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January 31, 2017

Representative Taylor Barras  
Speaker of the House of Representatives  
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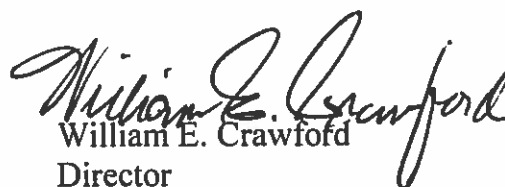
Senator John A. Alario, Jr.  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**RE: HCR 125 OF 2015 AND HCR 34 OF 2016**

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits herewith its report to the legislature relative to continuing contact with children in need of care.

Sincerely,

  
William E. Crawford  
Director

WEC/puc

Enclosure

cc: Representative Frank Hoffman

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.us](mailto:drplibrary@legis.la.us)  
Secretary of State, Mr. Tom Schedler  
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**LOUISIANA STATE LAW INSTITUTE  
CHILDREN'S CODE COMMITTEE**

**REPORT TO THE LEGISLATURE  
IN RESPONSE TO HCR 125 OF THE 2015 REGULAR SESSION  
AND HCR 34 OF THE 2016 REGULAR SESSION**

**Relative to continuing contact with children in need of care**

Prepared for the  
Louisiana Legislature on

**January 31, 2017**

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE  
CHILDREN'S CODE COMMITTEE**

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2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 125

BY REPRESENTATIVE HOFFMANN

**A CONCURRENT RESOLUTION**

To urge and request the Children's Code Committee of the Louisiana State Law Institute to study laws and policies relative to continuing contact by parents and other relatives with children who are subjects of child in need of care proceedings, and to report to the legislature findings and recommendations for protecting and promoting the well-being and best interests of such children.

WHEREAS, Title VI of the Louisiana Children's Code provides for actions known as child in need of care proceedings, referred to hereafter as "CINC proceedings", which are brought by the state to protect children who are abused, neglected, abandoned, or endangered, and can result in a termination of parental rights and a complete and permanent separation of the parent from the child; and

WHEREAS, allegations that a child is in need of care must assert one or more of several grounds, including abuse of the child perpetrated, aided, or tolerated by the parent or caretaker, or by a person who maintains a dating relationship with the parent or caretaker; deprivation of the child of necessary food, clothing, shelter, or medical care; conviction of a parent of a crime against the child; and other grounds provided for in Children's Code Article 606; and

WHEREAS, if a child is adjudicated to be in need of care, the disposition order may leave the child in a parent's custody or give custody to some other individual, a private agency, or the state; and

WHEREAS, courts have the responsibility of determining the best interest of a child in need of care with respect to custody of the child; and

WHEREAS, as the state agency tasked with ensuring the safety of children, the Department of Children and Family Services, referred to hereafter as "DCFS", makes recommendations and decisions for child placement and custody based on the immediate and ongoing needs of the child for safety and permanency in order to secure the well-being of the child; and

WHEREAS, DCFS and the courts of this state make dedicated efforts to balance the safety, permanency, and well-being of children with the constitutionally protected rights of family privacy and parental decisionmaking; and

WHEREAS, the process of making child placement and permanency decisions is often extremely challenging for family members and other persons who are involved in the life of the child; and

WHEREAS, DCFS provides foster care services to over eight thousand children annually; and

WHEREAS, within the past three years, DCFS, through its Faith in Families Initiative, has exceeded national standards by improving the rate of children being reunified with their families within twelve months of entry into foster care from seventy-two percent to seventy-six and six-tenths percent, and also improving the rate of adoption of children within twenty-four months of entry into foster care from twenty-eight percent to forty-two percent; and

WHEREAS, while DCFS has demonstrated significant improvements in achieving permanency for children in foster care expeditiously, ongoing quality improvement is essential for the state to make further progress in achieving safe and permanent family placements for children in foster care; and

WHEREAS, in order to support continued improvement of the Louisiana child welfare system, it is prudent for the legislature to periodically call for a review of applicable laws and policies concerning child welfare to ensure that the state is as responsive as possible to the needs and best interests of our state's children; and

WHEREAS, R.S. 24:204 provides that among the purposes of the Louisiana State Law Institute are securing the better administration of justice, conducting scholarly legal research and scientific legal work, and promotion of better adaptation of Louisiana law to present social needs.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Children's Code Committee of the Louisiana State Law Institute to study laws and policies relative to continuing contact by parents and other relatives with children who are subjects of child in need of care proceedings.

