

## LEGISLATIVE AND ADMINISTRATIVE ACCOMPLISHMENTS

The Public Law Center (TPLC) began operation in January, 1988. It has conducted classes in Legislative and Administrative Advocacy at Loyola and Tulane Law Schools from its inception to the present. Students have produced drafts of bills or rules for traditionally underrepresented clients. Below are descriptions of various bills enacted and administrative rules promulgated as an outgrowth of TPLC research and drafting activities.

### LEGISLATION

#### 1988 Session

- Act 303      Expedites adoption by eliminating service of process on the birth parents if there has already been a judicial termination of parental rights. La. R.S. 9:425 and 427.
- Act 551      Incorporates all the provisions of the Center's SB 391 providing for improved implementation and enforcement of the handicapped parking laws. La.R.S. 40:1732 and 1745; R.S. 47:463.3-463.5, 463.11 and 463.21.
- Act 626      Directs that the Department of Health and Hospitals establish a lead poisoning prevention program in each parish. La.R.S. 40:1299.20, et seq.
- Act 746      Provides that a child placed in a home for adoption shall be considered a dependent child of the insured adoptive parents for purposes of family health insurance coverage, even though the final adoption decree has yet to be rendered. La.R.S. 22:227.
- Act 779      Changes language in statutes dealing with the sentencing phase of capital cases to clarify the jury's role by substituting the jury's "determination" for the jury's "recommendation." La.R.S. 14:30(C) and C.Cr.P. Arts. 598, 905.3, and 905.6-905.8.
- Act 800      Creates a statutory framework for statewide implementation of the Court Appointed Special Advocates (CASA) program, gives CASA volunteers statutory access to confidential juvenile records, and establishes limited immunity from civil and criminal liability. La.R.S. 46:56(F)(1) and C.J.P. Art. 23.1.
- Act 994      Incorporates provisions of the Center's SB 358 prohibiting candidates from using contributions for personal purposes unrelated to a political campaign or the holding of a public office or party position; also requires that excess campaign funds be disposed of in certain specified ways. La.R.S. 18:1502.2(I).

### 1989 Session

- Act 179 Authorizes the Registrar of Voters to deputize volunteers to assist in the registration process. La.R.S. 18:58(E), 59(I) and (K), 59.4, 61(A) and (C), 61.1 and 61.2.
- Act 185 Creates a program for recovery and recycling of several solid waste products such as used oil, waste tires, white goods, batteries, paper, and plastics. La.R.S. 30:2411, et seq.
- Act 713 Broadens the State Health Officer's authority to include administration of the federal Safe Drinking Water Act. La.R.S. 40:5.
- Act 719 Authorizes and directs the Department of Health and Hospitals to promulgate rules creating intermediate sanctions for nursing homes required by the federal Omnibus Budget Reconciliation Act of 1987. La.R.S. 40:2009.51.
- Act 792 Authorizes and directs the Department of Public Safety and Corrections and the Department of Elections to provide for voter registration in driver's license facilities where public safety personnel have volunteered to become deputy registrars. La.R.S. 18:103.1.
- Act 803 Gives statutory authority to homes for homeless and runaway youth such as Covenant House to provide specified services, to shelter minors for up to 72 hours while parents are contacted, and to have limited immunity from civil liability. La.R.S. 46:1351, et seq.

### 1990 Session

- Act 859 Provides for civil fines of up to \$5000 per day, increases criminal penalties for violations of nursing home laws, and authorizes the Department of Health and Hospitals to promulgate rules establishing a schedule of fines and enforcement procedures. La. R.S. 40:2009.11, et seq.

### 1991 Session

- Act 12 Line item in Appropriations Bill allotting \$1.46 million for Adult Protective Services.
- Act 180 Prohibits a parent or child held responsible for the death of a decedent from recovering proceeds from a wrongful death or survival action. La.C.C. Art. 2315.5.
- Act 580 Authorizes and directs the Department of Social Services to promulgate rules establishing a schedule of fines and enforcement procedures for violations of board and care home regulations and to use the funds collected for benefit of residents. La.R.S. 40:2160 and 2161.
- Act 699 Permits hospitals at the time of discharge to furnish to patients information about organ donations and directs emergency personnel and coroners to search for donor authorization when services are provided to persons who are dead or near death. La. R.S. 17:2352.1 and 2355.1.
- Act 733 Creates the Louisiana Homeless Trust Fund for monies that will be used as a match to generate federal funds through the Stewart B. McKinney Homeless Assistance Act and the National Affordable Housing Act; also creates an advisory council and a council coordinator designated by the Secretary of the Department of Social Services to set procedures and priorities for the distribution of funds. La.R.S. 46:591-595.
- Act 844 Directs the Proprietary School Commission to provide a student complaint procedure, establish standards for the conduct of solicitors and for the operation of schools, and provide remedies for violations of established standards. La.R.S. 17:3141.3(D) and 3141.18.

