

ACT No. 15

HOUSE BILL NO. 431

BY REPRESENTATIVES CHENEVERT, AMEDEE, BACALA, BAGLEY, BAMBURG, BEAULLIEU, BERAULT, BILLINGS, BOYER, BUTLER, CARLSON, CARVER, COATES, COX, CREWS, DEVILLIER, DICKERSON, DOMANGUE, ECHOLS, EDMONSTON, EGAN, EMERSON, FIRMENT, GADBERRY, GALLE, HENRY, HORTON, MIKE JOHNSON, JACOB LANDRY, MACK, MCFARLAND, MCMAHEN, MCMAKIN, MELERINE, OWEN, RISER, SCHAMERHORN, SCHLEGEL, WILDER, WRIGHT, AND WYBLE

1 AN ACT

2 To amend and reenact Civil Code Article 2323(A) and to enact Civil Code Article 2323(D),
3 relative to comparative fault; to establish a modified comparative fault system; to
4 provide for the recovery of damages; to provide for an effective date; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 2323(A) is hereby amended and reenacted and Civil
8 Code Article 2323(D) is hereby enacted to read as follows:

9 Art. 2323. Comparative fault

10 A.(1) In any action for damages where a person suffers injury, death, or loss,
11 the degree or percentage of fault ~~of attributable to~~ attributable to all persons causing or contributing
12 to the injury, death, or loss shall be determined, regardless of whether the person is
13 a party to the action or a nonparty, and regardless of the person's insolvency, ability
14 to pay, immunity by statute, including but not limited to the provisions of R.S.
15 23:1032, or that the other person's identity is not known or reasonably ascertainable.
16 ~~If a person suffers injury, death, or loss as the result partly of his own negligence and~~
17 ~~partly as a result of the fault of another person or persons, the amount of damages~~
18 ~~recoverable shall be reduced in proportion to the degree or percentage of negligence~~
19 ~~attributable to the person suffering the injury, death, or loss.~~

2025 Regular Session
HOUSE BILL NO. 436

ACT No. 17

BY REPRESENTATIVES FIRMONT AND EDMONSTON

1 AN ACT

2 To enact Civil Code Article 2315.12, relative to recovery of damages for unauthorized
3 aliens; to provide a definition; to prohibit award of certain damages for unauthorized
4 aliens in an automobile accident; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Civil Code Article 2315.12 is hereby enacted to read as follows:

7 Art. 2315.12. Liability for damages; prohibition of award; unauthorized alien

8 A. As used in this Article, "unauthorized alien" means a person who is
9 unlawfully present in the United States according to the federal Immigration and
10 Nationality Act, 8 U.S.C. 1101 et seq.

11 B. General damages and past and future wages shall not be awarded to an
12 unauthorized alien in an action for damages arising from an automobile accident.

13 C. This Article shall not apply to a claim made against an uninsured or
14 underinsured motorist policy which names the unauthorized alien as an insured.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 35

BY SENATOR PRICE (On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AN ACT

To amend and reenact Section 3 of Chapter 3 of Title IV of Book II of the Civil Code, to be comprised of Civil Code Arts. 689 through 696, to enact Chapter 3 of Code Title IV of Code Book II of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:1281 through 1289, and to repeal Civil Code Art. 696.1, relative to legal servitudes; to provide for rights of passage; to provide for enclosed estates; to provide for utility servitudes; to provide for constructions; to provide for location; to provide for compensation; to provide for indemnification; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 3 of Chapter 3 of Title IV of Book II of the Civil Code, comprised of Civil Codes Arts. 689 through 696, is hereby amended and reenacted to read as follows:

SECTION 3. RIGHT OF PASSAGE

Art. 689. Enclosed estate; right of passage

A. The owner of an estate that has no access to a public road ~~or utility~~ may claim a right of passage over neighboring property to the nearest public road ~~or utility~~. ~~He~~ **The owner** is bound to compensate ~~his~~ **the** neighbor for the right of passage acquired ~~and to indemnify his neighbor for the damage he may occasion.~~

~~New or additional maintenance burdens imposed upon the servient estate or intervening lands resulting from the utility servitude shall be the responsibility of the owner of the dominant estate.~~

B. The right to demand compensation from the owner of the enclosed

1 estate may become barred by prescription. The accrual of prescription has no
 2 effect on the right of passage due to the owner of the enclosed estate.

3 Revision Comments – 2025

4 (a) This revision does not change the law regarding the right of passage for
 5 an enclosed estate. This Article expresses the default rule that when an estate has no
 6 access to a public road, the owner of the enclosed estate must be provided a servitude
 7 of passage to the nearest public road and the owner of the enclosed estate must
 8 compensate the owner of the estate over which passage is obtained for that right of
 9 passage.

10 (b) An estate has no access to a public road when the estate does not abut a
 11 public road and have legal access to a public road. See *Rockholt v. Keaty*, 237 So.
 12 2d 663, 667-68 (La. 1970). An estate that has access to a public road through, for
 13 example, a servitude created by acquisitive prescription, destination of the owner,
 14 or juridical act is not an enclosed estate.

15 (c) This revision clarifies that compensation is owed when a right of passage
 16 is provided under this Article. Compensation for a right of passage is the fair market
 17 value of the right of passage. See *Hutchison v. Jackson*, 399 So. 2d 1238, 1241 (La.
 18 App. 3 Cir. 1981). This revision continues the rule previously stated in Article 696
 19 that the right of an owner to demand compensation from the owner of an enclosed
 20 estate may become barred by prescription, but the accrual of prescription does not
 21 impact the owner of the enclosed estate's ability to claim or exercise a right of
 22 passage.

23 (d) This revision continues to require the owner of an enclosed estate to
 24 indemnify a neighbor over whose property passage is acquired for any damage
 25 caused by the exercise of the servitude. The requirement to indemnify the neighbor
 26 for any damage caused has been moved to Article 696 to clarify that indemnification
 27 is required for a right of passage acquired under either Article 689 or Article 694.

28 (e) This revision removes the utility servitude from the enclosed estates
 29 articles. The utility servitude is provided for in R.S. 9:1281 et seq.

30 Art. 690. Extent of passage

31 The right of passage for the benefit of an enclosed estate shall be suitable for
 32 the kind of traffic ~~or utility~~ that is reasonably necessary for the use of that estate.

33 Revision Comments – 2025

34 (a) This revision does not change the law. It continues to require that the right
 35 of passage for the benefit of an enclosed estate should be that which is reasonably
 36 necessary for the enclosed estate based on its use.

37 (b) In determining what is reasonably necessary for the use of the enclosed
 38 estate, consideration shall be given to the use of the enclosed estate at the time of
 39 enclosure, the current use of the enclosed estate, any reasonably anticipated uses of
 40 the enclosed estate, and other relevant facts. In many cases, a right of passage for
 41 vehicular traffic may be the type of passage that is reasonably necessary for the
 42 enclosed estate, but this Article does not necessarily require that an enclosed estate
 43 receive a right of passage for vehicular traffic.

44 Art. 691. Constructions

45 The owner of the enclosed estate may construct on the right-of-way the type
 46 of road, ~~utility, or railroad,~~ **or other works** reasonably necessary for the exercise of
 47 the servitude **right of passage**.

~~The utility crossing shall be constructed in compliance with all appropriate and applicable federal and state standards so as to mitigate all hazards posed by the passage and the particular conditions of the servient estate and intervening lands.~~

Revision Comments – 2025

(a) This revision does not change the law regarding the types of roads, railroads, or other works that may be constructed.

(b) The utility servitude is provided for in R.S. 9:1281 et seq. and includes the standard to which the utility crossing must be constructed.

Art. 692. Location of passage

The owner of the enclosed estate may not demand the location of the right of passage ~~or the right-of-way for the utility~~ anywhere ~~he~~ that the owner chooses.

The passage ~~generally shall be taken along the shortest route~~ from the enclosed estate to the public road ~~or utility at the location~~ generally shall be taken along the shortest route that is the least injurious to the intervening lands.

~~The location of the utility right-of-way shall coincide with the location of the servitude of passage unless an alternate location providing access to the nearest utility is least injurious to the servient estate and intervening lands.~~

~~The court shall evaluate and determine that the location of the servitude of passage or utility shall not affect the safety of the operations or significantly interfere with the operations of the owner of the servient estate or intervening lands prior to the granting of the servitude of passage or utility.~~

Revision Comments – 2025

(a) This revision does not change the law for the purpose of the location of the right of passage.

(b) There is a general presumption that the shortest route is the route least injurious to the servient estate. See *Hardisty v. Young*, 720 So. 2d 811 (La. App. 3 Cir. 1998); *Mitcham v. Birdsong*, 573 So. 2d 1294 (La. App. 2 Cir. 1991); *Wells v. Anglade*, 23 So. 2d 469, 472 (La. App. 1 Cir. 1945). The shortest route, however, may not be the least injurious to the servient estate, in which case the court may select an alternative location. In determining whether the shortest route is least injurious, courts should consider facts such as whether the location of the right of passage will interfere with the operations of the proposed servient estate, excessive costs to either the dominant or the servient estate, conditions that may make the shortest route impassable, or other factors. See, e.g., *Inabnet v. Pipes*, 241 So. 2d 595, 597–98 (La. App. 2 Cir. 1970); *Pearson v. Theriot*, 534 So. 2d 35, 37–38 (La. App. 3 Cir. 1988); *May v. Miller*, 941 So. 2d 661, 669–70 (La. App. 3 Cir. 2006).

(c) In determining the location of the right of passage, this Article recognizes that there may be multiple estates, or intervening lands, that could serve as the servient estate, all of which may allow an equidistant passage to the public road. In

1 such a case, the court must determine which estate will be the servient estate and
 2 where on that estate the passage will be located. In both instances, the court should
 3 ensure that the shortest route that is the least injurious is selected.

4 (d) The selection of the location of the passage under this Article applies to
 5 a right of passage created under Article 689. This Article does not apply to a right
 6 of passage created under Article 694.

7 Art. 693. Enclosed estate; voluntary act:

8 If an estate becomes enclosed as a result of a voluntary act ~~or omission~~ of its
 9 owner **at the time of the enclosure**, the neighbors are not bound to furnish a passage
 10 to ~~him or his~~ **the owner or the owner's** successors.

11 Revision Comments – 2025

12 (a) This revision clarifies existing law. An estate that becomes enclosed
 13 through the voluntary actions of that estate's owner at the time that the estate
 14 becomes enclosed is not entitled to a right of passage under Article 689. See
 15 Spotsville v. Herbert & Murrell, Inc., 698 So. 2d 31 (La. App. 3 Cir. 1997). The
 16 owner of the enclosed estate may acquire a conventional servitude of passage
 17 through a voluntary transaction with a neighboring owner, but the enclosed estate
 18 owner is not entitled to claim a legal servitude of passage under Article 689.

19 (b) This Article applies only when the owner of the enclosed estate causes the
 20 enclosure through his voluntary actions at the time of the enclosure. For example, if
 21 an owner subdivides the property and retains the enclosed tract of land without
 22 reserving a right of passage, the enclosed estate has become enclosed as a result of
 23 the voluntary action of the owner and is not entitled to a right of passage under
 24 Article 689. This Article does not apply when the enclosure is caused by the inaction
 25 of the owner of the enclosed estate, such as when the enclosure is caused by the loss
 26 of a servitude through prescription of nonuse. See LeBlanc v. Thibodeaux, 615 So.
 27 2d 295 (La. 1993).

28 (c) This Article applies to the owner of the enclosed estate and the owner's
 29 successors. Although some courts have interpreted the Article otherwise, the plain
 30 language of Article 693 has always clearly stated that it applies to successors. See
 31 Yiannopoulos, 4 La. Civ. L. Treatise, Predial Servitudes §5:23 (2013).

32 Art. 694. Enclosed estate; voluntary alienation or **judicial** partition

33 **A.** When in the case of **judicial** partition, or a voluntary alienation of an
 34 estate or of a part thereof, property alienated or partitioned becomes enclosed,
 35 passage shall be furnished gratuitously **to the owner and the owner's successors**
 36 **even if the location of the passage is not the shortest route to the public road,**
 37 **and even if the act of alienation or partition does not mention a right of passage.**

38 **B.** **In the case of judicial partition, passage shall be furnished** by the
 39 owner of the land on which the passage was previously exercised, ~~even if it is not the~~
 40 ~~shortest route to the public road or utility, and even if the act of alienation or~~
 41 ~~partition does not mention a servitude of passage.~~ **In the case of a voluntary**

1 alienation, passage shall be furnished on the estate whose owner caused the
 2 enclosure.

3 Revision Comments – 2025

4 (a) This revision clarifies that when an estate is enclosed by judicial partition
 5 or alienation, a gratuitous right of passage is owed to the owner of the enclosed estate
 6 and the owner's successors. Prior jurisprudence was unclear whether a gratuitous
 7 right of passage was always owed by the estate that caused the enclosure or only
 8 when passage had clearly been exercised previously over the estate of the owner who
 9 caused the enclosure. This revision clarifies that when an estate is enclosed due to
 10 a judicial partition, passage should be provided where it was previously exercised,
 11 but when an estate is enclosed due to a voluntary alienation, the estate of the owner
 12 who caused the enclosure must furnish the passage. See *Patin v. Richard*, 291 So. 2d
 13 879 (La. App. 3 Cir. 1974); *Langevin v. Howard*, 363 So. 2d 1209 (La. App. 2 Cir.
 14 1978), writ denied, 366 So. 2d 560 (La. 1979); *Petrovich v. Trabeau*, 780 So. 2d
 15 1258 (La. App. 4 Cir. 2001), writ denied, 793 So. 2d 1251 (La. 2001). See also
 16 *Yiannopoulos*, 4 La. Civ. L. Treatise, *Predial Servitudes* §5:20 (2013).

17 (b) The rule that passage shall be furnished by the owner of the land on which
 18 passage was previously exercised applies only to judicial partitions; it does not apply
 19 to extrajudicial partitions. Prior law did not distinguish between judicial and
 20 extrajudicial partitions. Accordingly, enclosed estates created through extrajudicial
 21 partitions prior to this revision continue to be governed by prior law.

22 (c) This Article does not apply to a right of passage created under Article
 23 689. Instead, Article 692 provides the rule for where a right of passage created under
 24 Article 689 should be located.

25 (d) This revision is modeled in part after French Civil Code Article 684.

26 Art. 695. Relocation of servitude:

27 The owner of the enclosed estate has no right to the relocation of ~~this~~ **the**
 28 **servitude of passage** after it is fixed. The owner of the servient estate has the right
 29 to demand relocation of the servitude to a more convenient place at his own expense,
 30 provided that it affords ~~the same facility to the owner of~~ **the new location is equally**
 31 **convenient to** the enclosed estate.

32 Revision Comments – 2025

33 (a) This revision clarifies that in relocating the servitude, the owner of the
 34 servient estate must ensure that the new location of the servitude is equally
 35 convenient for the owner of the enclosed estate.

36 (b) The requirement that the relocated servitude must be equally convenient
 37 for the owner of the enclosed estate is similar to the requirement for the owner of a
 38 servient estate to relocate a conventional predial servitude under Article 748. Unlike
 39 under Article 748, however, in order for the owner of a servient estate to relocate a
 40 legal predial servitude of passage under Article 689 et seq., the owner of the servient
 41 estate need not show that the original location of the servitude is more burdensome
 42 for him.

43 Art. 696. ~~Prescriptibility of action for indemnity.~~ **Indemnity**

44 **A. The owner of an enclosed estate having a right of passage is bound to**

1 indemnify the owner of the servient estate for any damage caused by the
 2 exercise of the right of passage.

3 B. The right for to demand indemnity against the owner of the enclosed
 4 estate may ~~be lost~~ become barred by prescription. The accrual of ~~this~~ prescription
 5 has no effect on the right of passage.

6 Revision Comments – 2025

7 (a) This revision does not change the law. The requirement to indemnify
 8 one's neighbor for any damage caused by the exercise of the right of passage was
 9 previously located in Article 689 but has been moved to Article 696 to clarify that
 10 the right for indemnification applies to all rights of passage acquired under this
 11 Article, including rights of passage acquired under Articles 689 and 694.

12 (b) The indemnity required under Article 696 is for damage caused to the
 13 servient estate due to the exercise of the servitude. See Yiannopoulos, 4 La. Civ. L.
 14 Treatise, Predial Servitudes §5:15 (2013). Damages may be caused to the servient
 15 estate in the construction of works built by the owner of the enclosed estate or the
 16 owner's use of the servitude.

17 (c) Indemnification for damages is distinct from the compensation required
 18 in Article 689. Whereas compensation under Article 689 is the fair market value of
 19 the right of passage, the amount of the indemnity is fixed in light of the damage
 20 occasioned to the servient estate. See, e.g., Dickerson v. Coon, 71 So. 3d 1135 (La.
 21 App. 2 Cir. 2011) (discussing the removal of timber to build a right of passage);
 22 Robertson v. Arledge, 328 So. 3d 551 (La. App. 2 Cir. 2021) (discussing the forced
 23 relocation and replacement of deer stands). If the owner of the servient estate cannot
 24 prove damage resulting from the exercise of the servitude, no indemnity may be
 25 owed. See Altemus v. Boudreaux, 184 So. 3d 142 (La. App. 3 Cir. 2015).

26 Section 2. Chapter 3 of Code Title IV of Code Book II of Title 9 of the Louisiana
 27 Revised Statutes of 1950, comprised of R.S. 9:1281 through 1289, is hereby enacted to read
 28 as follows:

29 CHAPTER 3. UTILITY SERVITUDES

30 §1281. Definition

31 As used in this Chapter, a utility is a service, such as electricity, water,
 32 sewer, gas, telephone, cable, and power and communication networks, of the
 33 kind commonly used in the operation of an ordinary household, whether the
 34 service is provided to a household or business.

35 Revision Comments – 2025

36 (a) This revision does not change the law but simply relocates existing law
 37 on utility servitudes from the Civil Code to the Revised Statutes. The only utilities
 38 for which a servitude may be claimed under this Chapter are those of the nature
 39 described in this Section. A utility of the nature described in this Section may,
 40 however, be claimed for any type of dominant estate regardless of whether it is used
 41 for residential, agricultural, or commercial purposes.

42 (b) The reference to an "ordinary household" does not mean that only an

1 estate on which an ordinary household is located is entitled to a utility servitude, nor
2 that the utility may be used only for household purposes.

3 **§1282. Estate having no access to utility; utility servitude**

4 **A. The owner of an estate that has no access to a utility may claim a**
5 **utility servitude over neighboring property to the nearest utility. The owner of**
6 **the dominant estate is bound to compensate the neighbor for the utility**
7 **servitude acquired.**

8 **B. The right to demand compensation from the owner of the dominant**
9 **estate may become barred by prescription. The accrual of prescription has no**
10 **effect on the utility servitude due to the owner of the dominant estate.**

11 Revision Comments – 2025

12 (a) A utility servitude is a predial servitude and regulated by application of
13 the rules governing predial servitudes to the extent that their application is
14 compatible with the rules governing a utility servitude.

15 (b) A utility servitude is based on the rules governing a right of passage for
16 an enclosed estate in Civil Code Article 689 et seq. To the extent applicable, the
17 Civil Code articles on enclosed estates and jurisprudence interpreting those articles
18 may be applied by analogy to a utility servitude.

19 **§1283. Extent of the utility servitude**

20 **The utility servitude shall be limited to the rights reasonably necessary**
21 **to provide the utility to the dominant estate. The burden imposed on the**
22 **servient estate shall not be substantially different from that required to provide**
23 **the utility to an ordinary household.**

24 Revision Comments – 2025

25 A utility servitude may be claimed regardless of whether the dominant estate
26 is used for residential, agricultural, or commercial purposes. The burden imposed
27 upon the servient estate in any case cannot, however, be substantially different from
28 the burden necessary to provide the utility to an ordinary household. See R.S.
29 9:1281.

30 **§1284. Necessary works**

31 **The owner of the dominant estate may construct on the location of the**
32 **utility servitude the works that are reasonably necessary for the exercise of the**
33 **servitude. The works shall be constructed, maintained, and operated in a**
34 **manner that reasonably minimizes hazards posed by the servitude.**

35 Revision Comments – 2025

1 (a) This Section permits the owner of the dominant estate to construct upon
 2 the servient estate the works that are reasonably necessary to the exercise of the
 3 utility servitude. Because of the limitations imposed by R.S. 9:1281 and 1283,
 4 however, those works cannot be substantially different from the works that would
 5 be required to provide the utility to an ordinary household.

6 (b) This Section does not require the owner of the dominant estate to
 7 construct the works on the servient estate. The owner may execute a juridical act
 8 granting to a third person, such as a utility provider, the right to enter upon the
 9 servient estate for the purpose of constructing or maintaining the necessary works,
 10 but the juridical act may not grant the third person any rights greater than those
 11 enjoyed by the owner of the dominant estate.

12 **§1285. Location of the utility servitude**

13 **The owner of the dominant estate may not demand the location of the**
 14 **utility servitude anywhere that the owner chooses. The location of the utility**
 15 **servitude generally shall be taken along the shortest route that is the least**
 16 **injurious to the servient estate and intervening lands.**

17 Revision Comments – 2025

18 (a) In determining the extent to which a location is injurious to the servient
 19 estate and intervening lands, consideration should be given to whether the location
 20 causes a significant threat to the safety of the operations on the servient estate,
 21 unreasonably interferes with the enjoyment of the servient estate, interferes with
 22 natural or man-made impediments on the servient estate, or imposes unreasonable
 23 costs on the owner of the dominant estate or the utility provider. Courts may also
 24 consider whether it would be less injurious to the servient estate to place a utility
 25 servitude at the location of other existing servitudes, including other utility
 26 servitudes.

27 (b) In determining the location of the utility servitude, this Section recognizes
 28 that there may be multiple estates, or intervening lands, that could serve as the
 29 servient estate, all of which may allow an equidistant utility servitude to the public
 30 road. In such a case, the court must determine which estate will be the servient estate
 31 and where on that estate the servitude will be located. In both instances, the court
 32 should ensure that the shortest route that is the least injurious is selected.

33 **§1286. Voluntary loss of utility access**

34 **If an estate loses access to a utility as a result of a voluntary act of its**
 35 **owner, the neighbors are not bound to furnish a utility servitude to the owner**
 36 **or the owner's successors.**

37 Revision Comments – 2025

38 (a) The owner of an estate deprives himself of access to a utility only if the
 39 estate had access to that utility at the time of the alienation that caused the estate to
 40 lose access. Thus, the preclusion of this Section does not apply unless the utility
 41 actually existed before the estate became enclosed, and the estate had access to the
 42 utility at the time of the alienation.

43 (b) The utility servitude is based on the rules governing a right of passage for
 44 an enclosed estate in Civil Code Article 689. An estate may, however, lose access
 45 to a utility while having access to a public road. For this Section to apply, the estate

1 must lose access to a utility as a result of a voluntary act of its owner.

2 **§1287. Voluntary alienation or partition**

3 **A. When in the case of judicial partition, or a voluntary alienation of an**
 4 **estate or a part thereof, property alienated or partitioned loses access to a**
 5 **utility, a utility servitude shall be furnished gratuitously to the owner and the**
 6 **owner's successors even if it is not the location that otherwise would be selected**
 7 **in accordance with R.S. 9:1285, and even if the act of alienation or partition**
 8 **does not mention a utility servitude.**

9 **B. In the case of judicial partition, a utility servitude shall be furnished**
 10 **by the owner of the land on which the utility servitude was previously exercised.**
 11 **In the case of a voluntary alienation, a utility servitude shall be furnished on the**
 12 **estate whose owner caused the enclosure.**

13 Revision Comments – 2025

14 (a) Rules of statutory construction require that words used in the singular
 15 number include the plural. See R.S. 1:7. An estate could lose access to a utility due
 16 to a voluntary alienation of multiple estates or a partition involving multiple co-
 17 owners, such that a utility servitude must be furnished gratuitously over multiple
 18 estates whose owners caused the enclosure.

19 (b) The utility servitude is based on the rules governing a right of passage for
 20 an enclosed estate in Civil Code Article 689. An estate may, however, lose access
 21 to a utility while having access to a public road. For this Article to apply, the estate
 22 must lose access to a utility as a result of a partition or alienation of the estate or a
 23 part thereof.

