

Selected Legislation on
Civil Law and Procedure
and
The Judiciary
from the 2024 Regular Session
of the Louisiana Legislature

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SELECTED CIVIL LAW AND PROCEDURE LEGISLATION

Civil Procedure

Act No. 32 (SB103) DUPLESSIS

COURTS: Provides for the appointment of the interpreters in court proceedings. (8/1/24)

Changes law to require the appointment of an interpreter in accordance with the Code of Evidence and the Rules of the Supreme Court when a party is a limited English proficient or deaf individual.

This Act provides that the cost of the court interpreter is paid out of the appropriate court fund.

Present law (C.E. Art. 604) provides that interpreters are subject to the provisions of the Code of Evidence relating to qualification as an expert. This Act changes present law to subject interpreters to the Rules of the Louisiana Supreme Court, removes the reference to experts, and recognizes the distinction between interpretations and translations.

Effective August 1, 2024.

Act No. 183 (HB 21) MELERINE

CIVIL/PROCEDURE: Authorizes service of process by commercial courier.

Amends R.S. 13:3425(B) regarding the appointment of a curator for an absent person to provide for delivery by commercial carrier of a copy of the petition for appointment and notice in addition to registered or certified mail.

It also enacts Paragraph B of C.C.P. Art. 5094 which states, “an attorney is deemed to have acted with reasonable diligence when the attorney sends an absentee a letter by certified mail or commercial courier to the last known address of the absentee in an effort to locate the absentee and notify him of the appointment of the attorney to represent the absentee defendant.”

Defines reasonable diligence as an attorney who sends an absentee a letter by certified mail or commercial courier to the last known address of the absentee in an effort to located the absentee and notify him of the appointment of the attorney to represent the absentee defendant.

Effective August 1, 2024. (Amends R.S. 13:3425(B) and C.C.P. Art. 5094)

Act 185 (HB27) MELERINE

CIVIL/PROCEDURE: Authorizes service of process by commercial courier

Amends R.S. 13:3715.1(B) to provide that the required notice to a patient who is a party to litigation of subpoena duces tecum to a health care provider for the patient’s health care records may be delivered by commercial courier as defined by C.C.P. Art. 1313(D), in addition to registered or certified mail.

Effective August 1, 2024. (Amends 13:3715.1(B)(1))

Act No. 371 (HB 227) MUSCARELLO

CIVIL/PROCEDURE: Provides for continuous revisions relative to civil procedure

Provides that a party or attorney may sign a pleading by electronic signature in accordance with C.C.P. Art. 253.

Requires that a party seeking to challenge whether a witness qualifies as an expert or whether the methodologies employed are reliable under the Code of Evidence to file a motion for a pretrial hearing.

Provides that if the ground for the peremptory exception pleaded in the appellate court is peremption, the plaintiff may demand that the case be remanded to the trial court for trial of the exception. Retains the ability to demand remand if peremptory exception of prescription is pleaded in the appellate court.

Provides that service may be made on either a resident or a nonresident by use of a commercial courier that requires a signed receipt from the addressee upon completion of delivery.

Provides that in the case of a final account, in addition to service which may be made in accordance with Article 1314 or by certified mail on either a resident or a nonresident, adds that service may be made on either a resident or a nonresident by use of a commercial courier that requires a signed receipt from the addressee upon completion of delivery.

Effective August 1, 2024. (Amends C.C.P. Arts. 863(A), 1425(F)(1) and (2), 1436.1, 2163, 2298, 3136, and 3335)

HB443 COATES

Signed by the Governor – Act 654

CIVIL/LAW: Provides relative to confidentiality of records in cases involving certain protected persons

Summary: Act 654 provides that that courts with civil or family jurisdiction or administrative law judges may authorize the issuance of a subpoena duces tecum for the production of a videotape of a protected person made pursuant to this Act for good cause shown.

It requires the subpoena duces tecum to order the videotape of the protected person be returnable to the court for inspection. Also provides that if the court determines that the videotape is relevant and necessary to the case, the court may order that the videotape be disclosed to the attorneys of record for each party subject to a protective order.

Act No. 502 (SB84) SEABAUGH

CIVIL PROCEDURE: Provides for motion for judgment on offer of judgment.