### 1992 Session

- Act 13 Line item in Appropriations Bill allotting \$1.7 million for Adult Protective Services.
- Act 106 Modernizes Louisiana law by allowing the mother of an unemancipated minor to be considered as a proper party to sue or be sued for her child. La. C.C. Arts. 683 and 732.
- Act 334 Prohibits the exclusion of rehabilitated substance abusers from group homes by bringing the definition of a "handicapped" person into compliance with federal regulations. La.R.S. 28:477.

- Act 489 Allows any party to a small claims proceeding to request that the matter be referred to arbitration. La.R.S. 13:5207.1.
- Act 636 Expands the regulation of board and care homes to include facilities with two or more residents, updates the terminology, provides for licensing procedures in case of incapacity or change in identity (ownership) of the operator of a facility, and authorizes the Department of Social Services to set annual fees. La.R.S. 40:2151-54, 2156-58, and 2160-61.
- Act 637 Expands the definition of "dependent" in the family health insurance statutes to include coverage of a grandchild who is in the legal custody of a grandparent. La.R.S. 22:215(A)(2) and 215.1.
- Act 728 Establishes guidelines for the appointment of independent counsel for children in domestic relations litigation. La.R.S. 9:376.
- Act 798 Establishes an explicit right for a patient to refuse medication or treatment and provides procedures for involuntary treatment of a patient in an emergency situation. La.R.S. 28:52(H), 53(K), (55(I), 65, 66, and 171 (B) and (P).
- Act 820 Authorizes a nonprofit corporation to provide curatorship or continuing tutorship services to indigent adults who are subject to interdiction. La.R.S. 9:1031-1035.
- Act 975 Transfers adult protective services authority to the Office of Elderly Affairs for persons 60 or over and to the Department of Health and Hospitals for persons 18-59 years of age. La.R.S. 14:403.2, 46:932(10), and 36:254(10)(g).
- HB 1215 (VETOED) This bill would have allowed an individual to file for judicial review of an agency decision denying public assistance benefits either in the district court of the petitioner's domicile or in the 19th Judicial District Court. Current law only permits an appeal to be filed in the 19th Judicial District Court in Baton Rouge.

### 1993 Session

- Act 539 Authorizes an individual seeking judicial review of an agency's denial of public assistance to appeal the decision in the district court of the petitioner's domicile in addition to the 19th Judicial District Court in Baton Rouge. La.R.S. 46:107(C) and (D)

- Act 548 Requires registered nurses working primarily in hospital emergency rooms or pediatric wards to have pediatric trauma and pediatric advanced life support training. La.R.S. 40:2109.3
- Act 592 Increases to ten years the prescriptive period for certain sex offenses involving a victim under 17 years of age, starting when the victim reaches the age of 17. La.C.Cr.P. Arts. 571.1 and 573
- Act 620 Authorizes an unemployment compensation administrator to waive an overpayment at the same hearing in which the overpayment is determined. La.R.S. 23:1713(A), (B), and (C)
- Act 639 Allows a relative, spouse, interested party, or nonprofit advocacy organization to petition for removal of a curator due to nonperformance or breach of duties. La.R.S. 9:1025
- Act 694 Increases to ten years the prescriptive period for a civil action against a person for sexual abuse of a minor, starting when the minor attains majority. La.C.C. Art. 3498.1
- Act 775 Allows the name of the biological father to be placed on a child's birth certificate when the biological father is not the husband of the mother, provided that the mother, husband, and biological father all consent. La.R.S. 40:34(B)(1)(a) and (h)
- Act 820 Prohibits discrimination against persons with disabilities in a series of state laws, thereby bringing Louisiana statutes into compliance with the federal Americans with Disabilities Act of 1990. La.R.S. 51:2231-2232, et al.
- Act 835 Establishes an ombudsman program in the Office of the Attorney General for persons with mental retardation or developmental disabilities who reside in state-funded residential facilities. La.R.S. 28:395-399.

#### 1994 Regular Session (Fiscal)

- Act 11 Establishes a deduction from state income tax for housing adaptations related to disabilities. La.R.S. 47:59.1.

