

RÉSUMÉ DIGEST

ACT 412 (SB 291)

2018 Regular Session

Barrow

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

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

Prior law provided for factors in determining the best interest of a child.

New law retains prior 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.

New law, in determining an 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 one incident of family violence.

Prior law provided relative to restriction on visitations for a parent who has subjected a child to physical abuse or sexual abuse.

New law retains prior 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.

New 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.

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

New law retains prior 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.

Prior law further provided 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.

New law retains prior 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 (May 23, 2018).

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