BE IT FURTHER RESOLVED that the Children's Code Committee shall include in its study an examination of potential changes to laws and policies which could expedite permanency for children in foster care.

BE IT FURTHER RESOLVED that the Children's Code Committee shall report findings of its study and recommendations for any changes to laws and policies which would promote the safety and well-being of children to the House Committee on Health and Welfare, the Senate Committee on Health and Welfare, the House Committee on the Administration of Criminal Justice, and the Senate Committee on Judiciary A no later than sixty days prior to the convening of the 2016 Regular Session of the Legislature of Louisiana.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute and the secretary of the Department of Children and Family Services.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

2016 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 34

BY REPRESENTATIVE HOFFMANN

**A CONCURRENT RESOLUTION**

To continue legislative authority for and request completion of a study by the Children's Code Committee of the Louisiana State Law Institute relative to continuing contact by parents and other relatives with children who are subjects of child in need of care proceedings as originally provided in House Concurrent Resolution No. 125 of the 2015 Regular Session.

WHEREAS, in House Concurrent Resolution No. 125 of the 2015 Regular Session, referred to hereafter as "HCR No. 125", the legislature called upon the Children's Code Committee of the Louisiana State Law Institute to study laws and policies relative to continuing contact by parents and other relatives with children who are subjects of legal proceedings known as "child in need of care proceedings" which are brought by the state to protect children who are abused, neglected, abandoned, or endangered; and

WHEREAS, HCR No. 125 called upon the Children's Code Committee to report to certain legislative committees prior to the convening of the 2016 Regular Session its recommendations for any changes to laws and policies which would promote the safety and well-being of children who are subjects of child in need of care proceedings; and

WHEREAS, as of the date of filing of this Resolution, the Children's Code Committee has met numerous times to develop the study called for in HCR No. 125, and has formed a special subcommittee to focus exclusively on the subject matter addressed in that instrument; and

WHEREAS, according to an interim report that the Children's Code Committee issued prior to the convening of the 2016 Regular Session, while the committee has identified several issues and deficiencies under current state laws and policies relative to

continuing contact by parents and other relatives with children who are subjects of child in need of care proceedings, its efforts to complete the report called for in HCR No. 125 are still ongoing.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby commend the Children's Code Committee of the Louisiana State Law Institute for making progress in the challenging and momentous task of formulating potential changes to laws and policies which would promote the safety and well-being of our state's most vulnerable children.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby continue legislative authority for the study by the Children's Code Committee concerning laws and policies relative to continuing contact by parents and other relatives with children who are subjects of child in need of care proceedings as called for in House Concurrent Resolution No. 125 of the 2015 Regular Session.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby request that the Children's Code Committee complete the study called for in House Concurrent Resolution No. 125 of the 2015 Regular Session, and report its findings and recommendations for any changes to laws and policies which would promote the safety and well-being of children to the House Committee on Health and Welfare, the Senate Committee on Health and Welfare, the House Committee on the Administration of Criminal Justice, and the Senate Committee on Judiciary A no later than sixty days prior to the convening of the 2017 Regular Session.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute and the secretary of the Department of Children and Family Services.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE



January 31, 2017

To: Representative Taylor F. Barras  
Speaker of the House  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

Senator John A. Alario, Jr.  
President of the Senate  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**REPORT TO THE LEGISLATURE IN RESPONSE TO HCR NO. 125 OF THE 2015  
REGULAR SESSION AND HCR NO. 34 OF THE 2016 REGULAR SESSION**

HCR No. 125 of the 2015 Regular Session requested the Children's Code Committee of the Louisiana State Law Institute to study laws and policies relative to continuing contact by parents and other relatives with children who are subjects of child in need of care proceedings, including an examination of potential changes to laws and policies which could expedite permanency for children in foster care, and to report its findings and recommendations for any changes to laws and policies which would promote the safety and well-being of children.

In response to this resolution, the Children's Code Committee formed a special subcommittee, which began collecting and reviewing all relevant federal and state law and policy. The Subcommittee identified several issues for in-depth research and Committee consideration. Insofar as the work of the Subcommittee was not yet completed, legislative authority for this study was continued in HCR No. 34 of the 2016 Regular Session.