#### 1994 Third Extraordinary Session

- Act 66 Allows a municipality with a population of more than 450,000 to place liens on property for unpaid violations of public health, housing, fire code, environmental, or historic district ordinances, to file suit to obtain possession of the property, and to sell such property for the enforcement of liens. La.R.S. 33:2576 and 33:1236.20.
- Act 99 Allows a municipality with a population of more than 450,000 to sell abandoned immovable property that has been adjudicated to the municipality for nonpayment of ad valorem taxes to certain parties. La.R.S. 33:2880.
- Act 135 Changes the name of the Community Improvement Agency (CIA) to the New Orleans Redevelopment Authority (NORA) and deletes the requirement of a third-party purchase agreement prior to initiation of expropriation proceedings.

#### 1995 Regular Session

- Act 30 Repeals Act No. 65 of the 1994 Third Extraordinary Session of the Legislature of Louisiana, relative to the New Orleans Redevelopment Authority.
- Act 287 Establishes qualifications of child custody dispute mediators. La.R.S. 9:334.
- Act 375 Amends Section 8.1(B) of Act 155 of the 1984 Regular Session, as amended by Act Nos. 65 and 135 of the 1994 Third Extraordinary Session, to expand the expropriation authority of the New Orleans Redevelopment Authority by including commercial and residential premises as well as vacant lots.
- Act 521 Allows health care providers to disclose and exchange immunization records and histories pursuant to oral instructions from the patient or the patient's representative and subjects to civil damages any person who discloses immunization information for any purpose other than administering or receiving vaccinations. La.R.S. 40:1299.96(A)(2)(b), 44:7(A), 46:56(D), and 44:17.
- Act 646 Authorizes seizure and sale of blighted and abandoned property in municipalities with populations in excess of four hundred fifty thousand pursuant to the same provisions of law as govern judicial sales of immovable property for failure to pay the liens on such property. La.R.S. 13:2575(C).

- Act 647 Allows a municipality with a population greater than 450,000 persons to sell property adjudicated to the municipality and to establish conditions for the sale of such property. La.R.S. 33:2864.1.
- Act 652 Allows a municipality with a population greater than 450,000 persons to transfer ownership of immovable property to a nonprofit organization or to a first-time homebuyer based on appraised value, without bid, and subject to a lease-purchase agreement. La.R.S. 33:4717.
- Act 1078 Incorporates the Center's amendments requiring licensing boards, upon receipt of a certified court order of suspension for nonpayment of child support, to specify the exact date and hour a hunting, fishing, trade, occupation, professional, or driver's license will be suspended and requiring the court to mail orders indicating noncompliance with an order of child support to the state Supreme Court and the Louisiana State Bar Association when the obligor is an attorney licensed to practice law in this state. La.R.S. 9:315.33(B) and 37:2952(B).
- Act 1287 Establishes standards for the use of seclusion and restraint in both adult and juvenile treatment facilities for the mentally ill. La.R.S. 28:2(24)-(29), 28:171(D) and (E), and La.Ch.C. Articles 1404(18)-(22), 1409(D) and (E), and 1416(C)(12).
- Act 1319 Amends the Constitution to reduce from 36 months to 18 months within the City of New Orleans the time period in which an owner can redeem property seized and sold for non-payment of taxes. Article VII, Section 25(B) of the Louisiana Constitution.
- Act 1320 Amends the Constitution to allow a municipality with a population greater than 450,000 persons to donate blighted and abandoned housing property to nonprofit organizations. Article VII, Section 14(B) of the Louisiana Constitution.

#### 1996 Regular Session (Fiscal)

- Act 27 Establishes a credit against the state income tax for employment-related expenses to persons maintaining households including physically or mentally disabled dependents. La.R.S. 47:297.1.