Summary: Language is added at the beginning of Code of Civil Procedure Art. 970(A) so that it reads, “**After an opportunity for adequate discovery, but not less than** 20 days before the time specified for the trial of the matter, without any admission of liability, any party may serve upon an adverse party an offer of judgment for the purpose of settling all of the claims between them.”

Additionally, Paragraph C now reads, “If the final judgment obtained by the plaintiff-offeree is at least 25% less than the amount of the offer of judgment made by the defendant-offeror or if the final judgment obtained against the defendant-offeree is at least 25% greater than the amount of the offer of judgment made by the plaintiff-offeror, **or if the final judgment is in favor of the defendant offeror**, the offeree must pay the offeror's costs, exclusive of attorney fees, incurred after the offer was made, as fixed by the court.”

Effective August 1, 2024.

Act No. 789 (HB803) MUSCARELLO

CIVIL/PROCEDURE: Provides relative to interruption of prescription and venue

Present law (C.C. Art. 3462) provides that prescription is interrupted when an action is commenced in a court of competent jurisdiction and venue.

Act 789 retains present law but removes the requirement of proper venue.

Present law (C.C.P. Art. 42(5)) provides that actions against a foreign corporation or a foreign limited liability company not licensed to do business in the state, or a nonresident who has not appointed an agent for the service of process in the manner provided by law, other than a foreign or alien insurer, shall be brought in the parish of the plaintiff's domicile or in a parish where the process may be, and subsequently is, served on the defendant

Act 789 removes the distinction for foreign or alien insurers in present law and provides that actions against a foreign corporation or a foreign limited liability company not licensed to do business in the state, or a nonresident who has not appointed an agent for the service of process in the manner provided by law, shall not be brought in the parish of the plaintiff's domicile or parish where service may be made and is subsequently made on the defendant when service is made pursuant to R.S. 22:335.

Present law (C.C.P. Art. 42(6)) provides that a nonresident, other than a foreign corporation or a foreign or alien insurer, who has appointed an agent for the service of process in the manner provided by law, shall be brought in the parish of the designated post office address of an agent for the service of process.

This Act removes the distinction for foreign or alien insurers in present law.

Present law (C.C.P. Art. 863(F)) provides for the imposition of sanctions.

Act 789 retains present law but provides that sanctions shall not be imposed with respect to an original petition that is filed within 60 days of an applicable prescriptive date and then transferred to a court of proper venue.

Prescription

Act No. 184 (HB23) MELERINE

PRESCRIPTION: Provides relative to the prescription of actions for violation of building restrictions

Amends C.C. Art 781 to define that a noticeable violation for the commencing of an action for the violation of building restrictions is, “when an apparent activity has occurred on the immovable in violation of the building restriction. The recordation of an instrument that provides for a violation of the building restriction does not constitute a noticeable violation.”

Effective August 1, 2024.

Act No. 423 (HB 315) JOHNSON

PRESCRIPTION: Extends prescription on tort actions

Delictual actions are subject to a liberative prescription of **two years**. Prescription commences to run from the day injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

When damage is caused to immovable property, the **two-year prescription** commences to run from the day the owner of the immovable acquired, or should have acquired, knowledge of the damage.

Provides for prospective application for actions arising after the effective date.

Effective July 1, 2024. (Adds C.C. Arts. 3493.11 and 3493.12; Repeals C.C. Arts. 3492 and 3493)

Act No. 481 (SB246) LUNEAU

CIVIL PROCEDURE: Provides for the prescriptive period for certain actions for abuse of a minor.

Summary: Current law provides that any person whose cause of action related to sexual abuse of a minor was barred by liberative prescription shall be permitted to file an action under present law on or before June 14, 2024. This new law retains present law, but extends the deadline to file an action from June 14, 2024 to June 14, 2027.

Effective June 14, 2024.

SCR26 LUNEAU

Expressly declares that the Legislature's intent in enacting Act No. 322 of the 2021 Regular Session of the Legislature, as amended by Act No. 386 of the 2022 Regular Session of the Legislature and by the Act that originated as Senate Bill No. 246 of the 2024 Regular Session of

the Legislature, be applied retroactively for the limited period of time contained in those Acts to permit child victims of sexual abuse who have attained the age of majority and would otherwise be barred from a cause of action against the alleged perpetrators under prior law, to assert claims in furtherance of the legitimate government interests enumerated by the legislature in the passage of Act No. 322, each amending provision thereafter, and this Concurrent Resolution.

