

2026 Regular Session

SENATE BILL NO. 127

BY SENATOR MILLER

SUCCESSIONS. Provides for donations that a curator may make on behalf of an interdict and limitations on forced portion to forced heirs with disabilities. (8/1/26)

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

AN ACT

To amend and reenact Code of Civil Procedure Art. 4566(C) and to enact R.S. 9:1026 and 2374, relative to donations; to provide relative to management of affairs of the interdict; to provide relative to donations made by a curator on behalf of an interdict; to provide relative to the net worth of an interdict; to provide relative to donations inter vivos, and testamentary and charitable dispositions; to provide with respect to limitations and exceptions on donations and testamentary and charitable dispositions in certain circumstances; to provide with respect to tax exclusions, exemptions, and maximum limits in certain circumstances; to provide relative to forced heirs with disabilities; to provide relative to forced portion in certain circumstances; to provide relative to the net worth of a forced heir with disabilities; to provide for certain terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Art. 4566(C) is hereby amended and reenacted to read as follows:

Art. 4566. Management of affairs of the interdict

* * *

1 C. A curator may accept donations made to the interdict. A curator shall not
 2 make donations of the property of the interdict except as provided by law. A
 3 charitable donation inter vivos or testamentary charitable disposition made in
 4 compliance with the provisions of R.S. 9:1026 and approved by the court shall
 5 not constitute a breach of the fiduciary duty or conflict of interest by the
 6 curator notwithstanding that a curator, undercurator, parent, direct
 7 descendant, sibling or descendant of a sibling of the interdict is affiliated with
 8 the charity or a recipient of the donation. A curator without court approval may
 9 refuse, renounce, or disclaim a donation, inheritance or bequest made to an
 10 interdict with a direct or beneficial net worth as a trust beneficiary or otherwise
 11 of one hundred million dollars or more.

12 * * *

13 Section 2. R.S. 9:1026 and 2374 are hereby enacted to read as follows:

14 **§1026. Interdicts; donations; limitations; net worth**

15 **A. Notwithstanding the provisions of R.S. 9:1022 through 1024 and**
 16 **pursuant to Subsection C of this Section, upon request of the curator and**
 17 **undercurator, the court may authorize a curator, in the name of and on behalf**
 18 **of an interdict with a direct or beneficial net worth of one hundred million**
 19 **dollars or more as a trust beneficiary or otherwise, to make the following**
 20 **donations:**

21 **(1) Subject to Paragraph (A)(2) of this Subsection and Subsection C of**
 22 **this Section, other than to charitable recipients, an interdict may make, directly**
 23 **or indirectly, donations inter vivos of money and other assets from surplus**
 24 **funds of the interdict utilizing all or a portion of the interdict's annual federal**
 25 **gift tax exclusions pursuant to 26 U.S.C. 2503(b) and the interdict's lifetime**
 26 **credits and exemptions from federal estate tax and the tax on generation**
 27 **skipping transfers, pursuant to 26 U.S.C. 2010 and 2631 et seq., to one or more**
 28 **of the following: an interdict's direct descendant, sibling, descendant of a**
 29 **sibling, stepsibling or descendant of a stepsibling, or step-descendant of a**

1 sibling, or to one or more trusts for the benefit of the recipient or one or more
2 class trusts for the benefit of such present and future recipients, including to
3 grantor trusts.

4 Additional donations inter vivos pursuant to this Paragraph may be
5 made, except to a stepsibling, descendant of a stepsibling or step-descendant of
6 a sibling or trust for the benefit of a stepsibling or step-descendant of a sibling,
7 subject to a maximum lifetime limit of five times the prevailing federal estate
8 tax lifetime exemption equivalent.

9 (2) Inter vivos noncharitable donations authorized in Paragraph (A)(1)
10 of this Subsection in the name or on behalf of an interdict shall be made in equal
11 amounts to each member of the same class and generation descending from a
12 common parent. Inter vivos noncharitable donations authorized in Paragraph
13 (A)(1) of this Subsection and made to nieces and nephews, including step-nieces
14 and step-nephews, with the same parent shall be made equally to each
15 descendant of that parent.

16 If the federal gift tax has been repealed, cumulative inter vivos transfers
17 otherwise authorized in Paragraph (A)(1) of this Subsection are permitted
18 subject to an aggregate lifetime amount equal to six hundred percent of the
19 highest gift tax lifetime exemption in effect prior to the gift tax being repealed.
20 Annual exclusion donations may be made subject to the provisions of this
21 Section after donations in the maximum allowable amounts pursuant to
22 Paragraph (A)(1) of this Subsection.

23 (3) Noncharitable testamentary dispositions made upon the death of the
24 interdict, other than through intestacy, including a self-settled trust in which the
25 interdict is a beneficiary may only be made to a direct descendant, sibling,
26 descendant of a sibling of an interdict or one or more trusts for the benefit of
27 such recipients, or one or more class trusts for the benefit of present and future
28 recipients, including to grantor trusts, but may not be made to a stepsibling,
29 descendant of a stepsibling, or trust for the benefit of such recipient.

1 Testamentary dispositions pursuant to this Paragraph shall be made in equal
2 amounts to recipients of the same class and generation, except that a catch-up
3 bequest may be made to an interdict's direct descendant, sibling, or descendant
4 of a sibling to equalize a donation to a permissible recipient born after inter
5 vivos donations were made to other recipients of the same degree.

6 Nothing in this Section shall be construed to annul or supersede a lawful
7 will or trust in effect prior to a person being interdicted.

