

SENATE BILL NO. 76

BY SENATORS GRAY, DONAHUE, N. GAUTREAUX, KOSTELKA, MICHOT,  
MURRAY AND QUINN (On Recommendation of the Louisiana State  
Law Institute)

1 AN ACT

2 To enact Chapter 11 of Title X of the Children's Code, to be comprised of Articles 1051  
3 through 1053, and Article 1146(E), relative to the restoration of parental rights after  
4 termination; to provide for the motion to restore parental rights; to provide for the  
5 duties of the department; to provide for the hearing; to provide for the permanency  
6 hearing; to provide for the review hearing; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 11 of Title X of the Children's Code, comprised of Articles 1051  
9 through 1053, and Article 1146(E) are hereby enacted to read as follows:

10 **CHAPTER 11. RESTORATION OF PARENTAL RIGHTS**

11 **Art. 1051. Motion to restore parental rights**

12 **A. If a child is in foster care and is over the age of fifteen, counsel**  
13 **appointed for the child or the department may file a motion to restore the**  
14 **parental rights or parental contact with a parent whose rights have been**  
15 **terminated. The motion shall be filed in the court in which permanency**  
16 **hearings for the child are being conducted. When the counsel for the child files**  
17 **the motion, it shall be served on the department.**

18 **B. The court shall sign an order setting the time and place of the hearing**  
19 **on the motion not less than forty-five nor more than sixty days after the date of**  
20 **the filing of the motion. The court may continue the hearing for up to thirty**  
21 **additional days for good cause, which may include a showing by the department**

1 that it, despite its diligent effort, has been unable to complete the confidential  
 2 report required by Article 1052 within the prescribed time. Upon joint motion  
 3 of the department and the child, the court may set the date of the hearing within  
 4 fifteen days after the filing of the motion.

5 C. The moving party shall mail a copy of the motion and order to the  
 6 parents, foster parents, and CASA volunteer of the child. The parents, foster  
 7 parents, and CASA volunteer shall have a right to be heard at the hearing but  
 8 are not parties and the hearing may be conducted in their absence.

9 D. The motion shall be dismissed if the parent cannot be located. The  
 10 court may not grant the relief requested in the motion without the consent of the  
 11 parent.

12 Comments--2008

13 (a) The motion to restore parental rights or for parental contact may seek  
 14 relief for either one or both parents, depending on the circumstances of the case. The  
 15 parent whose rights are to be restored is not a party to the action and thus has no  
 16 standing to file an intervention. As such there is no right to court appointed counsel  
 17 for the parent. The parent may attend the hearing and testify if called as a witness.  
 18 Since the parent is not a party, the court may conduct the hearing in the absence of  
 19 the parent. However, if the parent cannot be located, the motion must be dismissed.  
 20

21 (b) The court must set the time and date of the hearing when the rule is filed.  
 22 The court may order a separate hearing or set the matter for the next hearing  
 23 scheduled in accordance with Chapters 15 and 16 of Title VI if it falls within the  
 24 prescribed time limits.  
 25

26 (c) "Foster care" and "department" are terms defined in Article 603.  
 27

28 Art. 1052. Duties of department

29 A. The department shall make a diligent effort to locate a parent whose  
 30 rights may be restored and notify him of the effects of the restoration, including  
 31 the obligation to pay child support or parental contribution. The notice to the  
 32 parent shall contain a copy of the motion showing the time and date of the  
 33 hearing.

34 B. Within forty-five days after the date the motion is filed, or by an  
 35 earlier date as set by the court, the department shall submit a confidential  
 36 report to the court which shall include findings on the following:

37 (1) The change in circumstances since the certification for adoption.



1 review the propriety of that judgment at future hearings with the child.

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

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5 **E. The court, at a permanency review hearing, shall inform the child of**

6 **the provisions of Chapter 11 of Title X of this Code.**

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_