Evidence

Act No. 88 (SB16) PRESSLY

EVIDENCE: Provides for expert testimony

Summary: Amends Code of Evidence Art. 702 to clarify the burden of proof and make semantic changes consistent with Rule 702 of the Federal Rules of Evidence. Art. 702(A)(4) now reads, “A. A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if **the proponent demonstrates to the court that it is more likely than not that**: (4) The **expert’s opinion reflects a reliable application of** the principles and methods to the facts of the case.”

Effective August 1, 2024.

Liability

Act No. 454 (HB 842) WILEY

LIABILITY/CIVIL: Provides relative to civil liability protection for local governments concerning events on the Mississippi River levee

Provides that no person shall have a cause of action against a sponsor of a bonfire presentation unless the sponsor fails to comply with a permit for bonfire presentation, fails to use the proper materials, negligently violates an order from the local authority, or commits a deliberate and wanton act or gross negligence, and the sponsor is the cause in fact of the injuries.

Effective August 1, 2024. (Amends R.S. 9: 2796.3(A))

Act No. 612 (HB 383) GALLE

LIABILITY/CIVIL: Limits liability of operators of motor vehicles for harm caused to certain persons who are injured while illegally blocking a road or highway

Provides that no pedestrian illegally blocking a roadway shall have a cause of action against the operator of a motor vehicle for any injury, death, loss, or damage resulting from any act or omission by the operator of the vehicle if such injury, death, loss, or damage is caused by the operator's use of force with his vehicle.

Provides that the operator may use force with his vehicle in order to retreat or escape from the pedestrian illegally blocking the roadway if the operator reasonably believes that he or his

passengers are in immediate danger of death, bodily injury, or serious harm from the pedestrian illegally blocking a roadway.

Effective August 1, 2024. (Adds R.S. 9:2792.10)

Act No. 252 (HB 784) SCHAMERHORN

LIABILITY/CIVIL: Provides relative to liability for damages caused by livestock

Provides that an owner of livestock is answerable for damages caused by the livestock upon showing that he knew or in the exercise of reasonable care should have known that the livestock would cause damage.

Provides that the owner of livestock is liable for damages for injuries to person or property for livestock that escape an enclosure and the owner could have prevented the escape by an exercise of reasonable care.

Provides that the owner is not liable for damages for injuries due to a fortuitous event, no fault of the owner, or third-party provocation of the livestock.

Effective August 1, 2024. (Amends C.C. Art. 2321)

Act No. 490 (HB785) SCHAMERHORN

LIABILITY/CIVIL: Provides relative to liability for commercial motor vehicles

Defines "commercial motor vehicle" as a motor vehicle used in commerce to transport passengers or property.

Defines "optional equipment" as equipment or a component part of a commercial motor vehicle that:

(1) Was not required to be installed or equipped on the commercial motor vehicle under Federal Motor Vehicle Safety Standards at the time the commercial motor vehicle was manufactured or sold, whichever occurred last.

(2) Was not required by law to be installed on the commercial motor vehicle issued after the vehicle was manufactured or first sold.

Provides that no individual shall have a cause of action against an owner, lessor, or operator of a commercial motor vehicle, or a person renting or leasing the commercial motor vehicle for failure to install optional equipment.

Does not apply to a vehicle involved in an accident after failure to comply with a law requiring a mandatory recall.

Provides that the owner of a commercial motor vehicle shall have no duty to install optional

equipment, and the absence of optional equipment shall not be admissible to establish the owner's negligence.

Effective August 1, 2024. (Adds R.S. 9:2791.1)

Venue

Act No. 595 (HB 88) MELERINE and Act No. 789 (HB 803) MUSCARELLO

CIVIL/VENUE: Provides for venue for actions involving certain insurers

Provides that actions against a foreign corporation or a foreign limited liability company not licensed to do business in the state, or a nonresident who has not appointed an agent for the service of process in the manner provided by law shall be brought in the parish of the plaintiff's domicile or parish where service may be made and is subsequently made on the defendant, except when service is made pursuant to R.S. 22:335 (Act No. 789).

