

Louisiana Divorce Laws

Title 9 - Civil code-ancillaries

CODE TITLE IV - HUSBAND AND WIFE

CHAPTER 1. MARRIAGE: GENERAL PRINCIPLES

PART I. OFFICIANTS

§201. Definition

An officiant is a person authorized by law to perform marriage ceremonies.

CODE TITLE V - DIVORCE

CHAPTER 1. DIVORCE

PART I. IN GENERAL

§301. Court may authorize spouse of military personnel presumed dead to remarry; judgment dissolves marriage

A. The spouse of a person presumed dead, as provided in R.S. 9:1441, may petition the district court of the parish in which the petitioner is domiciled for authority to contract another marriage. Upon the submission of proof that the petitioner is domiciled in the parish, and that the other spouse is presumed dead, the court may authorize petitioner to contract another marriage. The presumption of the death of petitioner's spouse may be proved as provided in R.S. 9:1443.

B. The judgment of court authorizing the petitioner to contract another marriage has the effect of terminating the marriage to the person presumed dead if he is alive at the time.

§302. Divorce proceedings; hearings in chambers; procedure

A. In addition to any hearing otherwise authorized by law to be held in chambers, the court by local rule, and only in those instances where good cause is shown, may provide that only with mutual consent, civil hearings before the trial court in divorce proceedings may be held in chambers. Such hearings shall include contested and uncontested proceedings and rules for spousal support, child support, visitation, injunctions, or other matters provisional and incidental to divorce proceedings.

B. A motion for hearing in chambers pursuant to this Section may be made by either party or upon the court's own motion.

C. Except for being closed to the public, the hearings held in chambers pursuant to this Section shall be conducted in the same manner as if taking place in open court. The minute clerk and court reporter shall be present if necessary to perform the duties provided by law.

D. The provisions of this Section shall not be construed to repeal or restrict the authority otherwise provided by law for any hearing to be held in chambers.

§303. Income assignment; new orders; deviation

A. In all new child support orders after January 1, 1994, that are not being enforced by the Department of Social Services, the court shall include as part of the order an immediate income assignment unless there is a written agreement between the parties or the court finds good cause not to require an immediate income assignment.

B. For purposes of this Section:

(1) "Written agreement" means a written alternative arrangement signed by both parents, reviewed by the court, and entered into the record of the proceedings.

(2) "Good cause" exists upon a showing by the respondent that any of the following exist:

(a) There has been no delinquency in payment of child support for the six calendar months immediately preceding the filing of the motion for modification of an existing child support order.

(b) The respondent is agreeable to a consent judgment authorizing an automatic ex parte immediate income assignment if he becomes delinquent in child support payments for a period in excess of one calendar month.

(c) The respondent is not likely to become delinquent in the future.

(d) Any other sufficient evidence which, in the court's discretion, constitutes good cause.

C. An income assignment order issued pursuant to this Section shall be payable through the Louisiana state disbursement unit for collection and disbursement of child support payments as provided in R.S. 46:236.11 and shall be governed by the same provisions as immediate income assignment orders that are being enforced by the department, including R.S. 46:236.3 and 236.4. All clerks of court in the state shall provide information to the state disbursement unit on income assignment orders issued pursuant to this Section. The department shall promulgate rules and regulations to implement the provisions of this Section in accordance with the Administrative Procedure Act.

§304.1. Court costs; action to make child support executory

A. An action to make past due child support executory may be filed by any plaintiff, who is unable to utilize the provisions of Chapter 5 of Title I of Book IX of the Code of Civil Procedure, without paying the costs of court in advance or as they accrue or furnishing security therefor, if the court is satisfied that the plaintiff because of poverty or lack of means cannot afford to make payment.

B. When the action has been filed without the payment of costs as provided in Subsection A and the plaintiff is not the prevailing party, except for good cause, the court shall order the plaintiff to pay all costs of court.

§305. Disavowal of paternity; ancillary to child support proceeding

A. Notwithstanding the provisions of Civil Code Art. 189 and for the sole purpose of determining the proper payor in child support cases, if the husband, or legal father who is presumed to be the father of the child, erroneously believed, because of misrepresentation, fraud, or deception by the mother, that he was the father of the child, then the time for filing suit for disavowal of paternity shall be suspended during the period of such erroneous belief or for ten years, whichever ends first.

B. No provision of this Section shall affect any child support payment or arrears paid, due, or owing prior to the filing of a disavowal action if an order of disavowal is subsequently obtained in such action.

§306. Seminar for divorcing parents

A. Upon an affirmative showing that the facts and circumstances of the particular case before the court warrant such an order, a court exercising jurisdiction over family matters may require the parties in a custody or visitation proceeding to attend and complete a court-approved seminar designed to educate and inform the parties of the needs of the children.

B. If the court chooses to require participation in such a seminar, it shall adopt rules to accomplish the goals of Subsection A of this Section, which rules shall include but not be limited to the following:

(1) Criteria for evaluating a seminar provider and its instructors.

(2) Criteria to assure selected programs provide and incorporate into the provider's fee structure the cost of services to indigents.

(3) The amount of time a participant must take part in the program, which shall be a minimum of three hours but not exceed four hours nor shall the costs exceed twenty-five dollars per person.

(4) The time within which a party must complete the program.

C. For purposes of this Section, "instructor" means any psychiatrist, psychologist, professional counselor, social worker licensed under state law, or in any parish other than Orleans, means a person working with a court-approved, nonprofit program of an accredited university created for educating divorcing parents with children. All instructors must have received advanced training in instructing co-parenting or similar seminars.

D. The seminar shall focus on the developmental needs of children, with emphasis on fostering the child's emotional health. The seminar shall be informative and supportive and shall direct people desiring additional information or help to appropriate resources. The course content shall contain but not be limited to the following subjects:

- (1) The developmental stages of childhood, the needs of children at different ages, and age appropriate expectations of children.
 - (2) Stress indicators in children adjusting to divorce, the grief process, and avoiding delinquency.
 - (3) The possible enduring emotional effects of divorce on the child.
 - (4) Changing parental and marital roles.
 - (5) Recommendations with respect to visitation designed to enhance the child's relationship with both parents.
 - (6) Financial obligations of child rearing.
 - (7) Conflict management and dispute resolution.
- E. Nonviolent acts or communications made during the seminar, which are otherwise relevant to the subject matter of a divorce, custody, or visitation proceeding, are confidential, not subject to disclosure, and may not be used as evidence in favor of or against a participant in the pending proceeding. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented or otherwise made during the seminar.

