

SENATE BILL NO. 366

BY SENATOR WARD

1 AN ACT

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

6 Be it enacted by the Legislature of Louisiana:

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

8 Art. 136. Award of visitation rights

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

12 **B. In addition to the parents referred to in Paragraph A of this Article,**
13 **the following persons may be granted visitation if the parents of the child are**
14 **not married or cohabitating with a person in the manner of married persons or**
15 **if the parents of the child have filed a petition for divorce:**

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

20 ~~€(2) Under extraordinary circumstances, any other relative, by blood or~~
21 ~~affinity, or a former stepparent or stepgrandparent may be granted reasonable~~
22 ~~visitation rights if the court finds that it is in the best interest of the child.~~
23 Extraordinary circumstances shall include a determination by a court that a parent
24 is abusing a controlled dangerous substance.

25 **C. Before making any determination under Subparagraph (B)(1) or (2)**
26 **of this Article, the court shall hold a contradictory hearing as provided by R.S.**

1 9:345 in order to determine whether the court should appoint an attorney to
2 represent the child.

3 D. In determining the best interest of the child under ~~Paragraphs B and C~~
4 Subparagraph (B)(1) or (2) of this Article, the court shall consider only the
5 following factors:

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

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

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

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

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

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____