

Regular Session, 2012

SENATE BILL NO. 153

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

CHILDREN. Provides for relocation of the residence of a child. (8/1/12)

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AN ACT

To amend and reenact Subpart E of Part III of Chapter 1 of Code Title V of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:355.1 through 355.19, to enact R.S. 9:357, and to direct the Louisiana State Law Institute to add a comment under Civil Code Article 134, relative to child custody and the relocation of the residence of a child; to provide for definitions; to provide for applicability; to provide for the proposal of relocation; to provide for notice; to provide for an objection; to provide for a limitation on an objection; to provide for the failure to object; to provide for the burden of proof; to provide for court authorization to relocate; to provide for a temporary order; to provide for the priority for trial; to provide for factors to determine a contested relocation; to provide for the appointment of a mental health expert; to provide for a modification of custody; to provide for a posting of security; to provide for sanctions; to provide for the use of technology; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart E of Part III of Chapter 1 of Code Title V of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:355.1 through 355.19, is

1 hereby amended and reenacted to read as follows:

2 SUBPART E. RELOCATING A CHILD'S RESIDENCE

3 §355.1. Definitions

4 As used in this Subpart:

5 ~~(1) "Equal physical custody" means that the parents share equal parental~~
6 ~~authority of the child absent a court order to the contrary.~~

7 ~~(2) "Parent entitled to primary custody" means a parent designated by a court~~
8 ~~order as the sole or primary custodian or domiciliary parent within a joint custody~~
9 ~~arrangement, but does not include a parent who has equal physical custody.~~

10 ~~(3)~~ **(1)** "Principal residence of a child" means:

11 (a) The location designated by a court to be the primary residence of the
12 child.

13 (b) In the absence of a court order, the location at which the parties have
14 expressly agreed that the child will primarily reside.

15 (c) In the absence of a court order or an express agreement, the location, if
16 any, at which the child has spent the majority of time during the prior six months.

17 ~~(4)~~ **(2)** "Relocation" ~~means:~~ **means a**

18 ~~(a) Intent to establish legal residence with the child at any location outside~~
19 ~~of the state.~~

20 ~~(b) If there is no court order awarding custody, an intent to establish legal~~
21 ~~residence with the child at any location within the state that is at a distance of more~~
22 ~~than one hundred fifty miles from the other parent. If there is a court order awarding~~
23 ~~custody, then an intent to establish legal residence with the child at a distance of~~
24 ~~more than one hundred fifty miles from the domicile of the primary custodian at the~~
25 ~~time the custody decree was rendered.~~

26 ~~(c) A change in the principal residence of a child for a period of sixty days~~
27 ~~or more, but does not include a temporary absence from the principal residence.~~

28 Comments - 2012 Revision

29 (a) This revision moves the geographic threshold for application of the
30 relocation statutes to R.S. 9:355.2.

1 (b) Absences of more than sixty days which are temporary - including, for
2 instance, a summer holiday - are not relocation as defined in this Subpart.

3
4 §355.2. Applicability

5 A. This Subpart shall apply to an order regarding custody of or visitation
6 with a child issued:

7 (1) On or after August 15, 1997.

8 (2) Before August 15, 1997, if the existing custody order does not expressly
9 govern the relocation of the child.

10 **B. This Subpart shall apply to a proposed relocation when any of the**
11 **following exist:**

12 (1) **There is intent to establish the principal residence of a child at any**
13 **location outside the state.**

14 (2) **There is no court order awarding custody and there is an intent to**
15 **establish the principal residence of a child at any location within the state that**
16 **is at a distance of more than seventy-five miles from the domicile of the other**
17 **parent.**

18 (3) **There is a court order awarding custody and there is an intent to**
19 **establish the principal residence of a child at any location within the state that**
20 **is at a distance of more than seventy-five miles from the principal residence of**
21 **the child at the time that the most recent custody decree was rendered.**

22 (4) **If either no principal residence of a child has been designated by the**
23 **court or the parties have equal physical custody, and there is an intent to**
24 **establish the principal residence of a child at any location within the state that**
25 **is at a distance of more than seventy-five miles from the domicile of a person**
26 **entitled to object to relocation.**

27 ~~B.C.~~ To the extent that a ~~provision~~ of this Subpart conflicts with an existing
28 custody order, this Subpart shall not apply to the terms of that order that ~~governs~~
29 **govern** relocation of the child.

