

Regular Session, 2004

HOUSE BILL NO. 372

BY REPRESENTATIVE ANSARDI

(On Recommendation of the Louisiana State Law Institute)

CHILDREN/ADOPTION: Provides relative to the adoption of children

AN ACT

1 To amend and reenact Children’s Code Articles 1124(B) and (C), 1125, 1137(D), 1169(3),  
 2 1172, 1185, 1188(A), 1189, 1190(C), 1191(A)(4) and (B), 1192, 1269.1, 1269.2(B),  
 3 1269.6, and 1272(D) and to enact Children’s Code Articles 1122(B)(12) and (F)(18),  
 4 1188(C), 1189.1, 1190(D) and (E), 1191.1, and 1269.1.1, relative to the adoption of  
 5 children; to provide for the act of surrender; to provide for the statement of family  
 6 history; to provide for the age of a child eligible for adoption; to provide for the  
 7 validity of continued contact agreements; to provide for the preplacement home  
 8 study; to provide for counseling pursuant to the voluntary registry law; to correct  
 9 cross-references; to instruct the law institute to redesignate certain statutes; to  
 10 provide for an effective date; and to provide for related matters.

11 Be it enacted by the state of Louisiana.

12 Section 1. Children’s Code Articles 1124(B) and (C), 1125, 1137(D), 1169(3), 1172,  
 13 1185, 1188(A), 1189, 1190(C), 1191(A)(4) and (B), 1192, 1269.1, 1269.2(B), 1269.6, and  
 14 1272(D) are hereby amended and reenacted and Children’s Code Articles 1122(B)(12) and  
 15 (F)(18), 1188(C), 1189.1, 1190(D) and (E), 1191.1, and 1269.1.1 are hereby enacted to read  
 16 as follows:

17 Art. 1122. Contents of surrender; form

18 \* \* \*

19 B. The act of surrender shall also recite the following declarations:

20 \* \* \*



1 genetic information in accordance with the provisions of Louisiana Children’s Code  
2 Articles 1124 through 1127.

3 Affiant understands and agrees that the nonidentifying Statement of Family  
4 History will be attached to the act of surrender and included in the sealed adoption  
5 record. Affiant further understands that the Statement of Family History will be given  
6 to the prospective adoptive parent(s) at the time of placement.

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

9 ~~(Affiant declares that, in the event of a future medical necessity for which  
10 information is needed in order to treat the child, he does/does not desire that  
11 identifying information be released.)~~

12 ~~The mother does/does not desire to be notified of any opposition to the  
13 adoption or any hearing held in connection to any opposition to the adoption.~~

14 \_\_\_\_\_  
15 SIGNATURE OF SURRENDERING PARENT

16 \_\_\_\_\_  
17 NAME OF SURRENDERING PARENT

18 SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF  
19 \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_

20 NOTARY PUBLIC

21 Art. 1125. Statement of family history; contents; form  
22 A. The Statement of Family History shall contain the following  
23 nonidentifying information, if known:  
24 (1) ~~Date of birth~~ The ages of the biological parents.  
25 (2) Descriptive information about the biological parents.  
26 (3) The biological relationship between parents, if applicable.  
27 (4) Explicit and extensive medical genetic history of the biological parents  
28 and their immediate families siblings, grandparents, great grandparents, aunts, uncles,  
29 and cousins.

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

1                   (5) The child's immunization record, if applicable.

2                   (6) The child's illness history, if applicable.