#### 1997 Regular Session

- Act 101 Expands the number of New Orleans agencies authorized to identify blighted housing property, removes City Planning Commission oversight, and transfers final decision making authority from the City Council to an administrative hearing officer acting pursuant to La.R.S. 13:2575 and 2576 or other applicable law. Section 8.1(B)(introductory paragraph), (C), and (D) of Act No. 170 of the 1968 Regular Session, as enacted by Act No. 155 of the 1984 Regular Session and amended by Act No. 135 of the 1994 Third Extraordinary Session and Act No. 375 of the 1995 Regular Session.
- Act 102 Prohibits a bank from charging a fee to a non-customer who cashes a check drawn on the bank. La.R.S. 10:4A-209(e).
- Act 463 Provides that property seized for unpaid code liens by a municipality of more than 450,000 is subject to the same advertising requirements as govern judicial sales of immovable property. La.R.S. 13:2576(2)(g).
- Act 835 Allows a law enforcement officer to issue a traffic citation for lack of motor vehicle liability insurance when the owner of a motor vehicle registered in another state is required by that state to carry such coverage. La.R.S. 32:363.1(C)(1)(a) and (F).
- Act 903 Authorizes a judge exercising juvenile jurisdiction to request a search of the child abuse central registry for a justified report of child abuse or neglect naming a potential CASA volunteer as an alleged perpetrator. La.R.S. 46:56(F)(1) and Ch. C. Art. 616(B).
- Act 904 Allows a judge exercising juvenile authority to request at no cost a record check of a potential CASA volunteer's criminal history. Ch. C. Art 424(B)(1) and La.R.S. 15:587.1(A) and (D).
- Act 1103 Expands the authority of DSS to investigate child abuse by a member of the household. Ch. C. Art. 603(3).
- Act 1104 Protects private employees from retaliation for disclosure of an employer's illegal activity, policy or practice. La.R.S. 23:967.
- Act 1117 Establishes guidelines and procedures to govern the appointment of a provisional curator pending the hearing on a suit for interdiction. LCC Arts. 394, 400, and 405; and LCCP Art. 4549.
- Act 1122 Creates a rebuttable presumption of poverty when a person seeking waiver of court costs shows that the person is receiving public assistance benefits or that the person's income is less than or equal to 125% of the federal poverty level. LCCP Art. 5183(A)(1) and (B).



- Act 1127 Establishes a procedure for expungement of juvenile criminal records. Ch. C. Arts. 917-922.
- Act 1144 Establishes qualifications for mediators who supervise co-mediation training in child custody dispute proceedings and authorizes the Louisiana State Bar Association's Alternative Dispute Resolution section to promulgate rules and regulations. La.R.S. 9:334(A) and (E).
- Act 1232 Prohibits managed care organizations from interfering with a health care provider's ethical responsibility to patients. La.R.S. 22:2018(E), (F), and (G).
- Act 1267 Defines physicians who volunteer services at public schools as state health care providers for purposes of malpractice liability. La.R.S. 40:1299.39(A) (1)(a)(iv)(aa).
- Act 1268 Requires health insurance companies to provide coverage for ambulance transportation of a temporarily medically disabled mother when accompanying an ill newborn infant to the nearest hospital or neonatal special care unit. La.R.S. 22:215.1(B).
- Act 1269 Requires a prosecuting agency to retain public records pertaining to a criminal conviction for three years from the date the conviction becomes final. La.R.S. 44:36(E).
- Act 1495 Amends the Constitution to provide that when a municipality of more than 450,000 persons attempts to sell property for unpaid taxes and the property fails to attract a minimum bid, it may be sold at a subsequent auction without minimum bid, and any outstanding tax debt on the property is canceled upon completion of the sale. Article VII, Section 25(A) of the Constitution of Louisiana.

#### 1999 Regular Session

- Act 1087 Provides seventy-two hours of safe harbor for runaway youths at certain shelters. R.S. 46:1352-1353

#### 2003 Regular Session

- Act 498 Amends the statute relating to abatement of public nuisances by adding definitions, providing the right for any ten residents of the election precinct where the nuisance exists to petition for an injunction or order of abatement, and providing for an award of expenses. R.S. 13:4711-4713.
- Act 734 Creates the Louisiana Housing Trust Fund in the Louisiana Housing Finance Agency and provides for the use of the funds for redevelopment, rehabilitation, and preservation of affordable housing for low-income individuals and families. R.S. 40:600.26
- Act 1238 Requires child passenger restraint systems, according to age and weight, for children transported in motor vehicles. R.S. 32:295

#### 2004 Regular Session

- Act 75 Requires the Department of Social Services to develop and distribute a standard form for reporting child abuse. The form must include a place to record the number of times the reporter has reported the family. Ch.C. Art. 610(B) & (D)
- Act 76 Limits liability against persons who report child abuse under certain circumstances. Ch.C. Art. 611
- Act 78 Amends the mandatory reporting procedure for child abuse or neglect cases to permit reporting to both the local child protection unit and the local or state law enforcement agency. Ch.C. Art. 610
- Act 241 Authorizes the taking of testimony outside the courtroom and the video-taped recordation of statements from protected persons (children and persons with mental disabilities) in certain circumstances, such as sexual abuse. R.S. 15:283, 440.1, 440.2, 440.4, 440.5, and 440.6; Ch.C. Arts. 322-324, 326-329, 652, and 1027
- ACT 444 Prohibits a local housing authority from terminating the tenancy of a household or resident for reasons of domestic abuse, dating violence, or family violence committed against a resident or member of the household. R.S. 40:506(D)
- ACT 457 Requires that the Department of Social Services retain confidential investigation reports determined not to be justified (1) for seven years from the date of the determination or (2) under certain circumstances, until the youngest child in the family reaches 18. Ch.C. Art. 615(E)