§307. Divorce or separation from bed and board in a covenant marriage; exclusive grounds

A. Notwithstanding any other law to the contrary and subsequent to the parties obtaining counseling, a spouse to a covenant marriage may obtain a judgment of divorce only upon proof of any of the following:

- (1) The other spouse has committed adultery.
- (2) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.
- (3) The other spouse has abandoned the matrimonial domicile for a period of one year and constantly refuses to return.
- (4) The other spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses.
- (5) The spouses have been living separate and apart continuously without reconciliation for a period of two years.
- (6)(a) The spouses have been living separate and apart continuously without reconciliation for a period of one year from the date the judgment of separation from bed and board was signed.
- (b) If there is a minor child or children of the marriage, the spouses have been living separate and apart continuously without reconciliation for a period of one year and six months from the date the judgment of separation from bed and board was signed; however, if abuse of a child of the marriage or a child of one of the spouses is the basis for which the judgment of separation from bed and board was obtained, then a judgment of divorce may be obtained if the spouses have been living separate and apart continuously without reconciliation for a period of one year from the date the judgment of separation from bed and board was signed.

B. Notwithstanding any other law to the contrary and subsequent to the parties obtaining counseling, a spouse to a covenant marriage may obtain a judgment of separation from bed and board only upon proof of any of the following:

- (1) The other spouse has committed adultery.
- (2) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.
- (3) The other spouse has abandoned the matrimonial domicile for a period of one year and constantly refuses to return.
- (4) The other spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses.
- (5) The spouses have been living separate and apart continuously without reconciliation for a period of two years.
- (6) On account of habitual intemperance of the other spouse, or excesses, cruel treatment, or outrages of the other spouse, if such habitual intemperance, or such ill-treatment is of such a nature as to render their living together insupportable.

C. The counseling referenced in Subsections A and B of this Section, or other such reasonable steps taken by the spouses to preserve the marriage, as required by the Declaration of Intent signed by the spouses, shall occur once the parties experience marital difficulties. If the spouses begin living separate and apart, the counseling or other intervention should continue until the rendition of a judgment of divorce.

D. Notwithstanding the provisions of Subsection C of this Section, the counseling referenced in Subsections A and B of this Section shall not apply when the other spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses.

§308. Separation from bed and board in covenant marriage; suit against spouse; jurisdiction, procedure, and incidental relief

A. Unless judicially separated, spouses in a covenant marriage may not sue each other except for causes of action pertaining to contracts or arising out of the provisions of Book III, Title VI of the Civil Code; for restitution of separate property; for separation from bed and board in covenant marriages, for divorce, or for declaration of nullity of the marriage; and for causes of action pertaining to spousal support or the support or custody of a child while the spouses are living separate and apart, although not judicially separated.

B.(1) Any court which is competent to preside over divorce proceedings, including the family court for the parish of East Baton Rouge, has jurisdiction of an action for separation from bed and board in a covenant marriage, if:

(a) One or both of the spouses are domiciled in this state and the ground therefor was committed or occurred in this state or while the matrimonial domicile was in this state.

(b) The ground therefor occurred elsewhere while either or both of the spouses were domiciled elsewhere, provided the person obtaining the separation from bed and board was domiciled in this state prior to the time the cause of action accrued and is domiciled in this state at the time the action is filed.

(2) An action for a separation from bed and board in a covenant marriage shall be brought in a parish where either party is domiciled, or in the parish of the last matrimonial domicile.

(3) The venue provided herein may not be waived, and a judgment of separation rendered by a court of improper venue is an absolute nullity.

C. Judgments on the pleadings and summary judgments shall not be granted in any action for separation from bed and board in a covenant marriage.

D. In a proceeding for a separation from bed and board in a covenant marriage or thereafter, a court may award a spouse all incidental relief afforded in a proceeding for divorce, including but not limited to spousal support, claims for contributions to education, child custody, visitation rights, child support, injunctive relief and possession and use of a family residence or community movables or immovables.

§309. Separation from bed and board in a covenant marriage; effects

A.(1) Separation from bed and board in a covenant marriage does not dissolve the bond of matrimony, since the separated husband and wife are not at liberty to marry again; but it puts an end to their conjugal cohabitation, and to the common concerns, which existed between them.

(2) Spouses who are judicially separated from bed and board in a covenant marriage shall retain that status until either reconciliation or divorce.

B.(1) The judgment of separation from bed and board carries with it the separation of goods and effects and is retroactive to the date on which the original petition was filed in the action in which the judgment is rendered, but such retroactive effect shall be without prejudice to the liability of the community for the attorney fees and costs incurred by the spouses in the action in which the judgment is rendered, or to rights validly acquired in the interim between commencement of the action and recordation of the judgment.

(2) Upon reconciliation of the spouses, the community shall be reestablished between the spouses, as of the date of filing of the original petition in the action in which the judgment was rendered, unless the spouses execute prior to the reconciliation a matrimonial agreement that the community shall not be reestablished upon reconciliation. This matrimonial agreement shall not require court approval.

(3) Reestablishment of the community under the provisions of this Section shall be effective toward third persons only upon filing notice of the reestablishment for registry in accordance with the provisions of Civil Code Article 2332. The reestablishment of the community shall not prejudice the rights of third persons validly acquired prior to filing notice of the reestablishment nor shall it affect a prior community property partition between the spouses.

§310. Retroactivity of spousal support order

- A. An order for spousal support shall be retroactive to the filing date of the petition for spousal support granted in the order.
- B. Any support of any kind provided by the judgment debtor from the date the petition for support is filed to the date the support order is issued, to or on behalf of the person for whom support is ordered, shall be credited to the judgment debtor against the amount of the judgment.
- C. In the event the court finds good cause for not making the award retroactive, the court may fix the date such award shall become due.