3                   ~~B. The form for the Statement of Family History shall be substantially as~~  
4 follows:

5 (1)   ~~State ages of biological parents:~~                   MOTHER \_\_\_\_\_ FATHER \_\_\_\_\_

6 (2)   ~~Race of biological parents:~~                        MOTHER \_\_\_\_\_ FATHER \_\_\_\_\_

7 (3)   ~~State whether either of the biological parents or any of their immediate families~~  
8 ~~have ever had the following:~~

	YES	NO		YES	NO	
10	( )	( )	Cancer	( )	( )	Mental Illness _____
11	( )	( )	Heart trouble _____			
12	( )	( )	Diabetes			(Specify)
13	( )	( )	Epilepsy	( )	( )	Allergies _____
14	( )	( )	Stroke _____			
15	( )	( )	Asthma			(Specify)
16	( )	( )	Arthritis	( )	( )	Blood Disease _____
17	( )	( )	Kidney Ailments _____			
18	( )	( )	Tuberculosis			(Specify)
19	( )	( )	Alcoholism	( )	( )	Venereal Disease _____
20	( )	( )	Blindness _____			
21	( )	( )	Deafness			(Specify)
22	( )	( )	Neurological	( )	( )	Mental Retardation _____
23			and Muscular			_____
24						(Specify)
25	( )	( )	Glandular Disturbance _____			
26						(Specify)
27	( )	( )	Drug Abuse _____			
28						(Specify)
29	( )	( )	High Blood Pressure			
30	( )	( )	Any other genetic or familial condition or health problems			
31	_____					
32	(Specify)"					

33 (4) Please state whether the minor child has had the following shots:

	YES	NO		YES	NO	
35	( )	( )	2 mos. DPT+ OPV	( )	( )	18 mos. DPT + OPV Booster
36	( )	( )	4 mos. DPT+ OPV	( )	( )	24 mos. TB
37	( )	( )	6 mos. DPT	( )	( )	36 mos. TB
38	( )	( )	9 mos. MGB	( )	( )	48 mos. TB
39	( )	( )	12 mos. TB	( )	( )	5 yrs. DPT + OPV Booster
40	( )	( )	15 mos. MMR	( )	( )	5 yrs. TB

41 (5) Please state whether the minor child has had the following illness:

	YES	NO		YES	NO	
43	( )	( )	Pertussis	( )	( )	Appendicitis
44	( )	( )	Rubella	( )	( )	Rheumatic Fever
45	( )	( )	Mumps	( )	( )	Tonsillitis

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1		Liver disease	
2		Digestive disorders	
3		Respiratory disorders	
4		Blood disease (sickle cell, hemophilia, etc.)	
6		Glandular disturbances (thyroid, adrenal, growth, etc.)	
9		Neurological & muscular disorders (multiple sclerosis, muscular dystrophy, Tay-Sachs, etc.)	
13		Arthritis	
14		Epilepsy, seizures, convulsions	
16		Allergies (drugs, food, other)	
18		Asthma	
19		Vision problems/blindness	
20		Hearing problems/deafness	
21		Speech disorders	
22		Dental problems/braces	
23		Birth defects (cleft palate, missing digit, club foot, etc.)	
26		Curvature of spine	
27		Headaches/migraines	
28		Alcoholism	
29		Substance abuse	
30		Eating disorders/obesity	
31		Mental illness (schizophrenia, bipolar, depressive, etc.)	
34		Mental retardation–non- injury (PKU, Down syndrome, etc.)	
37		Learning disabilities (ADD, ADHD, etc.)	
39		Multiple births	
40		Miscarriages, stillbirths, neonatal deaths	
42		SIDS	
43		Rh Factor	
44		HIV (birth mother only)	

1		Venereal disease during pregnancy (birth mother only)	
2			
3			
4		Other: specify	
5		Other: specify	
6		Other: specify	

