

2025 Regular Session

HOUSE BILL NO. 181

BY REPRESENTATIVE WILEY

(On Recommendation of the Louisiana State Law Institute)

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

CIVIL/PROCEDURE: Provides relative to definition of terms in the Civil Code

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:

1 parent or an ascendant, is governed by the rules of tutorship, unless modified by
2 court order.

3 * * *

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

5 * * *

6 B. In the event that one or more of the co-owners are absentees or have not
7 consented to a partition by private sale, the court shall order a partition by private
8 sale and shall give first priority to the private sale between the existing co-owners,
9 over the sale by partition by licitation or private sale to third ~~parties~~ persons. The
10 court shall order the partition by private sale between the existing co-owners as
11 identified in the conveyance records as of the date of filing for the petition for
12 partition by private sale. The petition for partition by private sale shall be granted
13 first priority, and the sale shall be executed under Title IX of Book VII of the Code
14 of Civil Procedure.

15 * * *

16 Art. 1805. Enforcement of contribution

17 A party sued on an obligation that would be solidary if it exists may seek to
18 enforce contribution against any solidary co-obligor by making him a ~~third party~~
19 third-party defendant according to the rules of procedure, whether or not that ~~third~~
20 party third-party defendant has been initially sued, and whether the party seeking to
21 enforce contribution admits or denies liability on the obligation alleged by plaintiff.

22 * * *

23 Art. 1899. Rights acquired by third ~~parties~~ persons

24 Compensation can neither take place nor may it be renounced to the prejudice
25 of rights previously acquired by third ~~parties~~ persons.

26 Art. 1900. Assignment by obligee

27 An obligor who has consented to an assignment of the credit by the obligee
28 to a third ~~party~~ person may not claim against the ~~latter~~ third person any

1 compensation that the obligor otherwise ~~he~~ could have claimed against the ~~former~~
2 obligee.

3 An obligor who has been given notice of an assignment to which ~~he~~ the
4 obligor did not consent may not claim compensation against the assignee for an
5 obligation of the assignor arising after that notice.

6 * * *

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

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

9 A contracting party may stipulate a benefit for a third person called a ~~third~~
10 ~~party~~ third-party beneficiary.

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

14 Art. 1979. Revocation

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

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

20 * * *

21 Art. 1981. Rights of beneficiary and stipulator

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

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

26 * * *

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

28 Contracts may produce effects for third ~~parties~~ persons only when provided
29 by law.

30 * * *

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

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

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

7 * * *

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

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

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

14 * * *

15 Art. 2315.1. Survival action

16 * * *

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

23 Revision Comments - 2025

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

27 Art. 2315.2. Wrongful death action

28 * * *

29 E. For purposes of this Article, a father or mother who has abandoned the
30 deceased during his minority is deemed not to have survived him. Abandonment is

1 presumed when the father or mother has left his child for a period of at least twelve
2 months and the father or mother has failed to provide for the child's care and support,
3 without just cause, thus demonstrating an intention to permanently avoid parental
4 responsibility.

5 Revision Comments - 2025

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

9 * * *

10 Art. 2321. Damage caused by animals; livestock

11 * * *

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

17 * * *

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

19 * * *

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

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

24 * * *

25 Art. 2701. Call in warranty

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

1 for registry, partners in commendam are liable to third ~~parties~~ persons in the same
2 manner as general partners.

3 * * *

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

6 A partner in commendam does not have the authority of a general partner to
7 bind the partnership, to participate in the management or administration of the
8 partnership, or to conduct any business with third ~~parties~~ persons on behalf of the
9 partnership.

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

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

19 * * *

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

23 * * *

24 Art. 3025. Termination by principal

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

29 * * *

1 Art. 3506. General definitions of terms

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

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

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

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

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

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

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

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

23 ~~A child born outside of marriage is a child conceived and born outside of the~~
24 ~~marriage of his parents.~~

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

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

1 a new definition of the term "juridical act," which was not previously included in the
2 prior law. The term "juridical act" has been included for didactic reasons and because
3 of its overarching importance throughout the Civil Code. A juridical act may be in
4 writing, as in the case of a "just title," see, e.g., Article 3483, or it may be oral, as in
5 the context of general contract formation. See, e.g., Article 1927. The definition
6 included in this revision is consistent with general civil law theory. The term
7 "successor" has also been retained given its importance throughout the Civil Code,
8 but its meaning has not been changed. The term "successor by particular title" has
9 been modernized and changed to the term "particular successor" solely for
10 consistency purposes. The distinction between things "donated" by means of an inter
11 vivos donation and things "bequeathed" by a legacy in a testament has been
12 preserved in the definition of "particular successor," and no substantive
13 differentiation is intended by the use of different terms. The word "bequeathed" has
14 been retained solely because of its use in other substantive provisions of the Civil
15 Code. See, e.g., Articles 935, 1229, 1231, 1234, 1299, 1300, 1307, 1351, 1586, 1613,
16 and 1725. The term "successor" used in this Article and throughout the Civil Code
17 has a meaning that is similar, but not identical, to the term "legal successor" used in
18 the Code of Civil Procedure. See, e.g., Code of Civil Procedure Articles 801 through
19 805 and 2701 through 2703.

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

1 (d) Other terms, such as "family," have been deleted because the prior
2 definition was inaccurate and the current use of the term in the Civil Code can be
3 ascertained by ordinary meaning. See Article 11. The term "child" has also been
4 deleted because of the varying meanings ascribed to the term in different articles of
5 the Civil Code. Compare, e.g., Articles 196 and 197, with Articles 2315.5 and
6 2315.6.

7 BOOK IV. CONFLICT OF LAWS

8 TITLE I. GENERAL PROVISIONS

9 Art. 3514. Multistate cases

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

13 Revision Comments - 2025

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

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

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

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

41 * * *

Present law (C.C. Arts. 159, 234, 811(B), 1805, 1899, 1900, 1978, 1979, 1981, 1985, 2021, 2035, 2321(C)(3), 2442, 2701, 2806(B) and (C), 2838, 2841, 2843, 2844(A) and (C), 3025, and 3536) uses the terms "third party" and "third person".

Proposed law retains present law, uses consistent terminology, and makes other technical changes.

Present law (C.C. Arts. 2315.1(E) and 2315.2(E)) provides with respect to the survival and wrongful death actions and sets forth exceptions in cases of abandonment.

Proposed law adds a presumption of abandonment when a parent has left the child for at least twelve months and fails to provide for the child.

Present law (C.C. Art. 3343) provides for a definition of "third person".

Proposed law repeals present law as duplicative and adds a Comment to Article 3338 concerning this repeal.

Present law (C.C. Art. 3506) sets forth definitions of terms in the Civil Code.

Proposed law updates the definitions of "assignment", "successor", and "third person"; adds a definition of "juridical act"; eliminates the definitions of "children" and "family"; and relocates the concepts of gender, number, and abandonment.

(Amends C.C. Arts. 14, 159, 234, 811(B), 1805, 1899, 1900, the heading of Chapter 7 of Title IV of Book III and C.C. Arts. 1978, 1979, 1981, 1985, 2021, 2035, 2315.1(E), 2315.2(E), 2321(C)(3), 2442, 2701, 2806(B) and (C), 2838, 2841, 2843, 2844(A) and (C), 3025, 3506, and 3536; Adds C.C. Arts. 15 and 3514; Repeals C.C. Art. 3343)