30 ~~C.D.~~ This Subpart shall not apply when **either of the following**
31 **circumstances exist:**

1 (e) See R.S. 9:355.7 and 355.8 regarding the persons entitled to object to a
2 proposed relocation. Not all persons entitled to notice of a relocation are permitted
3 to object.
4

5 (f) The purpose of Paragraph (2) of Subsection D of this Section is to prevent
6 the application of Louisiana's child relocation statutes, requiring the party proposing
7 relocation to notify a person entitled to receive notice of the details of the proposed
8 move, in situations involving family violence, domestic abuse, and the like. The
9 reference to "Part V of Chapter 1 of Code Title V of Code Book I of Title 9,"
10 however, includes R.S. 9:372.1, which governs an injunction prohibiting harassment.
11 When an injunction has been issued only under R.S. 9:372.1, there is insufficient
12 justification for exempting the proposed relocation from the requirements of the
13 child relocation statutes.
14

15 **§355.3. Persons authorized to propose relocation of principal residence of a**
16 **child**

17 **The following persons are authorized to propose relocation of the**
18 **principal residence of a child by complying with the notice requirements of this**

19 **Subpart:**

20 **(1) A person designated in a current court decree as the sole custodian.**

21 **(2) A person designated in a current court decree as a domiciliary**
22 **parent in a joint custody arrangement.**

23 **(3) A person sharing equal physical custody under a current court**
24 **decree.**

25 **(4) A person sharing equal parental authority under Chapter 5 of Title**
26 **VII of Book I of the Louisiana Civil Code.**

27 **(5) A person who is the natural tutor of a child born outside of marriage.**

28 Comments - 2012 Revision

29 (a) Persons authorized to propose relocation of a child's principal residence
30 are generally those with legal decision-making authority over the child, including the
31 sole custodian or domiciliary parent in a joint custody arrangement or the natural
32 tutor of a child born outside of marriage. When parents are married and sharing
33 equal parental authority, both are entitled to propose relocation. Regardless of who
34 holds decision-making authority for the child, however, persons who share equal
35 physical custody of the child under a court decree are equally authorized to propose
36 relocation.
37

38 (b) For the definition of "equal physical custody," see R.S. 9:355.2,
39 Comment (b).
40

41 ~~§355.3.~~**§355.4.** Notice of proposed relocation of child to other parent ;**court**
42 **authorization to relocate**

1 knows the information required to be furnished by Subsection B of this Section, if
 2 the parent person did not know and could not reasonably have known the
 3 information in sufficient time to ~~comply with~~ **provide** the sixty-day notice, and it is
 4 not reasonably possible to extend the time for relocation of the child.

5 B. The following information, ~~if available~~, shall be included with the notice
 6 of intended relocation of the child:

7 **(1) The current mailing address of the person proposing relocation.**

8 ~~(1)(2)~~ The intended new residence, including the specific **physical** address,
 9 if known.

10 ~~(2)(3)~~ The **intended new** mailing address, if not the same.

11 ~~(3)(4)~~ The home **and cellular** telephone ~~number~~ **numbers of the person**
 12 **proposing relocation**, if known.

13 ~~(4)(5)~~ The date of the ~~intended move or~~ proposed relocation.

14 ~~(5)(6)~~ A brief statement of the specific reasons for the proposed relocation
 15 of a child, ~~if applicable~~.

16 ~~(6)(7)~~ A proposal for a revised schedule of **physical custody or** visitation
 17 with the child.

18 ~~(7)(8)~~ A statement ~~informing the other parent~~ that **an the person entitled to**
 19 **object shall make any** objection to the proposed relocation ~~shall be filed in writing~~
 20 **by registered or certified mail, return receipt requested**, within thirty days of
 21 receipt of the notice and ~~that the other parent~~ should seek legal advice immediately.