7 Are the parents of the child biologically related to each other? Yes\_\_\_\_\_ No\_\_\_\_\_

8 Please state whether the minor child has had the following immunizations:

- |    |     |     |                         |                                     |     |
|----|-----|-----|-------------------------|-------------------------------------|-----|
| 9  | YES | NO  |                         | YES                                 | NO  |
| 10 | ( ) | ( ) | Birth-2 mo. Hepatitis B | ( )                                 | ( ) |
| 11 | ( ) | ( ) | 1 – 4 mo. Hepatitis B   | ( )                                 | ( ) |
| 12 | ( ) | ( ) | 2 mo. DTaP, IPV, Hib,   | ( )                                 | ( ) |
| 13 | ( ) | ( ) | 4 mo. DTaP, IPV, Hib,   | ( )                                 | ( ) |
| 14 | ( ) | ( ) | 6 mo. DTaP, Hib,        | ( )                                 | ( ) |
| 15 | ( ) | ( ) | 6-18 mo. Hep B, IPV     | ( )                                 | ( ) |
|    |     |     |                         | ( )                                 | ( ) |
|    |     |     |                         | 12-15 mo. Hib, MMR # 1              |     |
|    |     |     |                         | 12-18 mo. Var (chickenpox)          |     |
|    |     |     |                         | 15-18 mo. DTaP                      |     |
|    |     |     |                         | 4-6 yrs. MMR # 2, DTaP, OPV         |     |
|    |     |     |                         | 11-12 yrs. MMR # 2, Var, Hep B      |     |
|    |     |     |                         | 11-16 yrs. Td (tetanus, diphtheria) |     |

16 Please state whether the minor child has had the following illnesses:

- |    |     |     |                     |     |     |
|----|-----|-----|---------------------|-----|-----|
| 17 | YES | NO  |                     | YES | NO  |
| 18 | ( ) | ( ) | Pertussis (P)       | ( ) | ( ) |
| 19 | ( ) | ( ) | Rubella (R)         | ( ) | ( ) |
| 20 | ( ) | ( ) | Mumps (M)           | ( ) | ( ) |
| 21 | ( ) | ( ) | Chicken Pox (Var)   | ( ) | ( ) |
| 22 | ( ) | ( ) | Rotavirus (Rv)      | ( ) | ( ) |
| 23 | ( ) | ( ) | Scarlet Fever       | ( ) | ( ) |
| 24 |     |     |                     |     |     |
| 25 | ( ) | ( ) | Diphtheria (D)      |     |     |
| 26 | ( ) | ( ) | Operations, specify | ( ) | ( ) |
| 27 |     |     | _____               |     |     |
| 28 |     |     | _____               |     |     |
|    |     |     |                     |     |     |
|    |     |     |                     |     |     |
|    |     |     |                     |     |     |

29 State whether the minor child has had any other serious illnesses or medical conditions.

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30 \* \* \*

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

4 \* \* \*

5 D. Notice of the hearing shall be served in accordance with Articles 1133 and  
6 1134 on the opposing father, the legal custodian, counsel appointed for the child, and the  
7 mother of the child through the agency to whom the child was placed or through the  
8 attorney who represented the mother in a private surrender unless otherwise waived in  
9 the ~~affidavit act of surrender~~ executed pursuant to Article ~~1124(B)~~ 1122.

10 \* \* \*

11 Art. 1169. Definitions

12 As used in this Title:

13 \* \* \*

14 (3) "Child" means a person under ~~seventeen~~ eighteen years of age and not  
15 emancipated by marriage.

16 \* \* \*

17 Art. 1172. Certification for adoption; authority to conduct preplacement home study

18 Any person qualified to adopt a child pursuant to Article 1221 may request a  
19 social worker acting in the employ of a licensed adoption agency, licensed clinical social  
20 worker, licensed professional counselor, licensed psychologist, or licensed psychiatrist  
21 to conduct a preplacement home study for the purpose of obtaining a certification for  
22 adoption.

23 \* \* \*

24 Art. 1185. Confidential reports

25 No one except the judge presiding in the case, his successor, a confidential  
26 intermediary as provided in Article 1191.1, or a curator ad hoc, as provided for in Article  
27 1191, shall have access to the confidential reports rendered to the court pursuant to this  
28 Title. Following final disposition of an adoption case, all confidential reports submitted

1 by the department to the judge shall be retained in the court’s confidential adoption  
2 record.

3 \* \* \*

4 Art. 1188. ~~Petitions~~ Motion or petition for disclosure

5 A. An ~~adopted child~~ adoptee or, if still a minor, his legal representative on his  
6 behalf, may file a motion or petition for disclosure of information pertaining to his  
7 adoption pursuant to Articles 1189(A), 1189(B), or 1189.1. The action shall be styled:  
8 "In re the Adoption of \_\_\_\_\_".

