

Louisiana Divorce Laws

Title V - Divorce

Art. 102. Judgment of divorce; living apart one hundred eighty days prior to rule

Except in the case of a covenant marriage, a divorce shall be granted upon motion of a spouse when either spouse has filed a petition for divorce and upon proof that one hundred eighty days have elapsed from the service of the petition, or from the execution of written waiver of the service, and that the spouses have lived separate and apart continuously for at least one hundred eighty days prior to the filing of the rule to show cause.

The motion shall be a rule to show cause filed after all such delays have elapsed.

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 a period of six months or more on the date the petition is filed;
- (2) The other spouse has committed adultery; or
- (3) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.

Art. 104. Reconciliation

The cause of action for divorce is extinguished by the reconciliation of the parties.

Art. 105. Determination of incidental matters

In a proceeding for divorce or thereafter, either spouse may request a determination of custody, visitation, or support of a minor child; support for a spouse; injunctive relief; use and occupancy of the family home or use of community movables or immovables; or use of personal property.

Art. 111. Spousal support; authority of court

In a proceeding for divorce or thereafter, the court may award interim periodic support to a party or may award final periodic support to a party free from fault prior to the filing of a proceeding to terminate the marriage, based on the needs of that party and the ability of the other party to pay, in accordance with the following Articles.

Art. 112. Determination of final periodic support

A. The court must consider all relevant factors in determining the entitlement, amount, and duration of final support. Those factors may include:

- (1) The needs of the parties.
- (2) The income and means of the parties, including the liquidity of such means.
- (3) The financial obligations of the parties.
- (4) The earning capacity of the parties.
- (5) The effect of custody of children upon a party's earning capacity.
- (6) The time necessary for the claimant to acquire appropriate education, training, or employment.
- (7) The health and age of the parties.
- (8) The duration of the marriage.
- (9) The tax consequences to either or both parties.

B. The sum awarded under this Article shall not exceed one-third of the obligor's net income.

Art. 113. Interim spousal support allowance pending final spousal support award

Upon motion of a party or when a demand for final spousal support is pending, the court may award a party an interim spousal support allowance based on the needs of that party, the ability of the other party to pay, and the standard of living of the parties during the marriage, which award of interim spousal support allowance shall terminate upon the rendition of a judgment of divorce. If a claim for final spousal support is pending at the time of the rendition of the judgment of divorce, the interim spousal support award shall thereafter terminate upon rendition of a judgment awarding or denying final spousal support or one hundred eighty days from the rendition of judgment of divorce, whichever occurs first. The obligation to pay interim spousal support may extend beyond one hundred eighty days from the rendition of judgment of divorce, but only for good cause shown.

Art. 114. Modification or termination of award of periodic support

An award of 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.

Art. 115. Extinguishment of spousal support obligation

The obligation of spousal 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.

Art. 116. Modification of spousal support obligation

The obligation of final spousal support may be modified, waived, or extinguished by judgment of a court of competent jurisdiction or by authentic act or act under private signature duly acknowledged by the obligee.

Art. 117. Peremptive period for obligation

The right to claim after divorce the obligation of spousal support is subject to a peremption of three years. Peremption begins to run from the latest of the following events:

- (1) The day the judgment of divorce is signed.
- (2) The day a judgment terminating a previous judgment of spousal support is signed, if the previous judgment was signed in an action commenced either before the signing of the judgment of divorce or within three years thereafter.
- (3) The day of the last payment made, when the spousal support obligation is initially performed by voluntary payment within the periods described in Paragraph (1) or (2) and no more than three years has elapsed between payments.

Art. 121. Claim for contributions to education or training; authority of court

In a proceeding for divorce or thereafter, the court may award a party a sum for his financial contributions made during the marriage to education or training of his spouse that increased the spouse's earning power, to the extent that the claimant did not benefit during the marriage from the increased earning power.

The sum awarded may be in addition to a sum for support and to property received in the partition of community property.

Art. 123. Form of award; effect of remarriage or death

The sum awarded for contributions made to the education or training of a spouse may be a sum certain payable in installments.

The award shall not terminate upon the remarriage or death of either party.

Art. 124. Prescription of spousal claim for contributions

The action for contributions made to the education or training of a spouse prescribes in three years from the date of the signing of the judgment of divorce or declaration of nullity of the marriage.

Art. 131. Court to determine custody

In a proceeding for divorce or thereafter, the court shall award custody of a child in accordance with the best interest of the child.

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 best interest of the child requires a different award.

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.

Art. 133. Award of custody to person other than a parent; order of preference

If an award of joint custody or of sole custody to either parent would result in substantial harm to the child, the court shall award custody to another person with whom the child has been living in a wholesome and stable environment, or otherwise to any other person able to provide an adequate and stable environment.

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

The court shall consider all relevant factors in determining the best interest of the child. Such factors may include:

- (1) The love, affection, and other emotional ties between each party and the child.
- (2) 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.
- (3) The capacity and disposition of each party to provide the child with food, clothing, medical care, and other material needs.
- (4) The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity of that environment.
- (5) The permanence, as a family unit, of the existing or proposed custodial home or homes.
- (6) The moral fitness of each party, insofar as it affects the welfare of the child.
- (7) The mental and physical health of each party.
- (8) The home, school, and community history of the child.
- (9) The reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference.
- (10) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party.
- (11) The distance between the respective residences of the parties.
- (12) The responsibility for the care and rearing of the child previously exercised by each party.

Art. 135. Closed custody hearing

A custody hearing may be closed to the public.

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. Under extraordinary circumstances, a relative, by blood or affinity, or a former stepparent or stepgrandparent, not granted custody of the child may be granted reasonable visitation rights if the court finds that it is in the best interest of the child. In determining the best interest of the child, the court shall consider:

- (1) The length and quality of the prior relationship between the child and the relative.
- (2) Whether the child is in need of guidance, enlightenment, or tutelage which can best be provided by the relative.
- (3) The preference of the child if he is determined to be of sufficient maturity to express a preference.
- (4) The willingness of the relative to encourage a close relationship between the child and his parent or parents.
- (5) The mental and physical health of the child and the relative.

C. In the event of a conflict between this Article and R.S. 9:344 or 345, the provisions of the statute shall supersede those of this Article.

Art. 137. Denial of visitation; felony rape

In a proceeding in which visitation of a child is being sought by a natural parent, if the child was conceived through the commission of a felony rape, the natural parent who committed the felony rape shall be denied visitation rights and contact with the child.

Section 4. Child Support

Art. 141. Child support; authority of court

In a proceeding for divorce or thereafter, the court may order either or both of the parents to provide an interim allowance or final support for a child based on the needs of the child and the ability of the parents to provide support.

The court may award an interim allowance only when a demand for final support is pending.

Art. 142. Modification or termination of child support award

An award of child support may be modified if the circumstances of the child or of either parent materially change and shall be terminated upon proof that it has become unnecessary.

Art. 151. Proceeding for declaration of nullity of a marriage; interim incidental relief

In a proceeding for declaration of nullity of a marriage, a court may award a party the incidental relief afforded in a proceeding for divorce.

Art. 152. Proceeding for declaration of nullity of a marriage; final incidental relief

After the declaration of nullity of a marriage, a party entitled to the civil effects of marriage may seek the same relief as may a divorced spouse.

Incidental relief granted pending declaration of nullity to a party not entitled to the civil effects of marriage shall terminate upon the declaration of nullity.

Nevertheless, a party not entitled to the civil effects of marriage may be awarded custody, child support, or visitation. The award shall not terminate as a result of the declaration of nullity.

Art. 159. Effect of divorce on community property regime

A judgment of divorce terminates a community property regime retroactively to the date of filing of the petition in the action in which the judgment of divorce is rendered. The retroactive termination of the community shall be without prejudice to rights of third parties validly acquired in the interim between the filing of the petition and recordation of the judgment.

Art. 2325. Matrimonial regime.

A matrimonial regime is a system of principles and rules governing the ownership and management of the property of married persons as between themselves and toward third persons.

Art. 2326. Kinds of matrimonial regimes.

A matrimonial regime may be legal, contractual, or partly legal and partly contractual.

Art. 2327. Legal regime.

The legal regime is the community of acquets and gains established in Chapter 2 of this Title.

Art. 2328. Contractual regime; matrimonial agreement.

A matrimonial agreement is a contract establishing a regime of separation of property or modifying or terminating the legal regime. Spouses are free to establish by matrimonial agreement a regime of separation of property or modify the legal regime as provided by law. The provisions of the legal regime that have not been excluded or modified by agreement retain their force and effect.

Art. 2329. Exclusion or modification of matrimonial regime.

Spouses may enter into a matrimonial agreement before or during marriage as to all matters that are not prohibited by public policy.

Spouses may enter into a matrimonial agreement that modifies or terminates a matrimonial regime during marriage only upon joint petition and a finding by the court that this serves their best interests and that they understand the governing principles and rules. They may, however, subject themselves to the legal regime by a matrimonial agreement at any time without court approval.

During the first year after moving into and acquiring a domicile in this state, spouses may enter into a matrimonial agreement without court approval.

Art. 2330. Limits of contractual freedom.