Having completed a thorough analysis of existing social science research, national child welfare regulations and practices, federal law, Louisiana law, and policies and procedures of the Louisiana Department of Children and Families, the Children's Code Committee submits the following findings and recommendations to the Legislature.

**Finding 1: National research supports continuing contact with family**

Family bonds are essential for children to develop into well-adjusted adults. Research has firmly established the importance of healthy attachment to child development at all stages of life. Children who have experienced abuse or neglect have a heightened need for permanency, security, and emotional constancy, and disruption of existing bonds may be detrimental to the well-being of children in the child welfare system. The Adoption Assistance and Child Welfare Act of 1980 codified the belief that children in the child welfare system should grow up in families and be cared for in their own homes whenever possible to do so safely and in new permanent homes when it is not. States must make "reasonable efforts" to preserve or reunify families, and children removed from their homes must be placed in the "least restrictive, most family-like environment available."

A significant amount of empirical research has been conducted on attachment and contact with parents for children in foster care. The importance of maintaining (or improving) parent-child attachment relationships has been well documented. Because disruption of the parent-child attachment is itself traumatic for the child, removal from home is warranted only when the safety and well-being of the child is at risk. Laws and policies at the federal and state levels prioritize children remaining in or returning home with their parents whenever possible, consistent with the safety and well-being of the children.

Regular frequent contact with biological parents is considered an important aspect of family preservation and important in developing or maintaining the parent-child attachment relationship. However, there is evidence that continuing contact is not always associated with positive outcomes for children in foster care. Results may depend on individual circumstances, including the quality of the parent-child attachment, the age of the child, the level of exposure to violence, the frequency and quality of visitation, and the attitudes of social workers and foster parents.

Sibling relationships are also critically important to children, especially in families involved with child welfare. Child- and family-centered social work practice recognizes that “siblings” may include unrelated children who share strong, enduring bonds. For children entering care, being with siblings can enhance their sense of safety and well-being and provide natural mutual support. Separation from siblings results in additional loss, grief, and anxiety. Maintaining sibling bonds provides stability and continuity of identity and belonging and can increase the likelihood of achieving permanency. Sibling relationships support children during their time in care and into adulthood.

Assessment of the bonds between children and their siblings may include the degree, duration, quality, and intensity of the relationships, any safety risks, possible long-term benefits, and the preferences of the children. Social work policy and practice support maintenance of sibling relationships, including placing siblings together or, if they cannot be placed together, facilitating regular contact between them.

When children cannot remain safely in their own homes, placement with kin is considered the least restrictive placement option and is preferred over placement in foster care with nonrelatives. Kinship care may include relatives or “fictive kin,” unrelated people who have a significant relationship with a child.

Social science research conducted over the past twenty plus years has indicated that relative or “kinship” placement provides benefits to children over traditional foster care. Research findings include the following:

- Children tend to be just as safe or safer in relative foster care.
- Relative foster placements tend to be more stable than placement with unrelated foster families, and any placement move is more likely to be to another relative.
- Children are more likely to maintain sibling connections in relative care.
- Children in relative care are more likely to remain connected with their community and remain in their schools.

- Relatives are more likely to continue ties with the birth family and facilitate parent-child visitation.
- Stigma and trauma of separation from parents/family is reduced.
- Relative foster care respects family cultural traditions and may reduce racial disparities.
- Children in kinship care have fewer behavioral, education, and mental health problems.

Researchers have also noted a particular set of challenges that kinship care presents:

- Department services, supervision, and support may be less than in traditional foster care.
- Placement with a relative may lead to unintended return of the child to the parents.
- Relatives may be conflicted about the role of the parent.
- Placement based on emergency removal may limit appropriate planning and preparation.
- Unanticipated requirements to be certified as foster/adopt parents.
- Creation of conflict within the family over decision to legalize the relationship.

In recognition of the benefits of maintaining attachment relationships, federal and state law have affirmed a preference for relative placement and for joint placement of siblings when children must be removed from their homes and taken into state custody. In accordance with the research, this relative preference law does not create a legal entitlement but rather a primary consideration of relatives in determining the best interests of individual children.

