorney immediately so that he or she can help you determine your rights. You have  
 17 the right to hire an attorney and to have him or her represent you. If you cannot  
 18 afford to hire an attorney and you oppose the adoption, your answer stating your  
 19 opposition may request that the court determine if you have the right to have an  
 20 attorney appointed. If you have filed an answer stating your opposition, whether or  
 21 not you decide to hire an attorney, you will have the right to attend the hearing of  
 22 your case, to call witnesses on your behalf, and to question those witnesses brought  
 23 against you.

24 You may call the telephone number on the attached form for information  
 25 concerning free legal aid. If you have any questions concerning this notice, you may  
 26 call the telephone number of the clerk's office which is \_\_\_\_\_.

27 ~~B. If the adoption petition names an alleged or adjudicated father and his~~  
 28 ~~parental rights have not been terminated by a court of competent jurisdiction, he~~  
 29 ~~shall be served with notice of the filing of the petition in accordance with Articles~~



1 affect the validity of any ~~surrender~~ placement, termination of parental rights,  
2 adoption, or custody of the adopted child.

3 \* \* \*

4 F. The continuing contact agreement shall contain the requirements in  
5 substantially the following form:

6 STATE OF LOUISIANA

7 PARISH OF (NAME OF PARISH)

8 AGREEMENT FOR POST-ADOPTION CONTINUING CONTACT

9 We (NAME OF ADOPTIVE PARENT(S)) and (NAME OF ADULT  
10 PERSON PERMITTED CONTACT BY ARTICLE 1269.2) agree to post-adoption  
11 continuing contact between (NAME OF ADOPTED CHILD) and (NAME OF  
12 PERSON PERMITTED CONTACT) in accordance with the provisions of this  
13 Agreement. This Agreement reflects our commitment to an on-going, cooperative  
14 relationship focused upon meeting (NAME OF CHILD)'s needs now and in the  
15 future, fully recognizing that those needs may change as (HE/SHE) matures.

16 OR

17 We (NAME OF ADOPTIVE PARENT(S)) and (NAME OF ADULT  
18 PARENT, GUARDIAN OR LEGAL CUSTODIAN OF MINOR SIBLING) agree  
19 to post-adoption continuing contact between (NAME OF ADOPTED CHILD) and  
20 (NAME OF MINOR SIBLING) in accordance with the provisions of this  
21 Agreement. This Agreement reflects our recognition of the significance and  
22 enduring nature of sibling relationships and our commitment to supporting and  
23 preserving the on-going relationship between (NAME OF CHILD) and (MINOR  
24 SIBLING).

25 We have each freely and voluntarily entered into this Agreement and intend  
26 to be bound by its terms. We have been counseled and advised by the Department,  
27 our attorney, or other appropriate professional of the meaning of these declarations,  
28 the effects of a continuing contact agreement, and the opportunity to have our own  
29 respective counsel review this Agreement.

1           We recognize that any dispute or litigation regarding the terms of this  
2 Agreement shall not affect the validity of any ~~surrender~~ placement or termination of  
3 parental rights, adoption, or custody of (NAME OF CHILD).

4           We also recognize that upon approval of the court, this Agreement becomes  
5 legally binding and any party to it may seek enforcement of its terms.

6           We also agree that (NAME OF DEPARTMENT REPRESENTATIVE or  
7 NAME OF COUNSEL FOR ADOPTIVE PARENT) shall file this Agreement with  
8 the proper court of jurisdiction by (DATE NO LATER THAN 10 DAYS FROM  
9 EXECUTION OF THE AGREEMENT) requesting the court's approval of this  
10 Agreement in accordance with Louisiana Children's Code Article 1269.5.

11           We agree to the following enforceable post-adoption continuing contact:  
12 (INSERT PROVISIONS NEGOTIATED BY PARTIES.)