Spouses may not by agreement before or during marriage, renounce or alter the marital portion or the established order of succession. Nor may the spouses limit with respect to third persons the right that one spouse alone has under the legal regime to obligate the community or to alienate, encumber, or lease community property.

Art. 2331. Form of matrimonial agreement.

A matrimonial agreement may be executed by the spouses before or during marriage. It shall be made by authentic act or by an act under private signature duly acknowledged by the spouses.

Art. 2332. Effect toward third persons.

A matrimonial agreement, or a judgment establishing a regime of separation of property is effective toward third persons as to immovable property, when filed for registry in the conveyance records of the parish in which the property is situated and as to movables when filed for registry in the parish or parishes in which the spouses are domiciled.

Art. 2335. Classification of property

Property of married persons is either community or separate, except as provided in Article 2341.1.

Art. 2336. Ownership of community property

Each spouse owns a present undivided one-half interest in the community property. Nevertheless, neither the community nor things of the community may be judicially partitioned prior to the termination of the regime.

During the existence of the community property regime, the spouses may, without court approval, voluntarily partition the community property in whole or in part. In such a case, the things that each spouse acquires are separate property. The partition is effective toward third persons when filed for registry in the manner provided by Article 2332.

Art. 2338. Community property.

The community property comprises: property acquired during the existence of the legal regime through the effort, skill, or industry of either spouse; property acquired with community things or with community and separate things, unless

classified as separate property under Article 2341; property donated to the spouses jointly; natural and civil fruits of community property; damages awarded for loss or injury to a thing belonging to the community; and all other property not classified by law as separate property.

Art. 2339. Fruits and revenues of separate property.

The natural and civil fruits of the separate property of a spouse, minerals produced from or attributable to a separate asset, and bonuses, delay rentals, royalties, and shut-in payments arising from mineral leases are community property. Nevertheless, a spouse may reserve them as his separate property by a declaration made in an authentic act or in an act under private signature duly acknowledged.

As to the fruits and revenues of immovables, the declaration is effective when filed for registry in the conveyance records of the parish in which the immovable property is located. As to fruits of movables, the declaration is effective when filed for registry in the conveyance records of the parish in which the declarant is domiciled.

Art. 2340. Presumption of community.

Things in the possession of a spouse during the existence of a regime of community of acquets and gains are presumed to be community, but either spouse may prove that they are separate property.

Art. 2341. Separate property.

The separate property of a spouse is his exclusively. It comprises: property acquired by a spouse prior to the establishment of a community property regime; property acquired by a spouse with separate things or with separate and community things when the value of the community things is inconsequential in comparison with the value of the separate things used; property acquired by a spouse by inheritance or donation to him individually; damages awarded to a spouse in an action for breach of contract against the other spouse or for the loss sustained as a result of fraud or bad faith in the management of community property by the other spouse; damages or other indemnity awarded to a spouse in connection with the management of his separate property; and things acquired by a spouse as a result of a voluntary partition of the community during the existence of a community property regime.

Art. 2370. Separation of property regime.

A regime of separation of property is established by a matrimonial agreement that excludes the legal regime of community of acquets and gains or by a judgment decreeing separation of property.

Art. 2371. Management of property.

Under the regime of separation of property each spouse acting alone uses, enjoys, and disposes of his property without the consent or concurrence of the other spouse.

Art. 2374. Judgment of separation of property

A. When the interest of a spouse in a community property regime is threatened to be diminished by the fraud, fault, neglect, or incompetence of the other spouse, or by the disorder of the affairs of the other spouse, he may obtain a judgment decreeing separation of property.

B. When a spouse is an absent person, the other spouse is entitled to a judgment decreeing separation of property.

C. When a petition for divorce has been filed, either spouse may obtain a judgment decreeing separation of property, by a rule to show cause and upon proof that the spouses have lived separate and apart without reconciliation for at least thirty days from the date of, or prior to, the filing of the petition for divorce and have not reconciled.

D. When the spouses have lived separate and apart continuously for a period of six months, a judgment decreeing separation of property shall be granted on the petition of either spouse.

Art. 2375. Effect of judgment

A. Except as provided in Paragraph C of this Article, a judgment decreeing separation of property terminates the regime of community property retroactively to the day of the filing of the petition or motion therefor, without prejudice to rights validly acquired in the interim between filing of the petition or motion and rendition of judgment.

B. If a judgment has been rendered on the ground that the spouses have lived separate and apart either after the filing of a petition for divorce without having reconciled or for six months, a reconciliation reestablishes the regime of community property between the spouses retroactively to the day of the filing of the motion or petition therefor, unless prior to the reconciliation the spouses execute a matrimonial agreement to the contrary. This agreement need not be approved by the court and is effective toward third persons when filed for registry in the manner provided by Article 2332. The reestablishment of the community is effective toward third persons when a notice thereof is filed for registry in the same manner.

C. If a judgment is rendered on the ground that the spouses were living separate and apart after the filing of a petition for divorce without having reconciled, the judgment shall be effective retroactively to the date the original petition for divorce was filed, without prejudice to rights validly acquired in the interim between filing of the petition or motion and rendition of judgment. All subsequent pleadings or motions involving matters incidental to the divorce must be filed in the first filed suit.

Art. 3941. Court where action brought; nullity of judgment of court of improper venue

A. An action for an annulment of marriage or for a divorce shall be brought in a parish where either party is domiciled, or in the parish of the last matrimonial domicile.

B. The venue provided in this Article may not be waived, and a judgment rendered in either of these actions by a court of improper venue is an absolute nullity.

Art. 3942. Appeal from judgment granting or refusing annulment or divorce

A. An appeal from a judgment granting or refusing an annulment of marriage or a divorce can be taken only within thirty days from the applicable date provided in Article 2087(A)(1)-(3).

B. Such an appeal shall suspend the execution of the judgment insofar as the judgment relates to the annulment, divorce, or any partition of community property or settlement of claims arising from the matrimonial regime.

Art. 3943. Appeal from judgment awarding custody, visitation, or support

An appeal from a judgment awarding custody, visitation, or support of a person can be taken only within the delay provided in Article 3942. Such an appeal shall not suspend execution of the judgment insofar as the judgment relates to custody, visitation, or support.

Art. 3944. Injunctive relief in divorce actions; bond not required in certain cases

Either party to an action for divorce may obtain injunctive relief as provided in Part V of Chapter 1 of Code Title V of Code Book I of Title 9 (R.S. 9:371 et seq.) of the Revised Statutes without bond.

Art. 3945. Incidental order of temporary child custody; injunctive relief; exceptions

A. The injunctive relief afforded either party to an action for divorce or other proceeding which includes a provision for the temporary custody of a minor child shall be governed by the additional provisions of this Article.

Art. 3946. Execution of support and claims for contributions awards in arrears

A. When a payment of support under a judgment is in arrears, the party entitled thereto may proceed by contradictory motion to have the amount of past due support determined and made executory. On the trial of the contradictory motion, the court shall render judgment for the amount of past due support.

B. The same rules and procedures apply when an installment payment of an award for contributions made to a spouse's education or training is in arrears.

Art. 3947. Name confirmation

A. Marriage does not change the name of either spouse. However, a married person may use the surname of either or both spouses as a surname.

B. The court may enter an order confirming the name of a married woman in a divorce proceeding, whether she is the plaintiff or defendant, which confirmation shall be limited to the name which she was using at the time of the marriage, or the name of her minor children, or her maiden name, without complying with the provisions of R.S. 13:4751 through 4755. This Article shall not be construed to allow her to amend her birth certificate with the Bureau of Vital Statistics.

Art. 3951. Petition for divorce

A petition for divorce under Civil Code Article 102 shall contain allegations of jurisdiction and venue and shall be verified by the affidavit of the petitioner.

Art. 3952. Rule to show cause and affidavit

The rule to show cause provided under Civil Code Article 102 shall allege proper service of the initial petition for divorce, that one hundred eighty days or more have elapsed since that service, and that the spouses have lived separate and apart continuously for the previous one hundred eighty days. The rule to show cause shall be verified by the affidavit of the mover and must be served on the defendant, the defendant's attorney of record, or the duly appointed curator for the defendant prior to the granting of the divorce, unless service is waived by the defendant.

Art. 3953. Nullity of judgment

A judgment rendered under Civil Code Article 102 shall be an absolute nullity when:

(1) Less than one hundred eighty days have elapsed between service of the petition, or between execution of written waiver of service of the petition, and filing of the rule to show cause.

(2) Less than one hundred eighty days have elapsed between the date the parties commenced living separate and apart and filing of the rule to show cause.

(3) The requirements of this Title with respect to jurisdiction and venue have not been met.

Art. 3954. Abandonment of action

A. A divorce action instituted under Civil Code Article 102 is abandoned if the rule to show cause provided by that Article is not filed within two years of the service of the original petition or execution of written waiver of service of the original petition.

B. This provision shall be operative without formal order, but on ex parte motion of any party or other interested person, the trial court shall enter a formal order of dismissal as of the date of abandonment.

Art. 3956. Evidence of facts in divorce action

The facts entitling a moving party to a divorce under Civil Code Article 102 may be established by:

(1) The petition for divorce.

(2)(a) The sheriff's return of service of the petition.