- ACT 877 Requires that the sheriff provide notice of seizure of immovable property to any occupants or tenants of the seized property. C.C. Art. 2293(B)
- ACT 882 Establishes guidelines for law enforcement officers to use in determining if one party is the dominant aggressor in cases of domestic abuse or dating violence. R.S. 46:2140
- HCR 218 Creates the Domestic Violence Law Enforcement Training Task Force to study current domestic violence training procedures for all Louisiana law enforcement officers and to make recommendations to the legislature.
- HSR 31 A request to the House Committee on Labor and Industrial Relations to study the effects of domestic violence in the workplace, to research the number of unemployment benefit claims filed in states that provide benefits for victims and determine the amount of money paid as a result of those claims, to examine the options available to employees in resolving issues arising from domestic violence, and to report its findings to the House of Representatives before the 2005 session.
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## **ADMINISTRATIVE RULES**

- (1) Department of Public Safety and Corrections  
Office of Motor Vehicles
- Regulates the issuance of handicapped parking placards. 14 La. Register 889 (Dec. 20, 1988)
- (2) Department of Health and Hospitals  
State Health Officer
- Revises certain standards regarding lead poisoning screening. 15 La. Register 88 (Feb. 20, 1989)
- (3) Department of Economic Development  
Used Motor Vehicle and Parts Commission
- Regulates the sale of extended warranties on used automobiles. 15 La. Register 295 (April 20, 1989)

- (4) Department of Health and Hospitals  
Health Standards Section

Defines and implements intermediate sanctions for nursing homes including civil fines, temporary management, and the resident's trust fund. Promulgated by emergency rule, 16 La. Register 5, 10, 12, 13 (Jan. 20, 1990); final rule, 16 La. Register 310, 315, 317, 318 (April 20, 1990)

- (5) Department of Elections  
Commissioner of Elections

Implements voter registration in driver's license facilities. 16 La. Register 606 (July 20, 1990)

- (6) Department of Health and Hospitals  
Office of Public Health

Provides a procedure that allows a displaced person to obtain a certified copy of his birth certificate. 17 La. Register 375 (April 20, 1991)

- (7) Department of Education  
Proprietary School Commission

Establishes student complaint procedure. 17 La. Reg. 355 (April 20, 1991)

- (8) Department of Public Safety and Corrections  
Corrections Services

Establishes procedures for parole consideration of offenders determined to be permanently incapacitated or terminally ill. 17 La. Register 481 (May 20, 1991); final rule, 17 La. Register 605 (June 20, 1991)

- (9) Department of Health and Hospitals  
Bureau of Health Services Financing

Establishes regulations concerning sanctions for nursing facilities, non-compliance with federal and state regulations, conditions of participants in the Medicaid program, and accepted health care standards. 17 La. Register 1145 (Nov. 20, 1991); final rule, 18 La. Register 189 (Feb. 20, 1992)

- (10) Department of Education  
Proprietary School Commission

Establishes a system of civil fines and sanctions for violations of state statutes and regulations pertaining to the administration and operation of proprietary schools. 19 La. Register 372 (March 20, 1993); final rule, 19 La. Register 740 (June 20, 1993)

- (11) Department of Health and Hospitals  
Bureau of Health Services Financing

Establishes regulations concerning advance directives for health care providers to comply with federal and state law governing individuals' rights to control the decisions that relate to their own medical care. 20 La. Register 486 (April 20, 1994); final rule, 20 La. Register 791 (July 20, 1994)

- (12) Department of Social Services  
Office of Community Services

Establishes a procedure to disburse funds from the Louisiana Homeless Trust Fund. 21 La. Register 82 (January 20, 1995); final rule, 21 La. Register 401 (April 20, 1995)

- (13) Department of Insurance  
Commissioner of Insurance

Mandates the use of plain language and certain standardized provisions in automobile insurance policies. 21 La. Register 1132 (October 20, 1995)