**Finding 2: Federal child welfare law requires states to consider giving preference for placement to relatives and also joint sibling placement when children are removed from their parents due to abuse and neglect**

Title IV-E of Social Security Act: 42 USC 671(a)(19) and (29) provides as follows:

In order for a state to be eligible for federal IV-E funding, “the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards” and “the State shall exercise due diligence to identify and provide notice to the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 673(d) of this title to receive the payments.

This relative preference is not absolute; the state is required only to consider giving such preference. Furthermore, relative placement is conditioned upon the relative meeting all relevant state child protection standards and family or domestic violence exceptions.

Although this section does not specify when relative preference should be a priority in placing a child who cannot remain at home, the provision for “due diligence” suggests that identification and notification of relatives must be conducted timely, and the notice provision provides that the relatives’ options may be lost if they fail to respond.

Federal law further provides a preference for siblings to be placed together. Section 206 of the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Section 471(a) of the Social Security Act (42 U.S.C. 671(a))] provides that the state “shall” make reasonable efforts:

“(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

“(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.”

As in relative placement, placement of siblings together is not required. However, joint placement is the preference unless the state documents that the safety or well-being of any of the siblings is at risk.

**Finding 3. In the Louisiana Children’s Code, the preference for placement and contact with relatives is balanced with best interests of the child considerations at every stage of the proceedings**

Child in Need of Care proceedings are governed by Title VI of the Louisiana Children’s Code, which is intended to protect children from abuse, neglect, or exploitation. The purpose article of this Title provides that “[t]he **health, safety, and best interest of the child shall be the paramount concern** in all proceedings under this Title.” Ch.C. art. 601 (emphasis added).

The preference for ascertaining and maintaining family relationships is evidenced in the Children's Code. Several articles provide that all persons before the court shall "identify the name, address, and whereabouts of all grandparents, all parents of a sibling where such parent has legal custody of such sibling, and all other adult relatives of the child" so that they may be considered as placement resources if the family cannot be reunified. Ch.C. arts. 625(D)(2), 644(A)(8), 645(A), 682(B)(5), 684(E)(5), 700(B)(2). The Children's Code further supports the expectation that decisions regarding placement with relatives occur expeditiously as indicated in Article 625 (D)(1) and (2) and Article 682 (B)(4) and (5), wherein the court informs all parties of their responsibility to achieve permanency timely and to provide identifying and contact information on all adult relatives of a child. This repetitive focus on relative identification supports the goals of minimizing trauma to the child as well as timely achievement of permanency.

It is important to note that, for purposes of this Title, the term "relative" is defined in Children's Code Article 603 as "an individual with whom the child has established a significant relationship by blood, adoption, or affinity."

When an abused or neglected child must be removed from home, the Children's Code specifically directs consideration of relative placement. In an emergency removal situation, Children's Code Article 619(C)(2) provides:

(2) If the court determines that the child's welfare cannot be safeguarded without removal, the court shall immediately issue a written instanter order directing that the child be placed in the provisional custody of a **suitable relative** or other suitable individual capable of protecting the health and safety of the child or taken into the custody of the state. The order shall contain written findings of fact supporting the necessity for the child's removal in order to safeguard his welfare. If custody is given to a **suitable relative** or other suitable individual, a safety plan shall be made an order of the court and shall direct the provisional custodian to adhere to the conditions of the safety plan. The safety plan shall set forth conditions of contact with parents or other third parties.

In Child in Need of Care cases, relatives may provide placement resources either as foster parents or as legal custodians of the child. The Children's Code Article 603 definition of "foster care" includes placement in a relative's home approved and supervised by the state for provision of substitute care for a child in the department's custody.

Once a child has been removed, Children's Code Article 622 directs the priorities for placement.

#### **Article 622. Placement pending a continued custody hearing**

A. Prior to the continued custody hearing required in Article 624, a **suitable relative** or other suitable individual may seek and obtain an ex parte court order to take provisional custody of the child pending the continued custody hearing. The provisions

of Code of Civil Procedure Article 3945 are inapplicable to an ex parte order rendered pursuant to this Paragraph.