(b) The sheriff's return of service of the petition showing personal service on the defendant if the parties were living together at the time of the filing of the petition.

(c) The return receipt when service is effectuated pursuant to R.S. 13:3204.

(d) Waiver of the service of petition.

(3) The rule to show cause and the affidavit required by Code of Civil Procedure Article 3952.

(4) The sheriff's return of service of the rule, or by a waiver of that service.

(5) The affidavit of the mover, executed after the filing of the rule, that the parties have lived separate and apart continuously for at least one hundred eighty days prior to the filing of the rule to show cause and are still living separate and apart and that the mover desires to be divorced.

Art. 3957. Waiver of service of petition and rule to show cause and accompanying notices

A. A party in a divorce action under Civil Code Article 102 may expressly waive service of the petition and accompanying notice by any written waiver executed after the filing of the petition and made part of the record.

B. If there is such a waiver, the periods specified by Civil Code Article 102 and Code of Civil Procedure Articles 3953 and 3954 shall run from the date of execution of the waiver.

C. A party in a divorce action under Civil Code Article 102 may expressly waive service of the rule to show cause why a divorce should not be granted and accompanying notice by any written waiver executed after the filing of the rule to show cause and made part of the record.

Art. 3958. Voluntary dismissal

A judgment dismissing a petition for divorce under Civil Code Article 102 shall be rendered upon joint application of the parties and upon payment of all costs, or upon contradictory motion of the plaintiff. A judgment of dismissal rendered under this Article shall be without prejudice to any separation of property decree rendered under Civil Code Articles 2374 and 2375.

Louisiana Revised Statutes

Title 9. Civil Code-Ancillaries

Code Title V - Divorce

9:302. 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.

9:303. 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.

9:304.1. 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. Acts 1988, No. 603, § 1.

9:305. 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.

9:306. 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.

9:307. 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.

9:308. 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.

9:309. 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.

9:310. 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.

9:311. 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.

9:312. 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.

9:313. 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

9:315. 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.

9:315.1. 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.

9:315.2. 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.

9:315.3. 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.

9:315.4. 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.

9:315.5. 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.

9:315.6. 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.

9:315.7. 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.

9:315.8. 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.

9:315.9. 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.

9:315.10. 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.

9:315.11. 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.

9:315.12. 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.

9:315.13. 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.

9:315.14. 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.

9:315.18. 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.

9:315.19. Schedule for support

The schedule of support to be used for determining the basic child support obligation is as follows:

LOUISIANA CHILD SUPPORT GUIDELINE
SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS

COMBINED
ADJUSTED SIX
MONTHLY TWO THREE FOUR FIVE OR MORE
GROSS ONE CHILDREN CHILDREN CHILDREN CHILDREN CHILDREN
INCOME CHILD (TOTAL) (TOTAL) (TOTAL) (TOTAL) (TOTAL)

600.00	100	100	100	100	100	100
650.00	102	103	104	106	107	108
700.00	136	138	139	141	142	144
750.00	165	172	174	176	178	179
800.00	174	206	208	211	213	215
850.00	182	240	243	245	248	251
900.00	189	274	277	280	283	286
950.00	197	305	310	313	317	320
1000.00	203	315	339	342	346	350
1050.00	210	325	367	371	375	379
1100.00	216	335	396	400	405	409
1150.00	222	345	425	429	434	439
1200.00	229	354	444	458	463	468
1250.00	235	364	456	487	493	498
1300.00	241	374	469	516	522	528
1350.00	248	384	481	542	551	557
1400.00	254	394	494	556	581	587
1450.00	260	404	506	570	610	617
1500.00	267	414	519	584	637	646
1550.00	273	424	531	598	653	676
1600.00	281	435	545	614	670	717
1650.00	288	446	560	630	688	736
1700.00	295	458	574	647	705	755
1750.00	303	469	588	663	723	774
1800.00	310	481	603	679	741	792
1850.00	317	492	617	695	758	811
1900.00	325	503	631	711	776	830
1950.00	331	513	643	724	790	846
2000.00	337	522	655	737	805	861
2050.00	343	532	667	751	819	877
2100.00	349	541	679	764	834	892
2150.00	355	551	691	778	849	908
2200.00	361	561	703	792	864	924
2250.00	368	570	715	805	878	940
2300.00	374	580	727	819	893	956
2350.00	380	590	739	832	908	972
2400.00	386	600	751	846	923	988
2450.00	392	609	763	860	938	1004
2500.00	399	619	776	873	953	1020

2550.00 405 629 788 887 968 1035
2600.00 411 638 800 901 983 1051
2650.00 417 648 812 914 998 1067
2700.00 424 658 824 928 1013 1083
2750.00 430 668 836 942 1028 1099
2800.00 436 677 848 955 1042 1115
2850.00 442 687 860 969 1057 1131
2900.00 448 697 872 983 1072 1147
2950.00 455 706 885 996 1087 1163
3000.00 461 716 897 1010 1102 1179
3050.00 467 726 909 1024 1117 1195
3100.00 473 736 921 1037 1132 1211
3150.00 479 745 933 1051 1147 1227
3200.00 486 755 945 1065 1162 1243
3250.00 492 765 957 1078 1177 1259
3300.00 498 774 969 1092 1192 1275
3350.00 504 784 981 1106 1206 1291
3400.00 510 794 994 1119 1221 1307
3450.00 517 804 1006 1133 1236 1323
3500.00 523 813 1018 1146 1251 1339
3550.00 529 823 1030 1160 1266 1355
3600.00 535 833 1042 1174 1281 1371
3650.00 542 842 1054 1187 1296 1387
3700.00 548 852 1066 1201 1311 1402
3750.00 554 862 1078 1215 1326 1418
3800.00 560 872 1090 1228 1341 1434
3850.00 566 881 1103 1242 1356 1450
3900.00 573 891 1115 1256 1371 1466
3950.00 579 901 1127 1269 1385 1482
4000.00 585 910 1139 1283 1400 1498
4050.00 590 919 1149 1295 1414 1512
4100.00 596 927 1160 1307 1427 1526
4150.00 601 936 1170 1319 1440 1540
4200.00 607 944 1181 1331 1452 1553
4250.00 612 953 1191 1343 1465 1567
4300.00 618 961 1202 1355 1478 1581
4350.00 623 970 1212 1367 1491 1595
4400.00 629 978 1223 1379 1504 1609
4450.00 634 987 1234 1391 1517 1623
4500.00 640 995 1244 1403 1530 1637
4550.00 645 1003 1255 1415 1543 1650
4600.00 651 1012 1265 1426 1556 1664
4650.00 656 1020 1276 1438 1569 1678
4700.00 662 1029 1286 1450 1582 1692
4750.00 667 1037 1297 1462 1595 1706

4800.00 673 1046 1307 1474 1608 1720
4850.00 678 1054 1318 1486 1621 1734
4900.00 684 1063 1328 1498 1634 1747
4950.00 689 1071 1339 1510 1647 1761
5000.00 695 1079 1349 1522 1660 1775
5050.00 700 1088 1360 1534 1673 1789
5100.00 706 1096 1370 1545 1686 1803
5150.00 711 1105 1381 1557 1699 1817
5200.00 717 1113 1391 1569 1712 1831
5250.00 722 1122 1402 1581 1725 1844
5300.00 728 1130 1413 1593 1738 1858
5350.00 733 1139 1423 1605 1751 1872
5400.00 738 1146 1432 1616 1763 1884
5450.00 743 1153 1441 1626 1774 1896
5500.00 748 1160 1450 1636 1785 1908
5550.00 752 1167 1459 1646 1796 1920
5600.00 757 1175 1468 1657 1807 1932
5650.00 762 1182 1478 1667 1819 1944
5700.00 767 1189 1487 1677 1830 1956
5750.00 771 1196 1496 1687 1841 1968
5800.00 776 1203 1505 1698 1852 1979
5850.00 781 1211 1514 1708 1863 1991
5900.00 785 1218 1523 1718 1875 2003
5950.00 790 1225 1532 1728 1886 2015
6000.00 795 1232 1541 1739 1897 2027
6050.00 800 1240 1550 1749 1908 2039
6100.00 804 1247 1559 1759 1919 2051
6150.00 809 1254 1568 1769 1931 2063
6200.00 814 1261 1577 1780 1942 2075
6250.00 819 1269 1587 1790 1953 2087
6300.00 823 1276 1596 1800 1964 2099
6350.00 828 1283 1605 1810 1975 2111
6400.00 833 1290 1614 1820 1987 2123
6450.00 838 1297 1623 1831 1998 2135
6500.00 842 1305 1632 1841 2009 2147
6550.00 847 1312 1641 1851 2020 2159
6600.00 852 1319 1650 1861 2031 2171
6650.00 857 1326 1659 1872 2043 2183
6700.00 861 1334 1668 1882 2054 2195
6750.00 866 1341 1677 1892 2065 2207
6800.00 871 1348 1687 1902 2076 2219
6850.00 875 1355 1696 1913 2087 2231
6900.00 879 1361 1703 1921 2096 2240
6950.00 883 1366 1710 1928 2105 2249
7000.00 886 1372 1717 1936 2113 2259