§311. Reduction or increase in support; material change in circumstances; periodic review by DSS; medical support

- A. An award for support shall not be reduced or increased unless the party seeking the reduction or increase shows a material change in circumstances of one of the parties between the time of the previous award and the time of the motion for modification of the award.
- B. A judgment for past due support shall not of itself constitute a material change in circumstances of the obligor sufficient to reduce an existing award of support.
- C. For purposes of this Section, in cases where the Department of Social Services is providing support enforcement services:
 - (1) A material change in circumstance exists when a strict application of the child support guidelines, Part I-A of this Chapter, would result in at least a twenty-five percent change in the existing child support award. A material change in circumstance does not exist under this Paragraph if the amount of the award was the result of the court's deviating from the guidelines pursuant to R.S. 9:315.1 and there has not been a material change in the circumstances which warranted the deviation.
 - (2) Upon request of either party or on its own initiative and if the best interest of the child so requires, the department shall provide for judicial review and, if appropriate, the court may adjust the amount of the existing child support award every three years if the existing award differs from the amount which would otherwise be awarded under the application of the child support guidelines. The review provided hereby does not require a showing of a material change in circumstance nor preclude a party from seeking a reduction or increase under the other provisions of this Section.
- D. A material change in circumstance need not be shown for purposes of modifying a child support award to include a court-ordered award for medical support.
- E. If the court does not find good cause sufficient to justify an order to modify child support or the motion is dismissed prior to a hearing, it may order the mover to pay all court costs and reasonable attorney fees of the other party if the court determines the motion was frivolous.
- F. The provisions of Subsection E of this Section shall not apply when the recipient of the support payments is a public entity acting on behalf of another party to whom support is due.

§312. Child support; accounting; requirements

- A. On motion of the party ordered to make child support payments pursuant to court decree, by consent or otherwise, after a contradictory hearing and a showing of good cause based upon the expenditure of child support for the six months immediately prior to the filing of the motion, the court shall order the recipient of the support payments to render an accounting.
- B. The accounting ordered by the court after the hearing shall be in the form of an expense and income affidavit for the child with supporting documentation and shall be provided quarterly to the moving party. The order requiring accounting in accordance with this Section shall continue in effect as long as support payments are made or in accordance with the court order.
- C. The movant shall pay all court costs and attorney fees of the recipient of child support when the motion is dismissed prior to the hearing, and the court determines the motion was frivolous, or when, after the contradictory hearing, the court does not find good cause sufficient to justify an order requiring the recipient to render such accounting and the court determines the motion was frivolous.
- D. The provisions of this Section shall not apply when the recipient of the support payments is a public entity acting on behalf of another party to whom support is due.

§313. Divorce and child support proceedings; special requirements

A. Each party in a divorce proceeding shall provide the court with his social security number or a statement that a social security number is not available. The social security number or statement shall be an attachment to the pleadings. Notwithstanding the provisions of R.S. 44:1 et seq. the clerk of court shall maintain the confidentiality of a party's social security number in a divorce proceeding, provided a request is made to the clerk in writing by the party at the time of the filing of the original petition for divorce or separation or at any time thereafter.

B.(1) Each party in a child support proceeding shall advise the state case registry of his current address and telephone number, social security number, driver's license number, and the name, address, and telephone number of his current employer and of any change in this information during the pendency of the proceeding and thereafter. If any of this information is unavailable, the party shall submit a statement to this effect with the state case registry. Information submitted pursuant to this Subsection shall be available for inspection by the parties in the proceeding but shall otherwise be confidential except as provided in this Subsection.

(2) Any order entered or judgment rendered shall require the parties to provide the state case registry with any change in the information required by this Section which occurs after the date of the entry or rendering.

(3) Upon entry of an order or upon receipt of any change in this information during the pending proceeding, the clerk of court shall forward this information to the state case registry in accordance with R.S. 46:236.10.

(4) In any subsequent child support proceeding between the parties concerning the same minor child, the court may find that an absent party has received sufficient notice of trial or other matter upon a showing of all of the following:

(a) The moving party has made a diligent effort to locate the absentee.

(b) Notice of the proceeding was attempted by personal or domiciliary service in accordance with law to the most recent residence and employment address submitted to the state case registry in accordance with this Subsection and at any current address of the absentee known by the moving party.

PART I-A. CHILD SUPPORT

SUBPART A. GUIDELINES FOR DETERMINATION OF CHILD SUPPORT

§315. Economic data and principles; definitions

A. Basic principles. The premise of these guidelines as well as the provisions of the Civil Code is that child support is a continuous obligation of both parents, children are entitled to share in the current income of both parents, and children should not be the economic victims of divorce or out-of-wedlock birth. The economic data underlying these guidelines, which adopt the Income Shares Model, and the guideline calculations attempt to simulate the percentage of parental net income that is spent on children in intact families incorporating a consideration of the expenses of the parties, such as federal and state taxes and FICA taxes. While the legislature acknowledges that the expenditures of two-household divorced, separated, or non-formed families are different from intact family households, it is very important that the children of this state not be forced to live in poverty because of family disruption and that they be afforded the same opportunities available to children in intact families, consisting of parents with similar financial means to those of their own parents.

B. Economic data.

(1) The Incomes Shares approach to child support guidelines incorporates a numerical schedule of support amounts. The schedule provides economic estimates of child-rearing expenditures for various income levels and numbers of children in the household. The schedule is composed of economic data utilizing a table of national averages adjusted to reflect Louisiana's status as a low-income state and to incorporate a self-sufficiency reserve for low-income obligors to form the basic child support obligation.

(2) In intact families, the income of both parents is pooled and spent for the benefit of all household members, including the children. Each parent's contribution to the combined income of the family represents his relative sharing of household expenses. This same income sharing principle is used to determine how the parents will share a child support award.

C. Definitions. As used in this Part:

(1) "Adjusted gross income" means gross income, minus amounts for preexisting child support or spousal support obligations paid to another who is not a party to the proceedings, or on behalf of a child who is not the subject of the action of the court.

(2) "Combined adjusted gross income" means the combined adjusted gross income of both parties.

(3) "Gross income" means:

(a) The income from any source, including but not limited to salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, recurring monetary gifts, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and spousal support received from a preexisting spousal support obligation;

(b) Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business, if the reimbursements or payments are significant and reduce the parent's personal living expenses. Such payments include but are not limited to a company car, free housing, or reimbursed meals; and

(c) Gross receipts minus ordinary and necessary expenses required to produce income, for purposes of income from self-employment, rent, royalties, proprietorship of a business, or joint ownership or a partnership or closely held corporation. "Ordinary and necessary expenses" shall not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating child support.