9 \* \* \*

10 C. The biological sibling or descendant of an adoptee, or if still a minor, his legal  
11 representative on his behalf, may file a petition for disclosure as authorized by Article  
12 1189(A).

13 Art. 1189. Grounds for disclosure

14 A. The A petition for disclosure ~~must~~ shall show compelling necessity overriding  
15 the general policy of confidentiality for adoption records ~~by demonstrating~~ by alleging  
16 any of the following:

17 (1) ~~That there~~ There are inheritance rights which are or may be due from ~~his~~ the  
18 adoptee’s biological parents under the Civil Code ~~Article 214~~.

19 (2) ~~By proof that there~~ There is a medical necessity requiring information about  
20 ~~his~~ the adoptee’s biological family or his own preadoption health history in order to treat  
21 the ~~petitioner~~ adoptee, his sibling, or his descendants.

22 (3) ~~By proof that both he~~ Both the adoptee and a person reasonably believed to  
23 be his biological parent or biological sibling have registered with the department  
24 pursuant to Chapter 15 of this Title.

25 (4) ~~That such~~ The information is otherwise required to be disclosed by federal  
26 or state law.

27 B. A motion by an adoptee seeking disclosure of nonidentifying medical or  
28 genetic information from the court’s records, acquired from a physician, agency, or any

1 other source, shall be granted. The court shall order the clerk to make such information  
2 available.

3 Art. 1189.1. Disclosure of identifying information; confidential intermediary process

4 A. An adoptee who is at least twenty-one years of age may obtain identifying  
5 information and other contact information about a biological parent if:

6 (1) Both the adoptee and the parent submit a counseling certification in  
7 accordance with Paragraph B of this Article.

8 (2) After counseling, the parent consents in writing to the release of information  
9 by the court.

10 B. Before any information is released that may lead to contact between a  
11 biological parent and an adoptee, each person shall participate in not less than one hour  
12 of counseling with a licensed clinical social worker, a social worker acting in the employ  
13 of a licensed adoption agency, a licensed professional counselor, a licensed psychologist,  
14 or a licensed psychiatrist. The confidential intermediary may perform this counseling as  
15 a part of his services. The counselor shall execute an affidavit attesting to the counseling.  
16 An adoptee or biological parent who is domiciled outside the state may obtain the  
17 required counseling from a social worker or adoption agency, board-certified or licensed  
18 in his state of domicile.

19 Art. 1190. Authority of the court

20 \* \* \*

21 C. ~~A~~ After review, the court shall grant a motion seeking nonidentifying medical  
22 or genetic information, a petition seeking information to verify a match of voluntary  
23 registration pursuant to Chapter 15 of this Title, or a petition seeking other information  
24 required by law to be disclosed ~~shall be granted.~~ ~~The~~ If necessary, the court may appoint  
25 a curator ad hoc to open and review the adoption record and original birth certificate.  
26 The curator shall report ~~back to the court with his findings within thirty days of the date~~  
27 of his acceptance of his appointments in accordance with Article 1191.



1 commensurate with the services performed. The fee shall be paid by the petitioner but  
2 shall be taxed as costs of court.

3 \* \* \*

4 Art. 1191.1. Duties of a confidential intermediary

5 A. Upon appointment, the confidential intermediary shall be responsible for:

6 (1) Securing all records pertaining to the petitioner’s request.

7 (2) Reviewing all records pertaining to the adoption.

8 (3) Reporting to the court any objections to disclosure which he may have  
9 received from a custodian of records.

10 (4) Personally conducting, in the most discreet manner possible and without  
11 revealing any information about the adoption, the inquiries necessary to locate the  
12 biological parent.

13 (5) Preserving the confidentiality of the parties from unnecessary disclosure.