7050.00 889 1378 1725 1944 2122 2268
7100.00 893 1383 1732 1951 2130 2277
7150.00 896 1389 1739 1959 2139 2286
7200.00 900 1394 1746 1967 2147 2295
7250.00 903 1400 1753 1974 2156 2305
7300.00 906 1406 1760 1982 2164 2314
7350.00 910 1411 1767 1990 2173 2323
7400.00 913 1417 1774 1997 2181 2332
7450.00 916 1422 1781 2005 2189 2342
7500.00 920 1428 1788 2013 2198 2351
7550.00 923 1434 1795 2020 2206 2360
7600.00 927 1439 1802 2028 2215 2369
7650.00 930 1445 1809 2036 2223 2378
7700.00 933 1450 1816 2043 2232 2388
7750.00 937 1456 1824 2051 2240 2397
7800.00 940 1462 1831 2059 2243 2406
7850.00 944 1467 1838 2066 2246 2409
7900.00 947 1473 1845 2069 2249 2412
7950.00 950 1478 1852 2072 2252 2415
8000.00 954 1484 1859 2075 2255 2418
8050.00 957 1490 1866 2078 2258 2421
8100.00 960 1493 1871 2081 2261 2424
8150.00 962 1497 1875 2084 2264 2427
8200.00 965 1501 1880 2087 2267 2430
8250.00 967 1505 1882 2090 2270 2433
8300.00 970 1509 1884 2093 2273 2436
8350.00 972 1512 1886 2096 2276 2439
8400.00 975 1516 1888 2099 2279 2442
8450.00 977 1520 1890 2102 2282 2445
8500.00 980 1523 1892 2105 2285 2448
8550.00 982 1526 1894 2108 2288 2451
8600.00 985 1529 1896 2111 2291 2454
8650.00 987 1532 1898 2114 2294 2457
8700.00 990 1535 1900 2117 2297 2460
8750.00 992 1538 1902 2120 2300 2463
8800.00 995 1541 1904 2123 2303 2466
8850.00 997 1544 1906 2126 2306 2469
8900.00 1000 1547 1908 2129 2309 2472
8950.00 1003 1550 1910 2132 2312 2475
9000.00 1005 1553 1912 2135 2315 2478
9050.00 1008 1556 1914 2138 2318 2481
9100.00 1011 1559 1916 2141 2321 2484
9150.00 1013 1562 1918 2144 2324 2487
9200.00 1016 1565 1920 2147 2327 2490
9250.00 1019 1568 1922 2150 2330 2493

9300.00 1022 1571 1924 2153 2333 2496
9350.00 1024 1574 1926 2156 2336 2499
9400.00 1028 1577 1928 2159 2339 2502
9450.00 1033 1580 1930 2162 2342 2505
9500.00 1038 1583 1932 2165 2345 2508
9550.00 1043 1586 1934 2168 2348 2511
9600.00 1048 1589 1936 2171 2351 2514
9650.00 1053 1592 1938 2174 2354 2517
9700.00 1058 1595 1940 2177 2357 2520
9750.00 1063 1598 1942 2180 2360 2523
9800.00 1068 1601 1944 2183 2363 2526
9850.00 1073 1604 1946 2186 2366 2529
9900.00 1078 1607 1948 2189 2369 2532
9950.00 1083 1610 1950 2192 2372 2535
10000.00 1088 1613 1952 2195 2375 2538
10050.00 1095 1615 1954 2197 2377 2540
10100.00 1102 1617 1956 2199 2379 2542
10150.00 1109 1619 1958 2201 2381 2544
10200.00 1115 1621 1960 2203 2383 2546
10250.00 1119 1623 1962 2205 2385 2548
10300.00 1123 1625 1964 2207 2387 2550
10350.00 1127 1630 1966 2209 2389 2552
10400.00 1131 1636 1968 2211 2391 2554
10450.00 1135 1642 1970 2213 2393 2556
10500.00 1138 1647 1972 2215 2395 2558
10550.00 1142 1653 1974 2217 2397 2560
10600.00 1146 1659 1976 2219 2399 2562
10650.00 1150 1665 1978 2221 2400 2564
10700.00 1154 1670 1982 2223 2402 2566
10750.00 1158 1676 1984 2225 2404 2568
10800.00 1162 1682 1986 2227 2406 2570
10850.00 1166 1687 1988 2229 2408 2572
10900.00 1170 1693 1994 2231 2410 2574
10950.00 1174 1698 2001 2233 2412 2576
11000.00 1178 1704 2008 2235 2414 2578
11050.00 1182 1710 2014 2237 2416 2582
11100.00 1186 1715 2021 2239 2421 2590
11150.00 1190 1721 2027 2241 2429 2599
11200.00 1194 1727 2034 2248 2436 2607
11250.00 1197 1732 2041 2255 2444 2616
11300.00 1201 1738 2047 2262 2452 2624
11350.00 1205 1744 2054 2270 2460 2632
11400.00 1209 1749 2061 2277 2468 2641
11450.00 1213 1755 2067 2284 2476 2649
11500.00 1217 1760 2073 2291 2483 2657

11550.00 1220 1765 2079 2298 2491 2665
11600.00 1224 1771 2085 2304 2498 2673
11650.00 1228 1776 2092 2311 2505 2681
11700.00 1231 1781 2098 2318 2513 2689
11750.00 1235 1786 2104 2325 2520 2696
11800.00 1239 1791 2110 2331 2527 2704
11850.00 1242 1797 2116 2338 2535 2712
11900.00 1246 1802 2122 2345 2542 2720
11950.00 1249 1807 2128 2352 2549 2728
12000.00 1253 1812 2134 2358 2557 2735
12050.00 1257 1818 2140 2365 2564 2743
12100.00 1260 1823 2147 2372 2571 2751
12150.00 1264 1828 2153 2379 2578 2759
12200.00 1268 1833 2159 2385 2586 2767
12250.00 1271 1838 2165 2392 2593 2775
12300.00 1275 1844 2171 2399 2600 2782
12350.00 1278 1849 2177 2406 2608 2790
12400.00 1282 1854 2183 2412 2615 2798
12450.00 1286 1859 2189 2419 2622 2806
12500.00 1289 1864 2195 2426 2630 2814
12550.00 1293 1870 2202 2433 2637 2822
12600.00 1297 1875 2208 2439 2644 2829
12650.00 1300 1880 2214 2446 2652 2837
12700.00 1304 1885 2220 2453 2659 2845
12750.00 1307 1891 2226 2460 2666 2853
12800.00 1311 1896 2232 2466 2674 2861
12850.00 1315 1901 2238 2473 2681 2869
12900.00 1318 1906 2244 2480 2688 2876
12950.00 1322 1911 2250 2487 2696 2884
13000.00 1326 1917 2257 2493 2703 2892
13050.00 1329 1922 2263 2500 2710 2900
13100.00 1333 1927 2269 2507 2718 2908
13150.00 1336 1932 2275 2514 2725 2916
13200.00 1340 1937 2281 2520 2732 2923
13250.00 1344 1943 2287 2527 2740 2931
13300.00 1347 1948 2293 2534 2747 2939
13350.00 1351 1953 2299 2541 2754 2947
13400.00 1355 1958 2305 2547 2761 2955
13450.00 1358 1964 2312 2554 2769 2963
13500.00 1362 1969 2318 2561 2776 2970
13550.00 1365 1974 2324 2568 2783 2978
13600.00 1369 1979 2330 2574 2791 2986
13650.00 1373 1984 2336 2581 2798 2994
13700.00 1376 1990 2342 2588 2805 3002
13750.00 1380 1995 2348 2595 2813 3010

13800.00 1384 2000 2354 2601 2820 3017
13850.00 1387 2005 2360 2608 2827 3025
13900.00 1391 2011 2367 2615 2835 3033
13950.00 1394 2016 2373 2622 2842 3041
14000.00 1398 2021 2379 2629 2849 3049
14050.00 1402 2026 2385 2635 2857 3057
14100.00 1405 2031 2391 2642 2864 3064
14150.00 1409 2037 2397 2649 2871 3072
14200.00 1413 2042 2403 2656 2879 3080
14250.00 1416 2047 2409 2662 2886 3088
14300.00 1420 2052 2415 2669 2893 3096
14350.00 1423 2057 2422 2676 2901 3104
14400.00 1427 2063 2428 2683 2908 3111
14450.00 1431 2068 2434 2689 2915 3119
14500.00 1434 2073 2440 2696 2922 3127
14550.00 1438 2078 2446 2703 2930 3135
14600.00 1442 2084 2452 2710 2937 3143
14650.00 1445 2089 2458 2716 2944 3151
14700.00 1449 2094 2464 2723 2952 3158
14750.00 1452 2099 2470 2730 2959 3166
14800.00 1456 2104 2476 2737 2966 3174
14850.00 1460 2110 2483 2743 2974 3182
14900.00 1463 2115 2489 2750 2981 3190
14950.00 1467 2120 2495 2757 2988 3198
15000.00 1471 2125 2501 2764 2996 3205
15050.00 1474 2130 2507 2770 3003 3213
15100.00 1478 2136 2513 2777 3010 3221
15150.00 1481 2141 2519 2784 3018 3229
15200.00 1485 2146 2525 2791 3025 3237
15250.00 1489 2151 2531 2797 3032 3245
15300.00 1492 2157 2538 2804 3040 3252
15350.00 1496 2162 2544 2811 3047 3260
15400.00 1500 2167 2550 2818 3054 3268
15450.00 1503 2172 2556 2824 3062 3276
15500.00 1507 2177 2562 2831 3069 3284
15550.00 1510 2183 2568 2838 3076 3292
15600.00 1514 2188 2574 2845 3083 3299
15650.00 1518 2193 2580 2851 3091 3307
15700.00 1521 2198 2586 2858 3098 3315
15750.00 1525 2203 2593 2865 3105 3323
15800.00 1529 2209 2599 2872 3113 3331
15850.00 1532 2214 2605 2878 3120 3338
15900.00 1536 2219 2611 2885 3127 3346
15950.00 1539 2224 2617 2892 3135 3354
16000.00 1543 2230 2623 2899 3142 3362