8 (4) Inter vivos charitable dispositions may be made to charitable
9 recipients, including split interest trusts, donor advised funds, charitable trusts,
10 and private foundations, even if such donees are controlled by a parent, direct
11 descendant, sibling, or descendant of a sibling of an interdict, up to a maximum
12 annual aggregate amount of ten percent of the interdict's net worth in excess of
13 one hundred million dollars. An inter vivos charitable disposition pursuant to
14 this Paragraph shall not be allowed if the interdict's net worth is less than one
15 hundred million dollars.

16 B. Inter vivos donations, testamentary and charitable dispositions,
17 including a charitable remainder trust, to one or more charities may be made
18 that take effect upon the death of the interdict provided that such charitable
19 donations shall not exceed an aggregate of seventy-five percent of the interdict's
20 gross estate at the time of his death for federal estate tax reporting purposes.

21 C.(1) The court may authorize a curator to make a donation pursuant
22 to Subsection A of this Section when the procedure provided for in Code of Civil
23 Procedure Articles 4271 and 4566 is complied with and the donation does not
24 materially impair the financial condition of the interdict and is not likely to
25 deprive the interdict of sufficient funds to provide for his future needs and
26 support. The court may require the curator to provide documentation to
27 substantiate the request to make a donation and place the information obtained
28 under seal.

29 (2) For purposes of this Subsection, it is presumed that a donation does

credits and exemptions from federal estate tax and the tax on generation skipping transfers pursuant to present law (26 USC §2010 and §2631 et seq.) to one or more of the following: an interdict's direct descendant, sibling, descendant of a sibling, stepsibling or descendant of a stepsibling, step-descendant of a sibling or to one or more trusts for the benefit of the recipient or one or more class trusts for the benefit of such present and future recipients, including to grantor trusts.

Proposed law provides that additional donations inter vivos pursuant to proposed law may be made, except to a stepsibling, descendant of a stepsibling, or step-descendant of a sibling or trust for the benefit of a stepsibling or step-descendant of a sibling, subject to a maximum lifetime limit of five times the prevailing federal estate tax lifetime exemption equivalent.

Proposed law provides that inter vivos noncharitable donations authorized in proposed law in the name or on behalf of an interdict shall be made in equal amounts to each member of the same class and generation descending from a common parent.

Proposed law provides that inter vivos noncharitable donations authorized in proposed law and made to nieces and nephews, including step-nieces and step-nephews, with the same parent shall be made equally to each descendant of that parent.

Proposed law provides that if the federal gift tax has been repealed, cumulative inter vivos transfers otherwise authorized in proposed law are permitted subject to an aggregate lifetime amount equal to 600% of the highest gift tax lifetime exemption in effect prior to the gift tax being repealed. Further provides that annual exclusion donations may be made subject to the provisions of proposed law after donations in the maximum allowable amounts pursuant to proposed law.

Proposed law provides that noncharitable testamentary dispositions made upon the death of the interdict, other than through intestacy, including a self-settled trust in which the interdict is a beneficiary may only be made to a direct descendant, sibling, descendant of a sibling of an interdict or one or more trusts for the benefit of such recipients, or one or more class trusts for the benefit of present and future recipients, including to grantor trusts, but may not be made to a stepsibling, descendant of a stepsibling, or trust for the benefit of such recipient.

Proposed law provides that testamentary dispositions pursuant to proposed law shall be made in equal amounts to recipients of the same class and generation, except that a catch-up bequest may be made to an interdict's direct descendant, sibling, or descendant of a sibling to equalize a donation to a permissible recipient born after inter vivos donations were made to other recipients of the same degree.

Proposed law provides that proposed law shall not be construed to annul or supercede a lawful will or trust in effect prior to a person being interdicted.

Proposed law provides that inter vivos charitable dispositions may be made to charitable recipients, including split interest trusts, donor advised funds, charitable trusts, and private foundations, even if such donees are controlled by a parent, direct descendant, sibling, or descendant of a sibling of an interdict, up to a maximum annual aggregate amount of 10% of the interdict's net worth in excess of \$100 million. Proposed law provides that an inter vivos charitable disposition pursuant to proposed law shall not be allowed if the interdict's net worth is less than \$100 million.

Proposed law provides that inter vivos donations, testamentary and charitable dispositions, including a charitable remainder trust, to one or more charities may be made that take effect upon the death of the interdict provided that such charitable donations shall not exceed an aggregate of 75% of the interdict's gross estate at the time of his death for federal estate tax reporting purposes.

Proposed law provides that the court may authorize a curator to make a donation pursuant to proposed law when the procedure provided for in present law and proposed law is complied with and the donation does not materially impair the financial condition of the interdict and is not likely to deprive the interdict of sufficient funds to provide for his future needs and support. Further provides that the court may require the curator to provide documentation to substantiate the request to make a donation and place the information obtained under seal.

Proposed law provides that for purposes of proposed law, it is presumed that a donation does not materially impair the financial condition of the interdict or deprive the interdict of sufficient resources if the curator shows that the direct or beneficial net worth of the interdict is not less than \$100 million as a trust beneficiary or otherwise, after subtracting the value of the donation.

Proposed law (R.S. 9:2374) provides that notwithstanding the provisions of present law (C.C. Art. 1495), a forced heir who has attained the age of majority, is permanently incapable of taking care of his person or administering his estate due to mental incapacity, physical infirmity, an inherited incurable disease, or other documented medical condition at the time of the death of a decedent who is an ancestor of such forced heir, and who has a direct or beneficial net worth in excess of \$50 million as a trust beneficiary or otherwise, shall have a forced portion of one dollar.

Effective August 1, 2026.

(Amends C.C.P. Art. 4566(C); adds R.S. 9:1026 and 2374)