14 B. In contacting the biological parents, the confidential intermediary shall reveal  
15 no information about the adoption to anyone other than a parent and then only in  
16 personal, direct, private communication with him. The confidential intermediary shall  
17 ascertain the attitude of the parent concerning the exchange of identifying information  
18 with the petitioner. The confidential intermediary shall inform the parent that counseling  
19 in accordance with Article 1189.1(B) is required. If the parent voluntarily agrees to the  
20 exchange, his consent shall be memorialized in writing.

21 C. The confidential intermediary shall report his findings to the court within  
22 thirty days of the date of his acceptance of appointment, recommending the granting or  
23 denial of the petitioner’s request and particularizing the scope and content of any  
24 disclosure order for the court’s consideration. If necessary, the confidential intermediary  
25 may request additional time within which to complete his work.

26 D. The department shall promulgate and submit for approval rules and  
27 regulations governing confidential intermediaries in accordance with the Administrative

1 Procedure Act no later than January 1, 2005, and these rules and regulations shall become  
2 effective upon publication in the Louisiana Register.

3 E. If the court determines that a confidential intermediary has violated the  
4 requirements of confidentiality, the court shall file a complaint with the state board or  
5 other authority that issued the confidential intermediary's or agency's license and may:

6 (1) Refer the case to the district attorney for the consideration of charges  
7 pursuant to Article 1186(C) or other provision of law.

8 (2) Find him in contempt of court in accordance with Chapter 2 of Title XV of  
9 this Code and impose a fine of not more than five hundred dollars or imprisonment for  
10 not more than six months, or both.

11 F. A person proceeding in forma pauperis may be required to pay the confidential  
12 intermediary's fees. However, in all cases, the confidential intermediary shall be entitled  
13 to a reasonable fee for his services, commensurate with the services performed. The fee  
14 shall be paid by the petitioner and taxed as costs of court.

15 Comments -- 2004

16 (a) Paragraph A is modeled on the records investigation of the curator ad hoc in  
17 disclosure proceedings involving the release of nonidentifying information from adoption  
18 records in Article 1191(A).

19 (b) Paragraph B reflects concern that any approach to a biological parent  
20 concerning her surrender of her child for adoption involves great delicacy and  
21 confidentiality. Although a biological father certainly may have similar sensibilities, in  
22 adoptions arranged before 1990 quite often in preparing adoption pleadings and files,  
23 agencies and lawyers ignored biological fathers of children born out of wedlock. Then  
24 the Louisiana Supreme Court declared the former adoption provisions unconstitutional  
25 as a denial of due process and equal protection to fathers in *In re B.G.S.*, 556 So.2d 545  
26 (La. 1990). Thus, older adoption records typically contain very little information about  
27 fathers that would realistically lead to present contact. The counseling requirement of  
28 Article 1189.1(B) is parallel to the counseling requirement of the voluntary registry  
29 provision, Art. 1272(D), before an adoptee and an authorized relative "will be put into  
30 contact with one another." If counseling is important to prepare relatives for reunion, as  
31 adoption specialists unanimously agree, then it must be completed before any release of  
32 identifying information is made.

33 (c) Paragraph D is modeled on Article 1173(C) which requires the Department  
34 of Social Services to develop additional administrative rules and regulations governing  
35 the conduct of preplacement home studies in adoptions. Like home studies, confidential  
36 intermediary investigations should be subject to detailed requirements concerning the  
37 training and certification of confidential intermediaries, the investigation process and the  
38 conduct of interviews with the parties.

1 (d) Paragraph F is the same fee provision as Article 1191(B) which governs fees  
2 for a curator ad hoc in disclosure proceedings.

3 Art. 1192. ~~Orders~~ Order of disclosure of identifying information and other contact  
4 information

5 ~~After hearing the petitioner, the court may order disclosure to the extent necessary~~  
6 ~~to satisfy the petitioner’s demonstrated ground for disclosure. Insofar as possible, an~~  
7 ~~order disclosing information from the court’s own records or any records obtained by the~~  
8 ~~curator ad hoc shall contain nonidentifying information about the biological family. If~~  
9 ~~identifying information must be disclosed, the court may release such information to the~~  
10 ~~person requiring it and order that its confidentiality be maintained without disclosure to~~  
11 ~~the petitioner.~~

12 A. If the confidential intermediary reports that a biological parent cannot be  
13 located or objects to the disclosure of information, the court shall deny disclosure of  
14 information as to that parent.

