

2018 Regular Session

HOUSE BILL NO. 100

BY REPRESENTATIVE WHITE

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Civil Code Articles 2315.8(B) and 2362.1(B), Children's Code Article  
3 1570.1(A), R.S. 9:367, and R.S. 46:2136.1(A), and to enact R.S. 9:314, relative to  
4 the award of costs and attorney fees; to provide for the assessment of costs and  
5 attorney fees in the Domestic Abuse Assistance Act and the Post-Separation Family  
6 Violence Relief Act; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Articles 2315.8(B) and 2362.1(B) are hereby amended and  
9 reenacted to read as follows:

10 Art. 2315.8. Liability for damages caused by domestic abuse

11 \* \* \*

12 B. Upon motion of the defendant or upon its own motion, if the court  
13 determines that ~~any an~~ an action alleging domestic abuse seeking damages under this  
14 Article is frivolous or fraudulent, the court shall award costs of court, reasonable  
15 attorney fees, and any other related costs to the defendant and any other sanctions  
16 and relief requested pursuant to Code of Civil Procedure Article 863.

17 \* \* \*

18 Art. 2362.1. Obligation incurred in an action for divorce

19 \* \* \*

20 B. ~~Notwithstanding the provisions of Paragraph A of this Article, the court~~  
21 ~~may assess~~ The obligation for attorney fees and costs incurred by the perpetrator of  
22 abuse or awarded against him in an action for divorce granted pursuant to Article

1           103(4) or (5) or in an action in which the court determines that a spouse or a child  
 2           of one of the spouses was the victim of domestic abuse committed by the perpetrator  
 3           during the marriage, and in incidental actions, ~~thereafter against the perpetrator of~~  
 4           ~~abuse,~~ which shall be a separate obligation of the perpetrator.

Revision Comments - 2018

5   R.S. 9:314 authorizes a court to exercise its discretion to assess  
 6           attorney fees and costs against the perpetrator of domestic abuse in divorce  
 7           and incidental actions. Paragraph B of this Article makes the obligation to  
 8           pay any fees or costs assessed under R.S. 9:314 a separate obligation of the  
 9           perpetrator of domestic abuse. It also makes the obligation incurred by the  
 10          perpetrator to pay his own attorney fees and costs the perpetrator's separate  
 11          obligation.  
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13           Section 2. Children's Code Article 1570.1(A) is hereby amended and reenacted to  
 14          read as follows:

Art. 1570.1. Costs paid by abuser

15   A. All court costs, attorney fees, costs of enforcement and ~~modifications~~  
 16           modification proceedings, costs of ~~appeals~~ appeal, evaluation fees, and expert  
 17           witness fees incurred in maintaining or defending any proceeding concerning  
 18           domestic abuse assistance in accordance with the provisions of this Chapter shall be  
 19           paid by the perpetrator of the domestic violence, including all costs of medical and  
 20           psychological care for the abused adult, or for any of the children, necessitated by  
 21           the domestic violence.  
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23   Section 3. R.S. 9:367 is hereby amended and reenacted and R.S. 9:314 is hereby  
 24          enacted to read as follows:

§314. Attorney fees and court costs in domestic abuse cases

25   The court may assess against the perpetrator of domestic abuse all court  
 26           costs, attorney fees, costs of enforcement and modification proceedings, costs of  
 27           appeal, evaluation fees, and expert witness fees in an action for divorce granted  
 28           pursuant to Civil Code Article 103(4) or (5), or in an action in which the court  
 29           determines that a party to a divorce or a child of one of the spouses was the victim  
 30           of domestic abuse committed by the perpetrator during the marriage, and in  
 31           incidental actions.  
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(a) This provision is consistent with the Post-Separation Family Violence Relief Act (*see* R.S. 9:367) and the Domestic Abuse Assistance Act (*see* R.S. 46:2136.1 and Ch.C. Art. 1570.1).

(b) *See* Civil Code Article 105, listing incidental actions in family law matters.

\* \* \*

§367. Costs

In any family violence case, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in furtherance of this Part shall be paid by the perpetrator of the family violence, including all costs of medical and psychological care for the abused spouse, or for any of the children, necessitated by the family violence.

Section 4. R.S. 46:2136.1(A) is hereby amended and reenacted to read as follows:

§2136.1. Costs paid by abuser

A. All court costs, attorney fees, costs of enforcement and ~~modifications~~ modification proceedings, costs of ~~appeals~~ appeal, evaluation fees, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance in accordance with the provisions of this Part shall be paid by the perpetrator of the domestic violence, including all costs of medical and psychological care for the abused adult, or for any of the children, necessitated by the domestic violence.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

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