

Art. 103. Judgment of divorce; other grounds

Except in the case of a covenant marriage, a divorce shall be granted on the petition of a spouse upon proof that:

(1) The spouses have been living separate and apart continuously for the requisite period of time, in accordance with Article 103.1, or more on the date the petition is filed.

(2) The other spouse has committed adultery.

(3) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.

(4) During the marriage, the other spouse physically or sexually abused the spouse seeking divorce or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of abuse.

(5) After a contradictory hearing or consent decree, a protective order or an injunction was issued during the marriage against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Acts 1990, No. 1009, §2, eff. Jan. 1, 1991; Acts 1991, No. 918, §1; Acts 1997, No. 1380, §1; Acts 2006, No. 743, §1, eff. Jan. 1, 2007; Acts 2014, No. 316, §1; Acts 2015, No. 221, §1; Acts 2018, No. 265, §1.

Art. 112. Determination of final periodic support

A. When a spouse has not been at fault prior to the filing of a petition for divorce and is in need of support, based on the needs of that party and the ability of the other party to pay, that spouse may be awarded final periodic support in accordance with Paragraph B of this Article.

B. The court shall consider all relevant factors in determining the amount and duration of final support, including:

(1) The income and means of the parties, including the liquidity of such means.

(2) The financial obligations of the parties, including any interim allowance or final child support obligation.

(3) The earning capacity of the parties.

(4) The effect of custody of children upon a party's earning capacity.

(5) The time necessary for the claimant to acquire appropriate education, training, or employment.

(6) The health and age of the parties.

(7) The duration of the marriage.

(8) The tax consequences to either or both parties.

(9) The existence, effect, and duration of any act of domestic abuse committed by the other spouse upon the claimant or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of domestic violence.

C. When a spouse is awarded a judgment of divorce pursuant to Article 103(2), (3), (4), or (5), or when the court determines that a party or a child of one of the spouses was the victim of domestic abuse committed by the other party during the marriage, that spouse is presumed to be entitled to final periodic support.

D. The sum awarded under this Article shall not exceed one-third of the obligor's net income. Nevertheless, when support is awarded after a judgment of divorce is rendered pursuant to Article 103(4) or (5), or when the court determines that a party or a child of one of the spouses was the victim of domestic abuse committed by the other party during the marriage, the sum awarded may exceed one-third of the obligor's net income and may be awarded as a lump sum.

Amended by Acts 1916, No. 247; Acts 1928, No. 21; Acts 1934, 2nd Ex.Sess., No. 27; Acts 1964, No. 48; Acts 1979, No. 72, §1; Acts 1982, No. 293, §1; Acts 1986, No. 229, §1; Acts 1997, No. 1078, §1, eff. Jan. 1, 1998; Acts 2006, No. 749, §1, eff. June 30, 2006; Acts 2014, No. 316, §1; Acts 2014, No. 616, §1; Acts 2018, No. 265, §1.

Art. 113. Interim spousal support

A. Upon motion of a party, the court may award a party interim spousal support based on the needs of that party, the ability of the other party to pay, any interim or final child support obligation, and the standard of living of the parties during the marriage. An award of interim spousal support shall terminate one hundred eighty days from the rendition of a judgment of divorce, except that the award may extend beyond one hundred eighty days but only for good cause shown.

B. An obligation to pay final periodic support shall not begin until an interim spousal support award has terminated.

Acts 1997, No. 1078, §1, eff. Jan. 1, 1998; Acts 2001, No. 738, §1; Acts 2003, No. 1092, §1; Acts 2014, No. 316, §1; Acts 2014, No. 616, §1; Acts 2018, No. 265, §1.

Art. 114. Modification or termination of award of support

An award of interim spousal support or final periodic support may be modified if the circumstances of either party materially change and shall be terminated if it has become unnecessary. The subsequent remarriage of the obligor spouse shall not constitute a change of circumstance.

Acts 1997, No. 1078, §1, eff. Jan. 1, 1998; Acts 2001, No. 1049, §1; Acts 2018, No. 265, §1.

Art. 115. Extinguishment of support obligation

The obligation of interim spousal support or final periodic support is extinguished upon the remarriage of the obligee, the death of either party, or a judicial determination that the obligee has cohabited with another person of either sex in the manner of married persons.

Acts 1997, No. 1078, §1, eff. Jan. 1, 1998; Acts 2018, No. 265, §1.

§118. Repealed by Acts 2018, No. 265, §2.