24 **§1288. Relocation of the utility servitude**

25 **The owner of the dominant estate has no right to the relocation of the**
 26 **utility servitude after it is fixed. The owner of the servient estate has the right**
 27 **to demand relocation of the utility servitude to a more convenient place at his**
 28 **own expense, provided that the new location is equally convenient to the**
 29 **dominant estate.**

30 **§1289. Indemnity**

31 **A. The owner of a dominant estate having a utility servitude under this**
 32 **Chapter is bound to indemnify the owner of the servient estate for any damage**
 33 **caused by the exercise of the servitude.**

34 **B. The right to demand indemnity against the owner of the dominant**

1 **estate may become barred by prescription. The accrual of prescription has no**
2 **effect on the utility servitude.**

3 Section 3. Civil Code Art. 696.1 is hereby repealed in its entirety.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 49

BY SENATOR MILLER (On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

AN ACT

To amend and reenact Civil Code Art. 1575, 1576, and 1581 and Code of Civil Procedure Art. 2891, to enact Code of Civil Procedure Art. 2887, and to repeal Civil Code Art. 1577 through 1580.1, relative to testaments; to provide for the requirements of form for olographic testaments; to provide for the requirements of form for notarial testaments; to eliminate special requirements for notarial testaments for persons who are unable to sign or read; to eliminate special law for the execution of a testament in braille; to eliminate special requirements for notarial testaments for persons who are deaf or deaf and blind; to provide for the competency of witnesses to testaments; to provide for proof of testaments for probate; to provide for retroactive application; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Arts. 1575, 1576, and 1581 are hereby amended and reenacted to read as follows:

Art. 1575. Olographic testament; **requirements of form**

A. An olographic testament is one entirely written, dated, and signed in the handwriting of the testator. ~~Although the date may appear anywhere in the testament, the testator must sign the testament at the end of the testament. If anything is written by the testator after his signature, the testament shall not be invalid and such writing may be considered by the court, in its discretion, as part of the testament. The olographic testament is subject to no other requirement as to form. The date is sufficiently indicated if the day, month, and year are reasonably ascertainable from information in the testament, as clarified by extrinsic evidence, if necessary.~~

B. **The signature may appear anywhere in the testament and is sufficient if it identifies the testator and evidences an intent by the testator to adopt the document as the testator's testament.**

1 and deletions on the testament may be given effect only if made by the hand of the
2 testator."

3 The language regarding signatures at the end was added in 2001 to overrule
4 an ill-starred case, *Succession of King*, 595 So. 2d 805, 809 (La. App. 2 Cir. 1992),
5 which invalidated an olographic will that had not been signed at the end. Although
6 overruling *Succession of King* was a laudable goal, the 2001 revision unfortunately
7 precluded courts from even considering wills in which the signature was not at the
8 end and rather was contained in the exordium to the will, such as in *Succession of*
9 *Ally*, 354 So. 3d 1248 (La. App. 5 Cir. 2022). See also Thomas E. Atkinson,
10 *Handbook of the Law of Wills* 255 (1937).

11 This revision also makes clear that no rigid rule exists as to how one must
12 sign one's name. To the extent that *Succession of Frabbiele*, 397 So.3d 391 (La.
13 2024), may have been applicable by analogy, the holding of that case is legislatively
14 rejected by the adoption of a broader definition of "signing" or "signature." Prior to
15 *Frabbiele*, Louisiana jurisprudence was replete with varying manifestations of a
16 testator's signature. Although one's full legal name may be signed in some cases, a
17 full legal name is not a requirement. See, e.g., *In re Succession of Caillouet*, 935 So.
18 2d 713 (La. App. 4 Cir. 2006) (finding "Auntie" to be a sufficient signature);
19 *Succession of Cordaro*, 126 So. 2d 809 (La. App. 2 Cir. 1961) (finding an olographic
20 will valid that was signed only with the testator's first name, Lorene); *Balot y Ripoll*
21 *v. Morina*, 12 Rob. 552, 558 (La. 1846) (holding a false name was a signature);
22 *Succession of Squires*, 640 So. 2d 813 (La. App. 3 Cir. 1994) (holding that initialing
23 constitutes a signature); *Succession of Armstrong*, 636 So. 2d 1109 (La. App. 4 Cir.
24 1994) (holding that initialing constitutes a signature); *Succession of McKlinski*, 331
25 So. 3d 414 (La. App. 4 Cir. 2021) (holding that initialing constitutes a signature);
26 *Succession of Pedescleaux*, 341 So. 3d 1224 (La. App. 5 Cir. 2022) (holding that
27 initialing constitutes a signature); *Succession of Spain*, 344 So. 3d 115 (La. App. 4
28 Cir. 2022) (holding that initialing constitutes a signature). Under this revision, a full
29 legal name, a nickname, a pseudonym, or even initials may constitute a signature. A
30 broad definition of "signing" or "signature" is consistent with both civil and common
31 law practices. For instance, French law is untroubled by first names or initials as
32 signatures. Philippe Malaurie & Claude Brenner, *Droit des Successions et des*
33 *Libéralités* 297 (8th ed. 2018). Italian law provides that "[A] signature is valid even
34 without the forename and surname so long as it designates with certainty the person
35 of the testator. . . . Accordingly, . . . it is possible to sign the will by using, for
36 instance, only the surname or the first name (whether with or without the initial of
37 the surname) or a nickname if that is habitually used to identify the testator or even
38 the initials of the first name and surname." Alexandra Braun, *Testamentary*
39 *Formalities in Italy*, in *Testamentary Formalities* 51, 64 (Kenneth G.C. Reid, Marius
40 J de Waal, & Reinhard Zimmermann eds., 2011); Italian Civil Code Art. 602 ("La
41 sottoscrizione deve essere posta alla fine delle disposizioni. Se anche non è fatta
42 indicando nome e cognome, è tuttavia valida quando designa con certezza la persona
43 del testatore."). Under Brazilian law, a signature by "a pseudonym may also be
44 sufficient if it is a name which the testator generally uses." Jan Peter Schmidt,
45 *Testamentary Formalities in Latin America with Particular Reference to Brazil*, in
46 *Testamentary Formalities* 51, 64 (Kenneth G.C. Reid, Marius J de Waal, & Reinhard
47 Zimmermann eds., 2011). German law is also flexible on the signature requirement.
48 BGB §2247(3) ("The signature should contain the first name and the last name of the
49 testator. If the testator signs in another manner and this signature suffices to establish
50 the identity of the testator and the seriousness of his declaration, such a signature
51 does not invalidate the will."). Common law sources are also in accord. See, e.g., 2
52 Page on the Law of Wills §§19.41, at 89 (2003) ("The testator may sign his name by
53 writing it out in full or by abbreviating it, or by writing his initials, . . . or by using
54 an assumed name where not done with intent to deceive."); Restatement (Third) of
55 Property: Wills and Other Donative Transfers §3.1, cmt j ("Ideally, the testator 'signs'
56 the will by writing out his or her name in full. Signature by mark or cross is
57 sufficient, however. So also is signature by term of relationship (such as 'Dad,'
58 'Mom,' or 'Auntie'), abbreviation, nickname, a pet name, a first name, a last name,
59 initials, or pseudonym, or even by fingerprint or seal. The name need not be spelled

1 correctly. It need not be legible. It may be made with the assistance of another, who
 2 guides the testator's hand. The crucial requirement is that it must be done with intent
 3 of adopting the document as the testator's will.").

4 (d) Under prior law, the date was sufficient only if the "day, month, and year
 5 are reasonably ascertainable from information in the testament, as clarified by
 6 extrinsic evidence, if necessary." Article 1575 (2001). Question, however, may exist
 7 as to the exact date when slash or numeric dates are used and both the first and
 8 second numbers are below twelve. In fact, early Louisiana courts invalidated wills
 9 with slash dates, such as "10/3/50," "12.10.1934," and "9/8/18," because in all such
 10 cases the date was uncertain. Succession of Mayer, 144 So. 2d 896 (La. App. 4 Cir.
 11 1962); Succession of Lasseigne, 181 So. 879 (La. App. 1 Cir. 1938). Prior law
 12 altered the above results by allowing extrinsic evidence to be admitted to clarify an
 13 ambiguous date. Article 1575; see also Succession of Beird, 82 So. 881 (La. 1919).
 14 Extrinsic evidence, however, was still needed to render the day, month, and year
 15 "reasonably ascertainable." In Succession of Raiford, 404 So. 2d 251 (La. 1981), the
 16 Louisiana Supreme Court considered an olographic will dated "Monday.8 1968."
 17 Even after the admission of extrinsic evidence, the Supreme Court concluded that
 18 "[t]he only certain thing about the date here is the year 1968. The figure 8 could
 19 reflect either the day or the month." Thus, "the will [was] invalid." Other decisions
 20 from the Louisiana Supreme Court have been equally clear that "the month, without
 21 the day, is no date" at all. Heffner v. Heffner, 20 So. 281 (La. 1896). See also
 22 Succession of Robertson, 21 So. 586 (La. 1897) (holding a will invalid when the first
 23 three digits of the date (i.e., 189) were in print, and the testator merely supplied the
 24 last numeral).

25 This revision takes a more expansive approach as to what constitutes a
 26 sufficient date, declining to establish a rigid definition of what constitutes a date and
 27 rather adopting a more flexible approach of allowing courts to examine what might
 28 be "sufficient if it resolves those controversies for which the date is relevant." In
 29 other words, if a testator dies with two wills dated "March 2024," a sufficient date
 30 will require determining temporal priority of the wills in order to probate either. On
 31 the other hand, if the testator has only one will and there are no issues regarding
 32 capacity or free consent, knowing only that the will was executed in March of 2024
 33 could be entirely sufficient. Along these lines, Justice Lemmon in dissent in the
 34 Raiford case observed similarly in concluding that a will dated only by the year
 35 ought to be valid when the purposes for which the date are required (i.e., competency
 36 of the testator and order of multiple wills) are not thwarted. Succession of Raiford,
 37 404 So. 2d 251 (La. 1981) (Lemmon, J., dissenting). Commentators have likewise
 38 criticized a strict rule requiring a date and argued that "[o]ne need only say that the
 39 'date' must be sufficient to resolve those controversies present in the case and for
 40 which the requirement of a date was intended." H. Alston Johnson, Successions and
 41 Donations, 43 La. L. Rev. 585, 601 (1982); Ronald J. Scalise, Jr., Will Formalities
 42 in Louisiana: Yesterday, Today, and Tomorrow, 80 La. L. Rev. 1331 (2020);
 43 Succession of Boyd, 306 So. 2d 687 (La. 1975). See also Succession of Raiford, 404
 44 So. 2d 251, 254 (1981) (Lemmon, J., dissenting) (arguing that a will dated "1968"
 45 should be valid because it establishes "the point in time of its making sufficiently to
 46 show that this will was made later than the 1963 will in which decedent left the
 47 property to her brother."). Other civil law jurisdictions have also shown flexibility
 48 regarding the date requirement for an olographic will. See, e.g., Cass. Civ. 1re, 22
 49 nov. 2023, No. 21-17.524 (upholding an olographic will without a handwritten date,
 50 despite an explicit requirement in the French Civil Code to the contrary); BGB
 51 §2247 (providing that an olographic will may be made by a writing signed by the
 52 testator and may still be valid without a date); Quebec Civ. Code Art. 726 ("Le
 53 testament olographe doit être entièrement écrit par le testateur et signé par lui,
 54 autrement par un moyen technique."). See also Unif. Prob. Code §2-502 (allowing
 55 for holographic wills provided they are signed and "material portions of the
 56 document are in the testator's handwriting").

57 (e) Paragraph D of this Article continues the approach of prior law but
 58 clarifies that handwritten additions or deletions made on olographic wills may be
 59 given effect by a court, even if the amendments are not in the form of a will or the

1 revocation of a legacy. This has long been the law in Louisiana and in other
 2 jurisdictions. See, e.g., Article 1589 (1870) ("Erasures not approved by the testator
 3 are considered as not made, and words added by the hand of another as not
 4 written."); Succession of Melancon, 330 So. 2d 679 (La. App. 3 Cir. 1976) ("We
 5 recognize that Article 1589 of the Revised Civil Code and the jurisprudence
 6 interpreting the provisions thereof recognize that the writer of an olographic will
 7 may later or completely change testamentary dispositions in his handwritten
 8 testament without affecting its validity so long as the alterations or additions are
 9 made by the hand of the testator."); Succession of Butterworth, 196 So. 39 (La.
 10 1940); Restatement (Third) Property: Wills and Other Donative Transfers §3.2, cmt
 11 f ("After the testator signs a holographic will, the testator may validly make a
 12 handwritten alteration of the will without re-signing the document.").

13 (f) An olographic will, like a notarial will, must be in "writing." Prior to the
 14 1997 revision, Louisiana law allowed for certain extraordinary oral wills. Those wills
 15 have been suppressed. See, e.g., Articles 1597-1604 (1870). Today, all wills must be
 16 in writing. Traditionally, the writing is on paper, but neither Louisiana law, nor the
 17 law of other jurisdictions, has ever required that a will be on paper. See, e.g.,
 18 Restatement (Third) Property: Wills and Other Donative Transfers §3.1, cmt i ("The
 19 requirement of a writing does not require that the will be written on sheets of paper,
 20 but it does require a medium that allows the markings to be detected. A will, for
 21 example, scratched in the paint on the fender of a car would be in writing, but one
 22 "written" by waving a finger in the air would not be."). In the modern day, it is even
 23 possible that an olographic will could be written on an electronic tablet. See, e.g., In
 24 re Estate of Javier Castro, No. 2013ES11140 (Lorain Cnty. Ohio Ct. Com. Pl. June
 25 19, 2013). There is also no requirement that a will be written in English. See, e.g.,
 26 Article 1577, cmt (d) (1997). Louisiana law contains examples of wills written in
 27 French, among other languages. See, e.g., Lagrave v. Merle, 5 La. Ann. 278 (La.
 28 1850).

29 Art. 1576. Notarial testament; **requirements of form**

30 ~~A notarial testament is one that is executed in accordance with the formalities~~
 31 ~~of Articles 1577 through 1580.1.~~

32 ~~Art. 1577. Requirements of form~~

33 ~~**A. The notarial testament shall be prepared in writing, and dated, executed**~~
 34 ~~**before a notary public in the presence of two witnesses, and signed by the**~~
 35 ~~**testator, each witness, and the notary. If a testator is unable to sign, the testator**~~
 36 ~~**may affix his mark in place of signing or direct another person to sign on behalf**~~
 37 ~~**of the testator and in the presence of the testator.**~~ and shall be executed in the
 38 following manner. If the testator knows how to sign his name and to read, and is
 39 physically able to do both, then:

40 ~~(1) In the presence of a notary and two competent witnesses, the testator shall~~
 41 ~~declare or signify to them that the instrument is his testament and shall sign his name~~
 42 ~~at the end of the testament and on each other separate page.~~

43 ~~(2) In the presence of the testator and each other, the notary and the witnesses~~

1 shall sign the following declaration, or one substantially similar: "In our presence the
 2 testator has declared or signified that this instrument is his testament and has signed
 3 it at the end and on each other separate page, and in the presence of the testator and
 4 each other we have hereunto subscribed our names this ____ day of _____,
 5 _____."

6 **B. The signature may appear anywhere in the testament and is sufficient**
 7 **if it identifies the testator and evidences an intent by the testator to adopt the**
 8 **document as the testator's testament.**

9 **C. The date may appear anywhere in the testament, may be clarified by**
 10 **extrinsic evidence, and is sufficient if it resolves those controversies for which**
 11 **the date is relevant.**

12 Revision Comments – 2025

13 (a) This revision changes the law to simplify the execution of notarial wills
 14 in Louisiana. This approach is consistent with the law of other states. See, e.g., Unif.
 15 Prob. Code §2-502 (2008). For discussion of the application of will formalities under
 16 Louisiana law, see Ronald J. Scalise, Jr., Will Formalities in Louisiana: Yesterday,
 17 Today, and Tomorrow, 80 La. L. Rev. 1333 (2020). Although this revision alters the
 18 requirements necessary for the validity of a notarial will, a notarial will properly
 19 executed under the prior law would still be valid and self-proving under this revision.

20 (b) Most importantly, this revision eliminates the "attestation clause" as a
 21 condition of "validity" for notarial wills, a requirement under prior law that caused
 22 much litigation. See, e.g., Succession of Liner, 320 So. 3d 1133 (La. 2021);
 23 Successions of Toney, 226 So. 3d 397 (La. 2017). Attestation clauses may still be
 24 used in notarial wills to make wills self-proving. See, e.g., Code of Civil Procedure
 25 Article 2887. Under this revision, the absence of an attestation clause from a notarial
 26 will does not invalidate a will. Rather, the absence of an attestation clause or a
 27 subsequently executed affidavit will require proof of proper execution in accordance
 28 with Code of Civil Procedure Article 2887(B). The Louisiana Supreme Court long
 29 ago observed that the attestation clause is of only "evidentiary" value, rather than
 30 substantive value. See, e.g., Succession of Porche, 288 So. 2d 27 (La. 1973) ("[T]he
 31 purpose of the attestation clause is primarily to evidence, at the time the will was
 32 executed, that the statutory formalities . . . had been satisfied").

33 (c) This revision aligns the formalities required for the execution of a notarial
 34 will more closely with the formalities required for the execution of an authentic act.
 35 See, e.g., Article 1833. Unlike an authentic act, however, a notarial will still requires
 36 a date for purposes of validity and a particular standard for competency of witnesses
 37 as provided in Article 1581. The date requirement, as with all formalities for wills,
 38 should not be interpreted strictly. Rather, a substantial compliance approach should
 39 be used by courts in assessing whether the formalities of a particular document
 40 sufficiently protect against fraud. Extrinsic evidence may be used to complete or
 41 clarify the date of a will. For the meaning of the requirement of date, see the
 42 Comments to Article 1575. Although a date has always been required for olographic
 43 wills, the date requirement was added for notarial wills only in 1999. Prior to that
 44 time, the statutory will, on which the notarial will is based, did not require a date.
 45 Lemuel E. Hawsey III, Louisiana's Statutory Will: The Role of Formal
 46 Requirements, 32 La. L. Rev. 452, 459 (1972) ("Although neither the statute nor the
 47 jurisprudence make the date a formal requirement for validity of a statutory will, it

1 is still necessary to determine whether some general principle at either common or
 2 civil law necessitates inclusion of the date of execution in order for a testament to be
 3 valid. The Louisiana Wills Statute had as its origin similar statutes existing in all of
 4 the common law states. It is well settled at common law that, in the absence of an
 5 express statutory requirement, the date of execution is not essential to the validity of
 6 a statutory will." Attested wills that are common in other states do not generally
 7 require a date. See, e.g., Unif. Prob. Code §2-502.

8 (d) For the meaning of the signature requirement, see the Comments to
 9 Article 1575. The revision expressly avoids using the phrase "sign his name," which
 10 the Louisiana Supreme Court has interpreted to exclude signing by initialing. See
 11 Successions of Toney, 226 So. 3d 397 (La. 2017), overruled in part by Succession
 12 of Liner, 320 So. 3d 1133 (La. 2021) (on rehearing); Succession of Frabbiele, 397
 13 So. 3d 391 (La. 2024).

14 (e) Both notarial and olographic wills must be in writing. Former Article
 15 1580 allowed for a notarial will to be executed in braille. Although that article has
 16 been suppressed in this revision, no change in the law is intended, as braille is
 17 unquestionably a form of "writing." For the meaning and requirements of a writing,
 18 see the Comments to Article 1575.

19 (f) This revision also eliminates the "publication" requirement that existed in
 20 prior law as a condition of validity. Publication, simply stated, is "the declaration by
 21 the testator that the instrument is his will." No major statutory enactment has ever
 22 required that a will be published, and it is hard to understand why this formality
 23 persists in the modern day. Specifically, publication was not required by the English
 24 Wills Act, the Statute of Frauds, or by any version of the Uniform Probate Code.
 25 Although English courts did impose such a requirement at one point, it has long
 26 since been abandoned. Today, only a very few states require publication as a
 27 condition of validity. See, e.g., Ark. Code §28-25-103; Iowa Code §633.279; N.Y.
 28 Est. Power & Trust Law §3-2.1; 84 Okla. Stat. Ann. §55; Tenn. Code §32-1-104.
 29 Moreover, the significance of the "publication" requirement under prior law has
 30 largely eroded. See, e.g., Article 1577 (2001), cmt (c) ("The testator's indication that
 31 the instrument contains his last wishes may be given verbally or in any other manner
 32 that indicates his assent to its provisions."); Succession of Guidry, 160 So. 2d 759
 33 (La. App. 3 Cir. 1964) (Nothing in the statute requires a "verbal signification," and
 34 thus a testatrix may signify her intention "by shaking her head."); Succession of
 35 Saarela, 151 So. 2d 144 (La. App. 4 Cir. 1963) (Reference in a will to "this is my last
 36 will and testament" was a sufficient declaration to constitute publication of the will.);
 37 Succession of Porche, 273 So. 2d 665 (La. App. 4 Cir. 1973); Succession of
 38 Thibodeaux, 527 So. 2d 559 (La. App. 3 Cir. 1988) (The very signing of the will
 39 itself can be a sufficient declaration, even when there is no verbal declaration or
 40 other significant action.).

41 (g) Although signing a will on every page is good practice, it is no longer
 42 required as a condition of validity. To make a will self-proving, however, a signature
 43 on every page of the will is necessary. See Code of Civil Procedure Article 2887.
 44 The requirement in prior law that every page of the notarial will be signed appears
 45 to be a somewhat unique Louisiana rule copied, most likely, from the same
 46 innovation imposed upon statutory wills. In Succession of Hoyt, the court observed
 47 that "[t]he purpose of the requirement is to prevent fraud by the substitution of one
 48 typewritten page for another after the execution of the will by the testator."
 49 Succession of Hoyt, 303 So. 2d 189 (La. App. 1 Cir. 1974). Despite good practice,
 50 the requirement that each page be signed has wrought substantial havoc in Louisiana
 51 law. For instance, in Succession of Hoyt, a Louisiana court declared invalid a two-
 52 page will that was signed only on the last page. Succession of Hoyt, 303 So. 2d 189
 53 (La. App. 1 Cir. 1974). The court noted that "[t]he failure of the testator to sign each
 54 sheet is fatal to the validity of the will." Id. Similarly, in Land v. Succession of
 55 Newsom, the court found that failure to sign each page of a two-page will was "fatal"
 56 to the validity of the entire will. Land v. Succession of Newsom, 193 So. 2d 411 (La.
 57 App. 2 Cir. 1966). More recently, a court held invalid a will that was not signed on
 58 every page by noting that it was "undisputed that [the testator] did not sign one of the
 59 pages of the . . . testament that contained dispositive provisions in favor of his three

sisters." In re Hendricks, 28 So. 3d 1057 (La. App. 1 Cir. 2009). But see Succession of Simonson, 982 So. 2d 143 (La. App. 5 Cir. 2008) (a will was not rendered invalid under prior law if the testator fails to sign a page relating solely to the powers of a trustee and other administrative matters); Succession of Guezuraga, 512 So. 2d 366 (La. 1987) (same regarding end of attestation clause). Experience has shown that, although good practice would encourage the signing of every page, the absence of a signature on every page should not be an absolute bar to a will's validity, especially when no fraud or similar allegation is made, or when the testator made some identifying mark, such as initialing, to indicate assent to the will's provisions. But see Succession of Frabbiele, 397 So. 3d 391 (La. 2024) (invalidating a will under prior law that was initialed on every page). No other document must be signed on every page as a condition of validity. Similarly, experience from other jurisdictions and conventions is likewise illuminating. Many civil and common law jurisdictions do not require the signing of every page of a will. See, e.g., Fr. Civ. Code Arts. 971-974; BGB §2231-2233; Unif. Prob. Code §2-502. Some civil law jurisdictions still require that "secret" wills be signed on every page. See, e.g., Ital. Civ. Code Art. 604; Sp. Civ. Code Art. 706. Although the Uniform Law on International Wills also requires a signature on every page, it does not consider it a core formality, such that its absence does not affect the validity of the will. Unif. Int'l Wills Act Arts. 1 and 6.

(h) This revision repeals former Articles 1578 and 1579, which provided special procedures for testators who were unable to sign or unable to read. Although well intentioned, those articles proved unnecessarily cumbersome in the modern day. A testator who is unable to sign can direct another person to sign in his place under this Article. Similarly, a testator who is unable to read can still sign a legal document, including a will. Before doing so, however, it is important that the document be explained to the signatory to ensure that it represents his intent. Former Article 1580.1, which provided special procedures for testators who were deaf or deaf and blind, was again well intentioned but either unnecessary or impractical in its application. For an explanation of the difficulties of utilizing Article 1580.1, see Ronald J. Scalise, Jr., Will Formalities in Louisiana: Yesterday, Today, and Tomorrow, 80 La. L. Rev. 1333 (2020).