16050.00 1547 2235 2629 2905 3149 3370
16100.00 1550 2240 2635 2912 3157 3378
16150.00 1554 2245 2641 2919 3164 3385
16200.00 1558 2250 2648 2926 3171 3393
16250.00 1561 2256 2654 2932 3179 3401
16300.00 1565 2261 2660 2939 3186 3409
16350.00 1568 2266 2666 2946 3193 3417
16400.00 1572 2271 2672 2953 3201 3425
16450.00 1576 2277 2678 2959 3208 3432
16500.00 1579 2282 2684 2966 3215 3440
16550.00 1583 2287 2690 2973 3223 3448
16600.00 1587 2292 2696 2980 3230 3456
16650.00 1590 2297 2703 2986 3237 3464
16700.00 1594 2303 2709 2993 3245 3472
16750.00 1597 2308 2715 3000 3252 3479
16800.00 1601 2313 2721 3007 3259 3487
16850.00 1605 2318 2727 3013 3266 3495
16900.00 1608 2323 2733 3020 3274 3503
16950.00 1612 2329 2739 3027 3281 3511
17000.00 1616 2334 2745 3034 3288 3519
17050.00 1619 2339 2751 3040 3296 3526
17100.00 1623 2344 2758 3047 3303 3534
17150.00 1626 2350 2764 3054 3310 3542
17200.00 1630 2355 2770 3061 3318 3550
17250.00 1634 2360 2776 3067 3325 3558
17300.00 1637 2365 2782 3074 3332 3566
17350.00 1641 2370 2788 3081 3340 3573
17400.00 1645 2376 2794 3088 3347 3581
17450.00 1648 2381 2800 3094 3354 3589
17500.00 1652 2386 2806 3101 3362 3597
17550.00 1655 2391 2813 3108 3369 3605
17600.00 1659 2396 2819 3115 3376 3613
17650.00 1663 2402 2825 3121 3384 3620
17700.00 1666 2407 2831 3128 3391 3628
17750.00 1670 2412 2837 3135 3398 3636
17800.00 1674 2417 2843 3142 3406 3644
17850.00 1677 2423 2849 3148 3413 3652
17900.00 1681 2428 2855 3155 3420 3660
17950.00 1684 2433 2861 3162 3427 3667
18000.00 1688 2438 2868 3169 3435 3675
18050.00 1692 2443 2874 3175 3442 3683
18100.00 1695 2449 2880 3182 3449 3691
18150.00 1699 2454 2886 3189 3457 3699
18200.00 1703 2459 2892 3196 3464 3707
18250.00 1706 2464 2898 3202 3471 3714

18300.00	1710	2469	2904	3209	3479	3722
18350.00	1713	2475	2910	3216	3486	3730
18400.00	1717	2480	2916	3223	3493	3738
18450.00	1721	2485	2923	3229	3501	3746
18500.00	1724	2490	2929	3236	3508	3754
18550.00	1728	2496	2935	3243	3515	3761
18600.00	1732	2501	2941	3250	3523	3769
18650.00	1735	2506	2947	3256	3530	3777
18700.00	1739	2511	2953	3263	3537	3785
18750.00	1742	2516	2959	3270	3545	3793
18800.00	1746	2522	2965	3277	3552	3801
18850.00	1750	2527	2971	3283	3559	3808
18900.00	1753	2532	2978	3290	3567	3816
18950.00	1757	2537	2984	3297	3574	3824
19000.00	1761	2543	2990	3304	3581	3832
19050.00	1764	2548	2996	3310	3589	3840
19100.00	1768	2553	3002	3317	3596	3848
19150.00	1771	2558	3008	3324	3603	3855
19200.00	1775	2563	3014	3331	3610	3863
19250.00	1779	2569	3020	3337	3618	3871
19300.00	1782	2574	3026	3344	3625	3879
19350.00	1786	2579	3033	3351	3632	3887
19400.00	1790	2584	3039	3358	3640	3895
19450.00	1793	2589	3045	3364	3647	3902
19500.00	1797	2595	3051	3371	3654	3910
19550.00	1800	2600	3057	3378	3662	3918
19600.00	1804	2605	3063	3385	3669	3926
19650.00	1808	2610	3069	3391	3676	3934
19700.00	1811	2616	3075	3398	3684	3942
19750.00	1815	2621	3081	3405	3691	3949
19800.00	1819	2626	3088	3412	3698	3957
19850.00	1822	2631	3094	3418	3706	3965
19900.00	1826	2636	3100	3425	3713	3973
19950.00	1829	2642	3106	3432	3720	3981
20000.00	1833	2647	3112	3439	3728	3988

9:315.20. Worksheets

Obligation Worksheet A

(The worksheet for calculation of the total support obligation under R.S. 9:315.8 and 315.10)

Court _____ Parish _____ Louisiana
Case Number _____ Div/CtRm _____

_____ and _____
Petitioner 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 \$
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), + _____
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 ex-child care costs, health insurance -

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 _____ Parish _____ Louisiana
Case Number _____ Div/CtRm _____
_____ and _____

Petitioner 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 (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 court) (R.S. 9:315.5)

d. Extraordinary Expenses (Agreed to by parties or 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. 9:316.9(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 _____

9:315.21. 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.

9:315.22. 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.

9:315.23. 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.

9:315.24. 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.

9:315.25. 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.

Subpart C. Judicial Suspension Of License For Nonpayment Of Child Support Or Contempt Of Court In Child Support Or Paternity Proceedings

9:315.30. Family financial responsibility; purpose

The legislature finds and declares that child support is a basic legal right of the state's parents and children, that mothers and fathers have a legal obligation to provide financial support for their children, and that child support payments can have a substantial impact on child poverty and state welfare expenditures. It is therefore the legislature's intent to facilitate the establishment of paternity and child support orders and encourage payment of child support to decrease overall costs to the state's taxpayers while increasing the amount of financial support collected for the state's children. To this end, the courts of this state are authorized to suspend certain licenses of individuals who are found to be in contempt of court for failure to comply with a subpoena or warrant in a child support or paternity proceeding or who are not in compliance with a court order of child support.

9:315.31. Definitions

As used in this Subpart:

- (1) "Board" means any agency, board, commission, or office, public or private, that issues any license for activity specified in Paragraph (6) of this Section.
- (2) "Compliance with an order of support" means that the support obligor is no more than ninety days in arrears in making payments in full for current support or in making periodic payments as set forth in a court order of support, and has obtained or maintained health insurance coverage if required by an order of support.
- (3) "Contempt of court" means that a person has been found guilty of a direct contempt of court for a contumacious failure to comply with a subpoena, pursuant to Code of Civil Procedure Article 222(5), or a constructive contempt of court for willful disobedience of a lawful order of the court, pursuant to Code of Civil Procedure Article 224(2), in or ancillary to a child support or paternity proceeding.
- (4) "Court" means any court exercising jurisdiction over the determination of child support, paternity, or criminal neglect of family proceedings.
- (5) "Department" means the Department of Social Services when rendering child support enforcement services in TANF or non-TANF cases.
- (6) "License" means any license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority for any of the following:
 - (a) To engage in a profession, occupation, business, or industry.
 - (b) To operate a motor vehicle.
 - (c) To participate in any sporting activity, including fishing and hunting.

(7) "Licensee" means any individual holding a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in any activity specified in Paragraph (6) hereof. The term "licensee" may be used interchangeably with "obligor".

(8) "Obligee" means any person to whom an award of child support is owed and may include the department.

(9) "Obligor" means any individual legally obligated to support a child or children pursuant to an order of support. The term "obligor" may be used interchangeably with "licensee".

(10) "Order of support" means any judgment or order for the support of dependent children issued by any court of this state or another state, including any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

(11) "Suspension" means a temporary revocation of a license for an indefinite period of time or the denial of an application for issuance or renewal of a license.

9:315.32. Order of suspension of license; noncompliance with support order; contempt of court

A.(1)(a) In or ancillary to any action to make past-due child support executory, for contempt of court for failure to comply with an order of support, or a criminal neglect of family proceeding, the court on its own motion or upon motion of an obligee or the department shall, unless the court determines good cause exists, issue an order of suspension of a license or licenses of any obligor who is not in compliance with an order of child support. The court shall give specific written and oral reasons supporting its determination of good cause including a finding as to the particular facts and circumstances that warrant a determination not to suspend a license or licenses of an obligor who is not in compliance with an order of child support. The reasons shall become part of the record of the proceeding.