Art. 132. Award of custody to parents

If the parents agree who is to have custody, the court shall award custody in accordance with their agreement unless the provisions of R.S. 9:364 apply or the best interest of the child requires a different award. Subject to the provisions of R.S. 9:364, in the absence of agreement, or if the agreement is not in the best interest of the child, the court shall award custody to the parents jointly; however, if custody in one parent is shown by clear and convincing evidence to serve the best interest of the child, the court shall award custody to that parent.

Acts 1993, No. 261, §1, eff. Jan. 1, 1994; Acts 2018, No. 412, §1, eff. May 23, 2018.

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

A. Except as provided in Paragraph B of this Article, the court shall consider all relevant factors in determining the best interest of the child, including:

(1) The potential for the child to be abused, as defined by Children's Code Article 603, which shall be the primary consideration.

(2) The love, affection, and other emotional ties between each party and the child.

(3) The capacity and disposition of each party to give the child love, affection, and spiritual guidance and to continue the education and rearing of the child.

(4) The capacity and disposition of each party to provide the child with food, clothing, medical care, and other material needs.

(5) The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity of that environment.

(6) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(7) The moral fitness of each party, insofar as it affects the welfare of the child.

(8) The history of substance abuse, violence, or criminal activity of any party.

(9) The mental and physical health of each party. Evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody.

(10) The home, school, and community history of the child.

(11) The reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference.

(12) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have reasonable concerns for the child's safety or well-being while in the care of the other party.

(13) The distance between the respective residences of the parties.

(14) The responsibility for the care and rearing of the child previously exercised by each party.

B. In cases involving a history of committing family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, including sexual abuse, as defined in

R.S. 14:403(A)(4)(b), whether or not a party has sought relief under any applicable law, the court shall determine an award of custody or visitation in accordance with R.S. 9:341 and 364. The court may only find a history of committing family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence.

Acts 1988, No. 817, §2, eff. July 18, 1988; Acts 1990, No. 361, §1, eff. Jan. 1, 1991; Acts 1993, No. 261, §1, eff. Jan. 1, 1994; Acts 2018, No. 412, §1, eff. May 23, 2018.

Art. 136. Award of visitation rights

A. Subject to R.S. 9:341 and 364, 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 if the parents of the child are not married or cohabitating with a person in the manner of married persons or if the parents of the child have filed a petition for divorce:

(1) A grandparent if the court finds that it is in the best interest of the child.

(2) Under extraordinary circumstances, any other relative, by blood or affinity, or a former stepparent or stepgrandparent if the court finds that it is in the best interest of the child. Extraordinary circumstances shall include a determination by a court that a parent is abusing a controlled dangerous substance.

C. Before making any determination under Subparagraph (B)(1) or (2) of this Article, the court shall hold a contradictory hearing as provided by R.S. 9:345 in order to determine whether the court should appoint an attorney to represent the child.

D. In determining the best interest of the child under Subparagraph (B)(1) or (2) of this Article, the court shall consider only the following factors:

(1) A parent's fundamental constitutional right to make decisions concerning the care, custody, and control of their own children and the traditional presumption that a fit parent will act in the best interest of their children.

(2) The length and quality of the prior relationship between the child and the relative.

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

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

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

E. If the parents of a child are married and have not filed for divorce or they are living in concubinage, the provisions of R.S. 9:344 shall apply.

Acts 1992, No. 782, §1; Acts 1993, No. 261, §1, eff. Jan. 1, 1994; Acts 1995, No. 57, §1; Acts 2009, No. 379, §2; Acts 2012, No. 763, §1, eff. June 12, 2012; Acts 2014, No. 586, §1; Acts 2018, No. 383, §1; Acts 2018, No. 412, §1, eff. May 23, 2018.

Art. 190.1. Three-party acknowledgment; alternative to disavowal; time period

If blood or tissue sampling indicates by a ninety-nine and nine-tenths percentage point threshold probability that the biological father is the father of the child and he is not the husband or former husband presumed to be the father of the child, then the husband or former husband presumed to be the father of the child, the mother, and the biological father of the child may execute a three-party acknowledgment in authentic form declaring that the husband or former husband is not the father of the child and that the biological father is the father of the child. When a three-party acknowledgment is executed, the husband or former husband is not presumed to be the father of the child. The biological father who has acknowledged the child by three-party acknowledgment is presumed to be the father of the child.

To have effect, this acknowledgment shall be executed no later than ten years from the day of the birth of the child but never more than one year from the day of the death of the child. These time periods are peremptive.

Acts 2018, No. 21, §2, eff. May 7, 2018.