(d) As used herein, "gross income" does not include:

(i) Child support received, or benefits received from public assistance programs, including Family Independence Temporary Assistance Plan, supplemental security income, food stamps, and general assistance.

(ii) Per diem allowances which are not subject to federal income taxation under the provisions of the Internal Revenue Code.

(iii) Extraordinary overtime including but not limited to income attributed to seasonal work regardless of its percentage of gross income when, in the court's discretion, the inclusion thereof would be inequitable to a party.

(iv) Any monetary gift to the domiciliary party when the objective of the gift is to supplement irregular child support payments from the nondomiciliary party.

(4) "Health insurance premiums" means the actual amount paid by a party for providing health insurance on behalf of the child. It does not include any amount paid by an employer or any amounts paid for coverage of any other persons. If more than one dependent is covered by health insurance which is paid through a lump-sum dependent-coverage premium, and not all of such dependents are the subject of the guidelines calculation, the cost of the coverage shall be prorated among the dependents covered before being applied to the guidelines.

(5) "Income" means:

(a) Actual gross income of a party, if the party is employed to full capacity; or

(b) Potential income of a party, if the party is voluntarily unemployed or underemployed. A party shall not be deemed voluntarily unemployed or underemployed if he or she is absolutely unemployable or incapable of being employed, or if the unemployment or underemployment results through no fault or neglect of the party.

(c) The court may also consider as income the benefits a party derives from expense-sharing or other sources; however, in determining the benefits of expense-sharing, the court shall not consider the income of another spouse, regardless of the legal regime under which the remarriage exists, except to the extent that such income is used directly to reduce the cost of a party's actual expenses.

(6) "Net child care costs" means the reasonable costs of child care incurred by a party due to employment or job search, minus the value of the federal income tax credit for child care.

(7) "Ordinary medical expenses" means unreimbursed medical expenses less than or equal to two hundred fifty dollars per child per year. Expenses include but are not limited to reasonable and necessary costs for orthodontia, dental treatment, asthma treatment, physical therapy, chronic health problems, and professional counseling or psychiatric therapy for diagnosed mental disorders not covered by medical insurance. The schedule of support in R.S. 9:315.19 incorporates ordinary medical expenses.

§315.1. Rebuttable presumption; deviation from guidelines by court; stipulations by parties

A. The guidelines set forth in this Part are to be used in any proceeding to establish or modify child support filed on or after October 1, 1989. There shall be a rebuttable presumption that the amount of child support obtained by use of the guidelines set forth in this Part is the proper amount of child support.

B. The court may deviate from the guidelines set forth in this Part if their application would not be in the best interest of the child or would be inequitable to the parties. The court shall give specific oral or written reasons for the deviation, including a finding as to the amount of support that would have been required under a mechanical application of the guidelines and the particular facts and circumstances that warranted a deviation from the guidelines. The reasons shall be made part of the record of the proceedings.

C. In determining whether to deviate from the guidelines, the court's considerations may include:

(1) That the combined adjusted gross income of the parties is not within the amounts shown on the schedule in R.S. 9:315.19.

(a) If the combined adjusted gross income of the parties is less than the lowest sum shown on the schedule, the court shall determine an amount of child support based on the facts of the case, except that the amount awarded shall not be less than the minimum child support provided in R.S. 9:315.14.

(b) If the combined adjusted gross income of the parties exceeds the highest sum shown on the schedule, the court shall determine an amount of child support as provided in R.S. 9:315.13(B).

(2) The legal obligation of a party to support dependents who are not the subject of the action before the court and who are in that party's household.

(3) That in a case involving one or more families, consisting of children none of whom live in the household of the noncustodial or nondomiciliary parent but who have existing child support orders (multiple families), the court may use its discretion in setting the amount of the basic child support obligation, provided it is not below the minimum fixed by R.S. 9:315.14, if the existing child support orders reduce the noncustodial or nondomiciliary parent's income below the lowest income level on the schedule contained in R.S. 9:315.19.

(4) The extraordinary medical expenses of a party, or extraordinary medical expenses for which a party may be responsible, not otherwise taken into consideration under the guidelines.

(5) An extraordinary community debt of the parties.

(6) The need for immediate and temporary support for a child when a full hearing on the issue of support is pending but cannot be timely held. In such cases, the court at the full hearing shall use the provisions of this Part and may redetermine support without the necessity of a change of circumstances being shown.

(7) The permanent or temporary total disability of a spouse to the extent such disability diminishes his present and future earning capacity, his need to save adequately for uninsurable future medical costs, and other additional costs associated with such disability, such as transportation and mobility costs, medical expenses, and higher insurance premiums.

(8) Any other consideration which would make application of the guidelines not in the best interest of the child or children or inequitable to the parties.

D. The court may review and approve a stipulation between the parties entered into after the effective date of this Part as to the amount of child support to be paid. If the court does review the stipulation, the court shall consider the guidelines set forth in this Part to review the adequacy of the stipulated amount and may require the parties to provide the court with the income statements and documentation required by R.S. 9:315.2.

§315.2. Calculation of basic child support obligation

A. Each party shall provide to the court a verified income statement showing gross income and adjusted gross income, together with documentation of current and past earnings. Spouses of the parties shall also provide any relevant information with regard to the source of payments of household expenses upon request of the court or the opposing party, provided such request is filed in a reasonable time prior to the hearing. Failure to timely file the request shall not be grounds for a continuance. Suitable documentation of current earnings shall include but not be limited to pay stubs, employer statements, or receipts and expenses if self-employed. The documentation shall include a copy of the party's most recent federal tax return. A copy of the statement and documentation shall be provided to the other party.

B. If a party is voluntarily unemployed or underemployed, his or her gross income shall be determined as set forth in R.S. 9:315.11.

C. The parties shall combine the amounts of their adjusted gross incomes. Each party shall then determine by percentage his or her proportionate share of the combined amount. The amount obtained for each party is his or her percentage share of the combined adjusted gross income.

D. The court shall determine the basic child support obligation amount from the schedule in R.S. 9:315.19 by using the combined adjusted gross income of the parties and the number of children involved in the proceeding, but in no event shall the amount of child support be less than the amount provided in R.S. 9:315.14.

E. After the basic child support obligation has been established, the total child support obligation shall be determined as hereinafter provided in this Part.

