

2018 Regular Session

HOUSE BILL NO. 100

BY REPRESENTATIVE WHITE

(On Recommendation of the Louisiana State Law Institute)

DOMESTIC ABUSE: Provides with respect to attorney fees and costs in domestic abuse cases

1 AN ACT

2 To amend and reenact Civil Code Articles 2315.8(B) and 2362.1(B), Children's Code Article  
3 1570.1(A), R.S. 9:367, and R.S. 46:2136.1(A), and to enact R.S. 9:314, relative to  
4 the award of costs and attorney fees; to provide for the assessment of costs and  
5 attorney fees in the Domestic Abuse Assistance Act and the Post-Separation Family  
6 Violence Relief Act; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Articles 2315.8(B) and 2362.1(B) are hereby amended and  
9 reenacted to read as follows:

10 Art. 2315.8. Liability for damages caused by domestic abuse

11 \* \* \*

12 B. Upon motion of the defendant or upon its own motion, if the court  
13 determines that any action ~~alleging domestic abuse~~ seeking damages under this  
14 Article is frivolous or fraudulent, the court shall award costs of court, reasonable  
15 attorney fees, and any other related costs to the defendant and any other sanctions  
16 and relief requested pursuant to Code of Civil Procedure Article 863.

17 \* \* \*

18 Art. 2362.1. Obligation incurred in an action for divorce

19 \* \* \*





Present law (C.C. Art. 2315.8) provides for the award of punitive damages in a tort action based on acts of domestic abuse and provides consequences if the action brought is frivolous.

Proposed law retains present law and clarifies that the damages and consequences of a frivolous action under present law only relate to tort actions and do not relate to any action in which domestic abuse may be alleged.

Present law (C.C. Art. 2362.1) authorizes the court to assess attorney fees and costs in a divorce based on domestic abuse and provides that they are the separate obligation of the abuser.

Proposed law retains present law that classifies an obligation of attorney fees and costs awarded pursuant to a divorce based on domestic violence as a separate obligation but moves the authorization of the assessment to proposed law (R.S. 9:314).

Present law (Ch.C. Art. 1570.1) provides that in domestic abuse assistance cases, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees shall be paid by the perpetrator of the family violence.

Proposed law retains present law and makes grammatical corrections only.

Proposed law (R.S. 9:314) retains present law in C.C. Art. 2326.1 that authorizes the court to assess attorney fees and costs in a divorce based on domestic abuse.

Present law (R.S. 9:367) provides that in any family violence case, all court costs, attorney fees, evaluation fees, and expert witness fees shall be paid by the perpetrator of the family violence.

Proposed law retains present law and makes the award consistent with the Domestic Abuse Assistance Act by also including costs of enforcement and modification proceedings and costs of appeal.

Present law (R.S. 46:2136.1) provides that in domestic abuse assistance cases, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees shall be paid by the perpetrator of the family violence.

Proposed law retains present law and makes grammatical corrections only.

(Amends C.C. Arts. 2315.8(B) and 2362.1(B), Ch.C. Art. 1570.1(A), R.S. 9:367, and R.S. 46:2136.1(A); Adds R.S. 9:314)