(b) An order suspending a license to operate a motor vehicle may provide specific time periods for the suspension at the court's discretion.

(2) In or ancillary to any child support or paternity proceeding, the court on its own motion or upon motion of any party or the department may issue an order of suspension of a license of any person who is guilty of contempt of court for failure to comply with a subpoena or warrant. Provided that before the issuance of an order for a suspension of a license of any person in, or ancillary to, any paternity proceeding where paternity has not yet been established, the court shall notify such person by personal service.

B. The order of suspension shall contain the name, address, and social security number of the obligor, if known, and shall indicate whether the suspension is for a particular, specified license, or all licenses which the obligor may possess, or any combination thereof at the discretion of the court.

C. An order of suspension may include a provision whereby the obligor is required to disclose to the court information concerning the types of licenses which the obligor possesses, which written disclosure when attached to the order of suspension becomes a part thereof.

9:315.33. Suspension of license; notice of suspension from licensing board; temporary license

A. Within thirty days of receipt of a certified order of suspension of license for noncompliance with an order of support or contempt of court, sent by first class mail from either the court or the attorney representing the obligee, the board shall suspend all licenses which it issued to the obligor, or other person in contempt, or a particular license as specified in the order.

B. The board shall specify an exact date and hour of suspension, which date shall be within thirty days from the board's receipt of the order of suspension, and shall promptly issue a notice of suspension informing the licensee of all of the following:

- (1) His license has been suspended by order of the court, including the suit name, docket number, and court as indicated on the order.
- (2) The effective date of the suspension.
- (3) To apply for reinstatement, the obligor must obtain an order of compliance from the court.
- (4) Any other information prescribed by the board.

C. Upon being presented with a court order of partial compliance and at the request of an obligor whose motor vehicle operator's license, permit, or privilege has been suspended under this Subpart, the office of motor vehicles may issue the obligor a temporary license valid for a period not to exceed one hundred twenty days.

9:315.34. Subsequent compliance; order of compliance; order of partial compliance

A.(1) An obligor is in subsequent compliance with an order of support when all of the following occur:

- (a) The obligor is up to date with current child support payments.
- (b) All past-due support has been paid or, if periodic payment for past-due support has been ordered by the court, the obligor is making such payments in accordance with the court order.
- (c) The obligor has fulfilled the required health insurance provisions, if any, in the order of support.

(2) A person is in subsequent compliance with a subpoena or court order when the court rescinds the order of contempt.

B.(1) Upon motion of an obligor who is in subsequent compliance with an order of support and after a contradictory hearing or upon rescission of an order of contempt, the court shall issue an order of compliance indicating that the obligor is eligible to have all licenses reissued. In cases where the department is providing support enforcement services, the court shall issue an ex parte order of compliance upon filing of written certification by the department that the obligor is in compliance.

(2) At the request of an obligor or other individual for whom an undue financial hardship will occur or has occurred as a result of the loss of his driver's license and upon a showing of good faith, the court may issue an order of partial compliance authorizing the issuance of a temporary license in accordance with R.S. 9:315.33(C).

9:315.35. Reissuance of license

A. A board shall issue, reissue, renew, or otherwise extend an obligor's or other individual's license in accordance with the board's rules upon receipt of a certified copy of an order of compliance from the court.

B. After receipt of an order of compliance, the board may waive any of its applicable requirements for issuance, reissuance, renewal, or extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest.

9:315.36. Suspension of license; pattern of nonpayment

Notwithstanding any other provisions to the contrary in this Subpart, the court on its own motion or upon motion of an obligee or the department shall issue an order of suspension of a license or licenses of any obligor upon proof of a pattern of nonpayment evidenced by his failure to pay child support on a regular basis, the remittance of payments of support only after continuous requests or legal action by or on behalf of the obligee, or the remittance of a de minimis amount of the child support owed.

9:315.40. Definitions

As used in this Subpart:

- (1) "Administrator" means the administrator of the Support Enforcement Services Program, office of family support, Department of Social Services.
- (2) "Compliance with an order of support" means that the support obligor is no more than ninety days in arrears in making payments in full for current support, or in making periodic payments on a support arrearage pursuant to a court order or written agreement with the department, or in making periodic payments as set forth in a court order of support, and has obtained or maintained health insurance coverage if required by an order of support.
- (3) "Department" means the Department of Social Services, office of family support.
- (4) "License" means any license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority for any of the following:
 - (a) To engage in a profession, occupation, business, or industry.
 - (b) To operate a motor vehicle. For purposes of this Subpart, a license to operate a motor vehicle shall also include the license plate for any vehicle registered in the name of any obligor, as well as the registration for such vehicle.
 - (c) To participate in any sporting activity, including fishing and hunting.
 - (d) To operate a motorboat, a sailboat, or a trailer.

(5) "Licensee" means any individual holding a license, certificate, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in any activity specified in Paragraph (4) of this section. The term "licensee" may be used interchangeably with "obligor".

(6) "Licensing authority" means any state board, commission, department, agency, officer, or other entity which issues, authorizes, or otherwise regulates licenses as defined in Paragraph (4) of this Section.

(7) "Obligor" means any individual legally obligated to support a child or children pursuant to an order of support. The term "obligor" may be used interchangeably with "licensee".

(8) "Order of support" means any judgment or order for the support of dependent children issued by any court of this state or another state, including any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review.

(9) "Suspension" means a temporary revocation of a license for an indefinite period of time or the denial of an application for issuance or renewal of a license. With respect to a motor vehicle, personal watercraft, motorboat, sailboat, all-terrain vehicle or trailer, "suspension" includes a temporary suspension of the registration, including the seizure of the vehicle license plate, trailer license plate, or a certificate of identification or registration of a motorboat or sailboat for an indefinite period of time or the denial of an application for issuance or renewal of a registration or license plate.

9:315.41. Notice of child support delinquency; suspension of license

A. The department may send by certified mail, return receipt requested, a notice of child support delinquency to an obligor who is not in compliance with an order of support informing the obligor of the department's intention to submit his name to the licensing authority for suspension of his license. If an obligor holds multiple licenses, the department may issue a single notice of its intention to submit multiple suspensions. When the obligor has one or more motor vehicles, personal watercraft, motorboats, sailboats, all-terrain vehicles or trailers registered in his name, the notice shall inform the obligor of the department's intention to suspend the registration of all of them as well. A non-obligor spouse who uses any such vehicle may so inform the department by notarized affidavit, and thereby retain the use of that vehicle and its license.

B. A notice of child support delinquency shall include all of the following:

(1) A summary of the obligor's right to file a written objection to the suspension of his license, including the time within which such objection must be filed and the address where the objection must be filed.

(2) A brief description of the administrative hearing and location of such hearing if the obligor timely files a written objection.

(3) The municipal address and telephone number of the department that issued the notice of child support delinquency.

(4) The docket number and court which issued the order of support.

(5) A statement of the amount of past-due support.

(6) A brief summary of what the obligor must do to come into compliance or to forestall the suspension.

9:315.42. Objection to suspension of license

A. Within twenty days after receipt of the notice of child support delinquency, the obligor may file a written objection with the department requesting an administrative hearing to determine whether the obligor is in compliance with an order of support.

B. If the obligor does not timely file a written objection or enter into a written agreement with the department to make periodic payments on a support arrearage and he is not in compliance with an order of support, the department shall certify the obligor's noncompliance to the licensing authority for license suspension.

9:315.43. Administrative hearing

Upon receipt of a timely written objection, the department shall conduct an administrative hearing in accordance with the Administrative Procedure Act. Such hearing may be conducted telephonically or by means of any other such electronic media. The sole issue at the administrative hearing shall be whether the obligor is in compliance with an order of support.

9:315.44. Certification of noncompliance

A. The department may certify in writing to the licensing authority that a licensee is not in compliance with an order of support in the event of any of the following:

(1) The obligor has not timely filed an objection to the notice of child support delinquency, he is not in compliance with an order of support, and more than twenty days have passed after service of the notice of child support delinquency.

(2) The obligor has timely filed an objection to the notice of child support delinquency and an adverse decision or order was issued after the administrative hearing, rehearing, or judicial review and all legal delays have lapsed,

(3) The department receives a certified copy of a final judgment in an action to make executory past-due payments under a child support award and the judgment specifically provides for the suspension or revocation of the obligor's license.

(4) The department receives a certified copy of a final judgment or order finding the obligor to be in violation of R.S. 14:74, Criminal neglect of family.

B. An obligor is not entitled to the notice of child support delinquency, required by R.S. 9:315.41, when certification of noncompliance is pursuant to Paragraph A(3) or (4) of this Section.

9:315.45. Suspension of license; notice of suspension from licensing authority

A. Within thirty days after receipt of a certification of noneompliance from the department, the licensing authority shall suspend the license of all licensees named therein and notify each licensee that his license has been suspended because of noncompliance with an order of support.