22 C. A parent person required to give notice of a proposed relocation shall
 23 have a continuing duty to provide the information required by this Section as that
 24 information becomes known.

25 Comment - 2012 Revision

26 The proposal for a revised custody and visitation schedule described in
 27 Paragraph (7) of Subsection B of this Section has no legal effect. Any existing
 28 custody or visitation order remains in effect unless and until a court orders a
 29 modification of custody or visitation. The intent, however, is to require the person
 30 proposing relocation to consider and describe in writing how all persons entitled to
 31 custody or visitation under an existing order may continue to maintain their
 32 relationship with the child after the proposed relocation.
 33

1 §355.6. Failure to give notice of relocation

2 The court may consider a failure to provide notice of a proposed relocation
3 of a child as:

4 (1) A factor in making its determination regarding the relocation of a child.

5 (2) A basis for ordering the return of the child if the relocation has taken
6 place without notice or court authorization.

7 (3) Sufficient cause to order the ~~parent seeking to relocate the child~~ **person**
8 **proposing relocation** to pay reasonable expenses ~~and attorney fees~~ incurred by the
9 person objecting to the relocation.

10 **§355.7. Objection to relocation of child**

11 **Except for a person with equal physical custody of a child under a court**
12 **decree, a person who is entitled to object to a proposed relocation of the**
13 **principal residence of a child shall make any objection within thirty days after**
14 **receipt of the notice. The objection shall be made in writing by registered or**
15 **certified mail, return receipt requested, or delivered by commercial courier as**
16 **defined in R.S. 13:3204(D), to the mailing address provided for the person**
17 **proposing relocation in the notice of proposed relocation.**

18 **A person with equal physical custody of a child under a court decree**
19 **need not make an objection under this Section. The rights of persons with equal**
20 **physical custody are governed by R.S. 9:355.4(B).**

21 Comments - 2012 Revision

22 (a) The objection procedure described in this Section is subject to the
23 limitations described in R.S. 9:355.8. Some persons entitled to receive notice of a
24 proposed relocation of a child's residence are not permitted to object to the proposed
25 relocation.

26 (b) A person who is entitled to object to a proposed relocation but chooses
27 not to do so may nonetheless commence an action to change legal or physical
28 custody or the visitation schedule in light of the changed circumstances of the
29 relocation.
30

31 (c) In the absence of timely objection, retaining an attorney to handle an
32 objection to relocation is not sufficient to require the person proposing relocation to
33 initiate a proceeding.
34

35 (d) For the definition of "equal physical custody," see R.S. 9:355.2,
36 Comment (b).
37

§355.8. Limitation on objection by non-parents

A non-parent may object to the relocation only if he has been awarded custody. A non-parent who has been awarded visitation may initiate a proceeding to obtain a revised visitation schedule.

Comments - 2012 Revision

(a) This Section recognizes the primacy of parental rights over non-parent rights regarding relocation of a child. See generally *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054, 147 L.Ed. 49 (2000) (holding that Washington's non-parent visitation statute violated mother's fundamental right to raise her children as she saw fit). Although a non-parent who has not been awarded custody may be entitled to notice of a proposed relocation and may not object to a relocation, the non-parent may, if granted visitation, commence an action to revise the visitation schedule in light of the changed circumstances of the relocation.

(b) This provision governs objections by non-parents only. It does not limit the right of a parent to object to a proposed relocation.

§355.9. Effect of objection or failure to object to notice of proposed relocation

Except as otherwise provided by R.S. 9:355.4(B), the person required to give notice may relocate the principal residence of a child after providing the required notice unless a person entitled to object does so in compliance with R.S. 9:355.7.

If a written objection is sent in compliance with R.S. 9:355.7, the person proposing relocation of the principal residence of the child shall initiate within thirty days after receiving the objection a summary proceeding to obtain court approval to relocate. Court approval to relocate shall be granted only after a contradictory hearing.