B. Unless the **best interest of the child** requires a different placement, a child who appears to be a child in need of care and his immediate removal is necessary for his protection from further abuse or neglect shall be placed, pending a continued custody hearing, in accordance with this priority:

(1) In the home of a **suitable relative** who is of the age of majority and with whom the child has been living in a wholesome and stable environment if the relative is willing and able to continue to offer such environment for the child pending an adjudication hearing and if he agrees to the safety plan.

(2) In the home of a **suitable relative** who is of the age of majority if the relative is willing and able to offer a wholesome and stable environment for the child pending an adjudication hearing and if he agrees to the safety plan.

(3) In the home of a suitable individual who is of the age of majority if he is willing and able to offer a wholesome and stable environment for the child pending an adjudication hearing and if he agrees to the safety plan.

(4) In foster care under the supervision of the department until further orders of the court.

After the continued custody hearing is held, Children's Code Article 627 again expresses a preference for placement with a suitable relative.

**Article 627. Continued custody order; special provisions; appointments; continued safety plan order**

A. Following a hearing, the court may return the child to the parents or, in accordance with Article 622, may place the child in the custody of a **suitable relative**, other suitable individual, or the department.

B. If a child is not returned to the parents, the court shall place the child in the custody of a **suitable relative** unless the court has made a specific finding that such placement is not in the **best interest of the child**. The court shall give specific oral and written reasons for its findings, which shall be made a part of the record of the proceeding.

Once the child has been adjudicated to be in need of care, placement of the child with a relative continues to be preferred in the dispositional alternatives.

### **Article 683. Disposition; generally**

A. The court shall impose the least restrictive disposition of the alternatives enumerated in Article 681 which the court finds is consistent with the circumstances of the case, the health and safety of the child, and the best interest of society.

B. The court shall place the child in the custody of a **relative** unless the court has made a specific finding that such placement is not in the best interest of the child. The court shall give specific written reasons for its findings, which shall be made a part of the record of the proceeding.

The department is required to develop a case plan for every child in its custody, detailing permanent placement efforts, with the health and safety of the child as the paramount concern. Ch.C. art. 673. The case plan must include documentation of efforts it is making to safely return the child home or to finalize the child's placement in an alternative safe and permanent home in accordance with the child's permanent plan. Children's Code Article 675(B)(7) provides as follows: "For children whose permanent plan is placement in the least restrictive, most family-like alternative permanent living arrangement, the documentation shall include the intensive, ongoing, and as of the date of the hearing, efforts made by the department to return the child home or secure a placement for the child with a **fit and willing relative**, including adult siblings, a legal guardian, or an adoptive parent."

The court considers the permanent placement options for the child at permanency hearings and determines the permanent plan for the child that is most appropriate and in the best interest of the child. Children's Code Article 702(C) provides for the following priorities of placement:

- (1) Return the child to the legal custody of the parents within a specified time period consistent with the child's age and need for a safe and permanent home. In order for reunification to remain as the permanent plan for the child, the parent must be complying with the case plan and making significant measurable progress toward achieving its goals and correcting the conditions requiring the child to be in care.
- (2) Adoption.
- (3) Placement with a legal guardian.
- (4) Placement in the legal custody of a **relative** who is willing and able to offer a safe, wholesome, and stable home for the child.
- (5)(a) Placement in the least restrictive, most family-like alternative permanent living arrangement.

In addition to placement considerations, continuing contact with relatives is also addressed in the Children's Code. Children's Code Article 668 requires a predisposition investigation to "assess whether the child has an established and significant relationship with a

parent, grandparent, sibling, or other relative which should be preserved in the best interests of the child” and requires that arrangements for continuing contact be included in the child’s case plan.

Children’s Code Article 675 provides that the child’s case plan must include an “[a]ssessment of the child’s relationships with his parents, grandparents, and siblings, including a plan for assuring that continuing contact with any relative by blood, adoption, or affinity with whom the child has an established and significant relationship is preserved while the child is in foster care. The preservation of such relationships shall be considered when the child’s permanent plan is adopted.”

At permanency hearings, the Children’s Code requires that the court “consider a child’s need for continuing contact with any **relative** by blood, adoption, or affinity with whom the child has an established and significant relationship in accordance with Article 1269.2 as one of several factors in determining the permanent plan that is most appropriate and in the **best interest** of the child.” Ch.C. art.702(D).