15 B. If the confidential intermediary reports that both biological parents are  
16 deceased, the court shall grant the petition and release any information to the petitioner.  
17 If the confidential intermediary reports that one parent is deceased, the court shall grant  
18 the petition and release any information that pertains to the deceased parent, preserving  
19 the confidentiality of identifying information pertaining to the living parent who either  
20 cannot be located or who objects to disclosure.

21 C. In considering whether to disclose identifying information, the court shall  
22 consider the report and recommendations of the confidential intermediary. If necessary,  
23 the court may order a hearing to consider evidence from the petitioner.

24 D. Before disclosing any information that could lead to contact between a  
25 biological parent and an adoptee, the court shall receive a certification that each party has  
26 participated in the counseling required by Article 1189.1(B).

27 \* \* \*

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

1 Art. 1269.1. Continuing post-adoption contact; ~~foster child adoptions; other adoptions~~

2 A. In an agency adoption in which the department is the custodian of the child,  
3 the court may approve an agreement ~~providing~~ executed in conformity with the  
4 requirements of this Chapter that provides for continuing contact between the child to be  
5 adopted and his grandparent, sibling, and any parent whose consent or relinquishment  
6 is required for the child's adoption, if both of the following conditions are met:

7 (1) The child has an established, significant relationship with that person to the  
8 extent that its loss would cause substantial harm to the child.

9 (2) The preservation of the relationship would otherwise be in the best interest  
10 of the child.

11 B. If there is no parental relationship that meets the requirements of Paragraph  
12 A, the court may approve an agreement ~~providing~~ executed in conformity with the  
13 requirements of this Chapter that provides for continuing contact between the child to be  
14 adopted and any other relative ~~by blood, adoption, or affinity~~ or foster parent whose  
15 relationship with the child meets those requirements.

16 C. When adoption is approved by the court as the permanent plan for the child,  
17 the department shall inform any parent, grandparent, sibling, or any other relative ~~by~~  
18 ~~blood, adoption, or affinity~~ or foster parent who meets the requirements of Paragraph A  
19 or B, of the possibility of post-adoption contact with the child upon agreement with the  
20 adoptive parents in accordance with the provisions of this Chapter.

21 D. In all other adoptions, the court may approve an agreement providing for  
22 continuing contact between the child to be adopted and any relative if the preservation  
23 of the relationship appears to be in the best interest of the child and the agreement has  
24 been voluntarily executed and is otherwise in conformity with the requirements of this  
25 Chapter.

26 Comment – 2004

27 Paragraphs A through C govern continuing contact in adoptions of children who  
28 have been in state supervised foster care. The only substantive change to current law is  
29 in Paragraphs B and C which authorize continued contact for the foster home parent who

1 has such a strong relationship with the child that severance of that tie would cause  
2 substantial harm to the child equivalent to the loss of contact with a close biological  
3 family member. In Louisiana, sixty-five percent of all foster child adoptions are by foster  
4 parents, but adoption is impossible for some foster families. A continuing relationship  
5 with foster parents is often key to a foster child’s successful transition in an adoptive  
6 home.

7 Art. 1269.1.1. Continuing contact agreements

8 Agreements for continuing contact of certain biological relatives with an adopted  
9 child after an adoption do not violate any public policy of this state, provided the  
10 adopting parents and biological relative voluntarily execute the agreement in conformity  
11 with the requirements of this Chapter.

12 Art. 1269.2. Continuing contact agreement; parties; required declarations

13 \* \* \*

14 B. ~~On behalf of the child who is to be adopted;~~ In an agency adoption in which  
15 the department is the custodian of the child, the department; and counsel for the child  
16 shall report to the court approval or objection to the agreement and the child’s wishes  
17 concerning continuing contact. The court-appointed special advocate (CASA) for the  
18 child, if any, may also submit recommendations to the court regarding a proposed  
19 agreement.