Comment - 2012 Revision

If, at any time, the person proposing relocation and those entitled to object enter into the express written agreement on relocation described in R.S. 9:355.2(D), no summary proceeding or court approval to relocate is necessary. The relocation statutes do not apply to restrict moves for which the parties agree. R.S. 9:355.2(D).

~~§355.13.~~ **§355.10. Burden of proof**

The relocating parent **person proposing relocation** has the burden of proof that the proposed relocation is made in good faith and is in the best interest of the child. ~~In determining the child's best interest, the court shall consider the benefits~~

1 ~~parent~~ **person** relocating the child to provide reasonable security guaranteeing that
 2 the ~~court-ordered~~ **court-ordered physical custody or** visitation with the child will
 3 not be interrupted or interfered with ~~by the relocating parent~~ or that the relocating
 4 ~~parent~~ **person** will return the child if court authorization for the ~~removal~~ **relocation**
 5 is denied at ~~the final hearing~~ **trial**.

6 **E. An order not in compliance with the provisions of this Section is not**
 7 **enforceable and is null and void.**

8 Comment - 2012 Revision

9 Subsection (E) of this Section tracks the language of C.C.P. Art. 3945(E),
 10 which makes temporary custody orders unenforceable and null and void if not issued
 11 in compliance.
 12

13 ~~§355.9.~~**§355.13.** Priority for ~~temporary and final hearing~~ **trial**

14 A hearing **trial** on ~~either a temporary or permanent order permitting or~~
 15 ~~restricting~~ **the proposed** relocation shall be ~~accorded appropriate priority on the~~
 16 ~~court's docket~~ **assigned within sixty days after the filing of the motion to obtain**
 17 **court approval to relocate.**

18 Comments - 2012 Revision

19 (a) The trial referenced here is the final hearing on the merits of the
 20 relocation; it is to be distinguished from a preliminary hearing on relocation,
 21 described in R.S. 9:355.12.
 22

23 (b) After entry of an order on relocation, a Louisiana court may retain
 24 jurisdiction consistent with Louisiana law and the Uniform Child Custody
 25 Jurisdiction and Enforcement Act. (R.S. 13:1814).
 26

27 ~~§355.12.~~**§355.14.** Factors to determine contested relocation

28 A. In reaching its decision regarding a proposed relocation, the court shall
 29 consider ~~the following~~ **all relevant** factors **in determining whether relocation is**
 30 **in the best interest of the child, including the following:**

31 (1) The nature, quality, extent of involvement, and duration of the ~~child's~~
 32 relationship **of the child** with the ~~parent~~ **person** proposing to ~~relocate~~ **relocation** and
 33 with the non-relocating ~~parent~~ **person**, siblings, and other significant persons in the
 34 child's life.

1 (2) The age, developmental stage, needs of the child, and the likely impact
2 the relocation will have on the child's physical, educational, and emotional
3 development, ~~taking into consideration any special needs of the child.~~

4 (3) The feasibility of preserving a good relationship between the non-
5 relocating ~~parent~~ **person** and the child through suitable **physical custody or**
6 visitation arrangements, considering the logistics and financial circumstances of the
7 parties.

8 (4) The child's ~~preference~~ **views about the proposed relocation**, taking into
9 consideration the age and maturity of the child.

10 (5) Whether there is an established pattern of conduct ~~of the parent~~ **by either**
11 **the person** seeking **or the person opposing** the relocation, either to promote or
12 thwart the relationship of the child and the ~~nonrelocating~~ **other** party.

13 (6) ~~Whether~~ **How** the relocation of the child will ~~enhance~~ **affect** the general
14 quality of life for ~~both the custodial parent seeking the relocation and the child,~~
15 including but not limited to financial or emotional benefit ~~or~~ **and** educational
16 opportunity.

17 (7) The reasons of each ~~parent~~ **person** for seeking or opposing the relocation.

