

2024 Regular Session

HOUSE BILL NO. 722

BY REPRESENTATIVE THOMAS

(On Recommendation of the Louisiana State Law Institute)

CHILDREN/CUSTODY: Provides for the modification of custody

1 AN ACT

2 To enact Civil Code Article 138, relative to modification of child custody; to provide for the
3 modification of custody under certain circumstances; to provide for certain
4 evidentiary standards; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Civil Code Article 138 is hereby enacted to read as follows:

7 Art. 138. Modification of custody award

8 A. When a court has awarded custody pursuant to a judgment of custody
9 rendered by consent of the parties, the award may be modified by the court upon a
10 change in circumstances that materially affects the welfare of the child if the
11 modification is in the best interest of the child.

12 B. When a court has awarded custody pursuant to a judgment of custody
13 rendered by a considered decree, based on evidence presented after a full evidentiary
14 hearing or trial, the award may be modified by the court in accordance with the best
15 interest of the child upon proof of either of the following:

16 (1) By clear and convincing evidence, that the harm likely to be caused by
17 a change of custody is substantially outweighed by the advantages to the child.

18 (2) That the continuation of the present custody award is so harmful to the
19 child as to justify modification.

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 722 Original

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Thomas

Abstract: Provides for the modification of child custody.

Proposed law (C.C. Art. 138) codifies the jurisprudential standards for the modification of custody set forth in *Bergeron v. Bergeron*, 492 So. 2d 1193, 1200 (La. 1986).

Proposed law provides for modification upon a change of circumstances that materially affects the welfare of the child, when the parties consented to the award of custody, if modification is in the best interest of the child.

Proposed law provides for modification in the best interest of the child, when the award of custody was by considered decree and based on evidence presented at a hearing or trial, when either the present custody award is harmful to the child or the harm likely to be caused by a change in custody is outweighed by the advantages.

Proposed law authorizes the parties to agree in writing to the standards provided in proposed law or to lesser standards.

(Adds C.C. Art. 138)