

2018 Regular Session

HOUSE BILL NO. 559

BY REPRESENTATIVE JAMES

FAMILY LAW: Provides with regard to voiding acknowledgment of paternity

1 AN ACT

2 To amend and reenact Civil Code Article 136(C), relative to visitation rights; to provide for
3 extraordinary circumstances; to provide for a definition; to provide for a burden of
4 proof; to provide for cases of assistive reproductive technology; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 136(C) is hereby amended and reenacted to
8 read as follows:

9 Art. 136. Award of visitation rights

10 * * *

11 C. ~~Under extraordinary circumstances, any~~ (1) Any other relative, by blood
12 or affinity, or a former stepparent or stepgrandparent may be granted reasonable
13 visitation rights if the court finds by clear and convincing evidence that it is in the
14 best interest of the child and extraordinary circumstances exist.

15 (2) Extraordinary circumstances shall include, but are not limited to, either
16 of the following:

17 (a) A a determination by a court that a parent is abusing a controlled
18 dangerous substance.

19 (b) A case of assistive reproductive technology when the alleged father has
20 executed an authentic act of acknowledgment.

1 (3) For purposes of this Article, "former stepparent" includes an unmarried
 2 party who has lived in concubinage with the parent and assumed an active role in
 3 parenting the child.

4 * * *

5 Section 2. The provisions of this Act shall apply to cases of assistive reproductive
 6 technology when the alleged father executed an authentic act of acknowledgment on or after
 7 August 1, 2016.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 559 Reengrossed

2018 Regular Session

James

Abstract: Imposes a heightened burden of proof on cases to award visitation rights, extends visitation rights to alleged fathers in cases of assistive reproductive technology, and includes unmarried parents as stepparents eligible for visitation rights.

Present law provides that in extraordinary circumstances, relatives and former stepparents or stepgrandparents may be granted visitation rights if the court finds it is in the best interest of the child. Provides that extraordinary circumstances include a determination by a court that a parent is abusing a controlled dangerous substance.

Proposed law requires that the showing that visitation rights are in the best interest of the child and that extraordinary circumstances exist be made by clear and convincing evidence. Proposed law further includes as an extraordinary circumstance a case of assistive reproductive technology when the alleged father has executed an authentic act of acknowledgment. Proposed law includes as a former stepparent an unmarried party who has lived in concubinage with the parent and assumed an active role in parenting the child.

(Amends C.C. Art. 136(C))

Summary of Amendments Adopted by House

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

1. Change the phrase "assisted conception" to "assisted reproductive technology"
2. Add restriction that the proposed law exception shall apply to cases when the alleged father is not the presumed father.
3. Provide that the proposed law exception applies to authentic acts of acknowledgment executed on or after Aug. 1, 2016.

The House Floor Amendments to the engrossed bill:

1. Remove provisions creating an exception to rebutting an acknowledgment of paternity in cases of assistive reproductive technology.
2. Include an alleged father who signs an authentic act of acknowledgment of paternity in cases of assistive reproductive technology as a candidate for visitation rights.
3. Impose the clear and convincing evidence burden of proof in cases to award visitation rights.
4. Provide a definition of "former stepparent".