
DIGEST

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HB 61 Original

2023 Regular Session

Schlegel

Abstract: Provides for nullity of contracts between minors and interactive computer services without consent of the legal representative of the minor.

Present law (C.C. Art. 1918) provides that all persons have capacity to contract except for unemancipated minors, interdicts, and persons deprived of reason at the time of contracting.

Present law (C.C. Art. 366) provides that full emancipation confers all effects of majority on the person emancipated. Limited emancipation confers the effects of majority specified in the judgment of limited emancipation.

Present law (C.C. Art. 2029) provides that a contract is null when the requirements for its formation have not been met.

Present law (C.C. Art. 2030) provides that a contract is absolutely null when it violates a rule of public order. A contract that is absolutely null may not be confirmed. An absolute nullity may be invoked by any person or may be declared by the court on its own initiative.

Proposed law provides that no interactive computer service shall enter into a contract or other agreement, including the creation of an online account, with an unemancipated minor without the consent of the legal representative of the minor.

Proposed law provides that the interactive computer service may rely on the consent of the legal representative unless the interactive computer service knows or reasonably should know that the legal representative is no longer authorized to represent the minor.

Proposed law provides that all contracts entered into between the minor and an interactive computer service without the consent of the legal representative shall be absolutely null.

Proposed law provides that third parties may be used to obtain the consent of the legal representative.

Proposed law provides that proposed law only applies to minors who are domiciled in this state.

Present law (C.C. Art. 41) provides that the domicile of an unemancipated minor is that of the parent, parents, tutor, or joint tutors with whom the minor usually resides. If the minor has been placed under the legal authority of a parent or other person, the domicile of that person is the domicile of the minor, unless the court directs otherwise.

Proposed law provides for definitions of the following: "account", "consent", "interactive computer service", "legal representative", and "minor".

Present law (47 U.S.C. §230) defines "interactive computer service" as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server.

Present law (C.C. Art. 232) provides that either parent during the marriage has parental authority over their child unless otherwise provided by law.

Present law (C.C. Art. 246) provides that a minor not emancipated is placed under the authority of a tutor after the dissolution of the parents' marriage. Present law (C.C. Art. 249) provides that the tutor is accountable.

(Adds R.S. 9:2717.1)