

SENATE SUMMARY OF HOUSE AMENDMENTS**SB 291****2018 Regular Session****Barrow****KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

FAMILY LAW. Provides for family violence and domestic abuse as factors to consider in determining visitation and custody. (gov sig)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Adds that the potential for a child to be abused shall be a primary consideration in determining the best interest of the child.
2. Removes specific provision regarding from history of family violence, sexual abuse, or domestic violence of the parties from a primary consideration in determining the best interest of the child.
 - (a) Adds provisions for judicial determination of a history of family violence.
3. In considering the best interest of the child, provides that the exception to one's willingness and ability to facilitate and encourage a close and continuing relationship is a party has reasonable concerns based on objectively substantial evidence.
4. Adds provision that the presumption that no parent having a history of perpetrating family violence be overcome upon successful completion of a treatment program designed for sexual abusers after the last instance of abuse.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

SB 291 Reengrossed

2018 Regular Session

Barrow

Present law provides that if parents agree to custody, a court shall award in accordance with the parties agreement or in the best interest of the child.

Proposed law retains present law and provides that R.S. 9:364 may apply in awarding custody.

Present law provides for factors in determining the best interest of a child.

Proposed law retains present law and adds the following factors in determining the best interest of a child:

- (1) The potential for the child to be abused which shall be the primary consideration;
- (2) The history of substance abuse, violence, and criminal activity of the parties;
- (3) The history of family violence, sexual abuse, or domestic violence of the parties; and
- (4) The mental and physical health of each party.

- (5) Willingness and ability to facilitate and encourage a close and continuing relationship with the child except when objectively substantial evidence has caused a party to have reasonable concerns.

Proposed law, in determining a award of custody or visitation in cases involving a history of family violence, domestic violence including sexual abuse, the court may consider whether a party has sought relief. Provides that the court may only find a history of committing family violence if the court finds that one incident has resulted in serious bodily injury or finds more than on incident of family violence.

Present law provides relative to restriction visitations for a parent who has subjected a child to physical abuse or sexual abuse.

Proposed law retains present law and provides relative to restriction on visitations for a parent who has subjected a child, stepchild or other household member to a history of family violence or has willingly permitted abuse to his or her children or stepchildren despite the ability to prevent it. Further provides that the court may allow supervised visitations by an abusive parent upon their completion of a court monitored domestic abuse intervention program, by the abusive parent.

Proposed law also provides that the court shall prohibit visitations and contact between a sexually abusive parent and a child, until parent has completed a treatment program designed for sexual abusers since the last incident of domestic violence or family abuse.

Present law provides that a presumption that no parent with a history of family violence shall be awarded sole custody or joint custody.

Proposed law retains present law and adds that no parent who has subjected a child, stepchild, or household member to sexual abuse shall have sole custody or joint custody.

Present law further provides that the presumption against custody shall be overcome by:

- (1) successfully completing a court monitored domestic abuse intervention program;
- (2) a parent not using alcohol; and
- (3) a parent's participation as custodial parent because of other parent's absence, mental illness, or substance abuse.

Proposed law retains present law and adds that the presumption shall be overcome by successfully completing a treatment program designed for sexual abusers after the last instance of abuse.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.C. Arts. 132, 134, 136(A) and R.S. 9:341 and 364)

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