13           This Agreement reflects our minimum expectations regarding continuing  
14 contact for the duration of the minority of (NAME OF CHILD). We understand that  
15 we can agree upon other continuing contact arrangements in the future through  
16 informal or formal means. However, we recognize that these minimum expectations  
17 must be preserved until such time as we modify them by mutual written agreement  
18 or the court modifies or terminates this Agreement in accordance with Louisiana  
19 Children's Code Article 1269.8.

20           We certify that we enter this Agreement in good faith and intend that it  
21 always be interpreted to serve (NAME OF CHILD)'s best interest. We agree that we  
22 will always attempt to resolve any disagreement that may arise in (HIS/HER) best  
23 interest and acknowledge that court modification or enforcement is to be used only  
24 as a last resort when all informal means of resolution have been exhausted. We  
25 acknowledge that Louisiana Children's Code Article 1269.8 authorizes the court to  
26 hear a motion to enforce, modify, or terminate this Agreement only after we have  
27 attempted in good faith to mediate the issues underlying our disagreement. Should  
28 mediation fail to resolve our differences, the court may modify or terminate this

1 Agreement upon finding a change of circumstances and the Agreement no longer  
2 serves the best interest of (NAME OF CHILD).

3 This instrument reflects the entire agreement between us regarding post-  
4 adoption continuing contact. There are no promises, terms, conditions, or  
5 obligations other than those stated in this written Agreement.

6 We acknowledge that unless it is the legal custodian of a minor sibling named  
7 in this Agreement, the Department of Children and Family Services, office of  
8 children and family services, is not a party to this Agreement and has no  
9 responsibility for enforcement of it.

10 This Agreement becomes effective upon approval of the court in accordance  
11 with Louisiana Children's Code Article 1269.5.

12 THIS DONE, READ, AND SIGNED this day of \_\_\_\_\_, 20\_\_,  
13 Parish of (NAME OF PARISH), State of Louisiana.

14 \_\_\_\_\_

15 ADOPTING PARENT

16 \_\_\_\_\_

17 OTHER ADOPTING PARENT, IF ANY

18 \_\_\_\_\_

19 ADULT PERSON PERMITTED CONTACT

20 \_\_\_\_\_

21 ADULT PARENT, GUARDIAN OR LEGAL CUSTODIAN OF MINOR SIBLING

22 \_\_\_\_\_

23 WITNESS

24 \_\_\_\_\_

25 WITNESS

26 \_\_\_\_\_

27 NOTARY

28 \* \* \*

1 Art. 1269.5. Court approval; incorporation into judgment

2 \* \* \*

3 B. If the court finds that an agreement serves the best interest of the child,  
4 the agreement shall be incorporated into a judgment of the court. An agreement  
5 reached by the parties and approved by the department and counsel representing the  
6 child is presumed to serve the best interest of the child. The judgment shall provide  
7 that failure to comply with the terms of the agreement does not constitute grounds  
8 for annulling ~~a surrender~~ an Act of Adoptive Placement or the final decree of  
9 adoption.

10 \* \* \*

11 Art. 1270. Legislative findings; purpose; release of information

12 A. Adoption is based upon the legal termination of parental rights and  
13 responsibilities of biological parents and the creation of the relationship of parent  
14 and child between an adopted person and his adoptive parents. These legal and  
15 social premises underlying adoption shall be maintained.

16 \* \* \*

17 (2) The legislature further recognizes that some biological parents and  
18 biological siblings have a strong interest in identifying information about their  
19 biological children or siblings who were ~~surrendered~~ placed for adoption, while  
20 others have no such interest.

21 \* \* \*

22 Art. 1283.7. Intervention

23 \* \* \*

24 B. Such intervention shall be limited to persons having a substantial  
25 caretaking relationship with the child for one year or longer, ~~or any other person that~~  
26 ~~the court finds to be a party in interest~~ individual that possesses substantial evidence  
27 that the adoption will not serve the best interest of the child.