20 \* \* \*

21 Art.1269.6. Agreements confected after final decree

22 The adoptive parent and ~~the grandparent, sibling, and any parent whose consent~~  
23 ~~or relinquishment is required for the child’s adoption, or any other relative by blood~~  
24 ~~adoption, or affinity~~ any relative or foster parent who may be permitted continuing  
25 contact by Article 1269.1 may enter into an agreement regarding communication or  
26 contact after entry of a final decree of adoption. Any such agreement shall be  
27 enforceable only if filed with the court and approved in accordance with this Chapter.

28 \* \* \*

29 Art. 1272. Matching; verification by original documents; mandatory counseling

30 \* \* \*

1           D. Each party shall participate in not less than one hour of counseling with a  
 2 licensed clinical social worker, a social worker ~~employed by~~ acting in the employ of a  
 3 licensed adoption agency, ~~or a licensed professional counselor, a licensed psychologist,~~  
 4 or a licensed psychiatrist before they will be put into contact with one another. An  
 5 adopted person, a biological parent, or a biological sibling who is domiciled outside the  
 6 state may obtain the required counseling from a social worker or adoption agency,  
 7 licensed in his state of domicile.

8           Section 2. The Louisiana State Law Institute is hereby directed to redesignate Article  
 9 1269.1.1, as enacted by this Act, as Article 1269.1, and to redesignate Articles 1269.1  
 10 through 1269.7 as Articles 1269.2 through 1269.8, and to change all internal cross-references  
 11 as appropriate.

12           Section 3. The Louisiana State Law Institute is hereby directed to prepare comments to  
 13 the Children's Code Articles provided for in this Act for publication with the official statutes.

14           Section 4. The provisions of this Act shall become effective on January 1, 2005.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Ansardi

HB No. 372

**Abstract:** Provides for the release of confidential information in adoption proceedings and for continuing contact agreements after adoption.

Present law (Ch.C. Art. 1124) provides that the affidavit containing the statement of family history indicate the mother's desire to be notified of any opposition to the adoption.

Proposed law (Ch.C. Art. 1122) retains present law but moves it from the affidavit attesting to the execution of the statement of family history to the surrender of parental rights form.

Present law (Ch.C. Art. 1125) requires certain information to be included in the statement of family history and it provides a form.

Proposed law expands present law by additionally requiring the statement to contain the child's immunization record, the child's illness history, and descriptive information about the parents.

Present law (Ch.C. Art. 1137) provides that the mother may waive notice of hearing in the statement of family history.

Proposed law retains present law but moves the mother's waiver of notice from the affidavit attesting to the execution of the statement of family history to the act of surrender.

Present law (Ch.C. Art. 1169) provides that the maximum age of a child who may be adopted is under 17 years.

Proposed law changes the maximum age for adoption of a child from under 17 years to under 18 years.

Present law (Ch.C. Art. 1172) lists the persons who may conduct a preplacement home study.

Proposed law requires a psychologist or psychiatrist to be licensed before conducting a home study.

Present law (Ch.C. Art. 1185) authorizes certain persons to have access to confidential reports rendered in adoptions.

Proposed law extends authorization to confidential intermediaries as provided for in the Code.

Present law (Ch.C. Art. 1188) provides that an adopted child may file a petition for disclosure of information about his adoption.

Proposed law retains present law and authorizes the adoptee to begin the proceeding with a motion and authorizes siblings or descendants of the adoptee to file a petition for disclosure.

Present law (Ch.C. Art. 1189) provides for the showing of compelling necessity by the adoptee before the release of any adoption records.

Proposed law changes present law by requiring the release of nonidentifying genetic or medical information from court records as a matter of right.

Proposed law (Ch.C. Art. 1189.1) authorizes the disclosure of identifying information to an adult adoptee, who is at least 21 years of age, when a confidential intermediary, who is appointed by the court, obtains the written consent of the biological parent and the parties undergo counseling.

