

2024 Regular Session

SENATE BILL NO. 29

BY SENATOR MILLER (On Recommendation of the Louisiana State Law Institute)

DIVORCE. Provides for the allocation of community property following a petition for divorce. (8/1/24)

1 AN ACT

2 To amend and reenact R.S. 9:374(G)(2) and to enact R.S. 9:375(C), relative to the allocation
3 of community property; to provide for factors for consideration in allocating
4 community property; to provide for attorney fees; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:374(G)(2) is hereby amended and reenacted and R.S. 9:375(C) is
7 hereby enacted to read as follows:

8 §374. Possession and use of family residence or community movables or
9 immovables

10 * * *

11 G. (1) * * *

12 (2) The court shall determine allocation of community property after
13 considering:

14 (a) The custody of the children and exclusive use and occupancy of the
15 family residence.

16 (b) The total community property, **including the liquidity of community**
17 **assets, and spousal management rights in community assets and liabilities.**

1 (c) The need of a spouse for funds to maintain a household prior to partition.

2 (d) The need of a spouse to receive legal representation during the course of
3 the proceedings.

4 **(e) The history of domestic abuse during the marriage.**

5 **(f) The history of financial control by one of the spouses during the**
6 **marriage.**

7 * * *

8 §375. Award of attorney fees

9 * * *

10 **C. In an action in accordance with R.S. 9:374, the court may award**
11 **attorney fees and costs when it determines that either party has caused**
12 **unreasonable delay.**

13 Revision Comments – 2024

14 A party's failure to respond to a court order amounts to contempt of court and
15 is punishable under the provisions of Louisiana law. See, e.g., Code of Civil
16 Procedure Article 221 et seq. This revision extends the availability of attorney fees
17 and costs beyond acts involving contempt of court to frivolous filings and purposeful
18 unreasonable delay. Attorney fees and costs are not available for delays that are
19 intentional but reasonable.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Hanna Gettys.

DIGEST

SB 29 Engrossed

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Miller

Present law (R.S. 9:374) authorizes the court to award the use and occupancy of community
movables or immovables to either spouse, after a petition for divorce is filed, and prior to
partition.

Proposed law retains present law and requires the court to consider certain factors in
determining the allocation of community property, including the liquidity of community
assets, the history of domestic violence, and the history of financial control.

Present law (R.S. 9:375) authorizes the award of attorney fees in support, contribution, and
visitation actions.

Proposed law retains present law and additionally authorizes an award of attorney fees in
actions allocating the use of community property if either party causes unreasonable delay.

Effective August 1, 2024.

(Amends R.S. 9:374(G)(2); adds R.S. 9:375(C))