Art. 355. Petition for continuing or permanent tutorship

When a person above the age of fifteen possesses less than two-thirds of the intellectual functioning of a person of the same age with average intellectual functioning, evidenced by standard testing procedures administered by competent persons or other relevant evidence acceptable to the court, the parents of such person, or the person entitled to custody or tutorship if one or both parents are dead, incapacitated, or an absent person, or if the parents are judicially separated or divorced, may, with the written concurrence of the coroner of the parish of the intellectually disabled person's domicile, petition the court of that district to place such person under a continuing tutorship which shall not automatically end at any age but shall continue until revoked by the court of domicile. The petitioner shall not bear the coroner's costs or fees associated with securing the coroner's concurrence.

Added by Acts 1966, No. 496, §2. Amended by Acts 1974, No. 714, §1; Acts 1991, No. 107, §1; Acts 2016, No. 115, §1; Acts 2018, No. 164, §1.

Art. 359. Restriction on legal capacity

The decree if granted shall restrict the legal capacity of the person with an intellectual disability to that of a minor.

Added by Acts 1966, No. 496, §2. Amended by Acts 1974, No. 714, §1; Acts 2014, No. 811, §30, eff. June 23, 2014; Acts 2018, No. 164, §1.

Art. 361. Contest of decree restricting legal capacity

The decree restricting his legal capacity may be contested in the court of domicile by the person himself or by anyone adversely affected by the decree. For good cause, the court may modify or terminate the decree restricting legal capacity.

Acts 1966, No. 496, §2; Acts 2018, No. 164, §1.

Art. 2315.8. Liability for damages caused by domestic abuse

A. In addition to general and special damages, exemplary damages may be awarded upon proof that the injuries on which the action is based were caused by a wanton and reckless disregard for the rights and safety of a family or household member, as defined in R.S. 46:2132, through acts of domestic abuse resulting in serious bodily injury or severe emotional and mental distress, regardless of whether the defendant was prosecuted for his or her acts.

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

Acts 2014, No. 315, §1; Acts 2018, No. 264, §1.

Art. 2315.10. Liability for death caused by hazing; additional damages

In addition to general and special damages, exemplary damages may be awarded upon proof that the death on which the action is based was caused by a wanton and reckless disregard for the rights and safety of the victim through an act of hazing, as defined by R.S. 17:1801, regardless of whether the defendant was prosecuted for his acts.

Acts 2018, No. 481, §1, eff. May 25, 2018.

Art. 2362.1. Obligation incurred in an action for divorce

A. An obligation incurred before the date of a judgment of divorce for attorney fees and costs in an action for divorce and in incidental actions is deemed to be a community obligation.

B. The obligation for attorney fees and costs incurred by the perpetrator of abuse or awarded against him in an action for divorce granted pursuant to Article 103(4) or (5) or in an action in which the court determines that a spouse or a child of one of the spouses was the victim of domestic abuse committed by the perpetrator during the marriage, and in incidental actions, shall be a separate obligation of the perpetrator.

Acts 1990, No. 1009, §3, eff. Jan. 1, 1991; Acts 2009, No. 204, §1; Acts 2015, No. 221, §1; Acts 2018, No. 264, §1.

Art. 3463. Duration of interruption; abandonment or discontinuance of suit

An interruption of prescription resulting from the filing of a suit in a competent court and in the proper venue or from service of process within the prescriptive period continues as long as the suit is pending. Interruption is considered never to have occurred if the plaintiff abandons, voluntarily dismisses the action at any time either before the defendant has made any appearance of record or thereafter, or fails to prosecute the suit at the trial.

A settlement and subsequent dismissal of a defendant pursuant to a transaction or compromise shall not qualify as a voluntary dismissal pursuant to this Article.

Acts 1982, No. 187, §1, eff. Jan. 1, 1983; Acts 1999, No. 1263, §2, eff. Jan. 1, 2000; Acts 2018, No. 443, §1.

Art. 3494. Actions subject to a three-year prescription

The following actions are subject to a liberative prescription of three years:

(1) An action for the recovery of compensation for services rendered, including payment of salaries, wages, commissions, professional fees, fees and emoluments of public officials, freight, passage, money, lodging, and board;

(2) An action for arrearages of rent and annuities;

(3) An action on money lent;

(4) An action on an open account; and

(5) An action to recover underpayments or overpayments of royalties from the production of minerals, provided that nothing herein applies to any payments, rent, or royalties derived from state-owned properties.

Acts 1986, No. 1031, §1; Acts 2018, No. 471, §1.