§315.3. Net child care costs; addition to basic obligation

Net child care costs shall be added to the basic child support obligation. The net child care costs are determined by applying the Federal Credit for Child and Dependent Care Expenses provided in Internal Revenue Form 2441 to the total or actual child care costs.

§315.4. Health insurance premiums; addition to basic obligation

In any child support case, the court may order one of the parties to enroll or maintain an insurable child in a health benefits plan, policy, or program. In determining which party should be required to enroll the child or to maintain such insurance on behalf of the child, the court shall consider each party's individual, group, or employee's health insurance program, employment history, and personal income and other resources. The cost of health insurance premiums incurred on behalf of the child shall be added to the basic child support obligation.

§315.5. Extraordinary medical expenses; addition to basic obligation

By agreement of the parties or order of the court, extraordinary medical expenses incurred on behalf of the child shall be added to the basic child support obligation. Extraordinary medical expenses are unreimbursed medical expenses which exceed two hundred fifty dollars per child per year.

§315.6. Other extraordinary expenses; addition to basic obligation

By agreement of the parties or order of the court, the following expenses incurred on behalf of the child may be added to the basic child support obligation:

- (1) Expenses of tuition, registration, books, and supply fees required for attending a special or private elementary or secondary school to meet the needs of the child.
- (2) Any expenses for transportation of the child from one party to the other.

§315.7. Deductions for income of the child

A. Income of the child that can be used to reduce the basic needs of the child may be considered as a deduction from the basic child support obligation.

B. The provisions of this Section shall not apply to income earned by a child while a full-time student, regardless of whether such income was earned during a summer or holiday break.

C. The provisions of this Section shall not apply to benefits received by a child from public assistance programs, including but not limited to Family Independence Temporary Assistance Programs (FITAP), food stamps, or any means-tested program.

§315.8. Calculation of total child support obligation; worksheet

A. The total child support obligation shall be determined by adding together the basic child support obligation amount, the net child care costs, the cost of health insurance premiums, extraordinary medical expenses, and other extraordinary expenses.

B. A deduction, if any, for income of the child shall then be subtracted from the amount calculated in Subsection A. The remaining amount is the total child support obligation.

C. Each party's share of the total child support obligation shall then be determined by multiplying his or her percentage share of combined adjusted gross income times the total child support obligation.

D. The party without legal custody or nondomiciliary party shall owe his or her total child support obligation as a money judgment of child support to the custodial or domiciliary party, minus any court-ordered direct payments made on behalf of the child for work-related net child care costs, health insurance premiums, extraordinary medical expenses, or extraordinary expenses provided as adjustments to the schedule.

E. "Joint Custody" means a joint custody order that is not shared custody as defined in R.S. 9:315.9.

(1) In cases of joint custody, the court shall consider the period of time spent by the child with the nondomiciliary party as a basis for adjustment to the amount of child support to be paid during that period of time.

(2) If under a joint custody order, the person ordered to pay child support has physical custody of the child for more than seventy- three days, the court may order a credit to the child support obligation. A day for the purposes of this Paragraph shall be determined by the court; however, in no instance shall less than four hours of physical custody of the child constitute a day.

(3) In determining the amount of credit to be given, the court shall consider the following:

(a) The amount of time the child spends with the person to whom the credit would be applied. The court shall include in such consideration the continuing expenses of the domiciliary party.

(b) The increase in financial burden placed on the person to whom the credit would be applied and the decrease in financial burden on the person receiving child support.

(c) The best interests of the child and what is equitable between the parties.

(4) The burden of proof is on the person seeking the credit pursuant to this Subsection.

(5) Worksheet A reproduced in R.S. 9:315.20, or a substantially similar form adopted by local court rule, shall be used to determine child support in accordance with this Subsection.

§315.9. Effect of shared custodial arrangement

A.(1) "Shared custody" means a joint custody order in which each parent has physical custody of the child for an approximately equal amount of time.

(2) If the joint custody order provides for shared custody, the basic child support obligation shall first be multiplied by one and one-half and then divided between the parents in proportion to their respective adjusted gross incomes.

(3) Each parent's theoretical child support obligation shall then be cross multiplied by the actual percentage of time the child spends with the other party to determine the basic child support obligation based on the amount of time spent with the other party.

(4) Each parent's proportionate share of work-related net child care costs and extraordinary adjustments to the schedule shall be added to the amount calculated under Paragraph (3) of this Subsection.

(5) Each parent's proportionate share of any direct payments ordered to be made on behalf of the child for net child care costs, the cost of health insurance premiums, extraordinary medical expenses, or other extraordinary expenses shall be deducted from the amount calculated under Paragraph (3) of this Subsection.

(6) The court shall order each parent to pay his proportionate share of all reasonable and necessary uninsured medical expenses under the provisions of R.S. 9:315(C)(7) which are under two hundred fifty dollars.

(7) The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation. The amount owed shall not be higher than the amount which that parent would have owed if he or she were a domiciliary parent.

B. Worksheet B reproduced in R.S. 9:315.20, or a substantially similar form adopted by local court rule, shall be used to determine child support in accordance with this Subsection.

§315.10. Effect of split custodial arrangement

A.(1) "Split custody" means that each party is the sole custodial or domiciliary parent of at least one child to whom support is due.

(2) If the custody order provides for split custody, each parent shall compute a total child support obligation for the child or children in the custody of the other parent, based on a calculation pursuant to this Section.

(3) The amount determined under Paragraph (2) of this Subsection shall be a theoretical support obligation owed to each parent.

- (4) The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation.
- B. Worksheet A reproduced in R.S. 9:315.20, or a substantially similar form adopted by local court rule, shall be used by each parent to determine child support in accordance with this Section.

§315.11. Voluntarily unemployed or underemployed party

- A. If a party is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of his or her income earning potential, unless the party is physically or mentally incapacitated, or is caring for a child of the parties under the age of five years. In determining the party's income earning potential, the court may consider the most recently published Louisiana Department of Labor Wage Survey.
- B. The amount of the basic child support obligation calculated in accordance with Subsection A of this Section shall not exceed the amount which the party paying support would have owed had a determination of the other party's income earning potential not been made.

