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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry G. Jones.

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SB 366 Original                                          DIGEST                                          2018 Regular Session                                          Ward

Present law relative to children and awards of visitation rights provides that 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.

Proposed law retains present law.

Present law provides for grandparent visitation rights if the court finds that it is in the best interest of the child. Also provides that the court shall hold a contradictory hearing to determine whether the court should appoint an attorney to represent the child. Further provides that under extraordinary circumstances, any other relative, by blood or affinity, or a former stepparent or stepgrandparent may be granted reasonable visitation rights if the court finds that it is in the best interest of the child. Extraordinary circumstances shall include a determination by a court that a parent is abusing a controlled dangerous substance.

Proposed law retains present law, except to require a determination in both instances of whether an attorney should be appointed to represent the child.

Present law provides that in determining the best interest of the child in grandparent and other relative visitation, certain factors shall be considered by the court, including:

- (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.

Proposed law retains present law, except to make these the only factors that can be considered by the court.

Present law provides that in the event of a conflict between present law and other law relative to grandparent and sibling visitation, the other law controls. Proposed law provides that if the parents

of a child are married and have not filed for divorce or they are living in concubinage, the provisions of the other law relative to grandparent and sibling visitation applies.

Effective August 1, 2018.

(Amends C.C. Art. 136)