18 (8) The current employment and economic circumstances of each ~~parent~~
19 **person** and ~~whether or not~~ **how** the proposed relocation is ~~necessary to improve~~ **may**
20 **affect** the circumstances of the ~~parent seeking relocation of the child.~~

21 (9) The extent to which the objecting ~~parent~~ **person** has fulfilled his ~~or her~~
22 financial obligations to the ~~parent~~ **person** seeking relocation, including child support,
23 spousal support, and community property, **and alimentary** obligations.

24 (10) The feasibility of a relocation by the objecting ~~parent~~ **person**.

25 (11) Any history of substance abuse, **harassment**, or violence by either
26 ~~parent~~ **the person seeking or the person opposing relocation**, including a
27 consideration of the severity of ~~such~~ **the** conduct and the failure or success of any
28 attempts at rehabilitation.

29 (12) Any other factors affecting the best interest of the child.

1 the proposed relocation is in **a report to assist the court in determining** the best
2 interest of the child.

3 ~~§355.15.~~**§355.16.** Application of factors at initial hearing

4 If the issue of relocation is presented at the initial hearing to determine
5 custody of and visitation with a child, the court shall ~~apply~~ **consider also** the factors
6 set forth in ~~R.S. 9:355.12~~ **R.S. 9:355.14** in making its initial determination.

7 Comment - 2012 Revision

8 In an initial custody determination, the court will generally consider the
9 factors concerning best interest of the child set out in Civil Code Article 134. This
10 statute requires the court to consider application of the relevant factors specific to
11 relocation in R.S. 9:355.14 as well as the Article 134 factors. Dicta in *McLain v.*
12 *McLain*, 974 So.2d 726, 733 (La. App. 4th Cir. 2007), stating that the Article 134
13 factors are "arguably not applicable" when relocation is at issue in the initial custody
14 hearing, are no longer accurate under this revision.
15

16 ~~§355.17.~~ Continuing jurisdiction

17 ~~If the court grants authorization to relocate, the court may retain continuing,~~
18 ~~exclusive jurisdiction of the case after relocation of the child as long as the non-~~
19 ~~relocating parent remains in the state.~~

20 ~~§355.11.~~**§355.17.** Proposed relocation not basis for modification **Modification of**
21 **custody**

22 Providing notice of a proposed relocation ~~of a child shall~~ **does** not constitute
23 a change of circumstance warranting a change of custody. ~~Moving~~ **Relocating**
24 without prior notice **if there is a court order awarding custody** or ~~moving~~
25 **relocating** in violation of a court order may constitute a change of circumstances
26 warranting a modification of custody.

27 **Any change in the principal residence of a child, including one not**
28 **meeting the threshold distance set out in R.S. 9:355.2, may constitute a change**
29 **of circumstances warranting a modification of custody.**

30 Comments - 2012 Revision

31 (a) In accordance with R.S. 9:355.8, not all persons receiving notice of a
32 proposed relocation are entitled to object. Moving without prior notice or in
33 violation of a court order may constitute a change of circumstances warranting a
34 modification of custody, but only in a contest between a person proposing relocation
35 and a person entitled to object to the proposed relocation.

1 (b) The second paragraph of this Article clarifies that even a move of less
2 than seventy-five miles may warrant a change of custody. Although such a move
3 would not be sufficient to trigger the protection of the relocation statutes, courts have
4 discretion to modify the current custodial arrangement after any move that makes an
5 existing custody order unfeasible.

6 ~~§355.14.~~**§355.18.** Posting security
7

8 If relocation of a child is permitted, the court may require the **parent person**
9 relocating the child to provide reasonable security guaranteeing that the ~~court~~
10 ~~ordered~~ **court-ordered physical custody or** visitation with the child will not be
11 interrupted or interfered with by the relocating party.

12 ~~§355.16.~~**§355.19.** Sanctions for unwarranted or frivolous proposal to relocate child
13 or objection to relocation

14 A. After notice and a reasonable opportunity to respond, the court may
15 impose a sanction on a **parent person** proposing a ~~relocation of the child~~ or objecting
16 to a proposed relocation of a child if it determines that the proposal **or objection** was
17 made ~~or the objection was filed~~:

18 (1) ~~To harass~~ **For the purpose of harassing** the other parent ~~or to cause~~
19 **person or causing** unnecessary delay or needless increase in the cost of litigation.