* * *

Art. 1581. Persons incompetent to be witnesses

A person cannot be a witness to any testament if ~~he~~ **the person** is insane, blind, under the age of sixteen, or unable to sign his name. ~~A person who is competent but deaf or unable to read cannot be a witness to a notarial testament under Article 1579.~~

Section 2. Code of Civil Procedure Art. 2891 is hereby amended and reenacted and Code of Civil Procedure Art. 2887 is hereby enacted to read as follows:

Art. 2887. Notarial testament

A.(1) A notarial testament executed pursuant to Civil Code Article 1576 does not need to be proved if it is signed on each separate page at the time of execution and is accompanied by either of the following declarations:

(a) In the testament, the following declaration, or one that is substantially similar, signed by the notary and the subscribing witnesses: "In

1 our presence the testator has declared or signified that this instrument is his
2 testament and has signed each separate page."

3 (b) In an affidavit attached to the testament but executed after the
4 execution of the testament, the following declaration, or one that is substantially
5 similar, signed by the notary and the witnesses who subscribed to the will: "In
6 our presence the testator has declared or signified that the attached instrument
7 is his testament and has signed each separate page."

8 (2) If the testator is unable to sign and has directed another person to
9 sign on his behalf, the testament shall be signed on each separate page by the
10 person directed to sign by the testator, and the declarations provided in
11 Subparagraph (1) of this Paragraph shall be modified to indicate that a person
12 other than the testator signed at the direction of the testator.

13 B.(1) A notarial testament that does not comply with Paragraph A of this
14 Article shall be proved to have been signed by the testator or by another person
15 at the testator's direction either by the testimony of the notary and at least one
16 of the subscribing witnesses or by the testimony of the two subscribing
17 witnesses.

18 (2) If only the notary or only one of the subscribing witnesses is living in
19 the state, not incapacitated, or can be located, the testimony of the notary or one
20 of the witnesses that the testament was signed by the testator or by another
21 person at the testator's direction shall be sufficient.

22 (3) If the notary and all of the subscribing witnesses are dead, absent
23 from the state, incapacitated, or cannot be located, the testament may be proved
24 by the testimony of two credible witnesses who recognize the signature of the
25 testator on the testament.

26 (4) A person's testimony for the purpose of this Paragraph may be given
27 in the form of an affidavit executed after the death of the testator, unless the
28 court in its discretion requires the person to appear and testify orally. All
29 affidavits accepted by the court in lieu of oral testimony shall be filed in the
30 probate proceedings. This Subparagraph does not apply to testimony with

1 respect to the genuineness of a will that is judicially attacked.

2 Comments – 2025

3 (a) This Article is new. It changes the law by providing that an attestation
 4 clause for testaments executed pursuant to Civil Code Article 1576 is no longer a
 5 condition of validity for the execution of a notarial will, nor is signing the will on
 6 every page or the publication of the will. This Article provides that notarial wills
 7 may be self-proving if the will or a subsequently executed affidavit contains an
 8 appropriate attestation clause and the will is signed on every page and declared by
 9 the testator to be his will. Notarial wills executed pursuant to Civil Code Article
 10 1576 that do not contain attestation clauses, are not signed on every page, or are not
 11 declared by the testator to be his will may still be probated in accordance with
 12 Paragraph B of this Article if sufficient proof can be adduced that the testament was
 13 properly executed.

14 (b) Paragraph A of this Article provides examples of attestation clauses that
 15 may be used to make a will under Civil Code Article 1576 self-proving. The exact
 16 wording of this Paragraph need not be used. Language substantially similar is
 17 sufficient. Also, to be signed on every page, a full legal name of the testator is not
 18 required. Nicknames or initials may constitute a signature under this Article. For
 19 further discussion of what constitutes a signature, see Comment (d) to Civil Code
 20 Article 1576. Similarly, a testator may declare or signify that a document is his will
 21 in any number of ways. See, e.g., Comment (f) to Civil Code Article 1576.

22 (c) Subparagraph (B)(1) of this Article provides that if a testament or
 23 subsequently executed affidavit does not contain an attestation clause substantially
 24 similar to the example in Paragraph A, then the testament is not self-proving and
 25 must be proved by the testimony of the notary and one of the subscribing witnesses
 26 or by the testimony of both subscribing witnesses. Subparagraph (B)(2) adopts a
 27 procedure for probating a notarial will with respect to which only the notary or only
 28 one of the witnesses can testify. It is similar to the prior procedure for probating a
 29 statutory will. See Article 2887 (repealed). Subparagraph (B)(3) adopts a procedure
 30 for probating a notarial will with respect to which neither the notary nor the
 31 witnesses can testify. It is similar to the prior procedure for probating a statutory will
 32 and to the procedure that already exists in the law for similar situations involving
 33 nuncupative wills by private act and mystic wills. See Articles 2886(B) and 2887
 34 (repealed). Notarial wills signed by another person at the testator's direction cannot
 35 be probated pursuant to Subparagraph (B)(3). Subparagraph (B)(4) allows for a
 36 person's testimony to be given by affidavit. See Articles 2883(B), 2884(B), 2885(B),
 37 and 2886(C).

38 * * *

39 Art. 2891. Notarial testament; nuncupative testament by public act, ~~and;~~ statutory
 40 testament executed without probate

41 A notarial testament **that complies with the provisions of Article 2887(A)**,
 42 a nuncupative testament by public act, and a statutory testament do not need to be
 43 proved. Upon production of the testament, the court shall order it filed and executed
 44 and this order shall have the effect of probate.

45 Comments – 2025

46 This revision changes the law to recognize that notarial wills are not always
 47 self-proving, but only when they comply with the requirements of Article 2887(A).

48 Section 3. Civil Code Arts. 1577 through 1580.1 are hereby repealed in their entirety.

1 Section 4. The provisions of this Act shall apply both prospectively and retroactively
2 and shall be applied to all claims existing and pending on the effective date of this Act and
3 all claims arising or actions filed on and after the effective date of this Act. The provisions
4 of this Act shall not be applied to revive claims prescribed as of the effective date of this Act
5 or to affect claims adjudicated on the merits by a final and definitive judgment prior to the
6 effective date of this Act.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 93

BY SENATOR LAMBERT (On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

AN ACT

To enact Civil Code Art. 1519.1, relative to penalty clauses; to provide for the enforceability of penalty clauses; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Art. 1519.1 is hereby enacted to read as follows:

Art. 1519.1. Penalty clauses

A provision in a juridical act that purports to penalize a person for filing an action to challenge an *inter vivos* or *mortis causa* donation, an action related to a succession, or an action related to a trust administration is unenforceable if, at the time of instituting the action to challenge, a factual basis existed that would lead a reasonable person to conclude that there is a substantial likelihood that the challenge would be successful.

Revision Comments – 2025

(a) Penalty, no-contest, or in terrorem clauses have traditionally been dealt with by Louisiana courts under Article 1519. In the absence of more specific and clearer legislation, however, the courts have not developed a consistent approach to determine when penalty clauses are enforceable. See, e.g., Succession of Maloney, 392 So. 3d 302 (La. 2024); Succession of Maloney, 353 So. 3d 267 (La. App. 5 Cir. 2022); Succession of Gardiner, 366 So. 2d 1065 (La. App. 3 Cir. 1979); Succession of Kern, 252 So. 2d 507 (La. App. 4 Cir. 1971); Irina Fox, Comment, Penalty Clauses in Testaments: What Louisiana Can Learn from the Common Law, 70 La. L. Rev. 1265 (2010). The Louisiana Supreme Court, in fact, has invited legislative clarity on the issue of penalty or in terrorem clauses. Succession of Maloney, 392 So. 3d 302 (La. 2024) ("We leave this question for another day noting that – in the interim – our legislature may wish to evaluate whether public policy dictates that specific statutory exceptions precluding the operation of no-contest clauses should exist based on the nature of a legatee's action in contesting a will."). The approach of this revision balances the donor's interest in preventing vexatious and frivolous lawsuits with the interest of a donee or other person in ensuring that a provision in a donation is fully free. This provision accords with the modern approach in the United States regarding penalty or in terrorem clauses in donations. See, e.g., Unif. Prob. Code §3-905; Restatement (Third) Property: Wills and Other Donative Transfers §8.5.

(b) This revision adopts the approach of the Restatement (Third) Property and the Uniform Probate Code but declines to codify the term "probable cause" in the text of this Article due to a concern for confusion of concepts between this special "civil" conception of probable cause and the more common concept of probable

1 cause prevalent in criminal law. The Restatement (Third) Property explains the civil
 2 standard of probable cause thusly: "Probable cause exists when, at the time of
 3 instituting the proceeding, there was evidence that would lead a reasonable person,
 4 properly informed and advised, to conclude that there was a substantial likelihood
 5 that the challenge would be successful. A factor that bears on the existence of
 6 probable cause is whether the beneficiary relied upon the advice of independent legal
 7 counsel sought in good faith after a full disclosure of the facts. The mere fact that the
 8 person mounting the challenge was represented by counsel is not controlling,
 9 however, since the institution of a legal proceeding challenging a donative transfer
 10 normally involves representation by legal counsel." Restatement (Third) Property:
 11 Wills and Other Donative Transfers §8.5, cmt c. In the criminal context, affidavits
 12 of probable cause are required in certain contexts. See, e.g., Code of Criminal
 13 Procedure Article 230.2. In those circumstances, probable cause exists "when the
 14 facts and circumstances known to the officer and of which he has reasonably
 15 trustworthy information are sufficient to justify a man of ordinary caution in
 16 believing the person to be arrested has committed a crime." *State v. Wilson*, 467 So.
 17 2d 503, 515 (La. 1985).

18 (c) Although different states may have slight variations on the details of civil
 19 probable cause, the use of probable cause in evaluating penalty, no-contest, or in
 20 terrorem clauses is the dominant approach throughout the United States. See, e.g.,
 21 Alaska Stat. §13.16.555; Ariz. Stat. §14-2517; Cal. Prob. Code §21311; Colo. Rev.
 22 Stat. §15-12-905; Haw. Rev. Stat. §560:3-905; Idaho Code §15-3-905; *In re Estate*
 23 *of Foster*, 376 P.2d 784 (Kan. 1962); Maine Tit. 18-C: §3-905; MD Estates and
 24 Trusts Code §4-413; Mich. Comp. Laws Ann. §700.3905; Minn. Stat. Ann. §524.2-
 25 517; Mont. Code Ann. §72-2-537; Neb. Rev. Stat. §30-24, 103; N.J. Stat. Ann.
 26 §3B:3-47; N.M. Stat. Ann. §45-2-517; N.D. Cent. Code §30.1-20-05; 20 Pa. Stat.
 27 §2521; S.C. Code Ann. §62-3-905; S.D. Codified Laws §29A-3-905; Utah Code
 28 Ann. §75-3-905; Wis. Stat. §854.19. Common-law concepts have sometimes been
 29 borrowed and transplanted into the Civil Code when helpful. See, e.g. Article 1479
 30 (adopting the common-law concept of "undue influence" after the change in forced
 31 heirship). The explanation in the Restatement and the jurisprudence of other states
 32 should be informative to Louisiana courts. In explaining when no-contest clauses
 33 should be applied, the North Carolina Supreme Court explained as follows: "In our
 34 opinion, a bona fide inquiry whether a will was procured through fraud or undue
 35 influence, should not be stifled by any prohibition contained in the instrument itself.
 36 In fact, our courts should be as accessible for those who in good faith and upon
 37 probable cause seek to have the genuineness of a purported will determined, as they
 38 are to those who seek to find out the intent of a testator in a will whose genuineness
 39 is not questioned. Forfeiture clauses are usually included in wills to prevent
 40 vexatious litigation, but we should not permit such provisions to oust the supervisory
 41 power of the courts over such conditions and to control them within their legitimate
 42 sphere. There is a very great difference between vexatious litigation instituted by a
 43 disappointed heir, next of kin, legatee or devisee, without probable cause, and
 44 litigation instituted in good faith and with probable cause, which leads the contestant
 45 to believe that a purported will is not in fact the will of the purported testator. We
 46 think it is better to rely upon our trial courts to ascertain the facts in this respect."
 47 *Ryan v. Wachovia Bank & Trust Co.*, 70 S.E.2d 853, 856-57 (N.C. 1952). See also
 48 Cal. Prob. Code §21311(b) ("[P]robable cause exists if, at the time of filing a contest,
 49 the facts known to the contestant would cause a reasonable person to believe that
 50 there is a reasonable likelihood that the requested relief will be granted after an
 51 opportunity for further investigation or discovery.").

52 (d) This Article applies broadly to provisions in juridical acts that attempt to
 53 discourage or prevent actions challenging the effectiveness of donations,
 54 successions, or trust administrations. A juridical act is "a licit act intended to have
 55 legal consequences." See Article 3506 (2025) and Article 3483, cmt (b). The term
 56 includes contracts, such as donations inter vivos, and a unilateral juridical act, such
 57 as donations mortis causa. See Articles 1468 and 1469. This Article applies even if
 58 the provision discouraging challenge or contest appears in a juridical act that is not
 59 a part of but rather is related to the donative disposition.

1 (e) This Article does not purport to specify exhaustively what types of actions
 2 do or do not constitute contests sufficient to invoke a properly drafted penalty clause.
 3 Succession of Maloney, 392 So. 3d 302 (La. 2024) ("As a threshold matter, a court
 4 must determine whether a no-contest clause is triggered by the actions of a legatee,
 5 i.e., is the no-contest clause applicable."). A good faith action for interpretation of
 6 a disposition should not invoke a penalty clause in a will, nor should a compromise
 7 between parties. See, e.g., Article 3071. This approach is consistent with the law of
 8 some other states. See, e.g., Ga. Code Ann. §53-4-68(c)(1) (excluding settlement
 9 agreements and providing that "[a] condition in terrorem shall not be enforceable
 10 against an interested person for ... [b]ringing an action for interpretation or
 11 enforcement of a will"). A variety of other types of actions may also not invoke the
 12 application of a penalty clause. For example, the following are some examples of
 13 actions that may not invoke application of a no-contest clause: a request for an
 14 accounting, a challenge to the appointment of an executor, a suit to remove or
 15 compel a fiduciary to perform duties, a suit against a fiduciary for the
 16 nonperformance of duties, and an action for the probate of an alternative testament.
 17 See, e.g., Successions of Rouse, 80 So. 229 (La. 1918); Succession of Rosenthal, 369
 18 So. 2d 166 (La. App. 4 Cir. 1979); Succession of Robinson, 277 So. 3d 454 (La.
 19 App. 2 Cir. 2019). Courts should apply discretion and good judgment in ascertaining
 20 the purpose of an action by a donee and evaluating the nature of the action in light
 21 of the no-contest clause. Because no-contest clauses operate as penalties or
 22 forfeitures, they should be strictly construed by courts. See, e.g., In re Succession of
 23 Scott, 950 So. 2d 846 (La. App. 1 Cir. 2006); Estate of Newbill, 781 S.W.2d 727,
 24 728 (Tex. App. 1989); Calvery v. Calvery, 55 S.W.2d 527 (Tex. App. 1932).

25 (f) This Article does not displace the application of other prohibitions in the
 26 Civil Code, including the application of Article 1519 to other aspects of penalty
 27 clauses. See, e.g., Succession of Kern, 252 So. 2d 507 (La. App. 4 Cir. 1971)
 28 (holding that a clause in a will providing that the entire will was "null and void" if
 29 "any heir" challenges the will "in any way" was "repugnant to law and good morals
 30 and cannot be sanctioned by the courts"). Of course, a donor also may not in a
 31 testament subject a forced heir's receipt of his legitime to a no-contest clause. Such
 32 a restriction would be violative of Article 1496 and long-standing Louisiana public
 33 policy. See Article 1496 ("No charges, conditions, or burdens may be imposed on
 34 the legitime except those expressly authorized by law, such as a usufruct in favor of
 35 a surviving spouse or the placing of the legitime in trust."); see also Hoggatt v.
 36 Gibbs, 12 La. Ann. 770 (1857).

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 176

HOUSE BILL NO. 291

BY REPRESENTATIVES GALLE, ADAMS, BAGLEY, BAYHAM, BERAULT, CARRIER, ROBBY CARTER, CARVER, CHASSION, CREWS, DICKERSON, EDMONSTON, EGAN, KNOX, STAGNI, TAYLOR, VENTRELLA, AND WILDER

1 AN ACT

2 To amend and reenact Civil Code Article 2315.1(A)(introductory paragraph) and 2315.2(B)
3 and to enact Civil Code Articles 2315.1(F) and 2315.2(F), relative to prescription in
4 wrongful death and survival actions; to provide for a prescriptive period of two years
5 from the date of death of the deceased; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 2315.1(A)(introductory paragraph) and 2315.2(B) are
8 hereby amended and reenacted and Civil Code Articles 2315.1(F) and 2315.2(F) are hereby
9 enacted to read as follows:

10 Art. 2315.1. Survival action

11 A. If a person who has been injured by an offense or quasi offense dies, the
12 right to recover all damages for injury to that person, his property or otherwise,
13 caused by the offense or quasi offense, shall survive for a period of one year from
14 the death of the deceased or two years from the day that injury or damage is
15 sustained, whichever is longer, in favor of:

16 * * *

17 F. The prescriptive period for medical malpractice survival actions is
18 governed by R.S. 9:5628.

19 * * *

20 Art. 2315.2. Wrongful death action

21 * * *

1 B. The right of action granted by this Article prescribes one year from the
2 death of the deceased or two years from the day that injury or damage is sustained,
3 whichever is longer.

4 * * *

5 F. The right of action granted by this Article for medical malpractice actions
6 prescribes one year from the death of the deceased.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2025 Regular Session
HOUSE BILL NO. 178

ACT No. 250

BY REPRESENTATIVE MIKE JOHNSON

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT
2 To amend and reenact Civil Code Article 3462 and Code of Civil Procedure Articles
3 74.2(E), 371, 684, 863(F), 927(A)(5), 966(B)(5), 1201(C), 1313(A)(4), 1351, 1551,
4 1702(A)(5), 1811(A)(1), 1911(B), 1913(A), (C), and (D), 1914(B) and (D),
5 1915(A)(1), (4), and (5), (B), and (C), 1974, 2088(A)(11), 2595, 3721, 4607, 4873,
6 and 5059, to enact Code of Civil Procedure Article 1915(D), and to repeal Code of
7 Civil Procedure Articles 74.2(F), 2088(A)(12), and 3784, relative to civil procedure;
8 to provide for the interruption of prescription; to provide for the imposition of
9 sanctions; to provide with respect to child custody proceedings; to provide with
10 respect to attorney conduct; to provide with respect to interdicts; to provide with
11 respect to objections raised by peremptory exception; to provide with respect to
12 summary judgment procedure; to provide with respect to service of citation; to
13 provide with respect to electronic service; to provide with respect to the issuance of
14 subpoenas; to provide for pretrial and scheduling conference orders; to provide with
15 respect to default judgments; to provide with respect to motions for judgment
16 notwithstanding the verdict; to provide with respect to the signing of final
17 judgments; to provide for notice of judgments; to provide for final, interlocutory, and
18 partial judgments; to provide with respect to delays for applying for new trial; to
19 provide with respect to divesting the trial court of jurisdiction; to provide with
20 respect to the trial of summary proceedings; relative to methods of enforcing
21 mortgages; to provide relative to civil actions; to provide with respect to provisions
22 of the judgment; to provide relative to specific amounts, costs, expenses, and fees;

1 to provide relative to terms, conditions, procedures, and requirements; to provide
2 relative to judicial process, collection proceedings, and sales under fieri facias; to
3 provide with respect to partitions by licitation or by private sale; to provide with
4 respect to the procedure to transfer to district court; to provide for the computation
5 of time; to provide for applicability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 3462 is hereby amended and reenacted to read as
8 follows:

9 Art. 3462. Interruption by filing of ~~suit~~ action or by service of process

10 ~~Prescription~~ Unless otherwise expressly provided by legislation, prescription
11 is interrupted when the owner commences action against the possessor, or when the
12 obligee commences action against the obligor, in a court of competent jurisdiction
13 and venue. If action is commenced in an incompetent court, or in an improper
14 venue, prescription is interrupted only as to a defendant served by process within the
15 prescriptive period. If an action is commenced in a competent court of improper
16 venue, prescription is suspended for a period of seven days as to a defendant not
17 served by process within the prescriptive period.

18 Revision Comments - 2025

19 This amendment changes the law. The filing of an action in a court of
20 competent jurisdiction will interrupt the prescriptive period even if venue is
21 improper. There are, however, numerous more specific statutes that still require an
22 action to be filed in a court of both competent jurisdiction and proper venue in order
23 to interrupt prescription, including R.S. 9:5604 (professional accounting liability),
24 5605 (legal malpractice), 5606 (professional insurance agent liability), 5607
25 (professional engineer, surveyor, interior designer, architect, and real estate
26 developer liability), and 5608 (action against home inspectors).

27 Section 2. Code of Civil Procedure Article 863(F) is hereby amended and reenacted
28 to read as follows:

29 Art. 863. Signing of pleadings; effect

30 * * *

31 F. A sanction authorized in Paragraph D of this Article shall not be imposed
32 with respect to an original petition ~~which~~ that is filed within sixty days of an
33 applicable prescriptive date and then voluntarily dismissed or transferred to a court

1 of proper venue within ninety days after its filing or on the date of a hearing on the
2 pleading, whichever is earlier.

3 * * *

4 Section 3. Code of Civil Procedure Articles 74.2(E), 371, 684, 927(A)(5), 966(B)(5),
5 1201(C), 1313(A)(4), 1351, 1551, 1702(A)(5), 1811(A)(1), 1911(B), 1913(A), (C), and (D),
6 1914(B) and (D), 1915(A)(1), (4), and (5), (B), and (C), 1974, 2088(A)(11), 2595, 3721,
7 4607, 4873, and 5059 are hereby amended and reenacted, and Code of Civil Procedure
8 Article 1915(D) is hereby enacted, to read as follows:

9 Art. 74.2. Custody proceedings; support; forum non conveniens

10 * * *

11 E. For the convenience of the parties and the witnesses and in the interest of
12 justice, a court, upon contradictory motion or upon its own motion after notice and
13 hearing, may transfer the custody or support proceeding to another court where the
14 proceeding ~~might~~ may have been brought.

15 * * *

16 Art. 371. Attorney

17 A. An attorney ~~at law~~ is an officer of the court. ~~He~~ An attorney shall
18 ~~conduct himself~~ at all times act with decorum; and in a manner consistent with the
19 dignity and authority of the court and the role ~~which he himself~~ that the attorney
20 should play in the administration of justice.

21 B. ~~He~~ An attorney shall treat the court, its officers, jurors, witnesses, the
22 opposing party, and opposing counsel with due respect; shall not interrupt opposing
23 counsel; or otherwise interfere with or impede the orderly dispatch of judicial
24 business by the court; shall not knowingly encourage or produce false evidence,
25 including evidence that is artificially generated or altered by any means; and shall
26 not knowingly make any misrepresentation; or otherwise impose upon or deceive the
27 court.

28 C. An attorney shall exercise reasonable diligence to verify the authenticity
29 of evidence before offering it to the court. If an attorney knew or should have known
30 through the exercise of reasonable diligence that evidence was false or artificially

1 manipulated, the offering of that evidence without disclosure of that fact shall be
2 considered a violation of this Article.

3 D. For a violation of any of the provisions of this ~~article~~ Article, the attorney
4 ~~at law subjects himself~~ is subject to punishment for contempt of court; and ~~such~~
5 further disciplinary action as is otherwise provided by law.

6 * * *

7 Art. 684. ~~Mental incompetent; interdict~~ Interdict

8 A. ~~A mental incompetent~~ A person fully interdicted or a person whose
9 limited interdiction specifically restricts the procedural capacity to sue does not have
10 the procedural capacity to sue.

11 B. Except as otherwise provided in Articles 4431, 4554, and 4566, the
12 curator is the proper plaintiff to sue to enforce a right of ~~an interdict~~ a person fully
13 interdicted or a person whose limited interdiction specifically restricts the procedural
14 capacity to sue.

