§ 1085. Visitation and custody rights unenforceable; murder of parent, custodian, guardian, or child. 1. No visitation or custody order shall be enforceable under this part by a person who has been convicted of murder in the first or second degree in this state, or convicted of an offense in another jurisdiction which, if committed in this state, would constitute either murder in the first or second degree, of a parent, legal custodian, legal guardian, sibling, half-sibling or step-sibling of the child unless:

(i) (A) such child is of suitable age to signify assent and such child assents to such visitation or custody; or

(B) if such child is not of suitable age to signify assent the child's custodian or legal guardian assents to such order; or

(C) the person who has been convicted of murder in the first or second degree, or an offense in another jurisdiction which if committed in this state, would constitute either murder in the first or second degree, can prove by a preponderance of the evidence that:

(1) he or she, or a family or household member of either party, was a victim of domestic violence by the victim of such murder; and

(2) the domestic violence was causally related to the commission of such murder; and

(ii) the court finds that such visitation or custody is in the best interest of the child.

2. Pending determination of a petition for visitation or custody such child shall not visit and no person shall visit, with such child present, such person, legal guardian or legal custodian who has been convicted of murder in the first or second degree in this state, or an offense in another jurisdiction which, if committed in this state, would constitute either murder in the first or second degree, of the other parent, legal guardian, legal custodian, sibling, half-sibling or step-sibling of such child, without the consent of such child's custodian or legal guardian.

3. Nothing contained in this section shall be construed to require a court, without petition from any of the interested parties, to review a previously issued order of visitation or custody or denial of such petition.

4. For the purposes of making a determination pursuant to subparagraph (C) of paragraph (i) of subdivision one of this section, the court shall not be bound by the findings of fact, conclusions of law or ultimate conclusion as determined by the proceedings leading to the conviction of murder in the first or second degree in this state or of an offense in another jurisdiction which, if committed in this state, would constitute murder in either the first or second degree, of a parent, legal guardian, legal custodian, sibling, half-sibling or step-sibling of a child who is the subject of the proceeding. In all proceedings under this section, an attorney shall be appointed for the child.