20 (2) Without ~~being warranted by~~ **a basis in** existing law or ~~based on~~ **the basis**
21 **of** a frivolous argument.

22 (3) ~~Based on allegations and other factual contentions which have no~~
23 ~~evidentiary support nor, if specifically so identified, could not have been reasonably~~
24 ~~believed to be likely to have evidentiary support after further investigation.~~ **In**
25 **violation of Code of Civil Procedure Article 863(B).**

26 B. A sanction imposed under this Section shall be limited to what is
27 sufficient to deter repetition of such conduct ~~or comparable conduct by others~~
28 ~~similarly situated.~~ The sanction may consist of, ~~or include,~~ directives of a
29 nonmonetary nature, an order to pay a penalty to the court, or, if imposed on motion
30 and warranted for effective deterrence, an order directing payment to the movant of
31 some or all of the reasonable attorney fees and other expenses incurred as a direct
32 result of the violation **reasonable expenses and attorney fees incurred as a direct**

1 **result of the conduct.**

2 Section 2. R.S. 9:357 is hereby enacted to read as follows:

3 **§357. Use of technology**

4 **The court shall consider ordering persons awarded custody or visitation**
5 **to use technology, including video calling, telephone, text messaging, Internet**
6 **communications, or other forms of technology, to facilitate communication with**
7 **the child when it is in the best interest of the child.**

8 Section 3. The Louisiana State Law Institute is hereby directed to add the following
9 comment under Civil Code Article 134:

10 Art. 134. Factors in determining child's best interest

11 * * *

12 Comment - 2012 Revision

13 The facilitation of the relationship between the child and the other party
14 described in factor (10) may include a party's willingness to make travel
15 arrangements and facilitate electronic communications that allow the child
16 meaningful time with both parties and that minimize the negative impact of
17 long-distance parenting on the child.

18 Section 4. This Act shall not apply to any litigation pending on the effective date of
19 this Act regarding the relocation of the principal residence of a child, but shall apply to any
20 subsequent relocation after final disposition of that litigation.
21

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Broome (SB 153)

Present law (R.S. 9:355.1) provides that "equal physical custody" means that the parents share equal parental authority of the child absent a court order to the contrary.

Proposed law (R.S. 9:355.2) provides that "equal physical custody" refers to a custody arrangement under which persons have equal or approximately equal physical custody.

Present law (R.S. 9:355.1) provides a definition of "parent entitled to primary custody".

Proposed law removes this definition as not used elsewhere in family law.

Present law (R.S. 9:355.1) provides a definition of "principal residence of a child".

Proposed law (R.S. 9:355.1) retains present law.

Present law (R.S. 9:355.1) provides that "relocation" means an intent to establish the residence of the child outside of the state, an intent to establish the residence of the child at any location within the state that is at a distance of more than 150 miles from the other parent, an intent to establish the residence of the child at a distance of more than 150 miles from the domicile of the primary custodian, or a change in the principal residence of a child for a period of 60 days or more.

Proposed law (R.S. 9:355.2) revises present law to provide that it shall apply when there is an intent to establish the principal residence of a child at any location within the state that is at a distance of more than 75 miles from the domicile of the other parent, when there is an intent to establish the principal residence of a child at a distance of more than 75 miles from the current principal residence of the child, or when there is an intent to establish the principal residence of a child at a distance of more than 75 miles from the domicile of a person entitled to object to relocation of the child's residence.

Present law (R.S. 9:355.2) provides for the applicability of this Subpart.

Proposed law (R.S. 9:355.2) revises present law to state a distance factor for the application of this Subpart, to change the term "parents of a child" to "persons required to give notice of and persons entitled to object to a proposed relocation", and to provide an exception for "R.S. 9:372.1" in Paragraph (2) Subsection D of Section 355.2.