B. The licensing authority shall specify a date of suspension, which date shall be within thirty days from the licensing authority's receipt of the order of suspension and shall promptly issue a notice of suspension informing the licensee of all of the following:

(1) His license has been suspended by administrative order for noncompliance with an order of support, including a copy of the certification of nonsupport. However, the office of motor vehicles is not required to include a copy of the certification of nonsupport in its notice of suspension.

(2) The effective date of the suspension.

(3) To apply for reinstatement, the obligor must obtain a compliance release from the department.

(4) Any other information prescribed by the licensing authority.

C. (1) When the license to be suspended is for the operation of a motor vehicle, except for a Class A, Class B, or Class C license, the department may recommend that the suspension be restricted to specific time periods to allow the obligor to travel to and from his place of employment. Upon receipt of such a recommendation with the certification of noncompliance, the office of motor vehicles shall suspend the license for the specific time periods recommended, as provided in Subsection B of this section.

(2) When the suspension involves the registration or license plate of a motor vehicle, the licensing authority shall suspend the registration or seize the license plate, in the same manner as suspensions under R.S. 32:863 et seq.

D. (1) In cases wherein the obligor is an attorney licensed to practice law in this state, a judgment or order indicating noncompliance with an order of support shall be mailed to the state supreme court and the Louisiana State Bar Association.

(2) The legislature hereby recognizes the judicial power vested in the state supreme court pursuant to Article V, Section 1 of the Constitution of Louisiana and, accordingly, urges and requests the supreme court to adopt rules and regulations **affecting the suspension of licenses to practice law consistent with the provisions of this Chapter.**

9:315.46. Subsequent compliance with support order; compliance releases

A. An obligor is in subsequent compliance with an order of support when all of the following occur:

(1) The obligor is up to date with current child support payments.

(2) All past-due support has been paid or either of the following has occurred:

(a) If periodic payment for past-due support has been ordered by the court, the obligor is making such payments in accordance with the court order.

(b) If periodic payment has not been ordered by the court and the obligor is unable to pay all past-due support, the obligor is making periodic payments pursuant to and in accordance with the terms of a written agreement entered into with the department.

(3) The obligor has fulfilled the required health insurance provisions, if any, in the order of support.

B. At the request of an obligor who is in subsequent compliance with an order of support, the department shall issue a compliance release certificate indicating that the obligor is eligible to have his license reissued.

9:315.47. Reissuance of license

The licensing authority shall issue, reissue, renew, or otherwise extend an obligor's license, in accordance with any applicable reinstatement fees or applicable rules, upon receipt of a certified copy of a compliance release from the department.

Part II. Spousal Support

9:321. Retroactivity of judgment concerning spousal support

A. Except for good cause shown, a judgment awarding, modifying, or revoking an interim spousal support allowance shall be retroactive to the date of judicial demand.

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

(2) If an interim spousal support allowance award is not in effect on the date of the judgment awarding final spousal support, the judgment shall be retroactive to the date of judicial demand, except for good cause shown.

C. Except for good cause shown, a judgment modifying or revoking a final spousal support judgment shall be retroactive to the date of judicial demand.

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

F. A judgment extinguishing an obligation of spousal support owed to a person who has cohabited with another person of either sex in the manner of married persons shall be retroactive to the date of judicial demand.

9:322. Judgment or order for support not to be recorded

It is unlawful for any recorder of mortgages in the state of Louisiana to record a judgment or order for spousal or child support by any court, and if such a judgment or order is recorded, it shall not have the effect of a judicial mortgage and shall be forthwith canceled by the clerk upon demand, in writing, by the party against whom it is rendered, without charge, except as provided in R.S. 13:4291.

9:323. Recordation of judgment or order for amount due

A recorder of mortgages shall record, at the request of any person in interest, a judgment or order for spousal or child support for the amount that the court has decreed to be due and executory, which judgment or order shall be a judicial mortgage in the amount only found to be due, together with costs and interest.

9:324. Cancellation of record following payment

A recorder of mortgages shall forthwith cancel and erase from his records any judgment or order recorded in his office as provided in R.S. 9:323 upon the order of the person in whose favor said judgment or order was rendered or upon proper evidence showing payment in full by the person against whom said judgment or order was rendered.

9:325. Recordation of judgment or order for amount due

The recorders of mortgages may record, at the request of any person in interest, a judgment or order for alimony for the amount that the court has decreed to be due and executory, which judgment or order shall be a judicial mortgage in the amount only found to be due, together with costs and interest.

Part III. Child Custody

9:331. 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.

9:331.1. 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.

9:332. 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.

9:333. Duties of mediator

A. The mediator shall assist the parties in formulating a written, signed, and dated agreement to mediate which shall identify the controversies between the parties, affirm the parties' intent to resolve these controversies through mediation, and specify the circumstances under which the mediation may terminate.

B. The mediator shall advise each of the parties participating in the mediation to obtain review by an attorney of any agreement reached as a result of the mediation prior to signing such an agreement.

C. The mediator shall be impartial and has no power to impose a solution on the parties.

Subpart B. Joint Custody

9:335. Joint custody decree and implementation order

A.(1) In a proceeding in which joint custody is decreed, the court shall render a joint custody implementation order except for good cause shown.

(2)(a) The implementation order shall allocate the time periods during which each parent shall have physical custody of the child so that the child is assured of frequent and continuing contact with both parents.

(b) To the extent it is feasible and in the best interest of the child, physical custody of the children should be shared equally.

(3) The implementation order shall allocate the legal authority and responsibility of the parents.

B.(1) In a decree of joint custody the court shall designate a domiciliary parent except when there is an implementation order to the contrary or for other good cause shown.

(2) The domiciliary parent is the parent with whom the child shall primarily reside, but the other parent shall have physical custody during time periods that assure that the child has frequent and continuing contact with both parents.

(3) The domiciliary parent shall have authority to make all decisions affecting the child unless an implementation order provides otherwise. All major decisions made by the domiciliary parent concerning the child shall be subject to review by

the court upon motion of the other parent. It shall be presumed that all major decisions made by the domiciliary parent are in the best interest of the child.

C. If a domiciliary parent is not designated in the joint custody decree and an implementation order does not provide otherwise, joint custody confers upon the parents the same rights and responsibilities as are conferred on them by the provisions of Title VII of Book I of the Civil Code.

9:336. Obligation of joint custodians to confer

Joint custody obligates the parents to exchange information concerning the health, education, and welfare of the child and to confer with one another in exercising decision-making authority.

9:341. Restriction on visitation

A. Whenever the court finds by a preponderance of the evidence that a parent has subjected his or her child to physical abuse, or sexual abuse or exploitation, or has permitted such abuse or exploitation of the child, the court shall prohibit visitation between the abusive parent and the abused child until such parent proves that visitation would not cause physical, emotional, or psychological damage to the child. Should visitation be allowed, the court shall order such restrictions, conditions, and safeguards necessary to minimize any risk of harm to the child. All costs incurred in compliance with the provisions of this Section shall be borne by the abusive parent.

B. When visitation has been prohibited by the court pursuant to Subsection A, and the court subsequently authorizes restricted visitation, the parent whose visitation has been restricted shall not remove the child from the jurisdiction of the court except for good cause shown and with the prior approval of the court.

9:342. Bond to secure child custody or visitation order

For good cause shown, a court may, on its own motion or upon the motion of any party, require the posting of a bond or other security by a party to insure compliance with a child visitation order and to indemnify the other party for the payment of any costs incurred.

9:343. Return of child kept in violation of custody and visitation order

A. Upon presentation of a certified copy of a custody and visitation rights order rendered by a court of this state, together with the sworn affidavit of the custodial parent, the judge, who shall have jurisdiction for the limited purpose of effectuating the remedy provided by this Section by virtue of either the presence of the child or litigation pending before the court, may issue a civil warrant directed to law enforcement authorities to return the child to the custodial parent pending further order of the court having jurisdiction over the matter.

B. The sworn affidavit of the custodial parent shall include all of the following:

(1) A statement that the custody and visitation rights order is true and correct.

(2) A summary of the status of any pending custody proceeding.

(3) The fact of the removal of or failure to return the child in violation of the custody and visitation rights order.

(4) A declaration that the custodial parent desires the child returned.

9:344. Visitation rights of grandparents and siblings

A. If one of the parties to a marriage dies, is interdicted, or incarcerated, and there is a minor child or children of such marriage, the parents of the deceased, interdicted, or incarcerated party without custody of such minor child or children may have reasonable visitation rights to the child or children of the marriage during their minority, if the court in its discretion finds that such visitation rights would be in the best interest of the child or children.

B. When the parents of a minor child or children live in concubinage and one of the parents dies, or is incarcerated, the parents of the deceased or incarcerated party may have reasonable visitation rights to the child or children during their minority, if the court in its discretion finds that such visitation rights would be in the best interest of the child or children.

C. If one of the parties to a marriage dies or is incarcerated, the siblings of a minor child or children of the marriage may have reasonable visitation rights to such child or children during their minority if the court in its discretion finds that such visitation rights would be in the best interest of the child or children.

D. If the parents of a minor child or children of the marriage are legally separated or living apart for a period of six months, the grandparents or siblings of the child or children may have reasonable visitation rights to the child or children during their minority, if the court in its discretion find that such visitation rights would be in the best interest of the child or children.