15 Comments - 2025

16 This amendment seeks to address an issue raised by the court in Walcott v.
17 Louisiana Department of Health and Valley Services, 341 So. 3d 696 (La. App. 1
18 Cir. 2022), in which the First Circuit held that sustaining an exception of lack of
19 procedural capacity in a civil proceeding against a plaintiff who, in a criminal
20 proceeding, was determined a mental incompetent but was not interdicted would
21 leave the plaintiff with no avenue to pursue a civil claim. Under the amendment to
22 this Article, a person determined in a criminal proceeding to be a mental incompetent
23 has the procedural capacity to file a civil action unless that person is fully interdicted
24 or the person's limited interdiction restricts the capacity to sue. A court may order the
25 full interdiction of a person whose interests cannot be protected by less restrictive
26 means. See Civil Code Article 389. A limited interdiction does not deprive the
27 interdict of the procedural capacity to sue unless the judgment of limited interdiction
28 specifically restricts the ability to sue. See Article 4551 and Civil Code Article 390.

29 * * *

30 Art. 927. Objections raised by peremptory exception

31 A. The objections that may be raised through the peremptory exception
32 include but are not limited to the following:

33 * * *

34 (5) No cause of action, including an objection of no cause of action in part,
35 as to one or more but fewer than all of the claims, demands, issues, or theories

1 against a party, whether in an original demand, reconventional demand, cross-claim,
2 third-party claim, or intervention.

3 * * *

4 Comments - 2025

5 Subparagraph (A)(5) of this Article was amended to clarify that a partial
6 judgment sustaining an exception raising the objection of no cause of action may be
7 appropriate when two or more actions based on the same operative facts of a single
8 transaction or occurrence are cumulated. This changes the result reached by the
9 Louisiana Supreme Court in Everything on Wheels Subaru, Inc. v. Subaru South.,
10 Inc., 616 So. 2d 1234 (La. 1993).

11 * * *

12 Art. 966. Motion for summary judgment; procedure

13 * * *

14 B. Unless extended by the court and agreed to by all of the parties, a motion
15 for summary judgment shall be filed, opposed, or replied to in accordance with the
16 following provisions:

17 * * *

18 (5) ~~Notwithstanding Article 1915(B)(2), the~~ The court shall not reconsider
19 or revise the granting of a motion for partial summary judgment on motion of a party
20 who failed to meet the deadlines imposed by this Paragraph, nor shall the court
21 consider any documents filed after those deadlines.

22 * * *

23 Art. 1201. Citation; waiver; delay for service

24 * * *

25 C. Service of the citation shall be requested on all named defendants within
26 ninety days of commencement of the action. When a supplemental or amended
27 petition is filed naming any additional defendant, service of citation shall be
28 requested within ninety days of its filing, and the additional defendant shall be served
29 with the original petition and the supplemental or amended petition. The defendant
30 may expressly waive the requirements of this Paragraph by any written waiver. The
31 requirement provided by this Paragraph shall be expressly waived by a defendant
32 unless the defendant files, in accordance with the provisions of Article 928, a
33 declinatory exception of insufficiency of service of process specifically alleging the

1 failure to timely request service of citation or a contradictory motion in accordance
2 with Article 1672(C).

3 * * *

4 Art. 1313. Service by mail, delivery, or electronic means

5 A. Except as otherwise provided by law, every pleading subsequent to the
6 original petition, and every pleading which under an express provision of law may
7 be served as provided in this Article, may be served either by the sheriff or by:

8 * * *

9 (4) Transmitting a copy by electronic means to counsel of record, or if there
10 is no counsel of record, to the adverse party, at the number or addresses expressly
11 designated in a pleading or other writing for receipt of electronic service. Service
12 by electronic means is complete upon transmission but is not effective and shall not
13 be certified if the serving party learns that the transmission did not reach the party
14 to be served. If electronic service cannot be effected in accordance with this
15 Subparagraph, service may be effected in accordance with other provisions of this
16 Paragraph.

17 * * *

18 Comments - 2025

19 The amendment to Subparagraph (A)(4) of this Article clarifies that if service
20 cannot be effected by electronic means, service may be effected in accordance with
21 the other provisions of Paragraph A. See Article 966(B)(1) and (2) providing that a
22 motion for summary judgment, all documents in support of the motion, any
23 opposition to the motion, and all documents in support of the opposition shall be
24 filed and served in accordance with Subparagraph (A)(4) of this Article.

25 * * *

26 Art. 1351. Issuance; form

27 The clerk ~~or judge~~ of the court wherein the action is pending, at the request
28 of the court or a party, shall issue subpoenas for the attendance of witnesses at
29 hearings or trials. A subpoena shall issue under the seal of the court. It shall state
30 the name of the court; and the title of the action; and shall command the attendance
31 of the witness at a time and place specified, until discharged.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Comments - 2025

The amendment to this Article is not intended to remove the authority of a justice of the peace to issue a summons pursuant to Article 4921.2.

* * *

Art. 1551. Pretrial and scheduling conference; order

A. In any civil action in a district court, the court may, in its discretion, direct the attorneys for the parties to appear before it for conferences that may be conducted in chambers, by telephone, or by video teleconference to consider any of the following:

(1) ~~The simplification of the issues, including the elimination of frivolous claims or defenses~~ The setting of deadlines for the filing of a motion in accordance with Article 1425(F), motion for summary judgment, motion in limine, and any other pretrial motion.

(2) The setting of the trial and the deadline for the filing of any jury bond.

(3) The necessity or desirability of, and the deadline for filing, any amendments to the pleadings.

~~(3) What material facts and issues exist without substantial controversy, and what material facts and issues are actually and in good faith controverted.~~

(4) ~~Proof, stipulations regarding the authenticity of documents, and advance rulings from the court on the admissibility of evidence.~~ The simplification of the issues, including stipulations as to material facts, exhibits, and issues that are not disputed, and a determination of the facts, exhibits, and issues to be tried.

(5) The authenticity and admissibility of exhibits that a party intends to introduce at trial, including a pretrial ruling on the admissibility of exhibits or the setting of a hearing date as to the admissibility of exhibits.

(a) If a party has reasonable suspicion that an opposing party's exhibits are falsified, including having been generated by artificial intelligence or altered by any means, the party shall raise these concerns at the pretrial conference or at a pretrial hearing on the admissibility of the exhibits.

1 **(b) If a party knows or has reason to know that its exhibits have been**
 2 **falsified, including having been generated by artificial intelligence or altered by any**
 3 **means, the party shall disclose this fact in accordance with Article 371.**

4 **(c) Subsubparagraphs (a) and (b) of this Subparagraph shall not apply to**
 5 **demonstrative exhibits.**

6 ~~(5)~~ **(6) Limitations or restrictions on or regulation of the use of expert**
 7 **testimony under Louisiana pursuant to Code of Evidence Article 702.**

8 ~~(6)~~ **(7) The control and scheduling of discovery including any issues relating**
 9 **to disclosure or discovery of electronically stored information, and the form or forms**
 10 **in which it should be produced.**

11 ~~(7)~~ **(8) Any issues relating to claims of privilege or protection of trial**
 12 **preparation material, and whether the court should include agreements between**
 13 **counsel relating to ~~such~~ those issues in an order.**

14 ~~(8)~~ **(9) The identification of witnesses, documents, and exhibits.**

15 ~~(9) The presentation of testimony or other evidence by electronic devices.~~

16 **(10) The setting of any trial, motion, or exception hearing by audiovisual**
 17 **means, or the presentation of any evidence or testimony by audiovisual means, in**
 18 **accordance with Article 195.1.**

19 ~~(11) ~~Such other~~ Other matters as that may aid in the disposition of the action.~~

20 B. The court shall render an order ~~which~~ **that** recites the action taken at the
 21 ~~conference, the amendments allowed to the pleadings, and the agreements made by~~
 22 ~~the parties as to any of the matters considered, and which limits the issues for trial~~
 23 ~~to those not disposed of by admissions or agreements of counsel~~ **pursuant to**
 24 **Paragraph A of this Article. ~~Such~~ The order ~~controls~~ shall control the subsequent**
 25 **course of the action, unless modified at the trial by the court to prevent manifest**
 26 **injustice.**

27 C. If a party's attorney fails to obey a pretrial order, or to appear at the
 28 pretrial and scheduling conference, or is substantially unprepared to participate in the
 29 conference or fails to participate in good faith, the court, on its own motion or on the
 30 motion of a party, after hearing, may make ~~such~~ orders as are just, including orders

1 provided in Article 1471(A) (2), (3), and (4). In lieu of or in addition to any other
 2 sanction, the court may require the party or the attorney representing the party or
 3 both to pay the reasonable expenses incurred by noncompliance with this Paragraph,
 4 including attorney fees.

5 D. If a suit has been pending for more than one year since the date of ~~filing~~
 6 service of the original petition on all defendants and no trial date has been assigned,
 7 upon motion of any party, the court shall set the matter for conference for the
 8 purpose of resolving all matters subject to the provisions of this Article, including
 9 the scheduling of discovery, assignment for trial, and any other matters that will
 10 expedite the resolution of the suit. ~~The conference may be conducted in chambers,~~
 11 ~~by telephone, or by video teleconference.~~

12 Comments - 2025

13 (a) Subparagraph (A)(5) of this Article requires that the parties address at a
 14 pretrial conference or hearing the authenticity and admissibility of exhibits that are
 15 suspected to have been created, altered, or manipulated. The Article's use of
 16 "artificial intelligence" is broad and encompasses the suspected use of "deepfakes".
 17 R.S. 14:73:13 defines "deepfake" to mean "any audio or visual media in an electronic
 18 format . . . that is created, altered, or digitally manipulated in a manner that would
 19 falsely appear to a reasonable observer to be an authentic record of the actual speech
 20 or conduct of the individual or replace an individual's likeness with another
 21 individual and depicted in the recording." Black's Law Dictionary (12th ed. 2024)
 22 defines "deepfake" to mean a "false video, audio recording, or other medium that is
 23 generated or manipulated by computer, often using artificial intelligence, with the
 24 intent to deceive viewers or listeners."

25 (b) Paragraph C of this Article is new and mandatory. To resolve the many
 26 issues with respect to the timing of challenging an expert's qualifications or
 27 methodologies, the court shall either provide for deadlines in a pretrial or scheduling
 28 order in accordance with Paragraph A of this Article or, upon being notified by a
 29 party that it intends to use an expert in a summary judgment proceeding or at trial,
 30 issue an order in accordance with Paragraph C of this Article. These deadlines aim
 31 to ensure that motions are filed, and hearing dates are set, in accordance with
 32 applicable law and in consideration of the court's calendar.

33 (c) The requirements of this Article are not meant to supersede the
 34 requirements of Article 1571

35 * * *

36 Art. 1702. Default judgment

37 A.

38 * * *

1 (5) No default judgment shall be rendered against a defendant when notice
2 is required ~~under~~ pursuant to Subparagraph (2) or (3) of this Paragraph unless proof
3 ~~of the required notice is made in the manner provided by R.S. 13:3205.~~ given in
4 accordance with any of the following:

5 (a) By mailing the notice to the defendant or attorney, in which case the
6 plaintiff shall provide proof that the notice was enclosed in an envelope properly
7 addressed to the defendant or attorney, with sufficient postage affixed, and the date
8 on which it was deposited in the United States mail, and the plaintiff shall file the
9 return receipt of the defendant or attorney.

10 (b) By utilizing the services of a commercial courier to make delivery of the
11 notice to the defendant or attorney, in which case the plaintiff shall provide proof of
12 the name of the commercial courier, the date, and the address at which the notice was
13 delivered to the defendant or attorney, and the plaintiff shall file the commercial
14 courier's confirmation of delivery.

15 (c) By actual delivery of the notice to the defendant or attorney, in which
16 case the plaintiff shall provide proof of the date, place, and manner of delivery.

17 * * *

18 Art. 1811. Motion for judgment notwithstanding the verdict

19 A.(1) Not later than seven days, exclusive of legal holidays, after the clerk
20 has mailed or delivered in open court, or the sheriff has served, the notice of
21 judgment ~~under~~ in accordance with Article 1913, a party may move for a judgment
22 notwithstanding the verdict. If a verdict was not returned, a party may move for a
23 judgment notwithstanding the verdict not later than seven days, exclusive of legal
24 holidays, after the jury was discharged.

25 * * *

26 Art. 1911. Final judgment; ~~partial final judgment~~; signing; appeals

27 * * *

28 B. For the purpose of an appeal as provided in Article 2083, no appeal ~~may~~
29 shall be taken from a final judgment until the ~~requirement of this Article has been~~
30 ~~fulfilled~~ judgment has been signed by the judge. ~~No appeal may be taken from a~~
31 ~~partial final judgment under Article 1915(B) until the judgment has been designated~~

1 a final judgment under Article 1915(B). An appeal may be taken from a final
2 judgment under Article 1915(A) without the judgment being so designated.

3 * * *

4 Art. 1913. Notice of judgment

5 A. Except as otherwise provided by law, notice of the signing of a final
6 judgment, ~~including a partial final judgment under Article 1915~~, is required in all
7 contested cases; and shall be mailed or delivered in open court by the clerk of court
8 to the counsel of record for each party, and to each party not represented by counsel.
9 Delivery of the signed judgment in open court shall constitute notice of judgment
10 and shall be documented in the record of the proceeding.

11 * * *

12 C. Except when service is required ~~under~~ in accordance with Paragraph B
13 of this Article, notice of the signing of a default judgment shall be mailed by the
14 clerk of court to the defendant at the address where personal service was obtained or
15 to the last known address of the defendant.

16 D. The clerk shall file a certificate in the record showing the date on which,
17 and the counsel and parties to whom, notice of the signing of the judgment was
18 mailed or delivered in open court.

19 Art. 1914. Interlocutory judgments; notice; delay for further action

20 * * *

21 B. The interlocutory judgment shall be reduced to writing if the court so
22 orders, if a party requests within ten days of rendition in open court that it be reduced
23 to writing, if a judgment is granted or an exception is sustained in accordance with
24 Article 1915(C), or if the court takes the interlocutory matter under advisement. The
25 clerk shall mail or deliver in open court notice of the ~~subsequent~~ judgment to each
26 party. Delivery of the signed judgment in open court shall constitute notice of
27 judgment and shall be documented in the record of the proceeding.

28 * * *

29 D. Except as provided in Paragraph C of this Article, each party shall have
30 ten days either from notice of the interlocutory judgment; or from the mailing of

1 notice when required to take any action or file any pleadings in the trial court;
2 ~~however, this.~~ This provision does not suspend or otherwise affect the time for
3 applying for supervisory writs, nor does it affect the time for appealing an
4 interlocutory judgment ~~under~~ in accordance with Article 2083.

5 * * *

6 Art. 1915. ~~Partial final judgment~~ Final and interlocutory judgments; partial
7 judgment; partial exception; partial summary judgment

8 A. A final judgment may be rendered ~~and signed by the court~~, even though
9 it may not grant the successful party or parties all of the relief prayed for, or may not
10 adjudicate all of the issues in the case, when the court:

11 (1) Dismisses the suit as to ~~less~~ fewer than all of the parties, defendants, ~~third~~
12 ~~party~~ third-party plaintiffs, ~~third-party~~ third-party defendants, or ~~intervenor~~
13 interveners.

14 * * *

15 (4) ~~Signs~~ Grants a judgment on either the principal or incidental demand,
16 when the two have been tried separately, as provided by Article 1038.

17 (5) ~~Signs~~ Grants a judgment on the issue of liability when that issue has been
18 tried separately by the court, or when, in a jury trial, the issue of liability has been
19 tried before a jury and the issue of damages is to be tried before a different jury.

20 * * *

21 ~~B.(1) When a court renders a partial judgment or partial summary judgment~~
22 ~~or sustains an exception in part, as to one or more but less than all of the claims,~~
23 ~~demands, issues, or theories against a party, whether in an original demand,~~
24 ~~reconventional demand, cross-claim, third-party claim, or intervention, the judgment~~
25 ~~shall not constitute a final judgment unless it is designated as a final judgment by the~~
26 ~~court after an express determination that there is no just reason for delay.~~

27 (2) ~~In the absence of such a determination and designation, any such order~~
28 ~~or decision shall not constitute a final judgment for the purpose of an immediate~~
29 ~~appeal and may be revised at any time prior to rendition of the judgment adjudicating~~
30 ~~all the claims and the rights and liabilities of all the parties.~~

1 of the order of appeal and the timely filing of the appeal bond, in the case of a
2 suspensive appeal, or on the granting of the order of appeal, in the case of a
3 devolutive appeal. Thereafter, the trial court has jurisdiction in the case only over
4 those matters not reviewable under the appeal, including the right to do any of the
5 following:

6 * * *

7 (11) ~~Certify a partial judgment or partial summary judgment in accordance~~
8 ~~with Article 1915(B).~~

9 (12) Amend a judgment to provide proper decretal language ~~under in~~
10 accordance with Article 1918 or 1951.

11 * * *

12 Art. 2595. Trial; decision

13 A. Upon reasonable notice a summary proceeding ~~may be tried in open court~~
14 ~~or in chambers, in term or in vacation; and~~ shall be tried by preference over ordinary
15 proceedings, and without a jury, except as otherwise provided by law.

16 B. The court shall render its decision as soon as practicable after the
17 conclusion of the trial of a summary proceeding and, whenever practicable, without
18 taking the matter under advisement.

19 * * *

20 Art. 3721. Methods of enforcing mortgage

21 A. A conventional mortgage is enforced by ordinary or executory
22 proceedings.

23 B. In any ordinary or executory proceeding to enforce a promissory note or
24 other debt instrument combined with a mortgage or other security device, the
25 judgment or order of executory process granted may include any amounts which
26 accrue after the rendition of the judgment or order, including until the collateral is
27 sold by judicial process pursuant to the provisions of the promissory note, debt
28 interest, or security device, including, without limitation, obligations to reimburse
29 advances for taxes and insurance, inspection or other fees provided for by contract,
30 reasonable attorney fees, and court costs. The provisions of this Article shall be

1 enforceable notwithstanding any other provision of law requiring that a judgment or
2 order specify a definite amount.

3 C. Prior to the date of the sheriff's sale, the seizing creditor or his counsel
4 shall file into the record the payoff amount of the obligation being enforced,
5 including any amounts which have accrued after the filing of the petition, or
6 rendition of the judgment or order in the case of ordinary process.

7 D. Any party with an interest in the property seized, including but not limited
8 to mortgage and lien holders, may file a rule to show cause to traverse the payoff
9 amount filed in accordance with Subsection C of this Article. The rule to show cause
10 shall be filed before the sheriff disburses any funds from the judicial sale pursuant
11 to the writ being executed.

12 E. A sheriff's or other sale held pursuant to court order shall be valid
13 notwithstanding failure of an interested party to comply with the provisions of this
14 Article.

15 * * *

16 Art. 4607. Partition by licitation or by private sale

17 When a partition is to be made by licitation, the sale shall be conducted at
18 public auction and after the advertisements required for judicial sales under
19 execution. When a partition is to be made at private sale without the consent of all
20 co-owners, the sale shall be for not less than the appraised value of the property, and
21 documents required pursuant to a court order shall be executed on behalf of the
22 absentee or nonconsenting co-owner by a court-appointed representative, who may
23 be a co-owner, after the advertisements required for judicial sales under execution
24 are made. All counsel of record, including ~~curators~~ attorneys appointed to represent
25 absentee defendants, and persons appearing in proper person shall be given notice
26 of the sale date. At any time prior to the sale, the parties may agree upon a
27 nonjudicial partition.

28 * * *

1 Art. 4873. Transfer to district court; procedure; contest; effect

2 A party entitled thereto under the provisions of Article 4872 may transfer the
3 action to the district court in the following manner:

4 (1) Within the delay allowed for answer in the trial court of the limited
5 jurisdiction, or within ten days after answer has been filed, ~~he~~ the party shall file a
6 motion to transfer with the clerk of the court in which the suit is pending. The
7 motion shall include a declaration that the matter is one to which the defendant
8 would have been entitled to a trial by jury if commenced in district court, and that
9 the defendant desires a trial by jury. If a party fails to file a motion to transfer within
10 the delays required by this Subparagraph, the matter shall not be transferred.

11 (2) A plaintiff may oppose the transfer of the action to a district court only
12 if the plaintiff stipulates that the action does not exceed ten thousand dollars
13 exclusive of interest and costs.

14 ~~(2)~~ (3) If no opposition is filed within ten days after the filing of the motion
15 to transfer, the judge of the court in which the suit is pending shall order the transfer
16 to the district court. If an opposition is timely filed, it shall be tried summarily.

17 ~~(3)~~ (4)(a) Where a transfer is ordered, the clerk of the court in which the
18 action was initially filed shall forward to the clerk of the court to which the action
19 is transferred a certified copy of the record in the initial court, including pleadings,
20 minute entries, and all other proceedings.

21 (b) The clerk of the district court shall file the action as a new proceeding in
22 that court, upon payment by the defendant of a filing fee as provided by rule of the
23 district court. All costs accruing thereafter, however, shall be advanced in the same
24 manner as though the action ~~initially~~ had initially been commenced in the district
25 court by the original plaintiff.

26 ~~(4)~~ (5) When the matter is docketed by the clerk of the district court, the
27 proceeding shall continue in that court as though originally commenced therein. In
28 the event that transfer is effected prior to answer, the defendant shall file ~~his~~ the
29 answer in the district court within the delays provided by Article 1001, commencing
30 from the date on which the transferred proceeding is filed in that court.

1 ~~(5)~~ (6) The disposition of a motion to transfer and any opposition thereto
 2 shall not be appealable; but shall be reviewable through the exercise of its
 3 supervisory jurisdiction by the court of appeal having appellate jurisdiction over the
 4 case.

* * *

6 Art. 5059. Computation of time

7 A. In computing a period of time allowed or prescribed by law or by order
 8 of court, the date of the act, event, or default ~~after~~ from which the period begins to
 9 run is not ~~to be~~ included. The last day of the period is ~~to be~~ included, unless it is a
 10 legal holiday, in which event the period runs until the end of the next day ~~which~~ that
 11 is not a legal holiday.

12 B. The "next day" as set forth in Paragraph A of this Article means the
 13 subsequent calendar day that is not a legal holiday following a legal holiday.

14 ~~B. C.~~ C. A half-holiday is considered ~~as~~ a legal holiday. A legal holiday is ~~to~~
 15 ~~be~~ included in the computation of a period of time allowed or prescribed, except
 16 when:

- 17 (1) It is expressly excluded;;
- 18 (2) It would otherwise be the last day of the period; ~~or~~ ;
- 19 (3) The period is less than seven days.

20 ~~C. D.~~ (1) A legal holiday shall be excluded in the computation of a period of
 21 time allowed or prescribed to seek rehearing, reconsideration, or judicial review or
 22 appeal of a decision or order by an agency in the executive branch of state
 23 government.

24 (2) Subparagraph (1) of this Paragraph shall not apply to the computation of
 25 a period of time allowed or prescribed to seek rehearing, reconsideration, or judicial
 26 review or appeal of a decision or order by the Department of Revenue, the
 27 Department of Environmental Quality, or the Department of Insurance relative to
 28 examination reports in R.S. 22:1983.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

Comments -2025

The revisions to this Article clarify existing law and conform to the computation of time set forth in *Becnel v. Northrop Grumman Ship Systems, Inc.*, 18 So. 3d 1269 (La. 2009) and Article 966(B)(4). Paragraph B of this Article makes clear that if the last day in a period of time allowed or prescribed by law or court order falls on a legal holiday, the period runs until the subsequent, later-in-time calendar day that is not a legal holiday. For example, if the legal deadline to file a pretrial motion is due sixty days prior to trial and that day is a Saturday, the motion is not due until the subsequent Monday as long as that Monday is not a legal holiday.

Section 4. Code of Civil Procedure Articles 74.2(F), 2088(A)(12), and 3784 are hereby repealed in their entirety.

Section 5. The provisions of Civil Code Article 3462 as amended by Section 1 of this Act shall not apply to actions that have prescribed prior to the effective date of this Act.

