

SUPREME COURT OF LOUISIANA

NO. 14-CJ-2509

STATE OF LOUISIANA IN THE
INTEREST OF A.A., J.A., A.D., H.D., & J.D.

PER CURIAM

In this application, the mother of five minor children seeks review of the judgment of the court of appeal affirming an order of the district court adjudicating the children in need of care and removing them from her custody. *State of Louisiana in the Interest of A.A., J.A., A.D., H.D., & J.D.*, 14-658 (La. App. 3rd Cir. 10/1/14), ___ So. 3d ___. The sole basis for removal was the mother's violation of a voluntary safety plan which prohibited F.D., the father of three of the children, from having any contact with the children or being in the children's home during the course of a child abuse investigation.¹

At the time of this case, there was no specific authority in the Children's Code which permitted the State to implement a safety plan in lieu of removing the children from their parent's custody. Rather, a safety plan could only be ordered in connection with removal from custody. *See* former La. Ch. Code art. 619(C)(2) (permitting the court to order a safety plan "[i]f custody is given to a suitable relative or other suitable individual..."). In 2014, the legislature amended the Children's Code through Act 436 of 2014. As amended by this act, La. Ch. Code art. 619(C)(3) now permits **the court** to issue a safety plan order if it concludes the child's welfare may be protected without removal.

Given this procedural background, the safety plan in the instant case, which was not approved by the court, is of questionable validity. Moreover, we find the

¹ The district court also relied on other evidence, but the court of appeal determined this evidence was inadmissible hearsay. The State has not sought review, and that portion of the court of appeal's judgment is now final.

mother did not intentionally violate the plan, as she only allowed F.D. back into the family home after she had the child who was allegedly abused examined at a local emergency room and no evidence of abuse was found. Under these circumstances, the district court abused its discretion in removing the children from the mother's custody.

Accordingly, the writ is granted. The judgment of the district court is reversed. Nothing in this order shall preclude the State from seeking additional relief, including, but not limited to, the imposition of a court-ordered safety plan pursuant to La. Ch. Code art. 619.