28 \* \* \*

1 Art. 1285.7. Intervention

2 \* \* \*

3 B. Such intervention shall be limited to persons having a substantial  
4 caretaking relationship with the child for one year or longer, ~~or any other person that~~  
5 ~~the court finds to be a party in interest~~ individual that possesses substantial evidence  
6 that the adoption will not serve the best interest of the child.

7 Section 2. Code of Civil Procedure Article 10(A)(1) and 5091.2 are hereby amended  
8 and reenacted to read as follows.

9 Art. 10. Jurisdiction over status

10 A. A court which is otherwise competent under the laws of this state has  
11 jurisdiction of the following actions or proceedings only under the following  
12 conditions:

13 (1) An adoption proceeding in accordance with Title XII of the Children's  
14 Code, if the ~~surrendering~~ placing parent of the child, a prospective adoptive parent,  
15 the adoptive parent or parents, or any parent of the child has been domiciled in this  
16 state for at least eight months, or if the child is in the custody of the Department of  
17 Children and Family Services; and an adoption proceeding in accordance with Civil  
18 Code Article 212, if either party to the adoption of an adult is domiciled in this state.

19 \* \* \*

20 Art. 5091.2. Curator ad hoc in adoption cases

21 In complying with the provisions of ~~the Louisiana~~ Children's Code Articles  
22 1011, 1107, or 1190 and related statutes, the judge of the competent court is  
23 authorized to appoint an attorney who shall serve as curator ad hoc who will assist  
24 the court in complying with the statutory requirements for maintaining the  
25 confidentiality of termination, ~~surrender~~ placement, adoption, and related records  
26 and proceedings.

1 Section 3. R.S. 14:125.2 (A)(2) is hereby amended and reenacted to read as follows:

2 §125.2. False statements concerning paternity

3 A. It shall be unlawful for any person to willfully and knowingly make a  
4 written or oral false statement concerning the following:

5 \* \* \*

6 (2) The ~~surrender~~ placement of parental rights pursuant to the provisions of  
7 Title XI of the ~~Louisiana~~ Children's Code.

8 \* \* \*

9 Section 4. Children's Code Articles 1122(G), 1141, 1209(C), 1225, 1226, 1229(D),  
10 1231(C), 1244(C), 1244.1(D), 1254(C), 1283.7(C), and 1285.7(C) are hereby repealed in  
11 their entirety.

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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)]

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HB 855 Original

2024 Regular Session

Berault

**Abstract:** Provides relative to adoptive placement.

Proposed law changes references to "surrender" or "act of surrender" in present law to "place" or "Act of Adoptive Placement".

Present law (Ch.C. Art. 1122(A)) provides for the contents of the surrender form.

Proposed law changes present law to name the form the "adoptive placement" form and to also take into consideration whether the child is an Indian child as defined by Ch.C. Art.116(6.1).

Proposed law adds additional declarations to the adoptive placement form as follows:

- (1) The parent is capable of understanding the act and has not been interdicted.
- (2) The parent understands that upon its execution, the act cannot be revoked, cancelled, or reversed, and all parental rights are terminated unless a court finds fraud or duress or the adoption cannot be completed.
- (3) The minor child is not an Indian child as defined by Ch.C. Art 116(6.1).
- (4) The parent is not on active duty as of the date he signs the act.
- (5) No action taken obligates the parent to sign the act.
- (6) The parent understands the words of the act.

Present law (Ch.C. Arts. 1133 and 1134) provides for the notice of the filing of the surrender to the resident or nonresident father by way of registered or certified mail or electronic mail.

Proposed law expands present law to change the form from "surrender" to "Act of Adoptive Placement" and to provide that any other means of service provided by C.C.P. Art. 1313 are proper.

Present law (Ch.C. Art. 1135) provides that a declaration by the surrendering mother in the act of surrender that the father is unknown is sufficient proof that the father is unknown and diligent effort was made to identify him.