Section 6. The provisions of Article 1915 as amended by Section 3 of this Act shall have prospective application only and shall not apply to appeals and supervisory writs filed prior to the effective date of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 261

HOUSE BILL NO. 268

BY REPRESENTATIVES LAFLEUR, ADAMS, BACALA, BAYHAM, BERAULT, BILLINGS, BOYD, BOYER, BRASS, BRYANT, CARLSON, CARRIER, CARVER, CHASSION, CHENEVERT, COATES, COX, DEVILLIER, DEWITT, DICKERSON, EDMONSTON, EGAN, FISHER, HORTON, HUGHES, JACKSON, JORDAN, KNOX, LACOMBE, JACOB LANDRY, LARVADAIN, LYONS, MOORE, NEWELL, OWEN, ROMERO, SCHLEGEL, SPELL, TAYLOR, THOMPSON, WALTERS, WYBLE, AND YOUNG

1 AN ACT

2 To amend and reenact R.S. 14:73.8 (A), (C), and (D), 81.1(A), (B)(8) and (9), (E)(1) through
3 (4) and (5)(a) and (b), (F)(2), (3)(b) and (c), (4), and (5)(introductory paragraph) and
4 (d), 89.1(A)(2)(b)(i), 91.2(B), and 91.5(A)(1), R.S. 15:537(A), 539.1(F)(introductory
5 paragraph), 541(24)(a) and (25)(d), 543.1(18), 545.1(C), and 1352(A)(45), R.S.
6 17:100.7(A)(1), R.S. 46:51.2(C)(1)(a), Code of Criminal Procedure Articles
7 648(B)(3)(i) and 718.1(A) and (B), Children's Code Articles 502(3) and (4)(l),
8 603(8) and (12)(l), and 610(F), and Civil Code Article 2315.3 and to enact R.S.
9 14:81.1(I) and R.S. 15:541(24)(c), relative to pornography involving juveniles; to
10 change all references of "pornography involving juveniles" to "child sexual abuse
11 materials"; to provide relative to the effects of these changes; and to provide for
12 related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 14:73.8(A), (C), and (D), 81.1(A), (B)(8) and (9), (E)(1) through (4)
15 and (5)(a) and (b), (F)(2), (3)(b) and (c), (4), and (5)(introductory paragraph) and (d),
16 89.1(A)(2)(b)(i), 91.2(B), and 91.5(A)(1) are hereby amended and reenacted and R.S.
17 14:81.1(I) is hereby enacted to read as follows:

18 §73.8. Unauthorized use of a wireless router system; ~~pornography involving~~
19 juveniles child sexual abuse materials; penalty

20 A. Unauthorized use of a wireless router system is the accessing or causing
21 to be accessed of any computer, computer system, computer network, or any part
22 thereof via any wireless router system for the purposes of uploading, downloading,

1 or selling of ~~pornography involving juveniles~~ child sexual abuse materials as defined
2 in R.S. 14:81.1.

3 * * *

4 C. Whoever commits the crime of unauthorized use of a wireless router
5 system for the purpose of accessing ~~pornography involving a juvenile~~ child sexual
6 abuse materials shall be imprisoned at hard labor for not less than two years or more
7 than ten years, and fined not more than ten thousand dollars. Imprisonment shall be
8 without benefit of parole, probation, or suspension of sentence.

9 D. Whoever commits the crime of unauthorized use of a wireless routing
10 system for the purpose of accessing ~~pornography involving a juvenile~~ child sexual
11 abuse materials when the victim is under the age of thirteen years and the offender
12 is seventeen years of age or older, shall be punished by imprisonment at hard labor
13 for not less than twenty-five years nor more than ninety-nine years. At least
14 twenty-five years of the sentence imposed shall be served without benefit of parole,
15 probation, or suspension of sentence.

16 * * *

17 §81.1. ~~Pornography involving juveniles~~ Child sexual abuse materials

18 A.(1) It shall be unlawful for a person to produce, promote, advertise,
19 distribute, possess, or possess with the intent to distribute ~~pornography involving~~
20 ~~juveniles~~ child sexual abuse materials.

21 (2) It shall also be a violation of the provision of this Section for a parent,
22 legal guardian, or custodian of a child to consent to the participation of the child in
23 ~~pornography involving juveniles~~ child sexual abuse materials.

24 B. For purposes of this Section, the following definitions shall apply:

25 * * *

26 (8) "~~Pornography involving juveniles~~ Child sexual abuse materials" is any
27 photograph, videotape, film, or other reproduction, whether electronic or otherwise,
28 of any sexual performance involving a child under the age of seventeen.

29 (9) "Produce" means to photograph, videotape, film, or otherwise reproduce
30 ~~pornography involving juveniles~~ child sexual abuse materials, or to solicit, promote,

1 or coerce any child for the purpose of ~~pornography involving juveniles~~ child sexual
2 abuse materials.

3 * * *

4 E.(1)(a) Whoever intentionally possesses ~~pornography involving juveniles~~
5 child sexual abuse materials shall be fined not more than fifty thousand dollars and
6 shall be imprisoned at hard labor for not less than five years or more than twenty
7 years, without benefit of parole, probation, or suspension of sentence.

8 (b) On a second or subsequent conviction for the intentional possession of
9 ~~pornography involving juveniles~~ child sexual abuse materials, the offender shall be
10 fined not more than seventy-five thousand dollars and imprisoned at hard labor for
11 not less than ten years nor more than forty years, without benefit of parole,
12 probation, or suspension of sentence.

13 (2)(a) Whoever distributes or possesses with the intent to distribute
14 ~~pornography involving juveniles~~ child sexual abuse materials shall be fined not more
15 than fifty thousand dollars and shall be imprisoned at hard labor for not less than five
16 years or more than twenty years, without benefit of parole, probation, or suspension
17 of sentence.

18 (b) On a second or subsequent conviction for distributing or possessing with
19 the intent to distribute ~~pornography involving juveniles~~ child sexual abuse materials,
20 the offender shall be fined not more than seventy-five thousand dollars and
21 imprisoned at hard labor for not less than ten years nor more than forty years,
22 without benefit of parole, probation, or suspension of sentence.

23 (3) Any parent, legal guardian, or custodian of a child who consents to the
24 participation of the child in ~~pornography involving juveniles~~ child sexual abuse
25 materials shall be fined not more than fifty thousand dollars and imprisoned at hard
26 labor for not less than five years nor more than twenty years, without benefit of
27 probation, parole, or suspension of sentence.

28 (4)(a) Whoever engages in the promotion, advertisement, or production of
29 ~~pornography involving juveniles~~ child sexual abuse materials shall be fined not more
30 than fifty thousand dollars and imprisoned at hard labor for not less than ten years

1 nor more than twenty years, without benefit of probation, parole, or suspension of
2 sentence.

3 (b) On a second or subsequent conviction for promotion, advertisement, or
4 production of ~~pornography involving juveniles~~ child sexual abuse materials, the
5 offender shall be fined not more than seventy-five thousand dollars and imprisoned
6 at hard labor for not less than twenty years nor more than forty years, without benefit
7 of parole, probation, or suspension of sentence.

8 (5)(a) Whoever commits the crime of ~~pornography involving juveniles~~ child
9 sexual abuse materials punishable by the provisions of Paragraph (1), (2), or (3) of
10 this Subsection when the victim is under the age of thirteen years and the offender
11 is seventeen years of age or older shall be punished by imprisonment at hard labor
12 for not less than one-half the longest term nor more than twice the longest term of
13 imprisonment provided in Paragraphs (1), (2), and (3) of this Subsection. The
14 sentence imposed shall be served without benefit of parole, probation, or suspension
15 of sentence.

16 (b) Whoever commits the crime of ~~pornography involving juveniles~~ child
17 sexual abuse materials punishable by the provisions of Paragraph (4) of this
18 Subsection when the victim is under the age of thirteen years, and the offender is
19 seventeen years of age or older, shall be punished by imprisonment at hard labor for
20 not less than twenty-five years nor more than ninety-nine years. At least twenty-five
21 years of the sentence imposed shall be served without benefit of parole, probation,
22 or suspension of sentence.

23 * * *

24 F.

25 * * *

26 (2) Upon the filing of any information or indictment by the prosecuting
27 authority for a violation of this Section, the investigating law enforcement agency
28 which seized the photographs, films, videotapes, or other visual reproductions of
29 ~~pornography involving juveniles~~ child sexual abuse materials shall provide copies

1 of those reproductions to the Internet crimes against children division within the
2 attorney general's office.

3 (3) Upon receipt of the reproductions as provided in Paragraph (2) of this
4 Subsection, the Internet crimes against children division shall:

5 * * *

6 (b) Request the Child Victim Identification Program provide the law
7 enforcement agency contact information for any visual reproductions recovered
8 which contain an identified victim of ~~pornography involving juveniles~~ child sexual
9 abuse materials as defined in this Section.

10 (c) Provide case information to the Child Victim Identification Program, as
11 requested by the National Center for Missing and Exploited Children guidelines, in
12 any case where the Internet crimes against children division within the attorney
13 general's office identifies a previously unidentified victim of ~~pornography involving~~
14 ~~juveniles~~ child sexual abuse materials.

15 (4) The Internet crimes against children division shall submit to the
16 designated prosecutor the law enforcement agency contact information provided by
17 the Child Victim Identification Program at the National Center for Missing and
18 Exploited Children, for any visual reproductions involved in the case which contain
19 the depiction of an identified victim of ~~pornography involving juveniles~~ child sexual
20 abuse materials as defined in this Section.

21 (5) In all cases in which the prosecuting authority has filed an indictment or
22 information for a violation of this Section and the victim of ~~pornography involving~~
23 ~~juveniles~~ child sexual abuse materials has been identified and is a resident of this
24 state, the prosecuting agency shall submit all of the following information to the
25 attorney general for entry into the Louisiana Attorney General's Exploited Children's
26 Identification database maintained by that office:

27 * * *

28 (d) The contact information for the law enforcement agency which identified
29 a victim of ~~pornography involving juveniles~~ child sexual abuse materials, including
30 contact information maintained by the Child Victim Identification Program and

1 provided to the Internet crimes against children division in accordance with this
2 Section.

3 * * *

4 I. For all purposes, "pornography involving juveniles" and "child sexual
5 abuse materials" mean the offense defined by the provisions of this Section and any
6 reference to the crime of pornography involving juveniles is the same as a reference
7 to the crime of child sexual abuse materials. Any act in violation of the provisions
8 of this Section that is committed on or after August 1, 2025, shall be referred to as
9 "child sexual abuse materials".

10 * * *

11 §89.1. Aggravated crime against nature

12 A. Aggravated crime against nature is either of the following:

13 * * *

14 (2)

15 * * *

16 (b) The following are prohibited acts under this Paragraph:

17 (i) Sexual intercourse, sexual battery, second degree sexual battery, carnal
18 knowledge of a juvenile, indecent behavior with juveniles, ~~pornography involving~~
19 ~~juveniles~~ child sexual abuse materials, molestation of a juvenile or a person with a
20 physical or mental disability, crime against nature, cruelty to juveniles, parent
21 enticing a child into prostitution, or any other involvement of a child in sexual
22 activity constituting a crime under the laws of this state.

23 * * *

24 §91.2. Unlawful presence of a sex offender

25 * * *

26 B. The following acts, when committed by a person convicted of either an
27 aggravated offense as defined in R.S. 15:541 when the victim is under the age of
28 fifteen years or ~~pornography involving juveniles~~ child sexual abuse materials as

1 defined in R.S. 14:81.1 when the victim is under the age of fifteen years, shall
2 constitute the crime of unlawful residence or presence of a sex offender:

3 * * *

4 §91.5. Unlawful use of a social networking website

5 A. The following shall constitute unlawful use of a social networking
6 website:

7 (1) The intentional use of a social networking website by a person who is
8 required to register as a sex offender and who was convicted of R.S. 14:81 (indecent
9 behavior with juveniles), R.S. 14:81.1 (~~pornography involving juveniles~~ child sexual
10 abuse materials), R.S. 14:81.3 (computer-aided solicitation of a minor), or R.S.
11 14:283 (video voyeurism) or was convicted of a sex offense as defined in R.S.
12 15:541 in which the victim of the sex offense was a minor.

13 * * *

14 Section 2. R.S. 15:537(A), 539.1(F)(introductory paragraph), 541(24)(a) and (25)(d),
15 543.1(18), 545.1(C), and 1352(A)(45) are hereby amended and reenacted and R.S.
16 15:541(24)(c) is hereby enacted to read as follows:

17 §537. Sentencing of sexual offenders; serial sexual offenders

18 A. If a person is convicted of or pleads guilty to, or where adjudication has
19 been deferred or withheld for a violation of R.S. 14:80 (felony carnal knowledge of
20 a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (~~pornography~~
21 ~~involving juveniles~~ child sexual abuse materials), R.S. 14:81.2 (molestation of a
22 juvenile or a person with a physical or mental disability), R.S. 14:81.3 (computer-
23 aided solicitation of a minor), R.S. 14:89 (crime against nature), R.S. 14:89.1
24 (aggravated crime against nature), R.S. 14:93.5 (sexual battery of persons with
25 infirmities), or any provision of Subpart C of Part II of Chapter 1 of Title 14 of the
26 Louisiana Revised Statutes of 1950, and is sentenced to imprisonment for a stated
27 number of years or months, the person shall not be eligible for diminution of
28 sentence for good behavior.

29 * * *

1 §539.1. Forfeited property related to certain sex crimes; exempt property; allocation
2 of forfeited property

3 * * *

4 F. Notwithstanding Subsection E of this Section, when the currency,
5 instruments, securities, or other property is forfeited following a conviction for a
6 violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children
7 for sexual purposes), R.S. 14:81.1 (~~pornography involving juveniles~~ child sexual
8 abuse materials), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1
9 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for
10 prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting
11 prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution),
12 R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly
13 place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places
14 of prostitution), the currency, instruments, and securities and proceeds of the public
15 sale or public auction shall pay the costs of the public sale or public auction, court
16 costs, and fees related to the seizure and storage of the personal property and shall
17 then be applied to any restitution granted to the victim. Any remaining currency,
18 instruments, securities, or proceeds shall be distributed in the following manner:

19 * * *

20 §541. Definitions

21 For the purposes of this Chapter, the definitions of terms in this Section shall
22 apply:

23 * * *

24 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld,
25 or conviction for the perpetration or attempted perpetration of or conspiracy to
26 commit human trafficking when prosecuted under the provisions of R.S.
27 14:46.2(B)(2), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:89
28 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S.
29 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal
30 knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1

1 (pornography involving juveniles) which occurred prior to August 1, 2025, R.S.
 2 14:81.2 (molestation of a juvenile or a person with a physical or mental disability),
 3 R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4 (prohibited
 4 sexual conduct between an educator and student), R.S. 14:82.1 (prostitution; persons
 5 under eighteen), R.S. 14:82.2(C)(4) and (5) (purchase of commercial sexual activity),
 6 R.S. 14:92(A)(7) (contributing to the delinquency of juveniles), R.S. 14:93.5 (sexual
 7 battery of persons with infirmities), R.S. 14:106(A)(5) (obscenity by solicitation of
 8 a person under the age of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41
 9 (rape), R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second
 10 degree rape), R.S. 14:43 (simple or third degree rape), R.S. 14:43.1 (sexual battery),
 11 R.S. 14:43.2 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S.
 12 14:43.5 (intentional exposure to HIV), a second or subsequent conviction of R.S.
 13 14:283.1 (voyeurism), or a second or subsequent conviction of R.S. 14:89.3 (sexual
 14 abuse of an animal), committed on or after June 18, 1992, or committed prior to June
 15 18, 1992, if the person, as a result of the offense, is under the custody of the
 16 Department of Public Safety and Corrections on or after June 18, 1992. A conviction
 17 for any offense provided in this definition includes a conviction for the offense under
 18 the laws of another state, or military, territorial, foreign, tribal, or federal law which
 19 is equivalent to an offense provided for in this Chapter, unless the tribal court or
 20 foreign conviction was not obtained with sufficient safeguards for fundamental
 21 fairness and due process for the accused as provided by the federal guidelines
 22 adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

23 * * *

24 (c) For purposes of this Chapter, "sex offense" shall include deferred
 25 adjudication, adjudication withheld, or conviction for the perpetration or attempted
 26 perpetration of or conspiracy to commit child sexual abuse materials (R.S. 14:81.1)
 27 occurring on or after August 1, 2025.

1 (25) "Sexual offense against a victim who is a minor" means a conviction for
2 the perpetration or attempted perpetration of, or conspiracy to commit, any of the
3 following:

4 * * *

5 (d)(i) Pornography involving juveniles (R.S. 14:81.1), which occurred prior
6 to August 1, 2025.

7 (ii) Child sexual abuse materials (R.S. 14:81.1), which occurred on or after
8 August 1, 2025.

9 * * *

10 §543.1. Written notification by the courts; form to be used

11 * * *

12 Based on the foregoing, you are hereby notified of the following:

13 * * *

14 (18) For those offenders who have been convicted of R.S. 14:81 (indecent
15 behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles) which
16 occurred prior to August 1, 2025, R.S. 14:81.1 (child sexual abuse materials) which
17 occurred on or after August 1, 2025, R.S. 14:81.3 (computer-aided solicitation of a
18 minor), or R.S. 14:283 (video voyeurism) or have been convicted of a sex offense
19 as defined in R.S. 15:541 in which the victim of the sex offense was a minor, R.S.
20 14:91.5, which prohibits such offenders from using certain social networking
21 websites, is applicable. A copy of this statute is provided to you with this
22 notification.

23 * * *

24 §545.1. Duty of interactive computer service

25 * * *

26 C. An interactive computer service doing business in this state that obtains
27 knowledge of facts or circumstances from which a violation of any law in this state
28 prohibiting possession, distribution or creation of images containing child
29 pornography or child sexual abuse materials or prohibiting sexual activity involving
30 a child is apparent, shall make a report, as soon as reasonably possible, of such facts

1 or circumstances to the ~~Cyber Tip Line~~ CyberTipline at the National Center for
2 Missing and Exploited Children consistent with the requirements of 42 U.S.C.
3 13032.

4 * * *

5 §1352. Definitions

6 A. As used in this Chapter, "racketeering activity" means committing,
7 attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating
8 another person to commit any crime that is punishable under the following
9 provisions of Title 14 of the Louisiana Revised Statutes of 1950, the Uniform
10 Controlled Dangerous Substances Law, or the Louisiana Securities Law:

11 * * *

12 (45)(a) R.S. 14:81.1 (Pornography involving juveniles) which occurred prior
13 to August 1, 2025.

14 (b) R.S. 14:81.1 (child sexual abuse materials) which occurred on or after
15 August 1, 2025.

16 * * *

17 Section 3. R.S. 17:100.7(A)(1) is hereby amended and reenacted to read as follows:

18 §100.7. Policies; governing authorities of public elementary and secondary schools;
19 Internet and online sites; access by students and employees; resources for
20 parents; exceptions

21 A.(1) Each governing authority of a public elementary or secondary school
22 shall adopt policies, in accordance with policies adopted by the State Board of
23 Elementary and Secondary Education, regarding access by students and employees
24 to Internet and online sites that contain or make reference to harmful material the
25 character of which is such that it is reasonably believed to be obscene, child
26 pornography, child sexual abuse materials, conducive to the creation of a hostile or
27 dangerous school environment, pervasively vulgar, excessively violent, or sexually
28 harassing in the school environment all as defined by any applicable state or federal
29 laws and the policies adopted pursuant to this Subsection. Such policies shall include

1 but not be limited to prohibitions against accessing sites containing information on
2 the manufacturing or production of bombs or other incendiary devices.

3 * * *

4 Section 4. R.S. 46:51.2(C)(1)(a) is hereby amended and reenacted to read as follows:

5 §51.2. Criminal history and central registry information

6 * * *

7 C.(1) No prospective foster or adoptive parent or relative guardian shall be
8 finally approved for placement of a child or to receive kinship guardian assistance
9 payments until it is determined that the prospective foster or adoptive parent, or
10 relative guardian and any other adult living in the home of the relative guardian, does
11 not have any of the following:

12 (a) A felony conviction for child abuse or neglect; for spousal abuse; for a
13 crime against children, including child pornography or child sexual abuse materials;
14 or for a crime involving violence including rape, sexual assault, or homicide, but not
15 including other assault or battery.

16 * * *

17 Section 5. Code of Criminal Procedure Articles 648(B)(3)(i) and 718.1(A) and (B),
18 are hereby amended and reenacted to read as follows:

19 Art. 648. Procedure after determination of mental capacity or incapacity

20 * * *

21 B.

22 * * *

23 (3) If, after the hearing, the court determines that the incompetent defendant
24 is unlikely in the foreseeable future to be capable of standing trial, the court shall
25 order the defendant released or remanded to the custody of the Louisiana Department
26 of Health which, within ten days exclusive of weekends and holidays, may institute
27 civil commitment proceedings pursuant to Title 28 of the Louisiana Revised Statutes
28 of 1950, or release the defendant. The defendant shall remain in custody pending
29 such civil commitment proceedings. If the defendant is committed to a treatment
30 facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director

1 of the institution designated for the patient's treatment shall, in writing, notify the
 2 court and the district attorney when the patient is to be discharged or conditionally
 3 discharged, as long as the charges are pending. If not dismissed without prejudice
 4 at an earlier trial, charges against an unrestorable incompetent defendant shall be
 5 dismissed on the date upon which his sentence would have expired had he been
 6 convicted and received the maximum sentence for the crime charged, or on the date
 7 five years from the date of his arrest for such charges, whichever is sooner, except
 8 for the following charges:

9 * * *

10 (i) R.S. 14:81.1 (~~pornography involving juveniles~~ child sexual abuse
 11 materials).

12 * * *

13 Art. 718.1. Evidence of obscenity, video voyeurism, ~~pornography involving~~
 14 ~~juveniles~~ child sexual abuse materials, or unlawful posting of criminal
 15 activity for notoriety and publicity; prohibition on reproduction of
 16 ~~pornography involving juveniles~~ child sexual abuse materials

17 A. In any criminal proceeding, any property or material that is alleged to
 18 constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully
 19 possessed, video voyeurism as defined in R.S. 14:283, ~~pornography involving~~
 20 ~~juveniles~~ child sexual abuse materials as defined in R.S. 14:81.1, or unlawful posting
 21 of criminal activity for notoriety and publicity as defined in R.S. 14:107.4, shall
 22 remain in the care, custody, and control of the investigating law enforcement agency,
 23 the court, or the district attorney.

24 B. Notwithstanding any other provision of law to the contrary, the court shall
 25 deny any request by the defendant to copy, photograph, duplicate, or otherwise
 26 reproduce any property or material that is alleged to constitute evidence of obscenity
 27 as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as
 28 defined in R.S. 14:283, ~~pornography involving juveniles~~ child sexual abuse materials
 29 as defined in R.S. 14:81.1, or unlawful posting of criminal activity for notoriety and

1 publicity as defined in R.S. 14:107.4, provided that the district attorney makes the
2 property or material reasonably available to the defendant.

3 * * *

4 Section 6. Children's Code Articles 502(3) and (4)(1), 603(8) and (12)(1), and 610(F)
5 are hereby amended and reenacted to read as follows:

6 Art. 502. Definitions

7 For the purposes of this Title, the following terms have the following
8 meanings, unless the context clearly indicates otherwise:

9 * * *

10 (3) "Child pornography" or "child sexual abuse materials" means visual
11 depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual
12 intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd
13 exhibition of the genitals.

14 (4) "Crime against the child" shall include the commission of or the
15 attempted commission of any of the following crimes against the child as provided
16 by federal or state statutes:

17 * * *

18 (1) ~~Pornography involving juveniles~~ Child sexual abuse materials.

19 * * *

20 Art. 603. Definitions

21 As used in this Title:

22 * * *

23 (8) "Child pornography" or "child sexual abuse materials" means visual
24 depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual
25 intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd
26 exhibition of the genitals.

27 * * *

1 (12) "Crime against the child" shall include the commission of or the
2 attempted commission of any of the following crimes against the child as provided
3 by federal or state statutes:

4 * * *

5 (1) ~~Pornography involving juveniles~~ Child sexual abuse materials.

6 * * *

7 Art. 610. Reporting procedure; reports to the legislature and the United States
8 Department of Defense Family Advocacy Program

9 * * *

10 F. Any commercial film or photographic print processor who has knowledge
11 of or observes, within the scope of this professional capacity or employment, any
12 film, photograph, video tape, negative, or slide depicting a child who he knows or
13 should know is under the age of seventeen years, which constitutes child
14 pornography or child sexual abuse materials as defined in Article 603, shall report
15 immediately to the local law enforcement agency having jurisdiction over the case.
16 The reporter shall provide a copy of the film, photograph, videotape, negative, or
17 slide to the agency receiving the report.

18 * * *

19 Section 7. Civil Code Article 2315.3 is hereby amended and reenacted to read as
20 follows:

21 Art. 2315.3. Additional damages; ~~child pornography;~~ child sexual abuse materials

22 In addition to general and special damages, exemplary damages may be
23 awarded upon proof that the injuries on which the action is based were caused by a
24 wanton and reckless disregard for the rights and safety of the person through an act
25 of ~~pornography involving juveniles~~ child sexual abuse materials, as defined by R.S.
26 14:81.1, regardless of whether the defendant was prosecuted for his acts.

