

2016 Regular Session

HOUSE BILL NO. 350

BY REPRESENTATIVE HILFERTY

1 AN ACT

2 To amend and reenact Civil Code Article 2995 and Code of Civil Procedure Article 4568  
3 and to enact Civil Code Article 2997(7) and Code of Civil Procedure Articles  
4 3601(E), 4565(B)(7), 4566(J), and 4570 and R.S. 9:3851(E), relative to persons; to  
5 provide with respect to interdicted persons; to provide relative to persons subject to  
6 mandate; to provide for duties and restrictions of curators, undercurators, and  
7 mandataries; to provide with respect to injunctions; to provide for an effective date;  
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Civil Code Article 2995 is hereby amended and reenacted and Civil Code  
11 Article 2997(7) is hereby enacted to read as follows:

12 Art. 2995. Incidental, necessary, or professional acts

13 The mandatory may perform all acts that are incidental to or necessary for the  
14 performance of the mandate.

15 The authority granted to a mandatory to perform an act that is an ordinary  
16 part of his profession or calling, or an act that follows from the nature of his  
17 profession or calling, need not be specified.

18 A mandatory shall not prevent or limit reasonable communication, visitation,  
19 or interaction between a principal who is over the age of eighteen years and another  
20 person without prior court approval, to be granted only upon a showing of good  
21 cause by the mandatory, unless express authority has been provided pursuant to Civil  
22 Code Article 2997(7).

23 \* \* \*

1 Art. 2997. Express authority required

2 Authority also must be given expressly to:

3 (1) Make an inter vivos donation, either outright or to a new or existing trust  
4 or other custodial arrangement, and, when also expressly so provided, to impose such  
5 conditions on the donation, including, without limitation, the power to revoke, that  
6 are not contrary to the other express terms of the mandate.

7 (2) Accept or renounce a succession.

8 (3) Contract a loan, acknowledge or make remission of a debt, or become a  
9 surety.

10 (4) Draw or endorse promissory notes and negotiable instruments.

11 (5) Enter into a compromise or refer a matter to arbitration.

12 (6) Make health care decisions, such as surgery, medical expenses, nursing  
13 home residency, and medication.

14 (7) Prevent or limit reasonable communication, visitation, or interaction  
15 between the principal and a relative by blood, adoption, or affinity within the third  
16 degree, or another individual who has a relationship based on or productive of strong  
17 affection.

18 Section 2. Code of Civil Procedure Article 4568 is hereby amended and reenacted  
19 and Code of Civil Procedure Articles 3601(E), 4565(B)(7), 4566(J), and 4570 are hereby  
20 enacted to read as follows:

21 Art. 3601. Injunction, grounds for issuance; preliminary injunction; temporary  
22 restraining order

23 \* \* \*

24 E. The irreparable injury, loss, or damage enumerated in Paragraph A of this  
25 Article may result from the isolation of an individual over the age of eighteen years  
26 by any other individual, curator, or mandatary, including but not limited to violations  
27 of Civil Code Article 2995 or Code of Civil Procedure Article 4566(J).

28 \* \* \*

29 Art. 4565. Undercurators

30 \* \* \*

1 B. The undercurator shall:

2 \* \* \*

3 (7) Move to appoint a successor for a curator who violates any of the  
4 provisions of Code of Civil Procedure Article 4566.

5 \* \* \*

6 Art. 4566. Management of affairs of the interdict

7 \* \* \*

8 J. A curator shall allow communication, visitation, and interaction between  
9 an interdict who is over the age of eighteen years and a relative of the interdict by  
10 blood, adoption, or affinity within the third degree, or another individual who has a  
11 relationship with the interdict based on or productive of strong affection if it would  
12 serve the best interest of the interdict.

13 \* \* \*

14 Art. 4568. Removal of a curator or undercurator

15 On motion of any interested person, or on its own motion, the court may  
16 remove a curator or undercurator from office for good cause. Good cause may  
17 include but not be limited to a violation of Code of Civil Procedure Article 4566(J).

18 Unless otherwise ordered by the court, removal of the curator or undercurator  
19 by the court is effective upon qualification of the appointed successor.

20 \* \* \*

21 Art. 4570. Cause of action for visitation with the interdict

22 A. Any relative of an interdict by blood, adoption, or affinity within the third  
23 degree, or an individual who has a relationship with the interdict based on or  
24 productive of strong affection may file a rule to show cause seeking visitation,  
25 communication, or interaction with an interdict who is over the age of eighteen  
26 years.

27 B. Any person filing a cause of action pursuant to Paragraph A of this Article  
28 may request an expedited hearing on the cause of action, and upon showing of good  
29 cause, shall be entitled to an expedited hearing.