Present law (Ch.C. Art. 1190(C)) provides that a petition seeking to verify a match in the voluntary registry or a petition seeking information required to be disclosed by law shall be granted.

Proposed law retains present law and additionally authorizes the court to grant a motion seeking nonidentifying medical or genetic information.

Proposed law (Ch.C. Art. 1190(D)) authorizes the court to disclose nonidentifying information to the extent it is necessary to satisfy the grounds for disclosure and provides that if identifying information must be disclosed, the court may order confidentiality be maintained.

Proposed law (Ch.C. Art. 1190(E)) authorizes the appointment of a confidential intermediary to review confidential records and locate the biological parent when an adult adoptee, at least 21 years of age, petitions the court for identifying information.

Present law (Ch.C. Art. 1191) provides the duties of a curator ad hoc when appointed by the court to inspect adoption records.

Proposed law maintains present law and requires the curator to report back to the court within 30 days of his appointment and provides that the curator's fee shall be taxed as costs of court and paid by the petitioner.

Proposed law (Ch.C. Art. 1191.1) provides for the duties of the confidential intermediary, which are to review confidential records, conduct a discrete investigation, ascertain the wishes of the biological parent, and report his findings to the court. Proposed law also provides penalties for a violation of confidentiality and the payment of the confidential intermediary's fee.

Present law (Ch.C. Art. 1192) authorizes the court to disclose nonidentifying information to the extent it is necessary to satisfy the grounds for disclosure and provides that if identifying information must be disclosed, the court may order confidentiality be maintained.

Proposed law moved present law to Ch.C. Art. 1190(D) and provides for the disclosure of identifying information relative to the report of the confidential intermediary.

Proposed law provides that if the confidential intermediary is unable to locate a biological parent or the parent objects, the court shall deny disclosure of identifying information relative to that parent. Proposed law provides that if both biological parents are deceased, the court shall grant the petition.

Present law (Ch.C. Art. 1269.1) provides that agreements between the adoptive parents and relatives of the child for post-adoption continuing contact may be approved by the court.

Proposed law retains and expands present law by additionally authorizing foster parents to enter into continuing contact agreements.

Present law (Ch.C. Art. 1269.1) requires court supervision of post-adoption continuing contact agreements in all agency adoptions.

Proposed law retains present law and additionally authorizes the parties to all adoptions, including private and intrafamily adoptions, to enter into continuing contact agreements.

Proposed law (Ch.C. Art. 1269.1.1) provides that continuing contact agreements are not against public policy if the voluntary agreement is done in conformity with the provisions of the Children's Code.

Present law (Ch.C. Art. 1269.2) requires the department to submit a recommendation to the court relative to the continuing contact agreement.

Proposed law only requires the department's input when the department is the custodian of the child in an agency adoption.

Present law (Ch.C. Art. 1272) requires parties to undergo at least one hour of counseling with a licensed clinical social worker, a social worker employed by a licensed adoption agency,

or a licensed professional counselor, if they are notified that a match has been made through the voluntary registry.

Proposed law retains present law and authorizes licensed psychologists and licensed psychiatrists as counselors.

Effective January 1, 2005.

(Amends Ch.C. Arts. 1124(B) and (C), 1125, 1137(D), 1169(3), 1172, 1185, 1188(A), 1189, 1190(C), 1191(A)(4) and (B), 1192, 1269.1, 1269.2(B), 1269.6, and 1272(D); Adds Ch.C. Arts. 1122(B)(12) and (F)(18), 1188(C), 1189.1, 1190(D) and (E), 1191.1, and 1269.1.1)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Clarifies that the court may appoint a private licensed child placing agency as a confidential intermediary.
2. Provides that an adult adoptee may obtain identifying information and other contact information, not only his original birth certificate, in accordance with the confidential intermediary process.
3. Changes the age requirement for an adult adoptee to seek the disclosure of identifying information through a confidential intermediary process from over the age of 18 years to at least 21 years of age.