27 Section 8. Nothing in this Act alleviates any person arrested, convicted, or
28 adjudicated delinquent for pornography involving juveniles prior to the effective date of this
29 Act from any requirement, obligation, or consequence imposed by law as a result of that
30 arrest, conviction, or adjudication including but not limited to any requirements regarding

1 the setting of bail, sex offender registration and notification, parental rights, probation,
 2 parole, sentencing, or any other requirement, obligation, or consequence imposed by law as
 3 a result of that arrest, conviction, or adjudication.

4 Section 9. This Act shall be cited and referred to as "The Audrey Wascome Act".

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 41

BY SENATORS BARROW, BOUDREAUX, BOUIE, CARTER, CATHEY, CONNICK, HODGES, JACKSON-ANDREWS, JENKINS, LAMBERT, LUNEAU, MCMATH, MIZELL, PRICE, SELDERS, STINE AND WOMACK AND REPRESENTATIVES ADAMS, BAYHAM, BERAULT, BILLINGS, BOYD, BRYANT, CARVER, CHASSION, CHENEVERT, DICKERSON, DOMANGUE, ECHOLS, FISHER, HILFERTY, HUGHES, ILLG, JACKSON, KNOX, LARVADAIN, LYONS, MARCELLE, MCMAHEN, MENA, NEWELL, PHELPS, SPELL, TAYLOR AND WALTERS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 14:91.3(A), the introductory paragraph of R.S. 15:587.1(C), 587.1(C)(1), and 1110.3(H), the introductory paragraph of R.S. 17:8.7(B) and 8.7(B)(1), 15(A)(1)(a), (b)(i)(bb) and (cc), and (b)(ii) and (2)(a)(ii) through (v), (D), and (E), 16(A), 24.8(A) and (B)(2), 407.33(5), 407.35(A), 407.42(A)(2) and (B)(1)(b), 407.46(A)(1), 407.71(A), 443(B)(1), 493(C)(1), and 3996(B)(28), R.S. 24:525(D), R.S. 40:2008.10(A)(3) and 2019(F)(3)(b), R.S. 46:51.2(A)(1)(b), 56(F)(1), (4)(c), (10)(b)(i), and (11), and 1414.1(A), Children's Code Art. 116(2.1) and (2.2), 603(4)(a) and (17)(d), 603.1(B), 610(A), (E)(1) and (2), and (H), 612(A)(3), 615(B)(2), (3), and (5), the introductory paragraph of 615(E) and 615(E)(1) and (4)(a) and (F), 616(B), the introductory paragraph of 616(D), 616(E) and (H), and 616.1.1(A) and to enact R.S. 17:15(A)(1)(b)(i)(dd) and (2)(a)(vi), 407.41, and 3996(B)(82), Children's Code Art. 603(17)(l) through (o) and 610(I) and Civil Code Art. 2315.12, relative to child welfare; to provide for review of the state central registry for school employees; to provide for reporting recordation on the state central registry; to provide for the licensure of early learning centers; to provide for child welfare and safety minimum standards for prekindergarten programs; to

1 provide for child abuse and neglect determinations; to provide for definitions in the
 2 Children's Code; to provide for mandatory reporting training; to provide for
 3 procedures for reporting child abuse and neglect; to provide for the responsibility of
 4 the Department of Children and Family Services to respond to reports; to provide for
 5 investigations of child sexual abuse in a school setting; to provide for liability for
 6 damages caused by sexual abuse in a school setting; and to provide for related
 7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:91.3(A) is hereby amended and reenacted to read as follows:

10 §91.3. Unlawful participation in a child-related business

11 A. No person who has been convicted of, or who has pled guilty or nolo
 12 contendere to, an offense listed in R.S. 15:587.1(C) **or whose name is recorded on**
 13 **the Department of Children and Family Services' state central registry on or**
 14 **after August 1, 2018,** shall own, operate, or in any way participate in the governance
 15 of any early learning center as defined by R.S. 17:407.33, residential home as
 16 defined by R.S. 46:1403, or residence in which child care services are provided by
 17 a family child care provider or in-home provider who is registered pursuant to R.S.
 18 17:407.61 et seq.

19 * * *

20 Section 2. The introductory paragraph of R.S. 15:587.1(C), 587.1(C)(1), and
 21 1110.3(H) are hereby amended and reenacted to read as follows:

22 §587.1. Provision of information to protect children

23 * * *

24 C. The provisions of R.S. 15:825.3, R.S. 17:8.9, 15, 407.42, and 407.71, R.S.
 25 46:51.2 ~~and 1441.13~~, and Children's Code Article 424.1 shall govern the
 26 employment of persons who have been convicted of, or pled guilty or nolo
 27 contendere to, any of the following crimes:

28 (1) R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:32.6 through R.S. 14:32.8,
 29 R.S. 14:41 through R.S. 14:45, **R.S. 14:46.2 through** R.S. 14:46.4, R.S. 14:74, ~~R.S.~~
 30 ~~14:78, R.S. 14:78.1~~, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S.

1 14:89.1, R.S. 14:89.2, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S.
 2 14:93.5, crimes of violence as defined in R.S. 14:2(B), sex offenses as defined in
 3 R.S. 15:541, R.S. 14:106, R.S. 14:282, R.S. 14:283, R.S. 14:283.1, R.S. 14:284, R.S.
 4 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S.
 5 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

6 * * *

7 §1110.3. Licensing; transfer to office of juvenile justice

8 * * *

9 H.(1) Any owner, operator, current or prospective employee, or volunteer of
 10 a juvenile detention facility that is requesting licensure or is licensed by the office
 11 of juvenile justice is prohibited from being employed by the facility if that
 12 individual's name is recorded on the state central registry as a perpetrator for a
 13 ~~justified~~ **substantiated** finding of abuse or neglect of a child.

14 (2) If the individual's name is or was entered on the state central registry, the
 15 individual who is the subject of the finding may file a written motion seeking
 16 correction to the division of administrative law for an administrative appeal of the
 17 ~~justified~~ **substantiated** determination, in accordance with Children's Code Article
 18 616.1.1 and the procedures promulgated by the office.

19 * * *

20 Section 3. The introductory paragraph of R.S. 17:8.7(B) and 8.7(B)(1), 15(A)(1)(a),
 21 (b)(i)(bb) and (cc), and (b)(ii) and (2)(a)(ii) through (v), (D), and (E), 16(A), 24.8(A) and
 22 (B)(2), 407.33(5), 407.35(A), 407.42(A)(2) and (B)(1)(b), 407.46(A)(1), 407.71(A),
 23 443(B)(1), 493(C)(1), and 3996(B)(28) are hereby amended and reenacted and R.S.
 24 17:15(A)(1)(b)(i)(dd) and (2)(a)(vi), 407.41, and 3996(B)(82) are hereby enacted to read as
 25 follows:

26 §8.7. Prohibition against granting an educator credential or teaching authorization
 27 to certain persons; appeals

28 * * *

29 B. The board may, after a successful appeal, issue an educator credential or
 30 other teaching authorization to a person who has been convicted of or has pled nolo

1 as determined by the State Board of Elementary and Secondary Education.

2 (ii) A city, parish, or other local public school board or a nonpublic school
3 or school system may hire a person as an administrator, teacher, or substitute teacher
4 who is otherwise prohibited from being hired pursuant to ~~Item (i)~~ **Subitem (i)(cc)**
5 **and (dd)** of this Subparagraph if the State Board of Elementary and Secondary
6 Education approves a formal appeal request submitted by the person and issues a
7 teaching certificate or authorization as provided in R.S. 17:8.7(B).

8 * * *

9 (2)(a) A city, parish, or other local public school board shall dismiss:

10 * * *

11 **(ii) An administrator, teacher, or substitute teacher whose name is**
12 **recorded on the Department of Children and Family Services' state central**
13 **registry on or after August 1, 2025.**

14 ~~(ii)~~**(iii)** An administrator, teacher, or substitute teacher who is found to have
15 submitted fraudulent documentation to the State Board of Elementary and Secondary
16 Education or the state Department of Education as part of an application for a
17 Louisiana teaching certificate or other teaching authorization.

18 ~~(iii)~~**(iv)** An administrator, teacher, or substitute teacher who is found to have
19 facilitated cheating on any state assessment as determined by the State Board of
20 Elementary and Secondary Education.

21 ~~(iv)~~**(v)** Any other school employee if ~~such~~ **the** employee is convicted of or
22 pleads nolo contendere to a crime listed in R.S. 15:587.1(C), except R.S. 14:74.

23 **(vi) Any other school employee if the employee's name is recorded on the**
24 **Department of Children and Family Services' state central registry on or after**
25 **August 1, 2025.**

26 * * *

27 D.(1)**(a)** An administrator, teacher, or other school employee upon his final
28 conviction of or plea of guilty or nolo contendere to any criminal offense, excluding
29 traffic offenses, shall report the fact of his conviction or plea to his employer and to
30 the department within two business days, exclusive of weekends and holidays, of the

1 conviction or plea of guilty or nolo contendere. Upon receiving a report of a final
 2 conviction of or plea of guilty or nolo contendere to any criminal offense, excluding
 3 traffic offenses, by an employee holding a teaching certificate or teaching
 4 authorization issued by the state board, a school or school system shall report the fact
 5 of the conviction or plea to the Department of Education within two business days,
 6 exclusive of weekends and holidays, of receiving the report of the conviction or plea
 7 of guilty or nolo contendere.

8 **(b) An administrator, teacher, or other school employee whose name is**
 9 **recorded on the Department of Children and Family Services' state central**
 10 **registry on or after August 1, 2025, shall report the recordation to his employer**
 11 **and to the department within two business days, exclusive of weekends and**
 12 **holidays.**

13 (2) An administrator, teacher, or substitute teacher who fails to report a
 14 conviction or plea of guilty or nolo contendere of any felony offense **or fails to**
 15 **report recordation on the Department of Children and Family Services' state**
 16 **central registry** shall be fined not more than one thousand dollars or imprisoned for
 17 not more than one year, with or without hard labor, or both.

18 (3) A school employee other than an administrator, teacher, or substitute
 19 teacher who fails to report a conviction or plea of guilty or nolo contendere of any
 20 criminal offense listed in R.S. 15:587.1(C)(1) **or fails to report recordation on the**
 21 **Department of Children and Family Services' state central registry** shall be fined
 22 not more than five hundred dollars or imprisoned for not more than six months, with
 23 or without hard labor, or both.

24 E.(1) The State Board of Elementary and Secondary Education may assess
 25 a civil fine against a school governing authority, equal to the average state yearly
 26 compensation for a public school teacher, inclusive of salary and benefits, who
 27 knowingly employs a person without requesting the criminal records **or verifying**
 28 **whether the person's name is recorded on the Department of Children and**
 29 **Family Services' state central registry as** required by this Section or who
 30 knowingly hires a person who has been convicted of or pled nolo contendere to any

1 crime listed in R.S. 15:587.1(C) or whose name is recorded on the state central
 2 registry, and who the State Board of Elementary and Secondary Education has not
 3 provided a teaching authorization pursuant to the provisions of R.S. 17:7(10) or who
 4 has not completed the formal appeal process required by the state board and been
 5 granted a new teaching certificate or other teaching authorization as provided in R.S.
 6 17:8.7(B).

7 (2) ~~Such~~ **The** fine shall be levied only after a final judgment is rendered
 8 pursuant to an adjudication process conducted in accordance with the provisions of
 9 R.S. 49:975 et seq.

10 (3) The state board shall report any ~~such~~ instances of fine assessments to the
 11 House Committee on Education and the Senate Committee on Education within
 12 thirty days of such assessment. Civil fines collected pursuant to the provisions of this
 13 Section shall be deposited immediately into the state treasury. The State Board of
 14 Elementary and Secondary Education shall promulgate rules in accordance with the
 15 Administrative Procedure Act for implementation of this Subsection.

16 * * *

17 §16. Reporting of certain arrests; school employees; requirements; failure to report

18 A. Effective January 1, 2012, and thereafter, a school employee shall report
 19 his arrest for a violation of R.S. 14:42 through 43.5, 80 through 81.5, any other
 20 sexual offense affecting minors, any of the crimes provided in R.S. 15:587.1, or any
 21 ~~justified~~ **substantiated** complaint of child abuse or neglect on file in the central
 22 registry pursuant to Article 615 of the Children's Code.

23 * * *

24 §24.8. Prekindergarten programs

25 A.**(1)** Each city, parish, or other local public school board may develop and
 26 offer prekindergarten instruction. The youngest age at which a child may enter
 27 prekindergarten provided for by this Subsection shall be four years old by September
 28 thirtieth of the year in which the child enrolls in prekindergarten.

29 **(2) All public prekindergarten programs shall comply with the child**
 30 **safety and welfare minimum standards provided for in R.S. 17:407.41.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

B.

* * *

~~(2) The State Board of Elementary and Secondary Education, in consultation with the Nonpublic School Commission, shall adopt rules and regulations to protect the health and safety of three-year-old children who attend prekindergarten at an approved nonpublic elementary school.~~ **All nonpublic prekindergarten programs shall be licensed as an early learning center pursuant to Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950.**

* * *

§407.33. Definitions

As used in this Part, the following terms have the following meanings unless the context clearly indicates otherwise:

* * *

(5) "Early learning center" means any child day care center, Early Head Start Center, Head Start Center, or ~~stand-alone~~ **nonpublic** prekindergarten program ~~not attached to a school.~~

* * *

§407.35. Exemptions from licensure requirements

~~A. Public and nonpublic day schools serving children in grades kindergarten and above, including any prekindergarten programs attached thereto, as well as camps, and care given without charge, shall be exempt from the provisions of this Part~~ **The provisions of this Part shall not apply to grades kindergarten and above, prekindergarten programs attached to a public day school, Louisiana Montessori accredited or provisionally accredited approved schools, camps, registered family child day care homes, and care given without charge. However, all prekindergarten programs shall comply with the child safety and welfare minimum standards provided for in R.S. 17:407.41.**

* * *

§407.41. Child safety and welfare minimum standards

A. In addition to regulations promulgated by the State Board of

1 Elementary and Secondary Education pursuant to R.S. 17:407.40, all early
2 learning centers and prekindergarten programs shall meet the following
3 minimum standards to ensure the safety and welfare of children:

4 (1) There shall be a minimum of two staff members present at any
5 facility when more than four children are present, except under an extenuating
6 circumstance that temporarily prevents compliance with this Paragraph.

7 (2) The child-to-staff ratios shall not exceed the following:

8 (a) Infants and under one year - 5 to 1

9 (b) One year - 7 to 1

10 (c) Two years - 10 to 1

11 (d) Three years - 13 to 1

12 (e) Four years - 15 to 1

13 (f) Five years - 19 to 1

14 (3) An average of the child-to-staff ratios may be applied to mixed age
15 groups of children only for groups that include no children under the age of
16 two.

17 (4) When a mixed age group includes children younger than age two, the
18 age of the youngest child determines the child-to-staff ratio for the group.

19 (5) When the nature of a child with special healthcare needs or the
20 number of children with special healthcare needs warrants added care, the
21 center shall add sufficient staff as necessary.

22 (6) Only staff members directly providing care, supervision, or guidance
23 to children shall be counted in the child-to-staff ratio. The same staff members
24 shall not be used to meet the ratio requirements for two different groups of
25 children at the same time.

26 (7) Sufficient staffing needed to satisfy child-to-staff ratios shall be
27 present on the premises during rest time and available to assist as needed.
28 Children ages one and older may be grouped together at rest time with one staff
29 member in each room supervising the resting children.

30 (8) Information regarding required child-to-staff ratios and a phone

1 number to file complaints regarding supervision with the Department of
2 Education shall be posted in each classroom in a location that is visible to
3 parents.

4 (9) Children shall be supervised at all times including on the playground,
5 on field trips, and on nonvehicular excursions.

6 (10)(a) Children shall not be left alone in any room, outdoors, or in
7 vehicles, even momentarily, without staff present.

8 (b) The provisions of this Paragraph shall not apply to restroom use as
9 provided in this Section, if a child is being provided services by therapeutic
10 professionals, or if a child is in the custody of a parent or legal guardian.

11 (11) A staff person shall be assigned to supervise specific children whose
12 names and whereabouts that the staff person shall know and with whom the
13 staff person shall be physically present. Staff shall be able to state how many
14 children are in their care at all times.

15 (12)(a) A child who is developmentally able may be permitted to use the
16 restroom independently if a staff member is in proximity to and can see the
17 child to ensure immediate intervention to safeguard a child from harm or to
18 assist with an accident while in the restroom.

19 (b) An individual who is not a staff member may not enter the restroom
20 area while in use by any child other than his own child.

21 (13) A child age five and older may be permitted to go to and return
22 from the restroom without staff.

23 (14) If a prekindergarten program or early learning center is part of a
24 school with children in kindergarten or older, staff shall ensure that the
25 children enrolled in the prekindergarten program or early learning center are
26 not unsupervised in the restroom at the same time as any older children who are
27 using the restroom. For any facility constructed after January 1, 2026, there
28 shall be designated separate restrooms for the children enrolled in the
29 prekindergarten program or early learning center.

30 (15) Children shall be changed and cleaned immediately following a

1 toileting accident.

2 B.(1) The state Department of Education shall develop an informational
3 document that contains all of the following:

4 (a) The child safety and welfare minimum standards provided for in this
5 Section.

6 (b) A phone number to file complaints with the state Department of
7 Education regarding violations of the standards.

8 (c) A statement notifying parents and legal guardians that the document
9 is being distributed pursuant to "Charlie's Law".

10 (2) The state Department of Education shall provide the document to
11 each early learning center and prekindergarten program no later than August
12 first of each year.

13 (3) Each early learning center and public school with a prekindergarten
14 program shall distribute the document to the parents and legal guardians of all
15 children enrolled in an early learning center or prekindergarten program.

16 (4) The document shall be distributed at the beginning of each school
17 year and may be distributed electronically.

18 C. The state Department of Education shall provide written notification
19 to the superintendent of a school district for any complaint received by the
20 department regarding a prekindergarten program in the district pursuant to
21 this Section.

22 §407.42. Review of criminal history information and state central registry of child
23 abuse and neglect

24 A.

25 * * *

26 (2) No individual whose name is recorded on the state central registry within
27 the Department of Children and Family Services as a perpetrator for a ~~justified~~
28 substantiated finding of abuse or neglect of a child or in any other state's child
29 abuse and neglect registry or repository shall own or operate a licensed early learning
30 center or shall be hired by a licensed early learning center as an employee or

1 volunteer of any kind, including any therapeutic professionals, extracurricular
2 personnel, and other independent contractors, or shall be hired by the department in
3 a position whose duties include the performance of licensing inspections.

4 B.(1) The State Board of Elementary and Secondary Education shall establish
5 by regulation, requirements and procedures under which the department shall, for
6 any owner, volunteer, applicant, or employee of any kind, including contractors, of
7 an early learning center or an applicant or employee of the department in a position
8 whose duties include the performance of licensing inspections:

9 * * *

10 (b) Request information from the Department of Children and Family
11 Services as to whether the person is listed on the state central registry as a perpetrator
12 for a ~~justified~~ **substantiated** finding of abuse or neglect of a child.

13 * * *

14 §407.46. Operating in violation of regulations; penalties and fines

15 A.(1) For violations related to supervision, criminal history record checks,
16 the state central registry disclosure form, ~~staff-to-child~~ **child-to-staff** ratios, motor
17 vehicle checks, or failure to report critical incidents, the department may issue a
18 written warning that includes a corrective action plan, in lieu of revocation, upon any
19 person or entity violating these requirements if such condition or occurrence does not
20 pose an imminent threat to the health, safety, rights, or welfare of a child. Failure to
21 implement a corrective action plan issued pursuant to this Section may result in
22 either the assessment of a civil fine or license revocation or may result in both
23 actions being taken by the department. Such civil fine shall not exceed two hundred
24 fifty dollars per day for each assessment; however, the aggregate fines assessed for
25 violations determined in any consecutive twelve-month period shall not exceed two
26 thousand dollars. **The department shall publish all violations of this Paragraph**
27 **on its website.**

28 * * *

29 §407.71. Grounds for revocation or refusal to renew registration; criminal activities;
30 lack of CPR or first aid training

1 A.(1) No person who has been convicted of or pled nolo contendere to a
2 crime listed in R.S. 15:587.1(C), whose name is recorded on the state registry within
3 the Department of Children and Family Services as a perpetrator for a ~~justified~~
4 substantiated finding of abuse or neglect of a child, whose name is on any other
5 state's child abuse and neglect registry or repository, whose name is on the Louisiana
6 Sex Offender and Child Predator Registry, whose name is on any other state's sex
7 offender registry, or whose name is on the National Crime Information Center's
8 National Sex Offender Registry may be a registered family child care provider, be
9 employed in the residence or on the property of the residence where the care is
10 provided by the registered family child care provider, or live in the residence where
11 care is provided by the registered family child care provider. The cost of any
12 criminal background check which may be required by the department as proof of
13 compliance with this Subsection shall be the responsibility of the family child care
14 provider.

15 (2) No person who has been convicted of or pled nolo contendere to a crime
16 listed in R.S. 15:587.1(C), whose name is recorded on the state registry within the
17 Department of Children and Family Services as a perpetrator for a ~~justified~~
18 substantiated finding of abuse or neglect of a child, whose name is on any other
19 state's child abuse and neglect registry or repository, whose name is on the Louisiana
20 Sex Offender and Child Predator Registry, whose name is on any other state's sex
21 offender registry, or whose name is on the National Crime Information Center's
22 National Sex Offender Registry may be a registered in-home child care provider, be
23 an adult employed in the home or on the property of the home where care is provided
24 by the registered in-home child care provider, or be any adult living in the home
25 where care is provided by the registered in-home child care provider who is not a
26 caregiver. For the purposes of this Paragraph, the term "caregiver" shall mean any
27 person legally obligated to provide or secure care for a child, including a parent,
28 legal custodian, foster home parent, or other person providing a residence for the
29 child. The cost of any criminal background check which may be required by the
30 department as proof of compliance with this Subsection shall be the responsibility

1 of the in-home provider.

2 * * *

3 §443. Discipline of teachers; procedure; right of review

4 * * *

5 B.(1) A teacher with tenure shall not be disciplined except upon written and
6 signed charges by the superintendent or his designee of poor performance, willful
7 neglect of duty, incompetency, dishonesty, immorality, or of being a member of or
8 contributing to any group, organization, movement, or corporation that is by law or
9 injunction prohibited from operating in the state of Louisiana, and then only if
10 furnished with a copy of such written charges and given the opportunity to respond.
11 The teacher shall have ten calendar days from written notice of the charges to
12 respond, in person or in writing. Following review of the teacher's response, the
13 superintendent may take interim disciplinary action, which may include placing the
14 teacher on administrative leave. The teacher shall not be placed on administrative
15 leave without pay unless the teacher has been arrested for a violation of any of the
16 following: R.S. 14:42 through 43.5, 80 through 81.5, any other sexual offense
17 affecting minors, any of the crimes provided in R.S. 15:587.1, or any ~~justified~~
18 **substantiated** complaint of child abuse or neglect on file in the central registry
19 pursuant to Children's Code Article 615. Within ten calendar days after written
20 notice of the interim disciplinary action or within ten calendar days after receipt of
21 the teacher's response if no interim disciplinary action is taken, a teacher may request
22 a hearing before a disciplinary hearing officer. If the teacher fails to timely request
23 a hearing, the disciplinary action becomes final.

24 * * *

25 §493. Removal of bus operators; procedures; right to appeal

26 * * *

27 C.(1) The superintendent shall have ten calendar days to review the school
28 bus operator's response and to provide written notice to the bus operator of the
29 interim disciplinary action, if any. A superintendent may take interim disciplinary
30 action, which may include placing the bus operator on administrative leave. A

1 permanent bus operator shall not be placed on administrative leave without pay
 2 unless the bus operator has been arrested for a violation of the following: R.S. 14:42
 3 through 43.5, 80 through 81.5, any other sexual offense affecting minors, any of the
 4 crimes provided in R.S. 15:587.1, or any ~~justified~~ **substantiated** complaint of child
 5 abuse or neglect on file in the central registry pursuant to Children's Code Article
 6 615.