Proposed law changes present law to provide that a diligent effort is when a declaration is made under oath by the placing mother in the Act of Adoptive Placement that the father is not known and his identity is not reasonably ascertainable, and the mother provides support which can be attached to the Act of Adoptive Placement and filed in the record.

Present law (Ch.C. Art. 1136) provides that the court shall appoint a curator to appoint the father if his whereabouts are unknown as indicated in a surrender.

Proposed law changes present law the court shall appoint a curator if the mother identifies the father, declares she does not know how to contact him, or reasonable options of contacting him are not known.

Present law also provides that upon motion of the attorney for the adoptive parent, if the father has not been located within 30 days from appointment of a curator, the court shall terminate the father's rights.

Proposed law repeals present law.

Present law (Ch.C. Art. 1137) provides that the notice of opposition to adoption shall be filed within 15 days after service of the act of surrender.

Proposed law changes reference of "surrender" to "Act of Adoptive Placement" and provides that the 15 day period is prescriptive.

Proposed law provides that the court shall not order visitation between the child and the alleged father until the hearing on the merits of the objection and provides the time line for scheduling the hearing.

Proposed law provides that if the alleged father fails to timely object to the adoption, parental rights are terminated.

Proposed law provides that if the alleged father timely objects to the adoption, the ruling on the objection shall be based on Ch.C. Art. 1015.

Present law (Ch.C. Art. 1138) provides for proof of the father's substantial commitment to his parental responsibilities.

Proposed law expands present law to require that the father provide financial support for basic needs like food, medical expenses, and shelter and that the father can support the child without depending exclusively on his relatives or friends.

Proposed law provides that if the court finds the father has established parental rights, the father may be required to pay a sum for child support retroactive from the date of opposition.

Proposed law provides that if the child has resided with prospective adoptive parents and bonded with the family, the court should consider recommendations of a child custody expert when ordering the custody plan.

Present law (Ch.C. Art. 1139) provides that if the court maintains that no adoption can take place without the consent of the opposing parent, a surrender executed by the other parent shall be dissolved.

Proposed law provides that after the court makes its ruling, it shall speedily decide to whom temporary custody is awarded and consider the father, the mother, or any other suitable person.

Present law (Ch.C. Art. 1142) provides that the alleged father shall be served with a copy of the motion to terminate parental rights unless his rights have been terminated, the father has executed an act of surrender, the father has consented to the adoption, or the father has executed a release of claims.

Proposed law repeals present law.

Present law (Ch.C. Art. 1144) provides for the requirements for the placement report.

Proposed law expands present law to provide that the report include:

- (1) The date and time of the visit.
- (2) The individuals present at the time of the visit.
- (3) The location of the visit.
- (4) The duration of the visit.
- (5) An assessment of adjustment of both the child and the adoptive parent.
- (6) An assessment of the attachment and bonding between the child and the adoptive parent.
- (7) An assessment of the child's health.
- (8) A description of changes since last contact.
- (9) A summary of the visit.
- (10) The signature of a person conducting the visit or phone contact.

Proposed law provides that the agency shall utilize a social worker to ensure that the family's home is consistent with the home study report and the child is reasonably safe and healthy.

Proposed law provides that the home study visits should be within seven days of the date the child first began to live with the prospective family. Thereafter, a visit and assessment shall be completed every 60 days until the hearing on the merits of the adoption request. A minimum of three visits is required prior to the hearing on the merits of the adoption petition, including the visit prior to the final decree.

Present law (Ch.C. Art. 1171) provides for the exceptions for prior approval of private adoptive placement.

Proposed law adds an exception that having obtained a valid and continuing order of legal custody rendered in favor of the adoptive parents by a court of competent jurisdiction where the child who is the subject of the adoption is the subject of the court order.

Present law (Ch.C. Art. 1175) provides that prospective adoptive parents who have not previously obtained a certification for adoption may apply to have a child placed in their home.