§315.12. Second jobs and overtime

The court may consider the interests of a subsequent family as a defense in an action to modify an existing child support order when the obligor has taken a second job or works overtime to provide for a subsequent family. However, the obligor bears the burden of proof in establishing that the additional income is used to provide for the subsequent family.

§315.13. Amounts not set forth in or exceeding schedule

- A. If the combined adjusted gross income of the parties falls between two amounts shown in the schedule contained in R.S. 9:315.19, the basic child support obligation shall be based on an extrapolation between the two amounts.
- B. If the combined adjusted gross income of the parties exceeds the highest level specified in the schedule contained in R.S. 9:315.19, the court shall use its discretion in setting the amount of the basic child support obligation in accordance with the best interest of the child and the circumstances of each parent as provided in Civil Code Article 141, but in no event shall it be less than the highest amount set forth in the schedule.

§315.14. Mandatory minimum child support award

In no event shall the court set an award of child support less than one hundred dollars, except in cases involving shared or split custody as provided in R.S. 9:315.9 and 315.10. In cases when the obligor has a medically documented disability that limits his ability to meet the mandatory minimum, the court may set an award of less than one hundred dollars.

§315.15. No change in circumstances intended

The enactment and subsequent amendment of this Part shall not for that reason alone be considered a material change in the circumstances of either party.

§315.16. Review of guidelines

- A. The guidelines set forth in this Part shall be reviewed by the legislature not less than once every four years. A review of the guidelines shall take place in 2008, and it shall be the responsibility of the office of family support, support enforcement services of the Department of Social Services, and the Louisiana District Attorneys Association, in consultation with the child support review committee provided in Subsection B of this Section, to obtain all information required to comply with the provisions of 42 U.S.C. §667(a) and present the same to the legislature sixty days prior to the beginning of the 2008 Regular Session of the Legislature, and every four years thereafter.
- B. The child support review committee shall serve without compensation, except for the members of the legislature who shall receive a per diem as provided by law, and shall consist of the following members:
- (1) The reporter of the Louisiana State Law Institute Marriage and Persons Advisory Committee.
 - (2) The chairman or designee of the House Committee on Civil Law and Procedure.

- (3) The chairman or designee of Senate Committee on Judiciary A.
- (4) The president or designee of the Louisiana District Judges Association.
- (5) The executive director or a designee of the Louisiana District Attorneys Association.
- (6) The president or designee of the Juvenile and Family Court Judges Association.
- (7) The chairman or designee of the Louisiana State Bar Association, Family Law Section.
- (8) The chairman or designee of the Louisiana Chapter of American Academy of Matrimonial Lawyers.
- (9) The secretary or a designee of the Department of Social Services.
- (10) The chairman or designee of the Louisiana Children's Cabinet.

§315.17. Standard of appellate review

Deviations by the trial court from the guidelines set forth in this Part shall not be disturbed absent a finding of manifest error.

§315.18. Schedule; information

A. The amounts set forth in the schedule in R.S. 9:315.19 presume that the custodial or domiciliary party has the right to claim the federal and state tax dependency deductions and any earned income credit. However, the claiming of dependents for federal and state income tax purposes shall be as provided in Subsection B of this Section.

B.(1) The non-domiciliary party whose child support obligation equals or exceeds fifty percent of the total child support obligation shall be entitled to claim the federal and state tax dependency deductions if, after a contradictory motion, the judge finds both of the following:

- (a) No arrearages are owed by the obligor.
- (b) The right to claim the dependency deductions or, in the case of multiple children, a part thereof, would substantially benefit the non-domiciliary party without significantly harming the domiciliary party.

(2) The child support order shall:

- (a) Specify the years in which the party is entitled to claim such deductions.
- (b) Require the domiciliary party to timely execute all forms required by the Internal Revenue Service authorizing the non-domiciliary party to claim such deductions.

C. The party who receives the benefit of the exemption for such tax year shall not be considered as having received payment of a thing not due if the dependency deduction allocation is not maintained by the taxing authorities.

D. Repealed by Acts 2004, No. 668, §2, eff. July 5, 2004.

§315.20. Worksheets

Obligation Worksheet A

(The worksheet for calculation of the total support obligation

under R.S. 9:315.8 and 315.10)

Court _____

Case Number _____

Petitioner
Parish _____ Louisiana

Div/CtRm _____

and _____

Respondent

Children

Date of Birth

Children

Date of Birth

- A. Petitioner
- B. Respondent
- C. Combined

1.

MONTHLY GROSS INCOME (R.S. 9:315.2(A))

a. Preexisting child support payment.

b. Preexisting spousal support payment.

\$

-

\$

-

-

2.

MONTHLY ADJUSTED GROSS INCOME (Line 1 minus 1a and 1b).

\$

\$

3.

COMBINED MONTHLY ADJUSTED GROSS INCOME (Line 2 Column A plus Line 2 Column B). (R.S. 9:315.2(C))

\$

4.

PERCENTAGE SHARE OF INCOME (Line 2 divided by line 3). (R.S. 9:315.2(C))

%

%

5.

BASIC CHILD SUPPORT OBLIGATION (Compare line 3 to Child Support Schedule). (R.S. 9:315.2(D))

\$

a.

Net Child Care Costs (Cost minus Federal Tax Credit). (R.S. 9:315.3)

b.

Child's Health Insurance Premium Cost. (R.S. 9:315.4)

c.

Extraordinary Medical Expenses (Uninsured Only). (Agreed to by parties or by order of the court). (R.S. 9:315.5)

d.

Extraordinary Expenses (Agreed to by parties or by order of the court). (R.S. 9:315.6)

e.

Optional. Minus extraordinary adjustments (Child's income if applicable). (R.S. 9:315.7)

+

+

+

+

6.

TOTAL CHILD SUPPORT OBLIGATION (Add lines 5, 5a, 5b, 5c, and 5d; Subtract line 5e). (R.S. 9:315.8)

\$

7.

EACH PARTY'S CHILD SUPPORT OBLIGATION (Multiply line 4 times line 6 for each parent).

\$

\$

8.

DIRECT PAYMENTS made by the noncustodial parent on behalf of the child for work-related net child care costs, health insurance premiums, extraordinary medical expenses, or extraordinary expenses.

-

9.

RECOMMENDED CHILD SUPPORT ORDER (Subtract line 8 from line 7).

