

RÉSUMÉ DIGEST

ACT 448 (HB 770)

2024 Regular Session

Carpenter

Existing law (C.C.P. Art. 10) provides that a court has jurisdiction over a proceeding for support of an adult child with a disability as provided in R.S. 9:315.22(E).

New law retains existing law but provides that the proceedings are in accordance with R.S. 9:315.22.1.

Prior law (R.S. 9:315.1(B)(2)) provided that as a direct result of Hurricane Katrina or Rita, the courts were authorized to deviate from the child support guidelines if the guidelines were not in the best interest of the child.

New law removes prior law.

Prior law (R.S. 9:315.1(C)) provided that in determining whether to deviate from the guidelines, the court was authorized to consider the following:

- (1) That the combined adjusted gross income of the parties was equal to or less than \$950.
- (2) That the combined adjusted gross income of the parties was not within the amounts shown on the schedule in R.S. 9:315.19.

New law repeals prior law.

Prior law (R.S. 9:315.11(A)(2)) provided that absent evidence of a party's actual income or income earning potential, there was a rebuttable presumption that the party was able to earn a weekly gross amount equal to 32 hours at a minimum wage, according to the laws of his state of domicile or federal law, whichever was higher.

New law changes prior law to provide that upon an express finding by the court that evidence of a party's actual income or income earning potential is totally absent, there is a rebuttable presumption that the party can earn a weekly gross amount equal to 32 hours at a minimum wage.

Prior law (R.S. 315.11(C)(1)) provided that a party was not deemed voluntarily unemployed or underemployed if he had been temporarily unable to find work or had been temporarily forced to take a lower-paying job as a direct result of Hurricane Katrina or Rita.

New law removes the provision in prior law relating to Hurricanes Katrina and Rita and provides that a party shall not be deemed voluntarily unemployed or underemployed if the party is responsible for the care of a disabled child.

New law (R.S. 9:315.13(A)) provides that if the combined adjusted gross income of the parties falls below the lowest level, the court shall determine an award for support based on the following:

- (1) Actual earnings or income.
- (2) The factors listed in R.S. 9:315.1(A)(1).
- (3) Any other evidence of a parent's ability to pay.

New law (R.S. 9:315(D)) provides that under no circumstances shall the court determine an award of child support that is not in the best interest of the child or would be inequitable to the parties.

New law (R.S. 9:315.14) provides the procedure and requirements for continuation of child support for a minor child who has a developmental disability.

New law (R.S. 9:315.22(D)) provides that an award of child support shall be continued by the court with respect to any minor child with a developmental disability. A contradictory motion shall be filed before the minor child attains the age of majority or is emancipated, relieving him of the disabilities attached to minority.

Prior law (R.S. 9:315.22(E)) authorized an award for child support to a child with an intellectual or physical disability to continue and authorized the action to be filed regardless of the age of the child. Further provided that the major child or his tutor or curator was the proper party to file the action.

New law repeals prior law.

New law (R.S. 9:315.22.1(A)) provides that an award for child support continues to any unmarried child who requires substantial care because of an intellectual or physical disability that is manifested before the child attains the age of majority. A disability shall not include substance abuse or addiction.

New law (R.S. 9:315.22.1) provides that an action to establish an initial award for custody may be filed regardless of the age of the child. The domiciliary parent or any other proper party as determined by law may file actions related to the support.

Effective January 1, 2025.

(Amends R.S. 9:315.1(B) and (C), 315.11(A)(2) and (C)(1), 315.13 and 315.22(C) and (D) and C.C.P. Art. 10(A)(9); Adds R.S. 9:315.14 and 315.22.1; Repeals R.S. 9:315.21(F) and 315.22(E))