Proposed law (R.S. 9:355.3) provides for persons authorized to propose a relocation of child's principal residence.

Present law (R.S. 9:355.3) provides for a notice of proposed relocation of child.

Proposed law (R.S. 9:355.4) revises present law to change references from "parent" to "person".

Present law (R.S. 9:355.4) provides for the mailing of a notice of a proposed relocation address.

Proposed law (R.S. 9:355.5) revises present law to change references from "parent" to "person", to provide that information relative to the current mailing address of the person proposing relocation shall be given, to provide that cellular phone numbers shall be given, to provide for a proposed revised schedule of physical custody, and to provide that the person entitled to object shall make any objection in writing within thirty days of the receipt of the notice.

Present law (R.S. 9:355.6) provides for the failure to give notice of relocation.

Proposed law (R.S. 9:355.6) revises present law to change references from "parent" to "person" and to eliminate attorney fees for matters governed by this Section.

Proposed law (R.S. 9:355.7) provides for an objection to the relocation of a child.

Proposed law (R.S. 9:355.8) provides for a limitation on an objection to the relocation of a child by non-parents.

Proposed law (R.S. 9:355.9) provides for the failure to object to a notice of a proposed relocation of a child.

Present law (R.S. 9:355.13) provides for the burden of proof in relocation cases.

Proposed law (R.S. 9:355.10) revises present law to change references from "parent" to "person" and to delete the provision that the court shall consider the enhancement on the child's life that relocation might create.

Present law (R.S. 9:355.5) provides for a court authorization to relocate.

Proposed law (R.S. 9:355.11) revises present law to change references from "parent" to "person" and to provide for a timely objection to a proposed relocation.

Present law (R.S. 9:355.10) provides for a temporary order allowing a parent to relocate.

Proposed law (R.S. 9:355.12) revises present law to change references from "parent" to "person," to provide for physical custody, and to provide that an order not in compliance with this Section is not enforceable and is null and void.

Present law (R.S. 9:355.9) provides for a priority for a hearing on a temporary or final order on relocation.

Proposed law (R.S. 9:355.13) changes present law to provide that a trial on the objection to the proposed relocation shall be held within 60 days after the filing of the summary proceeding.

Present law (R.S. 9:355.12) provides for the factors that a court shall consider in determining if a relocation is in the best interest of the child.

Proposed law (R.S. 9:355.14) revises present law to provide that the court shall consider "all relevant factors", to change references from "parent" to "person" to provide for physical custody, and to provide for harassment by a person seeking or opposing relocation.

Present law (R.S. 9:355.8) provides for the appointment of a mental health expert.

Proposed law (R.S. 9:355.15) revises present law to provide that the court "on motion of either party or on its own motion" may appoint a mental health expert to render a report.

Present law (R.S. 9:355.15) provides for the application of certain factors at an initial hearing.

Proposed law (R.S. 9:355.16) revises present law to provide that the court "shall consider also" the factors in proposed R.S. 9:355.14 at an initial hearing.

Present law (R.S. 9:355.17) provides for continuing jurisdiction.

Proposed law removes this reference, as Louisiana law already provides for continuing jurisdiction.

Present law (R.S. 9:355.11) provides for a possible modification of custody as a result of a proposed relocation.

Present law (R.S. 9:355.14) provides for posting security.

Proposed law (R.S. 9:355.18) revises present law to change references from "parent" to "person" and to provide for physical custody.

Present law (R.S. 9:355.16) provides for sanctions.

Proposed law (R.S. 9:355.19) revises present law to change references from "parent" to "person".

Proposed law (R.S. 9:357) provides a court with the authority to order persons awarded custody or visitation to use technology to facilitate communication with the child when it is in the best interest of the child.

Proposed law directs the Louisiana State Law Institute to add a comment under Civil Code Article 134 relative to electronic communications between a child and other parties.

Effective August 1, 2012.

(Amends R.S. 9:355.1 - 355.19; adds R.S. 9:357; adds Comment under Civil Code Article 134)