\$

Comments, calculations, or rebuttals to schedule or adjustments if made under 8 above or if ordering a credit for a joint custodial arrangement:

Prepared by

Date

Obligation Worksheet B

(The worksheet for calculation of the total child support

obligation under R.S. 9:315.9)

Court _____

Case Number _____

Petitioner

Parish _____ Louisiana

Div/CtRm _____

and _____

Respondent

Children

Date of Birth

Children

Date of Birth

-
- A. Petitioner
 - B. Respondent
 - C. Combined

1.

MONTHLY GROSS INCOME (R.S. 9:315.2(A))

a. Preexisting child support payment.

b. Preexisting spousal support payment.

\$

-

-
\$

-

-

2.

MONTHLY ADJUSTED GROSS INCOME (Line 1 minus 1a and 1b).

\$

\$

3.

COMBINED MONTHLY ADJUSTED GROSS INCOME (Line 2 Column A plus Line 2 Column B) (R.S. 9:315.2(C))

\$

4.

PERCENTAGE SHARE OF INCOME (Line 2 divided by line 3) (R.S. 9:315.2(C))

%

%

5.

BASIC CHILD SUPPORT OBLIGATION (Compare line 3 to Child Support Schedule) (R.S. 9:315.2(D))

\$

6.

SHARED CUSTODY BASIC OBLIGATION (Line 5 times 1.5) (R.S. 9:315.9(A)(2))

\$

7.

EACH PARTY'S THEORETICAL CHILD SUPPORT OBLIGATION (Multiply line 4 times line 6 for each party)(R.S. 9:315.9(A)(2))

\$

\$

8.

PERCENTAGE with each party (Use actual percentage of time spent with each party, if percentage is not 50%) (R.S. 9:315.9(A)(3))

%

%

9.

BASIC CHILD SUPPORT OBLIGATION FOR TIME WITH OTHER PARTY (Cross Multiply line 7 for each party times line 8 for the other party) (R.S. 9:315.9(A)(3)) (For Line 9 Column A, multiply Line 7 Column A times Line 8 Column B) (For Line 9 Column B, multiply Line 7 Column B times Line 8 Column A)

\$

\$

a.

Net Child Care Costs (Costs minus Federal Tax Credit) (R.S. 9:315.3)

+

b.

Child's Health Insurance Premium Cost (R.S. 9:315.4)

+

c.

Extraordinary Medical Expenses (Uninsured only) (Agreed to by parties or by order of court) (R.S. 9:315.5)

+

d.

Extraordinary Expenses (Agreed to by parties or by order of the court) (R.S. 9:315.6)

e.

Optional: Minus extraordinary adjustments (Child's income if applicable) (R.S. 9:315.7)

+

-

10.

TOTAL EXPENSES/EXTRAORDINARY ADJUSTMENTS (Add lines 9a, 9b, 9c, and 9d; Subtract line 9e)

\$

11.

EACH PARTY'S PROPORTIONATE SHARE of Expenses/Extraordinary Adjustments (Line 4 times line 10) (R.S. 9:315.9(A)(4))

\$

\$

12.

DIRECT PAYMENTS made by either party on behalf of the child for work-related net child care costs, health insurance premiums, extraordinary medical expenses, or extraordinary expenses. Deduct each party's proportionate share of an expense owed directly to a third party. If either parent's proportionate share of an expense is owed to the other parent, enter zero. (R.S. 9:315.9(A)(5))

-

-

13.

EACH PARTY'S CHILD SUPPORT OBLIGATION (Line 9 plus line 11 and minus line 12) (R.S. 9:315.9(A)(4) and (5))

\$

\$

14.

RECOMMENDED CHILD SUPPORT ORDER (Subtract lesser amount from greater amount in line 13 and place the difference in the appropriate column) (R.S. 9:315.9(A)(6))

\$

\$

Comments, calculations, or rebuttals to schedule or adjustments:

Prepared by

Date

SUBPART B. OTHER CHILD SUPPORT PROVISIONS

§315.21. Retroactivity of child support judgment

A. Except for good cause shown, a judgment awarding, modifying, or revoking an interim child support allowance shall be retroactive to the date of judicial demand, but in no case prior to the date of judicial demand.

B.(1) A judgment that initially awards or denies final child support is effective as of the date the judgment is signed and terminates an interim child support allowance as of that date.

(2) If an interim child support allowance award is not in effect on the date of the judgment awarding final child support, the judgment shall be retroactive to the date of judicial demand, except for good cause shown, but in no case prior to the date of judicial demand.

C. Except for good cause shown, a judgment modifying or revoking a final child support judgment shall be retroactive to the date of judicial demand, but in no case prior to the date of judicial demand.

D. Child support of any kind, except that paid pursuant to an interim child support allowance award, provided by the judgment debtor from the date of judicial demand to the date the support judgment is signed, to or on behalf of the child for whom support is ordered, shall be credited to the judgment debtor against the amount of the judgment.

E. In the event that the court finds good cause for not making the award retroactive to the date of judicial demand, the court may fix the date on which the award shall commence, but in no case shall this date be a date prior to the date of judicial demand.

§315.22. Termination of child support upon majority or emancipation; exceptions

A. When there is a child support award in a specific amount per child, the award for each child shall terminate automatically without any action by the obligor upon each child's attaining the age of majority, or upon emancipation relieving the child of the disabilities attached to minority.

B. When there is a child support award in globo for two or more children, the award shall terminate automatically and without any action by the obligor when the youngest child for whose benefit the award was made attains the age of majority or is emancipated relieving the child of the disabilities attached to minority.

C. An award of child support continues with respect to any unmarried child who attains the age of majority, or to a child who is emancipated relieving the child of the disabilities attached to minority, as long as the child is a full-time student in good standing in a secondary school or its equivalent, has not attained the age of nineteen, and is dependent upon either parent. Either the primary domiciliary parent or the major or emancipated child is the proper party to enforce an award of child support pursuant to this Subsection.

D. An award of child support continues with respect to any child who has a developmental disability, as defined in R.S. 28:381, until he attains the age of twenty-two, as long as the child is a full-time student in a secondary school. The primary domiciliary parent or legal guardian is the proper party to enforce an award of child support pursuant to this Subsection.

