

2018 Regular Session

SENATE BILL NO. 366

BY SENATOR WARD

CHILDREN. Provides relative to visitation rights of grandparents and siblings. (8/1/18)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact Civil Code Art. 136, relative to children; to provide relative to visitation rights; to provide relative to visitation rights of grandparents and siblings; to provide certain terms, conditions, requirements, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Art. 136 is hereby amended and reenacted to read as follows:

Art. 136. Award of visitation rights

A. A parent not granted custody or joint custody of a child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would not be in the best interest of the child.

B. In addition to the parents referred to in Paragraph A of this Article, the following persons may be granted visitation in a proceeding initiated by a parent of the child:

(1) A grandparent may be granted reasonable visitation rights if the court finds that it is in the best interest of the child. ~~Before making this determination, the court shall hold a contradictory hearing as provided for in R.S. 9:345 in order to~~

1 ~~determine whether the court should appoint an attorney to represent the child.~~

2 ~~C.~~**(2)** Under extraordinary circumstances, any other relative, by blood or
3 affinity, or a former stepparent or stepgrandparent may be granted reasonable
4 visitation rights if the court finds that it is in the best interest of the child.
5 Extraordinary circumstances shall include a determination by a court that a parent
6 is abusing a controlled dangerous substance.

7 **(3) Before making this determination, the court shall hold a**
8 **contradictory hearing as provided for in R.S. 9:345 in order to determine**
9 **whether the court should appoint an attorney to represent the child.**

10 ~~D.C.~~ In determining the best interest of the child under Paragraphs ~~B and C~~
11 **Subparagraphs (B)(1) and (2)** of this Article, the court shall consider **only the**
12 **following factors:**

13 (1) The length and quality of the prior relationship between the child and the
14 relative.

15 (2) Whether the child is in need of guidance, enlightenment, or tutelage
16 which can best be provided by the relative.

17 (3) The preference of the child if he is determined to be of sufficient maturity
18 to express a preference.

19 (4) The willingness of the relative to encourage a close relationship between
20 the child and his parent or parents.

21 (5) The mental and physical health of the child and the relative.

22 ~~E.D.~~ In the event of a conflict between this Article and R.S. 9:344, the
23 provisions of the statute shall supersede those of this Article. **If the parents of a**
24 **child are married and have not filed for divorce or they are living in**
25 **concubinage, the provisions of R.S. 9:344 shall apply.**