For a child in the custody of the department whose parental rights have been terminated, Children’s Code Article 1037.1 permits the court to order continuing contact between the child and the parent, sibling or other biological relative. The court may take expert testimony on the issue of continuing contact, and must find that continuing contact is in the best interest of the child.

Chapter 14A of Title VI authorizes continuing contact for children adopted out of foster care with relatives if: 1) the child has an established, significant relationship with the relative to the extent that its loss would cause substantial harm to the child, and 2) preservation of the relationship is otherwise in the best interest of the child. Ch.C. art. 1269.2.

**Finding 4. DCFS policy reflects federal and state requirements for relative involvement with attention to the child’s attachments and timely achievement of permanency for each child**

Relatives are given preference in consideration for DCFS placement decisions; however at every decision point is the requirement that placement selections are made as determined to be in the child’s best interest. The following written policies of the department require identification and assessment of relatives when a child is placed in foster care:

**6-230 Working With Siblings and Other Relatives**

To support timely placement and permanency decisions, DCFS is required to exercise due diligence to identify and notify all adult relatives and parents of minor siblings of each child within 30 days of placement in agency custody.

**6-300 Guidelines for Selecting a Placement**

It is the policy of DCFS to place foster children in the least restrictive, most appropriate setting available, and in close proximity to the parent’s home, consistent with the best interest and special needs of the child. Policy supports federal relative placement



guidelines and further clarifies factors to be considered when a child cannot safely reside in the home of a parent, the child should be placed in the home of suitable relatives who can meet certification requirements, if such placement is in the best interest of the child. Additionally, other factors to be considered in placement decisions include requests of the family, geographic proximity to the child's parents, attachment between child and relative, geographic proximity to school, commitment and ability of prospective placement resource to meet child's needs and provide permanency to the child.

#### **6-400 Placement With Relatives and Friends As Noncertified Caretakers**

Policy stresses consideration of relatives and friends known to the child to ease the trauma of removal of the child from their family of origin. In order to support the best interest of the child and the timely achievement of permanency, the placement decision must address the prospective caretakers commitment to permanency, maintaining of attachments for the child, and ability to meet foster care certification requirements.

#### **6-845 Case Planning for the Foster Child**

Each child's case plan should address the child's individual needs for safety, permanency, and well-being. If the child cannot be safely reunified with the biological parents and adoption is determined to be most appropriate option to provide permanency for the child, several decisions and factors are addressed, including continuing contact between the child and others. Upon establishment of a goal of adoption, again, the department must determine who has an established, significant relationship with the child to the extent that its loss would cause substantial harm to the child and preservation of the relationship would be in the child's best interest. Such relatives may be afforded continuing contact after the adoption finalization via a Continuing Contact Agreement, only with the voluntary agreement by the adoptive parents.

#### **6-915 Visitation/Continuing Contact**

An Assessment of Family Functioning is completed for each child and family and is used to guide case planning and permanency decisions. Best practices provide that each assessment should include those individuals with whom the child has an established and significant relationship and the loss of those relationships would cause substantial harm to the child and preservation of the relationships would be in the child's best interest. Visitation and/or contact between a child and such individuals should continue during the child's placement in foster care unless contraindicated as not being in the child's best interest.

#### **Recommendations:**

Louisiana law and policy currently balance a preference for relatives and best interests of the child considerations in child in need of care cases. Amendments to both law and policy do not appear to be required at this time. The Children's Code Committee will consider proposing clarification of the law if practice and/or jurisprudence demonstrate a need for such.

Insofar as compliance with federal child welfare requirements is critical to continued federal funding of Louisiana's foster care system, the state must be attentive and responsive to any federal clarification and/or amendments to relevant federal law and regulations.

In accordance with current law and policy, foster care decisions about placement and continuing contact must be made on an individualized basis in order to ensure that each child's best interest is served. While attachment to relatives, including siblings, is clearly recognized in both law and policy as a significant consideration in decision-making, continual assessment of the needs of children over the course of proceedings must factor in the changing age/developmental level of the child and new attachments the children make to foster parents and others. The best interests of the child determination, as understood in the context of decades of evolving social science research, should encompass children's needs for permanency, stability, security, and consistency, as well as the child's attachment history and sense of time. Insofar as the best interest of the child consideration is specifically referenced in current law and policy, further understanding of the application of research to child in need of care practice may be more a matter of education and training than changes to the law or policy.