§315.23. Suspension or modification of child support obligation; secreting of child

If one joint custodial parent or his agent is intentionally secreting a child with the intent to preclude the other joint custodial parent from knowing the whereabouts of the child sufficiently to allow him to exercise his rights or duties as joint custodial parent, the latter may obtain from the court an

order suspending or modifying his obligation under an order or judgment of child support. However, such circumstances shall not constitute a defense to an action for failure to pay court-ordered child support or an action to enforce past due child support.

§315.24. Child support enforcement; revocatory and oblique actions

A. A party to whom child support is owed, including the Department of Social Services when rendering child support enforcement services, may seek enforcement of a child support obligation by any lawful means provided by law, including the use of a revocatory or oblique action brought pursuant to the provisions of Civil Code Article 2036 et seq.

B. In cases wherein the Department of Social Services is providing support enforcement services and has reason to believe that an obligor acted or failed to act in such a way that caused or increased his insolvency, the department shall seek either of the following:

(1) To institute a revocatory or oblique action in a court of competent jurisdiction to annul an act or exercise a right of the obligor which caused or increased the insolvency.

(2) To obtain a settlement in the best interest of the child support obligee.

§315.25. Consideration of custody or visitation matters

In any proceeding for child support, either party may raise any issue relating to custody of the child, or visitation with the child, or both, and the court may hear and determine that issue if all parties consent. The custody or visitation matter need not be specifically pleaded for the party to raise the issue or for the court to decide the issue.

PART III. CHILD CUSTODY

SUBPART A. EVALUATION AND MEDIATION

§331. Custody or visitation proceeding; evaluation by mental health professional

A. The court may order an evaluation of a party or the child in a custody or visitation proceeding for good cause shown. The evaluation shall be made by a mental health professional selected by the parties or by the court. The court may render judgment for costs of the evaluation, or any part thereof, against any party or parties, as it may consider equitable.

B. The court may order a party or the child to submit to and cooperate in the evaluation, testing, or interview by the mental health professional. The mental health professional shall provide the court and the parties with a written report. The mental health professional shall serve as the witness of the court, subject to cross-examination by a party.

§331.1. Drug testing in custody or visitation proceeding

The court for good cause shown may, after a contradictory hearing, order a party in a custody or visitation proceeding to submit to specified drug tests and the collection of hair, urine, tissue, and blood samples as required by appropriate testing procedures within a time period set by the court. The refusal to submit to the tests may be taken into consideration by the court. The provisions of R.S. 9:397.2 and 397.3(A), (B), and (C) shall govern the admissibility of the test results. The fact that the court orders a drug test and the results of such test shall be confidential and shall not be admissible in any other proceedings. The court may render judgment for costs of the drug tests against any party or parties, as it may consider equitable.

§332. Custody or visitation proceeding; mediation

A. The court may order the parties to mediate their differences in a custody or visitation proceeding. The mediator may be agreed upon by the parties or, upon their failure to agree, selected by the court. The court may stay any further determination of custody or visitation for a period not to exceed thirty days from the date of issuance of such an order. The court may order the costs of mediation to be paid in advance by either party or both parties jointly. The court may apportion the costs of the mediation between the parties if agreement is reached on custody or visitation. If mediation concludes without agreement between the parties, the costs of mediation shall be taxed as costs of court. The costs of mediation shall be subject to approval by the court.

B. If an agreement is reached by the parties, the mediator shall prepare a written, signed, and dated agreement. A consent judgment incorporating the agreement shall be submitted to the court for its approval.

C. Evidence of conduct or statements made in mediation is not admissible in any proceeding. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of mediation. Facts disclosed, other than conduct or statements made in mediation, are not inadmissible by virtue of first having been disclosed in mediation.

CHAPTER 2. TRANSITIONAL PROVISIONS

PART I. DIVORCE

§381. Actions pending on effective date of divorce revision act; law governing

This Act* does not apply to actions for separation from bed and board or divorce or actions for incidental relief commenced before January 1, 1991, or to reconventional demands thereto, whenever filed. Such actions are to be governed by the law in effect prior to January 1, 1991.

§382. Present effect of judgment of separation from bed and board

A judgment of separation from bed and board or divorce rendered before January 1, 1998, or a judgment rendered in an action governed by R.S. 9:381, shall have the same effect that it had prior to January 1, 1998. These effects include but are not limited to:

(1) Spouses who are judicially separated shall retain that status until either reconciliation or divorce.

(2) A judicial determination of fault or freedom from fault made prior to January 1, 1998, shall have the same effect on the right to claim spousal support as it had prior to January 1, 1998.

(3) A judgment of separation or divorce rendered prior to January 1, 1998, without a determination of fault shall not preclude a subsequent adjudication of fault as a bar to spousal support.

§383. Judgment of divorce after judgment of separation

A. Any person who is judicially separated before January 1, 1991, may obtain a judgment of divorce if there has been no reconciliation between the spouses for a period of six months or more from the date the judgment of separation from bed and board was signed. If an appeal is taken from a judgment of separation from bed and board, a suit for divorce pursuant to this Section may not be commenced until the judgment becomes final and definitive as provided by Articles 2166 and 2167 of the Code of Civil Procedure.

B. This Section shall be effective until January 1, 1992, and thereafter spouses who are judicially separated shall be governed by the provisions of this Act* in obtaining a judgment of divorce.

§384. Effect of reconciliation on community

A. If spouses who were judicially separated by a judgment signed before January 1, 1991, or by a judgment rendered in an action governed by R.S. 9:381, reconcile after September 6, 1985, their community of acquets and gains shall be reestablished between the spouses, as of the date of filing of the original petition in the action in which the separation judgment was rendered, unless the spouses execute prior to the reconciliation a matrimonial agreement that the community will not be reestablished upon reconciliation. This matrimonial agreement shall not require court approval.

B. Reestablishment of a community property regime under the provisions of this Section shall be effective toward third persons only upon filing notice of the reestablishment for registry in accordance with the provisions of Civil Code Article 2332. The reestablishment of the community shall not prejudice the rights of third persons validly acquired prior to filing notice of the reestablishment nor shall it affect a prior community property partition between the spouses.

PART II. CHILD CUSTODY AND SUPPORT

§385. Actions pending on effective date of child custody and support revision act; law governing

Acts 1993, No. 261 does not apply to actions for separation from bed and board or divorce or actions for incidental relief commenced before January 1, 1994, or to reconventional demands thereto, whenever filed. Such actions are to be governed by the law in effect prior to January 1, 1994.