7 * * *

8 §3996. Charter schools; exemptions; requirements

9 * * *

10 B. Notwithstanding any state law, rule, or regulation to the contrary and
 11 except as may be otherwise specifically provided for in an approved charter, a
 12 charter school established and operated in accordance with the provisions of this
 13 Chapter and its approved charter and the school's officers and employees shall be
 14 exempt from all statutory mandates or other statutory requirements that are
 15 applicable to public schools and to public school officers and employees except for
 16 the following laws otherwise applicable to public schools with the same grades:

17 * * *

18 (28) Reporting by a school employee employed by the governing authority
 19 of a public elementary or secondary school of his arrest for one or more of the
 20 specified offenses relative to sexual morality affecting minors, R.S. 17:16, any of the
 21 crimes provided in R.S. 15:587.1, or any ~~justified~~ ~~complaint~~ **substantiated**
 22 **allegation** of child abuse or neglect on file in the central registry pursuant to Article
 23 615 of the Children's Code.

24 * * *

25 **(82) Child health and safety minimum standards, R.S. 17:407.41.**

26 * * *

27 Section 4. R.S. 24:525(D) is hereby amended and reenacted to read as follows:

28 §525. State child ombudsman; duties

29 * * *

30 D.**(1)** Any state agency having responsibility for the custody or care of

1 children shall provide monthly notice to the state child ombudsman of the death of
2 a child in its custody or care.

3 (2) The Department of Children and Family Services shall notify the
4 state child ombudsman within three business days of receiving information on
5 the death of any child that had been reported to the department for alleged
6 child abuse or neglect.

7 * * *

8 Section 5. R.S. 40:2008.10(A)(3) and 2019(F)(3)(b) are hereby amended and
9 reenacted to read as follows:

10 §2008.10. Therapeutic group homes licensed by the Louisiana Department of
11 Health; state central registry of child abuse and neglect; criminal
12 background checks

13 A.

14 * * *

15 (3) The therapeutic group home shall request information from the
16 Department of Children and Family Services as to whether the individual's name is
17 recorded on the state central registry as a perpetrator for a ~~justified~~ substantiated
18 finding of abuse or neglect of a child.

19 * * *

20 §2019. Child death investigation

21 * * *

22 F. Records; confidentiality; prohibited disclosure and discovery.

23 * * *

24 (3)

25 * * *

26 (b) No information, document, or record obtained by the state panel or any
27 local or regional panel or its agent from the Department of Children and Family
28 Services involving a report which results in an inconclusive, ~~not justified, or invalid~~
29 or unsubstantiated finding pursuant to Children's Code Article 615 shall be
30 included or referenced in any manner in any report or other document issued or

1 published by or on behalf of the panel.

2 * * *

3 Section 6. R.S. 46:51.2(A)(1)(b), 56(F)(1), (4)(c), (10)(b)(i), and (11), and 1414.1(A)
4 are hereby amended and reenacted to read as follows:

5 §51.2. Criminal history and central registry information

6 A.(1) No person shall be hired by the department whose duties include the
7 investigation of child abuse or neglect, supervisory or disciplinary authority over
8 children, direct care of a child, or performance of licensing surveys, until both the
9 following conditions are met:

10 * * *

11 (b) The department has conducted a search of the state central registry of
12 ~~justified~~ **substantiated** abuse or neglect, hereafter referred to as "central registry",
13 reports and has determined that the individual's name is not recorded therein. The
14 search shall be limited to those names recorded on the state central registry
15 subsequent to January 1, 2010. If the individual's name is or was entered on the state
16 central registry that individual may make a formal written request to the division of
17 administrative law for an administrative appeal of the ~~justified~~ **substantiated**
18 determination, in accordance with Children's Code Article 616.1.1 and the
19 procedures promulgated by the department.

20 * * *

21 §56. Applications and client case records; definitions; confidentiality; waiver;
22 penalty

23 * * *

24 F. The following information shall not be subject to waiver and shall not be
25 released to applicants, recipients, or outside sources, except those outside sources
26 engaged in the administration of the programs of the department or when specifically
27 authorized by law:

28 (1) Records pertaining to foster care of children, investigations of abuse and
29 neglect of children, and other child welfare services. For the purposes of this
30 Paragraph, case records of children in abuse and neglect and foster care cases may

1 be reviewed by attorneys who are appointed by a court of juvenile jurisdiction to
2 represent the sole interest of the children, and pursuant to court order, such case
3 records may be reviewed by court-appointed special advocates appointed pursuant
4 to Children's Code Article ~~424(D)~~ 424.1. Prior to a court hearing, the department
5 may provide to such attorneys and court-appointed special advocates copies of the
6 most recent case plan for the child and his family, the most recent court order and
7 court report, and the child's most recent medical report. Additionally, pursuant to
8 Children's Code Article 616, a judge of a court exercising juvenile jurisdiction may
9 request, in writing to the department, central registry record checks. However, in no
10 instance shall the name or identifying information regarding a complainant in neglect
11 and abuse cases or the case records of the foster parents be subject to such review.
12 The department may, however, provide foster parents all information from the
13 department's records and from other records to which the department has access
14 concerning a child in the foster home, and concerning the child's family, where such
15 information is necessary for the foster parents to properly care for the child. The
16 department may also provide surrogate parents representing the special education
17 interests of children in the department's custody with all information from the
18 department's records and from other records to which the department has access
19 where such information is necessary for the surrogate parents to properly advocate
20 for the children. In any child custody proceeding, after the issue has been raised of
21 the potential existence of a relevant departmental record concerning the abuse or
22 neglect of a child who is the subject of that proceeding, the judge may contact the
23 local child protection unit to determine if such a record exists. If ~~a determination has~~
24 ~~been made that such report appears justified~~ **the department has a substantiated**
25 **report** pursuant to Children's Code Article 615(B)(1) through (3), the local child
26 protection unit shall verbally advise the judge that such report is in the possession
27 of the unit. If the court finds that information which may be contained in the report
28 is necessary for an issue before the court, the court may order the release of such
29 information. If ~~a determination was made that such~~ **the** report was **unsubstantiated**
30 ~~unjustified or inherently improbable~~, such records shall be sealed and accessible only

1 pursuant to Children's Code Article ~~616(A)(2)~~ **615**.

2 * * *

3 (4)

4 * * *

5 (c) Following any investigation by the department of a public or private day
6 care center, registered family child day care home, or residential provider, the
7 department may inform the parent or guardian of any child being cared for at the
8 center, home, or residence or the parent or guardian of any child who has applied for
9 placement in the center, home, or residence of a ~~valid~~ **substantiated** finding of child
10 abuse, neglect, or exploitation occurring at the center, home, or residence upon the
11 request of the parent or legal guardian. The department may also advise such parent
12 or legal guardian of a ~~valid~~ **substantiated** finding when it becomes necessary for the
13 department to take adverse action against a center, home, or facility in the interest
14 of the safety and welfare of the children. The department may release to the
15 Department of Education limited information concerning a ~~valid~~ **substantiated**
16 finding of child abuse, neglect, or exploitation occurring at a family child day care
17 home that is registered by that department. These circumstances shall constitute
18 authorized disclosures under the provisions of R.S. 14:403(A)(2).

19 * * *

20 (10)

21 * * *

22 (b) The information disclosed pursuant to this Paragraph shall be limited to
23 the following:

24 (i) Whether or not the department has a **substantiated** report, ~~which has been~~
25 ~~determined to be justified~~ pursuant to Children's Code Article 615, in its possession
26 concerning the child or person who is the subject of the information request.

27 * * *

28 (11) Upon written request of a caregiver, the department shall disclose
29 limited information contained in child abuse or neglect records or reports to an
30 employer or prospective employer of a person who will be exercising supervisory

1 authority over that employer's minor children or other dependent person as part of
 2 that person's employment as a caregiver. The information disclosed pursuant to this
 3 Paragraph shall be limited to cases in which the department has determined that the
 4 allegations from which such information has been developed are ~~justified~~
 5 **substantiated** pursuant to Children's Code Article 615. The provisions of this
 6 Paragraph shall not be interpreted to authorize the release of or access to any
 7 information protected under federal law.

8 * * *

9 §1414.1. State central registry

10 A. Any owner, operator, current or prospective employee, or volunteer of a
 11 specialized provider requesting licensure or licensed by the Department of Children
 12 and Family Services is prohibited from being employed by the specialized provider
 13 if that individual's name is recorded on the state central registry as a perpetrator for
 14 a ~~justified~~ **substantiated** finding of abuse or neglect of a child.

15 * * *

16 Section 7. Children's Code Art. 116(2.1) and (2.2), 603(4)(a) and (17)(d), 603.1(B),
 17 610(A), (E)(1) and (2), and (H), 612(A)(3), 615(B)(2), (3), and (5), the introductory
 18 paragraph of 615(E) and 615(E)(1) and (4)(a) and (F), 616(B), the introductory paragraph
 19 of 616(D), 616(E) and (H), and 616.1.1(A) are hereby amended and reenacted and Children's
 20 Code Art. 603(17)(l) through (o) and 610(I) are hereby enacted to read as follows:

21 Art. 116. Definitions

22 Except where the context clearly indicates otherwise, these definitions apply
 23 for the following terms used throughout this Code.

24 * * *

25 (2.1) "CASA program" means a court-appointed special advocate program
 26 established in compliance with ~~National~~ **Louisiana** CASA Association standards.

27 (2.2) "CASA volunteer" means a court-appointed special advocate who has
 28 been trained in accordance with ~~National~~ **Louisiana** CASA Association standards
 29 and is under the supervision of a CASA program.

30 * * *

1 Art. 603. Definitions

2 As used in this Title:

3 * * *

4 (4)(a) "Caretaker" means any person legally obligated to provide or secure
5 adequate care for a child, including a parent, tutor, guardian, legal custodian, foster
6 ~~home parent, an employee or an operator of an early learning center as defined in~~
7 ~~R.S. 17:407.33, an operator or employee of a registered family child day care home,~~
8 an operator or employee of a **residential or treatment facility licensed by the**
9 **Department of Children and Family Services or the Louisiana Department of**
10 **Health** ~~restrictive care facility, or other person providing a residence for the child.~~
11 ~~"Caretaker" also means an adult who occupies a residence of a child and has a~~
12 ~~consistent and continuing responsibility for the care of a child.~~ "Caretaker" shall not
13 include an operator or employee of a correctional facility, detention facility, ~~or~~
14 nonresidential school, **or unlicensed residential or child care provider.**

15 * * *

16 (17) "Mandatory reporter" is any of the following individuals:

17 * * *

18 (d) "Teaching or child care provider" is any person who provides or assists
19 in the teaching, training, and supervision of a child, including any public or private
20 teacher, teacher's aide, instructional aide, school principal, school staff member,
21 ~~school resource officer, bus driver, coach, professor, technical or vocational~~
22 ~~instructor, technical or vocational school staff member, college or university~~
23 ~~administrator, college or university staff member, social worker, probation officer,~~
24 ~~foster home parent, group home or other child care institutional staff member,~~
25 ~~personnel of residential home facilities,~~ **an employee or an operator of an early**
26 **learning center as defined in R.S. 17:407.33, an operator or employee of a**
27 **registered family child day care home,** a licensed or unlicensed day care provider,
28 or any individual who provides these services to a child in a voluntary or
29 professional capacity.

30 * * *

1 (l) A foster parent.

2 (m) A group home or other institutional child care staff member or
3 personnel of residential home facilities.

4 (n) A probation officer.

5 (o) Any employee of the office of juvenile justice or the Department of
6 Children and Family Services, whose duties include supervisory or disciplinary
7 authority over children.

8 * * *

9 Art. 603.1. Required education; reporting child abuse

10 * * *

11 B. Teaching or child care providers as defined by Article 603 shall complete
12 an online training course provided by the Department of Children and Family
13 Services between June first and August thirty-first annually. A record of completion
14 of the course by the teaching or child care provider shall be provided to ~~and retained~~
15 ~~by~~ each entity at which the teaching or child care provider is employed. ~~The entity~~
16 ~~at which the teaching or child care provider is employed shall retain a list of all~~
17 ~~teaching or child care providers who have not complied with the training~~
18 ~~requirements provided in this Article.~~ **No later than September thirtieth of each**
19 **year and in a manner prescribed by the state Department of Education each**
20 **entity at which a teaching or child care provider is employed shall submit a list**
21 **to the state Department of Education of all teaching and child care providers**
22 **employed by the entity and identify the employees that have complied with the**
23 **training requirements and those employees that have not complied. The state**
24 **Department of Education shall publish the completion rates for each entity on**
25 **its website.**

26 * * *

27 Art. 610. Reporting procedure; reports to the legislature and the United States
28 Department of Defense Family Advocacy Program

29 A.(+) A reporter shall immediately report suspected child abuse or neglect or
30 that child abuse or neglect was a contributing factor in a child's death in the

1 following ways:

2 ~~(a)(1)~~ To the Department of Children and Family Services if the reporter has
3 reason to believe that the perpetrator is a **any of the following:**

4 **(a) A parent or caretaker as defined in Article 603,**~~a~~

5 **(b) A person who maintains an interpersonal dating or engagement**
6 **relationship with the parent or caretaker,**~~or a~~

7 **(c) A person living in the same residence with as the parent or caretaker,** as
8 a spouse whether married or not.

9 **(d) A person living in the same residence as the child, or any residence**
10 **of the child, if the child has more than one residence.**

11 **(e) An employee or an operator of an early learning center as defined in**
12 **R.S. 17:407.33.**

13 **(f) An operator or employee of a registered family child day care home.**

14 **(g) Another child residing in the same residence for cases of suspected**
15 **sexual abuse.**

16 **(h) Indeterminable by the mandatory reporter, but the reporter suspects**
17 **that the abuse occurred at the child's residence.**

18 ~~(b)(2)~~ To a local or state law enforcement agency if the reporter has reason
19 to believe that the **perpetrator is any of the following:** ~~abuse or neglect is being~~
20 ~~perpetrated by someone other than the individuals provided for in Subsubparagraph~~
21 ~~(a) of this Subparagraph. Abuse or neglect perpetrated on a student by a teaching or~~
22 ~~child care provider, as defined by Article 603, shall be immediately reported to local~~
23 ~~or state law enforcement,~~

24 **(a) A person other than a person provided for in Subparagraph (1) of**
25 **this Paragraph.**

26 **(b) A teacher, instructor, administrator, staff person, school bus driver,**
27 **teacher aide, paraprofessional, food service worker, or employee of any public**
28 **or private elementary, secondary, vocational-technical training, special, or**
29 **postsecondary school, city, parish, or other local public school board, if the**
30 **abuse or neglect is perpetrated on a student.**

1 (c) Another child who does not reside in the same residence for cases of
2 suspected sexual abuse.

3 ~~(e)~~**(3)** Dual reporting to both the department and the local or state law
4 enforcement agency is permitted. However, the agency who receives a report
5 pursuant to Subparagraph (1) or (2) of this Paragraph shall be the agency
6 responsible for accepting and acting on the report and shall ensure referral to
7 other agencies as necessary.

8 ~~(2)~~**(4)** Reports to the department shall be made as follows:

9 (a) A mandatory reporter shall make a report of suspected abuse or neglect
10 requiring immediate assistance via the designated state child protection reporting
11 hotline telephone number. A report of suspected abuse or neglect which is of a
12 nonemergency nature may be reported via the Louisiana Department of Children and
13 Family Services Mandated Reporter Portal online. Reports may also be made in
14 person at any child welfare office.

15 (b) If a report involves alleged sex trafficking, all mandatory reporters shall
16 report via the hotline telephone number to the department regardless of whether there
17 is alleged parental or caretaker culpability.

18 (c) A permitted reporter shall make a report through the designated state child
19 protection reporting hotline telephone number or in person at any child welfare
20 office.

21 ~~(3)~~**(5)** If a mandatory reporter is prohibited from immediately making the
22 report required by this Chapter to the department or local or state law enforcement
23 because of an employer's policies or employee manual, the mandatory reporter shall
24 file a complaint with local or state law enforcement. Local or state law enforcement
25 shall investigate the complaint, and an employer violating this Chapter shall be
26 subject to the penalties provided for in R.S. 14:131.1 and 403. An employer shall not
27 discriminate or retaliate against an employee who is a mandatory reporter for
28 complying with this Article. If an employer is found discriminating or retaliating
29 against an employee for complying with this Article, the employer shall be subject
30 to double the fines provided for in R.S. 14:131.1 and 403.

1 shall be immediately reported to the child's parent or legal guardian and to
2 local or state law enforcement, regardless of the alleged perpetrator.

3 (2) If more than one child is involved in the allegations, the school shall
4 immediately report to the parent or legal guardian of all involved children.

5 (3) Law enforcement shall begin an investigation of the allegations within
6 forty-eight hours of receiving the report.

7 (4) If more than one child is involved in the allegations, law enforcement
8 shall interview the parent or legal guardian of all children involved.

9 (5) Any sexual abuse cases in which the alleged perpetrator is a child
10 shall be referred to the Department of Children and Family Services. The
11 department shall assess the family of the child victim and the alleged child
12 perpetrator to ensure child safety and well-being in accordance with Children's
13 Code Article 612(A)(3).

14 (6) For purposes of this Article, the following definitions shall apply:

15 (a) "School setting" means in a school building, on school grounds, in
16 school vehicles, or at any activities sponsored by a school.

17 (b) "Sexual abuse" means the perpetration or attempted perpetration of
18 R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.4, 80, 81, 81.1, 81.2, 86, 89, or 89.1.

19 ~~H.I.~~(1) The provisions of this Paragraph shall be known and may be cited as
20 The Alfred C. Williams Child Protection Act.

21 (2) Beginning May 1, 2017, and annually thereafter, the department shall
22 provide to the legislature the following child-specific information regarding reports
23 of child abuse or neglect reported to the department pursuant to the provisions of this
24 Article:

25 (a) The actual or estimated age, the sex, and the race of each child at the time
26 the latest report was received.

27 (b) The parish location of primary case name of the latest report accepted for
28 investigation received.

29 (c) The categories, levels, and final findings assigned to each allegation
30 contained in reports received for each child.

1 (d) The number of cases accepted for investigation in which the child was an
2 alleged ~~or valid~~ victim during the report year.

3 (e) The number of cases accepted for investigation in which the child was a
4 ~~valid~~ **substantiated** victim during the report year.

5 (f) The number of reports accepted for investigation prior to report year in
6 which the child was an alleged or ~~valid~~ **substantiated** victim.

7 (g) The number of other alleged victims in reports accepted for investigation
8 in each child's cases prior to report year.

9 (h) The number of reports accepted for investigation prior to the report year
10 in which the child was a ~~valid~~ **substantiated** victim.

11 (i) The number of other ~~validated~~ **substantiated** victims in reports accepted
12 for investigation in each child's cases prior to report year.

13 (j) The number of distinct reporter names for all investigations in which the
14 child is an alleged or ~~valid~~ **substantiated** victim.

15 (3) For purposes of this Paragraph, the following words shall have the
16 following meanings:

17 (a) "Alleged victim" includes a child who is the subject of an investigation
18 and for whom there is an allegation of abuse or neglect.

19 (b) "~~Valid~~ **Substantiated** victim" ~~or "validated victim"~~ includes an alleged
20 victim for whom one or more allegations of abuse or neglect have been ~~determined~~
21 ~~to be justified~~ **substantiated** pursuant to Article 615.

22 * * *

23 Art. 612. Assignment of reports for investigation and assessment

24 A.

25 * * *

26 (3) In lieu of an investigation, reports of low levels of risk **and reports from**
27 **law enforcement of child sexual abuse as provided for in Children's Code**
28 **Article 610**, may be assessed promptly through interviews with the family to identify
29 needs and available match to community resources. If during this assessment, it is
30 determined that a child is at immediate substantial risk of harm, the local child

1 protection unit shall promptly conduct or participate in an intensive investigation.

2 * * *

3 Art. 615. Disposition of reports

4 * * *

5 B. After investigation, the local child protection unit shall make one of the
6 following determinations:

7 * * *

8 (2) The report ~~appears to be justified~~ **is substantiated**, in that there is
9 evidence of child abuse, or neglect, and a protective order or instanter safety plan
10 order would eliminate the need for removal of the child in order to protect him from
11 further abuse, in which case it may apply for a temporary restraining order or
12 protective order authorized by Article 617 and Article 618, or an instanter safety plan
13 order authorized by Article 619 or Article 620.

14 (3) The report ~~appears to be justified~~ **is substantiated**, in that there is
15 evidence of child abuse or neglect, in which case it shall report all pertinent
16 information to the district attorney, as soon as possible but in no case more than
17 thirty days after such determination, for evaluation of whether a child in need of care
18 petition should be filed in the court with juvenile jurisdiction.

19 * * *

20 (5) The report ~~does not appear justified~~ **is unsubstantiated** as the evidence
21 does not support a finding of child abuse or neglect.

22 * * *

23 E. When after the investigation of a report, the determination is made that the
24 report is inconclusive or ~~not justified~~ **unsubstantiated**, as provided in Subparagraphs
25 (B)(4) and (5) of this Article, the files, records, and pertinent information regarding
26 the report and investigation shall be strictly confidential, shall not become part of the
27 central registry except as otherwise provided in Subparagraph (1) of this Paragraph
28 or in Article 616(F), shall not be disclosed or ordered to be produced in conjunction
29 with any legal proceeding or other matter except as provided in Subparagraph (4) of
30 this Paragraph, and shall be maintained only for the following purposes:

1 (1) The files, records, and information shall remain unsealed and shall be
 2 maintained for the exclusive use of child protective services, to assist in future risk
 3 and safety assessments. The Department of Children and Family Services shall
 4 maintain all files and records for seven years from the date of the determination,
 5 unless a subsequent inconclusive or ~~not justified~~ **unsubstantiated** report is received
 6 during that period. In that case, information from all such reports will be maintained
 7 until the youngest child in the alleged victim's family attains the age of eighteen
 8 years or seven years from the date of the latest determination, whichever is longer.
 9 If information from an inconclusive or ~~not justified~~ **unsubstantiated** report is used
 10 as a part of the basis for a later, related, and ~~justified~~ **substantiated** report, the earlier
 11 report shall become part of the file of the ~~justified~~ **substantiated** report and shall
 12 cease to be a separate report.

13 * * *

14 (4)(a) All files, records, and information regarding a report that has been
 15 determined to be inconclusive or ~~not justified~~ **unsubstantiated** shall be released to
 16 local, state, and federal law enforcement agencies, military authorities, prosecuting
 17 authorities, and coroners upon request when such entity is in the course of
 18 investigations or legal proceedings and the requesting entity has good cause to
 19 believe that the files, records, or information contain information which may be
 20 constitutionally required to be disclosed pursuant to Brady v. Maryland, 373 U.S. 83
 21 (1963) and its progeny. The requesting agency shall request the information in
 22 writing and state the purpose for which the information is being requested.

23 * * *

24 F. The department shall promulgate rules to provide for the disposition,
 25 handling, maintenance, and storage of inconclusive and ~~not justified~~
 26 **unsubstantiated** reports in keeping with this Article. **Nothing in this Section shall**
 27 **be construed to modify or abrogate the provisions of R.S. 44:411.**

28 * * *

29 Art. 616. Registry; screening of CASA volunteers, staff, and board members;
 30 confidentiality

1 * * *

2 B. Within the state repository, the department shall maintain a state central
3 registry of certain ~~justified~~ **substantiated** reports of abuse and neglect as set forth
4 in rules promulgated by the department. The name of an individual who was placed
5 on the state central registry as a perpetrator of abuse or neglect prior to the effective
6 date of Children's Code Article 616.1.1 shall not be released outside of the
7 department until that individual's administrative appeals are exhausted. After the
8 effective date of Children's Code Article 616.1.1, the name of an individual who is
9 determined to be a perpetrator of abuse or neglect shall not be placed on the state
10 central registry until that individual's administrative appeals are exhausted. All
11 decisions rendered by an administrative law judge are final, and the decisions shall
12 exhaust the individual's administrative remedy. However, notwithstanding any other
13 provision of law, the department shall provide information involving an investigation
14 from either the repository or the state central registry immediately to the local district
15 attorney's office, or its designee, or to the court, when taking court action is
16 necessary to protect the child from abuse or neglect. The department shall provide
17 information involving an open investigation or a completed investigation determined
18 to be ~~justified~~ **substantiated** from either the repository or the state central registry
19 to another state's child welfare agency upon written request when the request is made
20 pursuant to an ongoing child protective services investigation in the other state.

21 * * *

22 D. Upon the written request of the court during its evaluation of any of the
23 following individuals who will have contact with children served by the court-
24 appointed special advocate program, and with the consent of the individual, the
25 department shall search the central registry and report to the court any ~~justified~~
26 **substantiated** report of abuse or neglect alleging that the individual is a perpetrator:

27 * * *

28 E. When, after an investigation, the determination is made by the department
29 that the report does appear to be ~~justified~~ **substantiated**, any subsequent adjudication
30 by a court exercising juvenile jurisdiction which dismisses the child in need of care

1 petition involving this report shall be added to the central registry.