Proposed law changes present law to provide that a current certification for adoption as provided for in Ch.C. Art. 1171 through 1173 is the preferred method for approving a home for adoptive placement.

Proposed law (Ch.C. Art. 1178) provides that if a court grants a request for adoptive placement, the court shall immediately issue both of the following orders:

- (1) That the office of state police, La. Bureau of Criminal Identification and Information or any other entity conduct a search on the prospective parents.
- (2) That the department conduct a search for complaints of child abuse.

Present law (Ch.C. Art. 1200) provides that the payment of expenses may not be made contingent on the placement of the child for adoption, relinquishment of the child, or consent to the adoption, and the parent shall have no right to seek reimbursement of any payments.

Proposed law changes present law to provide that all expenses shall be paid only when incurred. If special conditions exist supporting retroactive payment or reimbursement, these special conditions shall be clearly disclosed and approved by the court before disbursement.

Present law (Ch.C. Arts. 1209, 1231, 1254, 1283.7 and 1285.7) provide that intervention of a party in interest shall be for the limited purpose of presenting evidence as to the best interest of the child.

Proposed law repeals present law and provides that intervention is limited to those having a substantial caretaking relationship with the child who possess credible and substantial evidence that the adoption will not serve the child's best interest.

Proposed law (Ch.C. Art. 1223) provides that it is prohibited to accept payment from more than one potential adoption petitioner or his agent and if a parent does accept multiple payments, he shall reimburse the money.

Present law (Ch.C. Art. 1244.1) provides that the answer and opposition to an intrafamily adoption shall be filed within 15 days from the time of service of the filing of an intrafamily adoption petition.

Proposed law changes present law to provide that the opposition shall be filed within 15 days if the person is a resident and 30 days if the person is a nonresident. Proposed law also provides that the attorney shall advocate for the best interest of the child.

Present law provides that notice shall be served on the opposing petitioner pursuant to Ch.C. Art. 1144.

Proposed law repeals present law.

(Amends Ch.C Arts. 103.1(B)(4), 702(G), 1025.1(B), the heading of Title XI of the Ch.C., 1107.1 through 1107.4, 1107.5(A)(4), (B) through (E), 1107.6(C), 1107.8, 1107.9, 1108 through 1112, 1113, 1114 through 1118, 1119(A) and (C), 1120, 1121, 1122(A)(1), (4), and (5), (B)(1) through (6), (8) through (13), (C), (D), (E), (F), and (G), 1123, 1124, 1126, 1127(A) and (D), 1127.1(A) and (B), 1128, 1129, 1130(A), (B), (D), and (E), 1130.1, 1131, 1132(A), (B)(2), (D), 1133(A), 1134(A)(intro. para.), 1135(B)(1), (3), and (4), 1136, 1137(A), (C), (D), and (E), 1138(A), (B), (C), and (E), 1139, 1142(D), 1144, 1145(A), 1146(A), (B)(1) and (3), 1147, 1148, 1171, 1175, 1180(A)(intro. para.), (3), and (C), 1196(D) and (E), 1200(A) and (C), 1209(B), 1218(A), 1224, 1229(B) and (C), 1231(B),

1240(A), 1243.2(A) and (C), 1244.1(A) and (B), 1245(B)(intro. para.) and (C), 1247, 1254(B), 1256(A), 1269.3(E)(3) and (F), 1269.5(B), 1270(A)(2), 1283.7(B), 1285.7(B), C.C.P. Arts. 10(A)(1) and 5091.2, and R.S. 14:125.2(A)(2); Adds Ch.C. Arts. 1122(A)(6), (B)(15) through (17), 1134(A)(3), 1137(F) and (G), 1138(F), 1178(G) and (H), 1223(I) and (J), and 1245(B)(3); Repeals Ch.C. Art. 1122(G), 1141, 1209(C), 1225, 1226, 1229(D), 1231(C), 1244(C), 1244.1(D), 1254(C), 1283.7(C), and 1285.7(C)