9:345. Appointment of attorney in child custody or visitation proceedings

A. In any child custody or visitation proceeding, the court, upon its own motion, upon motion of any parent or party, or upon motion of the child, may appoint an attorney to represent the child if, after a contradictory hearing, the court determines such appointment would be in the best interest of the child. In determining the best interest of the child, the court shall consider:

(1) Whether the child custody or visitation proceeding is exceptionally intense or protracted.

(2) Whether an attorney representing the child could provide the court with significant information not otherwise readily available or likely to be presented to the court.

(3) Whether there exists a possibility that neither parent is capable of providing an adequate and stable environment for the child.

(4) Whether the interests of the child and those of either parent, or of another party to the proceeding, conflict.

(5) Any other factor relevant in determining the best interest of the child.

- B. The court shall appoint an attorney to represent the child if, in the contradictory hearing, any party presents a prima facie case that a parent or other person caring for the child has sexually, physically, or emotionally abused the child or knew or should have known that the child was being abused.
- C. The order appointing an attorney to represent the child shall serve as his enrollment as counsel of record on behalf of the child.
- D. Upon appointment as attorney for the child, the attorney shall interview the child, review all relevant records, and conduct discovery as deemed necessary to ascertain facts relevant to the child's custody or visitation.
- E. The appointed attorney shall have the right to make any motion and participate in the custody or visitation hearing to the same extent as authorized for either parent.
- F. Any costs associated with the appointment of an attorney at law shall be apportioned among the parties as the court deems just, taking into consideration the parties' ability to pay. When the parties' ability to pay is limited, the court shall attempt to secure proper representation without compensation.

9:346. Intentional violations of visitation order

A. Where a parent, guardian, defacto custodian, or another person exercising care, custody, and control over a minor child willfully and intentionally violates a provision of the order relating to visitation, without good cause, a court having jurisdiction to enforce the judicial order may, upon motion of the party whose time was lost:

(1) Award to the party whose time was lost additional visitation at least equal to the amount of time lost as specified in R.S. 13:4611; and

(2) Award the party whose time was lost that party's costs and a reasonable attorney fee as specified in R.S. 9:375.

B. A pattern of willful and intentional violation of this Section, without good cause, may be grounds to allow a party to move for modification of a custody or visitation decree.

C. This Section applies to judicial orders involving either sole or joint custody.

9:347. Parenting interference

A person is in violation of parenting interference when the person on one or more occasions intentionally obstructs visitation time in a manner so as to violate R.S. 9:346.

9:351. Access to records of child

Notwithstanding any provision of law to the contrary, access to records and information pertaining to a minor child, including but not limited to medical, dental, and school records, shall not be denied to a parent solely because he is not the child's custodial or domiciliary parent.

9:355.1. Definitions

As used in this Subpart:

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

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

(3) "Principal residence of a child" means:

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

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

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

(4) "Relocation" means:

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

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

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

9:355.3. Notice of proposed relocation of child to other parent

A. A parent entitled to primary custody of a child shall notify the other parent of a proposed relocation of the child's principal residence as required by R.S. 9:355.4.

B. If both parents have equal physical custody of a child, a parent shall notify the other parent of a proposed relocation of the child's principal residence as required by R.S. 9:355.4, but before relocation shall obtain either court authorization to relocate, after a contradictory hearing, or the written consent of the other parent prior to any relocation.

C. In the absence of a court order or express written agreement conferred by the parties which designates the principal residence of a child, a parent entitled to primary custody of a child shall notify the other parent of a proposed relocation of the child's principal residence as required by R.S. 9:355.4.

9:355.4. Mailing notice of proposed relocation address

A. Notice of a proposed relocation of the principal residence of a child shall be given by registered or certified mail, return receipt requested, to the last known address of the parent no later than either:

- (1) The sixtieth day before the date of the intended move or proposed relocation.
- (2) The tenth day after the date that the parent knows the information required to be furnished by Subsection B of this Section, if the parent did not know and could not reasonably have known the information in sufficient time to comply with the sixty-day notice, and it is not reasonably possible to extend the time for relocation of the child.

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

- (1) The intended new residence, including the specific address, if known.
- (2) The mailing address, if not the same.
- (3) The home telephone number, if known.
- (4) The date of the intended move or proposed relocation.
- (5) A brief statement of the specific reasons for the proposed relocation of a child, if applicable.
- (6) A proposal for a revised schedule of visitation with the child.
- (7) A statement informing the other parent that an objection to the proposed relocation shall be filed within thirty days of receipt of the notice and that the other parent should seek legal advice immediately.

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

9:355.5. Court authorization to relocate

A parent seeking to relocate the principal residence of a child shall not, absent consent, remove the child pending resolution of dispute, or final order of the court, unless the parent obtains a temporary order to do so pursuant to R.S. 9:355.10.

9:355.6. Failure to give notice of relocation or relocation without court authorization

The court may consider a failure to provide notice of a proposed relocation of a child or relocation without court authorization as provided by R.S. 9:355.3 and 355.4 as:

- (1) A factor in making its determination regarding the relocation of a child.
- (2) A basis for ordering the return of the child if the relocation has taken place without notice or court authorization.

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

9:355.7. Failure to object to notice of proposed relocation

A parent entitled to primary custody may relocate the principal residence of a child after providing notice as provided by R.S. 9:355.3 and 355.4, unless the parent entitled to notice initiates a proceeding seeking a temporary or permanent order to prevent the relocation within thirty days after the receipt of the notice.

9:355.8. Objection to relocation of child

A. Except for a parent with equal physical custody, the parent who has been notified of a proposed relocation of the child's principal residence shall initiate a summary proceeding objecting to the proposed relocation within thirty days after receipt of notice to seek a temporary or permanent order to prevent the relocation. A parent with equal physical custody who desires to relocate shall comply with R.S. 9:355.3(B).

B. Upon request of a copy of notice of objection, the court may promptly appoint an independent mental health expert to render a determination as to whether the proposed relocation is in the best interest of the child.

9:355.10. Temporary order

A. The court may grant a temporary order allowing a parent to relocate.

B. The court, upon the request of the moving parent, may hold a limited evidentiary hearing on the proposed relocation but may not grant court authorization to remove the child on an ex parte basis.

C. If the court issues a temporary order authorizing a parent to relocate with the child, the court may not give undue weight to the temporary relocation as a factor in reaching its final determination.

D. If temporary relocation of a child is permitted, the court may require the parent relocating the child to provide reasonable security guaranteeing that the court ordered visitation with the child will not be interrupted or interfered with by the relocating parent or that the relocating parent will return the child if court authorization for the removal is denied at the final hearing.

9:355.11. Proposed relocation not basis for modification

Providing notice of a proposed relocation of a child shall not constitute a change of circumstance warranting a change of custody. Moving without prior notice or moving in violation of a court order may constitute a change of circumstances warranting a modification of custody.

9:355.12. Factors to determine contested relocation

A. In reaching its decision regarding a proposed relocation, the court shall consider the following factors:

- (1) The nature, quality, extent of involvement, and duration of the child's relationship with the parent proposing to relocate and with the nonrelocating parent, siblings, and other significant persons in the child's life.
- (2) The age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.
- (3) The feasibility of preserving a good relationship between the nonrelocating parent and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties.
- (4) The child's preference, taking into consideration the age and maturity of the child.
- (5) Whether there is an established pattern of conduct of the parent seeking the relocation, either to promote or thwart the relationship of the child and the nonrelocating party.
- (6) Whether the relocation of the child will enhance the general quality of life for both the custodial parent seeking the relocation and the child, including but not limited to financial or emotional benefit or educational opportunity.
- (7) The reasons of each parent for seeking or opposing the relocation.
- (8) The current employment and economic circumstances of each parent and whether or not the proposed relocation is necessary to improve the circumstances of the parent seeking relocation of the child.
- (9) The extent to which the objecting parent has fulfilled his or her financial obligations to the parent seeking relocation, including child support, spousal support, and community property obligations.
- (10) The feasibility of a relocation by the objecting parent.
- (11) Any history of substance abuse or violence by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.
- (12) Any other factors affecting the best interest of the child.

B. The court may not consider whether or not the person seeking relocation of the child will relocate without the child if relocation is denied or whether or not the person opposing relocation will also relocate if relocation is allowed.

9:355.13. Burden of proof

The relocating parent 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 which the child will derive either directly or indirectly from an enhancement in the relocating parent's general quality of life.

9:355.14. Posting security

If relocation of a child is permitted, the court may require the parent relocating the child to provide reasonable security guaranteeing that the court ordered visitation with the child will not be interrupted or interfered with by the relocating party.

9:355.15. Application of factors at initial hearing

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

9:355.16. Sanctions for unwarranted or frivolous proposal to relocate child or objection to relocation

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

- (1) To harass the other parent or to cause unnecessary delay or needless increase in the cost of litigation.
- (2) Without being warranted by existing law or based on a frivolous argument.
- (3) Based on allegations and other factual contentions which have no evidentiary support nor, if specifically so identified, could not have been reasonably believed to be likely to have evidentiary support after further investigation.

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

9:356. Consideration of child support

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

Note: Laws may have changed since our last update. For the latest information on these divorce laws, speak to a local divorce lawyer in the state.