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## DIGEST

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HB 388 Original

2016 Regular Session

Jefferson

**Abstract:** Provides for the filiation of children.

Present law (C.C. Art. 189) provides for the time period for disavowal of paternity and provides that prescription runs from the day the husband learns or should have learned of the birth of the child. Proposed law changes the commencement of the prescription from the day the husband learns or should have learned of the birth of the child to the birth of the child or the day the husband knew or should have known that he may not be the biological father of the child, whichever occurs later.

Present law (C.C. Art. 191) provides for the contestation and establishment of paternity by the mother. Proposed law retains present law but deletes the outdated reference to "signing the birth certificate".

Present law (C.C. Art. 195) provides a presumption of paternity when a man marries the mother and the child is not filiated to another man and he acknowledges the child. Present law also provides for the disavowal of paternity of a child who was acknowledged by authentic act. Proposed law retains present law and provides that a revocation of the authentic act of acknowledgment alone is not sufficient to rebut the presumption.

Present law (C.C. Art. 196) provides for the presumption of paternity by formal acknowledgment. Proposed law retains present law but deletes the outdated reference to "signing the birth certificate".

Present law (R.S. 9:406) provides for the revocation of authentic acts of acknowledgment and provides for a two year prescriptive period. Proposed law deletes the two year prescriptive period to bring the law into compliance with Succession of Robinson, 654 So.2d. 682 (La. 1995).

Proposed law also requires the petitioner's testimony to be corroborated by other evidence.

Proposed law (R.S. 9:408) provides for the process of identifying the father of a child born outside of marriage. This provision was moved from existing R.S. 40:34 and slightly modified.

Proposed law (R.S. 9:409) provides for the necessary joinder of parties to a filiation and paternity proceeding. Modified from R.S. 40:34.

Proposed law provides for the prospective application of C.C. Art. 196.

(Amends C.C. Arts. 189, 191, 195, and 196 and R.S. 9:406(B), (C), (D)(2), and (E)(2); Adds R.S.

9:408 and 409)