2 * * *

3 H. The department may charge a fee, that shall not exceed twenty-five
4 dollars, to conduct a search of the state central registry of ~~justified~~ **substantiated**
5 abuse or neglect reports to determine whether an individual's name is recorded
6 therein. A search shall be allowed only when specifically authorized. **The fee shall**
7 **not apply to searches for school employees conducted pursuant to R.S. 17:15.**

8 * * *

9 Art. 616.1.1. Appeal and review; correction of central registry entries; procedure

10 A. When a report alleging abuse or neglect is ~~determined to be justified~~
11 **substantiated** by the department, the individual who is or was the subject of the
12 determination may make a formal written request to the division of administrative
13 law for an administrative appeal of the ~~justified~~ **substantiated** determination, in
14 accordance with the procedures set forth in Title 67 of the Louisiana Administrative
15 Code.

16 * * *

17 Section 8. Civil Code Art. 2315.12 is hereby enacted to read as follows:

18 **Art. 2315.12. Liability for damages caused by child sexual abuse in a school**
19 **setting**

20 **Any parent or guardian of a child who is the victim of sexual abuse in a**
21 **school setting as defined in Children's Code Article 610 may be awarded**
22 **damages including but not limited to medical expenses incurred as a result of**
23 **the sexual abuse, behavioral health expenses incurred as a result of the sexual**
24 **abuse, reimbursement of any tuition paid for attendance at the school if the**
25 **child is removed from the school, and any other damages allowed by law.**

26 Section 9.(A) The state central registry checks for all school employee applicants
27 required by this Act shall apply to any person hired on or after August 1, 2025.

28 (B) All early learning centers and prekindergarten programs shall be in compliance
29 with the child safety and welfare minimum standards provided for in R.S. 17:407.41 no later
30 than October 1, 2025.

1 (C) All prekindergarten programs requiring licensure as an early learning center
2 pursuant to this Act shall apply for licensure no later than January 1, 2026.

3 (D) The mandatory reporter training report provided for in Children's Code Article
4 603.1 shall be submitted to the Department of Education beginning with the 2026-2027
5 school year.

6 Section 10. This Act shall be known and may be cited as "Charlie's Law".

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2025 Regular Session
HOUSE BILL NO. 181
BY REPRESENTATIVE WILEY

ACT No. 488

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact Civil Code Articles 14, 159, 234, 811(B), 1805, 1899, 1900, the
3 heading of Chapter 7 of Title IV of Book III of the Civil Code, and Civil Code
4 Articles 1978, 1979, 1981, 1985, 2021, 2035, 2315.1(E), 2315.2(E), 2321(C)(3),
5 2442, 2701, 2806(B) and (C), 2838, 2841, 2843, 2844(A) and (C), 3025, 3506, and
6 3536, to enact Civil Code Articles 15 and 3514, and to repeal Civil Code Article
7 3343, relative to the signification of terms; to provide for definitions; to provide for
8 use of gender and number; to provide with respect to parental authority; to provide
9 with respect to abandonment in the survival and wrongful death actions; to provide
10 with respect to multistate cases and conflict of laws; to provide with respect to third
11 persons and third parties; to provide for Comments; and to provide for related
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Civil Code Articles 14, 159, 234, 811(B), 1805, 1899, 1900, the heading
15 of Chapter 7 of Title IV of Book III of the Civil Code, and Civil Code Articles 1978, 1979,
16 1981, 1985, 2021, 2035, 2315.1(E), 2315.2(E), 2321(C)(3), 2442, 2701, 2806(B) and (C),
17 2838, 2841, 2843, 2844(A) and (C), 3025, 3506, and 3536 are hereby amended and
18 reenacted and Civil Code Articles 15 and 3514 are hereby enacted to read as follows:

19 ~~CHAPTER 3. CONFLICT OF LAWS~~

20 Art. 14. ~~Multistate cases~~ Use of gender

21 ~~Unless otherwise expressly provided by the law of this state, cases having~~
22 ~~contacts with other states are governed by the law selected in accordance with the~~

1 ~~provisions of Book IV of this Code.~~ Unless the context indicates otherwise, words
2 used with reference to one gender apply to other genders.

3 Revision Comments - 2025

4 This Article does not change the law. It restates the principles that existed
5 in prior Article 3506(1). It is also consistent with other similar provisions on
6 interpretation of laws. See, e.g., Code of Civil Procedure Article 5055; R.S. 1:8.

7 Art. 15. Use of number

8 Unless the context indicates otherwise, words used in the singular include the
9 plural, and the plural includes the singular.

10 Revision Comments - 2025

11 This Article does not change the law. It restates the principles that existed
12 in prior Article 3506(2) and reformulates them to be consistent with Code of Civil
13 Procedure Article 5055 and R.S. 1:7.

14 * * *

15 Art. 159. Effect of divorce on community property regime

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

21 * * *

22 Art. 234. Parental authority; custody award

23 Parental authority continues during marriage, unless modified by a judgment
24 awarding custody to one parent, by a joint custody implementation order, or by a
25 judgment awarding custody to a ~~third~~ person other than a parent.

26 An ascendant, other than a parent, who is awarded custody has parental
27 authority. The authority of a ~~third~~ person who is awarded custody, other than a
28 parent or an ascendant, is governed by the rules of tutorship, unless modified by
29 court order.

30 * * *

31 Art. 811. Partition by licitation or by private sale

32 * * *

1 CHAPTER 7. ~~THIRD PARTY~~ THIRD-PARTY BENEFICIARY

2 Art. 1978. Stipulation for the benefit of a third party person

3 A contracting party may stipulate a benefit for a third person called a ~~third~~
4 party third-party beneficiary.

5 Once the ~~third party~~ third-party beneficiary has manifested his intention to
6 avail himself of the benefit, the parties may not dissolve the contract by mutual
7 consent without the beneficiary's agreement.

8 Art. 1979. Revocation

9 The stipulation may be revoked only by the stipulator and only before the
10 ~~third party~~ third-party beneficiary has manifested his intention of availing himself
11 of the benefit.

12 If the promisor has an interest in performing, however, the stipulation may
13 not be revoked without his consent.

14 * * *

15 Art. 1981. Rights of beneficiary and stipulator

16 The stipulation gives the ~~third party~~ third-party beneficiary the right to
17 demand performance from the promisor.

18 Also the stipulator, for the benefit of the ~~third party~~ third-party beneficiary,
19 may demand performance from the promisor.

20 * * *

21 Art. 1985. Effects for ~~third parties~~ persons

22 Contracts may produce effects for ~~third parties~~ persons only when provided
23 by law.

24 * * *

25 Art. 2021. Rights of ~~third party~~ person in good faith

26 Dissolution of a contract does not impair the rights acquired through an
27 onerous contract by a ~~third party~~ person in good faith.

28 If the contract involves immovable property, the principles of recordation

1 apply to a third person acquiring an interest in the property whether by onerous or
2 gratuitous title.

3 * * *

4 Art. 2035. Rights of third ~~party~~ person in good faith

5 Nullity of a contract does not impair the rights acquired through an onerous
6 contract by a third ~~party~~ person in good faith.

7 If the contract involves immovable property, the principles of recordation
8 apply to a third person acquiring an interest in the property whether by onerous or
9 gratuitous title.

10 * * *

11 Art. 2315.1. Survival action

12 * * *

13 E. For purposes of this Article, a father or mother who has abandoned the
14 deceased during his minority is deemed not to have survived him. Abandonment is
15 presumed when the father or mother has left his child for a period of at least twelve
16 months and the father or mother has failed to provide for the child's care and support,
17 without just cause, thus demonstrating an intention to permanently avoid parental
18 responsibility.

19 Revision Comments - 2025

20 This revision does not change the law. It redesignates and reproduces the
21 substance of former Article 3506(3) as a second sentence of Paragraph E of this
22 Article.

23 Art. 2315.2. Wrongful death action

24 * * *

25 E. For purposes of this Article, a father or mother who has abandoned the
26 deceased during his minority is deemed not to have survived him. Abandonment is
27 presumed when the father or mother has left his child for a period of at least twelve
28 months and the father or mother has failed to provide for the child's care and support,
29 without just cause, thus demonstrating an intention to permanently avoid parental
30 responsibility.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Revision Comments - 2025

This revision does not change the law. It redesignates and reproduces the substance of former Article 3506(3) as a second sentence of Paragraph E of this Article.

* * *

Art. 2321. Damage caused by animals; livestock

* * *

C. The owner of livestock is liable for damages for injuries to persons or property caused by the livestock that escape an enclosure and the owner could have prevented by an exercise of reasonable care. The owner of livestock is not liable for damages for injuries to person or property for livestock that escape an enclosure due to any of the following:

* * *

(3) ~~Third-party~~ Third person provocation of the livestock.

* * *

Art. 2442. Recordation of sale of immovable to affect ~~third parties~~ persons

The parties to an act of sale or promise of sale of immovable property are bound from the time that the act is made, but such an act is not effective against ~~third parties~~ persons until it is filed for registry according to the laws of registry.

* * *

Art. 2701. Call in warranty

The lessor is bound to take all steps necessary to protect the lessee's possession against any disturbance covered by ~~the preceding~~ Article, 2700 as soon as the lessor is informed of such a disturbance. If the lessor fails to do so, the lessee may, without prejudice to his rights against the lessor, file any appropriate action against the person who caused the disturbance.

If a ~~third party~~ third person brings against the lessee an action asserting a right in the thing or contesting the lessee's right to possess it, the lessee may join the lessor as a party to the action and shall be dismissed from the action, if the lessee so demands.

* * *

1 Art. 2806. Ownership of immovable property; retroactivity of partnership's
2 existence; acquisition of immovable property prior to partnership's existence

3 * * *

4 B. As to third ~~parties~~ persons, the individual partners shall be deemed to own
5 immovable property acquired in the name of the partnership until the contract of
6 partnership is filed for registry with the secretary of state as provided by law.

7 C. Whenever any immovable property is acquired by one or more persons
8 acting in any capacity for and in the name of any partnership ~~which~~ that has not been
9 created by contract as required by law, and the partnership is subsequently created
10 by contract in accordance with this Title ~~XI of Book III of the Civil Code~~, the
11 partnership's existence shall be retroactive to the date of acquisition of an interest in
12 ~~such~~ the immovable property, but ~~such~~ the retroactive effect shall be without
13 prejudice to rights validly acquired by third persons in the interim between the date
14 of acquisition and the date that the partnership was created by contract.

15 * * *

16 Art. 2838. Name; designation as partnership in commendam:

17 For the liability of a partner in commendam to be limited as to third ~~parties~~
18 persons, the partnership ~~must~~ shall have a name that appears in the contract of
19 partnership; the name ~~must~~ shall include language that clearly identifies it as a
20 partnership in commendam, such as language consisting of the words "limited
21 partnership" or "partnership in commendam"; and the name ~~must~~ shall not imply that
22 the partner in commendam is a general partner.

23 * * *

24 Art. 2841. Contract form; registry:

25 A contract of partnership in commendam ~~must~~ shall be in writing and filed
26 for registry with the secretary of state as provided by law. Until the contract is filed
27 for registry, partners in commendam are liable to third ~~parties~~ persons in the same
28 manner as general partners.

29 * * *

30 Art. 2843. Restrictions on the partner in commendam with regard to management
31 or administration of the partnership:

1 A partner in commendam does not have the authority of a general partner to
2 bind the partnership, to participate in the management or administration of the
3 partnership, or to conduct any business with third ~~parties~~ persons on behalf of the
4 partnership.

5 Art. 2844. Liability of the partner in commendam to third ~~parties~~ persons

6 A. A partner in commendam is not liable for the obligations of the
7 partnership unless ~~such~~ the partner is also a general partner or, in addition to the
8 exercise of ~~such~~ the partner's rights and powers as a partner, ~~such~~ the partner
9 participates in the control of the business. ~~However, if~~ If, however, the partner in
10 commendam participates in the control of the business, ~~such~~ the partner is liable only
11 to persons who transact business with the partnership reasonably believing, based
12 upon the partner in commendam's conduct, that the partner in commendam is a
13 general partner.

14 * * *

15 C. The enumeration in Paragraph B of this Article does not mean that the
16 possession or exercise of any other powers by a limited partner constitutes
17 participation by ~~such~~ the partner in the business of the partnership.

18 * * *

19 Art. 3025. Termination by principal

20 The principal may terminate the mandate and the authority of the mandatary
21 at any time. A mandate in the interest of the principal, and also of the mandatary or
22 of a third ~~party~~ person, may be irrevocable, if the parties so agree, for as long as the
23 object of the contract may require.

24 * * *

25 Art. 3506. General definitions of terms

26 Whenever the terms of law, employed in this Code, have not been
27 particularly defined ~~therein~~ otherwise, they shall be understood as follows:

28 1. ~~The masculine gender comprehends the two sexes, whenever the provision~~
29 ~~is not one, which is evidently made for one of them only:~~

1 Thus, the word man or men includes women; the word son or sons includes
 2 daughters; the words he, his and such like, are applicable to both males and females.

3 ~~2. The singular is often employed to designate several persons or things: the~~
 4 ~~heir, for example, means the heirs, where there are more than one.~~

5 ~~3. Abandoned.--In the context of a father or mother abandoning his child,~~
 6 ~~abandonment is presumed when the father or mother has left his child for a period~~
 7 ~~of at least twelve months and the father or mother has failed to provide for the child's~~
 8 ~~care and support, without just cause, thus demonstrating an intention to permanently~~
 9 ~~avoid parental responsibility.~~

10 ~~5. Assigns.--Assigns means those to whom~~ (1) Assignment. An assignment
 11 ~~is a transfer of rights have been transmitted by particular title;~~ such as by sale,
 12 ~~donation, or particular legacy, transfer or cession.~~

13 ~~8. Children. Under this name are included those persons born of the~~
 14 ~~marriage, those adopted, and those whose filiation to the parent has been established~~
 15 ~~in the manner provided by law, as well as descendants of them in the direct line.~~

16 ~~A child born of marriage is a child conceived or born during the marriage of~~
 17 ~~his parents or adopted by them.~~

18 ~~A child born outside of marriage is a child conceived and born outside of the~~
 19 ~~marriage of his parents.~~

20 ~~12. Family.--Family in a limited sense, signifies father, mother, and children.~~
 21 ~~In a more extensive sense, it comprehends all the individuals who live under the~~
 22 ~~authority of another, and includes the servants of the family.~~

23 ~~It is also employed to signify all the relations who descend from a common~~
 24 ~~root.~~

25 (2) Juridical act. A juridical act is a manifestation of will intended to
 26 produce legal consequences. Juridical acts may be unilateral, such as donations
 27 mortis causa, or bilateral, such as contracts.

28 ~~28. (3) Successor.--Successor is, generally speaking, the~~ A successor is a
 29 ~~person who takes the place of another. There are in-law two sorts kinds of~~
 30 ~~successors: the universal successor, such as the heir, the universal legatee, and the~~

1 general legatee; and the particular successor ~~by particular title~~, such as the buyer,
 2 donee, or particular legatee ~~of particular things, the transferee~~. The universal
 3 successor represents the person of the deceased; and succeeds to ~~all~~ his rights and
 4 charges. The particular successor succeeds only to the rights appertaining to the
 5 thing ~~which~~ that is sold, ~~ceded~~ donated, or bequeathed, or otherwise transferred to
 6 him.

7 32. ~~(4) Third Persons.=-person. With respect to a contract or judgment, third~~
 8 ~~persons are all who are not parties to it. In case of failure, third persons are,~~
 9 ~~particularly, those creditors of the debtor who contracted with him without~~
 10 ~~knowledge of the rights which he had transferred to another. A third person is a~~
 11 ~~person who is not a party to a ceremony, an instrument, a juridical act, a judgment,~~
 12 ~~or a legal relationship. Examples of third persons include officiants to ceremonies,~~
 13 ~~witnesses to instruments or juridical acts, and all those other than obligor and obligee~~
 14 ~~to the legal relationship between the former and the latter. With respect to an~~
 15 ~~obligation, a third person does not include a person such as a universal successor or~~
 16 ~~a person who assumes the obligation or is bound by contract to recognize it.~~

Revision Comments - 2025

18 (a) This revision updates and reorganizes many of the concepts that were
 19 contained in prior Article 3506. Provisions regarding interpretation of the Civil Code
 20 have been relocated to the Preliminary Title. See, e.g., Articles 14 and 15. Other
 21 definitions more appropriate to specific sections of the Civil Code have also been
 22 relocated to their appropriate places. See, e.g., Articles 2315.1 and 2315.2.

23 (b) Given the civil law's tendency to omit definitions in civil codes, this
 24 revision has retained only a minimal number of defined concepts. For example, the
 25 term "assignment" has been included with only slight modification from its
 26 predecessor term "assigns." The inclusion of the term "assignment" in this Article
 27 is not intended to disturb the developed jurisprudence concerning the distinction
 28 between an assignment and a sublease in the mineral law context. The revision adds
 29 a new definition of the term "juridical act," which was not previously included in the
 30 prior law. The term "juridical act" has been included for didactic reasons and because
 31 of its overarching importance throughout the Civil Code. A juridical act may be in
 32 writing, as in the case of a "just title," see, e.g., Article 3483, or it may be oral, as in
 33 the context of general contract formation. See, e.g., Article 1927. The definition
 34 included in this revision is consistent with general civil law theory. The term
 35 "successor" has also been retained given its importance throughout the Civil Code,
 36 but its meaning has not been changed. The term "successor by particular title" has
 37 been modernized and changed to the term "particular successor" solely for
 38 consistency purposes. The distinction between things "donated" by means of an inter
 39 vivos donation and things "bequeathed" by a legacy in a testament has been
 40 preserved in the definition of "particular successor," and no substantive
 41 differentiation is intended by the use of different terms. The word "bequeathed" has

1 been retained solely because of its use in other substantive provisions of the Civil
 2 Code. See, e.g., Articles 935, 1229, 1231, 1234, 1299, 1300, 1307, 1351, 1586, 1613,
 3 and 1725. The term "successor" used in this Article and throughout the Civil Code
 4 has a meaning that is similar, but not identical, to the term "legal successor" used in
 5 the Code of Civil Procedure. See, e.g., Code of Civil Procedure Articles 801 through
 6 805 and 2701 through 2703.

7 (c) The term "third person" has been revised and updated to accord with its
 8 modern and varied usage throughout the Civil Code. The definition of "third person"
 9 in this Article includes the substance of former Article 3343 but expands upon it to
 10 accommodate usage of the term in other parts of the Civil Code. A "third person"
 11 is one who is not a party to the underlying transaction, obligation, or right. In the
 12 context of marriage, a "third person" is anyone, including the officiant, other than the
 13 individuals who are contracting marriage. See, e.g., Article 91. In the context of
 14 instruments or juridical acts, a third person is anyone who is not a maker of the
 15 instrument or a party bound by the juridical act. See, e.g., Articles 3342 and 3353.
 16 In other contexts, the Civil Code uses the term "third person" to refer to persons not
 17 a party to a specified legal relationship. See, e.g., Article 468 (pertaining to
 18 deimmobilization in the absence of rights of third persons (i.e., one other than the
 19 owner and a transferor)); Article 598 (referring to the encroachment on a usufruct by
 20 a third person (i.e., one other than usufructuary or naked owner)); Article 1521
 21 (referring to dispositions by a third person (i.e., one other than a donor and donee)
 22 pursuant to a vulgar substitution); Article 1961 (pertaining to duress by a third
 23 person (i.e., one other than offeror or offeree)); and Article 2465 (pertaining to a
 24 sales price left to the determination of a third person (i.e., one other than a vendor or
 25 a vendee)). Importantly, the articles of the Civil Code pertaining to assignment,
 26 assumption, and subrogation make reference to agreements between parties to the
 27 original relationship and third persons to whom rights are transferred or who assume
 28 obligations. In the context of those articles, it is clear that the term "third person"
 29 similarly refers to a person who is not a party to the original obligation.
 30 Nevertheless, once the assignment, assumption, or subrogation occurs, the relevant
 31 third person enjoys certain rights or undertakes certain obligations pursuant to the
 32 original obligation and is no longer properly considered a third person to those rights
 33 or obligations. For the extent of the rights assigned or obligations assumed, see, e.g.,
 34 Articles 1821 through 1827 and 1900. Universal successors are also excluded from
 35 the definition of "third person" as universal successors "represent[] the person of the
 36 deceased," "acquire ownership of the estate," may be "liable to creditors for the
 37 payment of the estate debts," and "continue[] the possession of the decedent with all
 38 its advantages and defects." See Articles 3506(3), 935, 1416(A), and 936. The
 39 definition of the term "third person" as used in the Civil Code does not implicate the
 40 meaning of the same term used in the Code of Civil Procedure, see, e.g., Code of
 41 Civil Procedure Article 1091, or the meaning of the term "third possessor," which
 42 is used in the Civil Code and defined in Article 3315.

43 (d) Other terms, such as "family," have been deleted because the prior
 44 definition was inaccurate and the current use of the term in the Civil Code can be
 45 ascertained by ordinary meaning. See Article 11. The term "child" has also been
 46 deleted because of the varying meanings ascribed to the term in different articles of
 47 the Civil Code. Compare, e.g., Articles 196 and 197, with Articles 2315.5 and
 48 2315.6.

1 BOOK IV. CONFLICT OF LAWS

2 TITLE I. GENERAL PROVISIONS

3 Art. 3514. Multistate cases

4 Unless otherwise expressly provided by the law of this state, cases having
5 contacts with other states are governed by the law selected in accordance with the
6 provisions of this Book.

7 Revision Comments - 2025

8 (a) This Article does not change the law. Former Article 14 has been
9 redesignated as current Article 3514 solely for purposes of more accurate placement
10 in the Civil Code. Comments (b) and (c) to this Article have also been reproduced
11 from Comments (a) and (b) to prior Article 14 with only minor stylistic amendments.

12 (b) Role and function of this Article. This Article replaces Articles 14 and 15
13 (Redesignated 1987), which contained virtually all of the choice-of-law rules of the
14 Code. The choice-of-law rules are now placed in Book IV. This Article delineates
15 the scope of Book IV and establishes its residual nature vis-a-vis other more specific
16 provisions of Louisiana legislation.

17 (c) Role and function of Book IV. The scope of Book IV encompasses all
18 multistate cases or "cases having contacts with other states," whether these contacts
19 pertain to the domicile of the parties, the transaction or the occurrence giving rise to
20 the dispute, or the location of its object or subject matter. These contacts may
21 implicate the laws of the involved foreign states in a way that raises the potential of
22 a conflict between their laws and the law of this state. Book IV establishes the
23 principles for determining whether such a conflict actually exists in a given case and,
24 if so, how it should be resolved. Through these principles, a court will determine
25 whether the provisions of the first three books of the Civil Code as well as other
26 Louisiana laws should apply to a particular case "having contacts with other states"
27 and, if so, to what extent.

28 The residual nature of the provisions of Book IV is established by the
29 introductory phrase of this Article "[u]nless otherwise expressly provided by the law
30 of this state." This phrase means that the provisions of Book IV are not intended to
31 supersede more specific choice-of-law rules contained in other Louisiana statutes,
32 such as the Insurance Code, the Uniform Commercial Code, the Consumer Credit
33 and Consumer Protection statutes, and the Lease of Movables Act. When applicable,
34 those rules, being more specific, prevail over the provisions of Book IV.

35 * * *

36 Art. 3536. Real rights in corporeal movables

37 Real rights in corporeal movables are governed by the law of the state in
38 which the movable was situated at the time that the right was acquired.

39 Nevertheless, after the removal of a movable to this state, a real right
40 acquired while the movable was situated in another state is subject to the law of this
41 state if: (1) the right is incompatible with the law of this state; ~~or~~ (2) the holder of

1 the right knew or should have known of the removal to this state; or (3) justice and
2 equity so dictate in order to protect third ~~parties~~ persons who, in good faith, have
3 dealt with the thing after its removal to this state.

4 Section 2. Civil Code Article 3343 is hereby repealed in its entirety.

5 Section 3. The Louisiana State Law Institute is hereby directed to print the following
6 Comment to Civil Code Article 3338:

7 Art. 3338. Instruments creating real rights in immovables; recordation required to
8 affect third persons

9 * * *

10 Revision Comments - 2025

11 Although Article 3343, which previously defined the term "third person," has
12 been repealed, no change in the law is intended. Article 3506 now defines the term
13 "third person" as that term is used throughout the Civil Code. The substance of
14 former Article 3343 is now contained in Article 3506.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____