Repeals C.C.P. Art. 42(7) which provided that direct actions against an insured or insurer may be brought in the parish in which the accident or injury occurred or in the parish in which the action could be brought against either the insured or the insurer under the general rules of venue prescribed by present law (C.C.P. Art. 42) only.

Provides that direct actions against an insured or insurer be brought in the parish in which the accident or injury occurred or in the parish in which the action could be brought against the insured.

Removes specific distinctions for foreign or alien insurers in the general rules of venue listed in C.C.P. Arts. 42(5) and (6).

that would no longer be applicable.

Effective August 1, 2024. (Amends C.C.P. Arts. 42(5) and (6); Repeals C.C.P. Art. 42(7) and Sections 1 and 2 of House Bill No. 88 of the 2024 Regular Session of the Legislature)

Contracts

Act No. 16 (HB 123) by Representative Schlegel

CONTRACTS: Provides for consent of a legal representative of a minor who contracts with certain parties

Provides that it is the public policy of the state that minors are to be protected in the online environment and that interactive computer services shall be discouraged from contracting with the minors without the consent of a legal representative.

Removes the provision that an interactive computer service may rely on the consent of the legal representative of the minor to enter into a contract or agreement with a minor unless the interactive computer service knows or reasonably should have known that the legal

representative is no longer authorized to represent the minor.

Provides that any contract entered into between a minor and an interactive computer service without the express consent of the legal representative shall be a relative nullity, but the nullity may be confirmed expressly and in writing.

Provides that nothing in this Act shall supersede or modify the provisions relative to contracts made pursuant to Chapter 2 of Title VI of Book III of the Civil Code which addresses community property.

Effective May 8, 2024. (Amends R.S. 9:2717.2; Repeals §2 and 3 of Act No. 440 of the 2023 R.S.)

Act No. 781 (HB 161) by Representative Bayham

CONTRACTS: Provides relative to nondisclosure agreements

Defines "hostile work environment" as conditions where harassment rises to the level that the harassment alters the ability of an employee to perform the employee's duties.

Defines "hostile work environment dispute" as a dispute between an employer and the employer's employee relating to an alleged hostile work environment.

Defines "nondisclosure clause" as an agreement between an employee and employer that prevents, or has the effect of preventing, an employee from disclosing or discussing a hostile work environment, allegations of a hostile work environment, sexual harassment, or allegations of sexual harassment.

Defines "sexual harassment" as unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating or offensive work environment.

Defines "sexual harassment dispute" as a dispute between an employer and the employer's employee relating to alleged sexual harassment.

Provides that no nondisclosure clause required by an employer and agreed prior to a hostile work environment dispute or sexual harassment dispute shall be judicially enforceable.

Provides that the provisions of the Act do not restrict the ability of an individual to enter into a confidential settlement agreement relating to sexual harassment or a hostile work environment that arises during the employment period.

Effective August 1, 2024. (Adds R.S. 9: 2717.3)

Child Support

Act No. 86 (HB 773) CARPENTER

CHILDREN/SUPPORT: Provides for the schedule of basic child support obligations

Amends the monthly basic child support obligations based on the most recent economic estimates of child-rearing expenditures as a portion of household consumption and changes the minimum adjusted monthly gross income to \$1050 when considering child support. Effective January 1, 2025. (Amends R.S. 9:315.19)

Act No. 448 (HB 770) CARPENTER

CHILDREN/SUPPORT: Provides relative to child support guidelines

Removes references to Hurricanes Katrina and Rita for purposes of child support proceedings.

Removes the provision that in determining whether to deviate from the child support guidelines, the court was authorized to consider the that the combined adjusted gross income of the parties was equal or less than \$950 or that the combined adjusted gross income of the parties was not within the amounts shown on the schedule in R.S. 9:315.19.

Provides that upon an express finding by the court that evidence of a party's actual income or income earning potential is totally absent, there is a rebuttable presumption that the party can earn a weekly gross amount equal to 32 hours at a minimum wage.

Provides that a party shall not be deemed voluntarily unemployed or underemployed if the party is responsible for the care of a disabled child.

Provides that if the combined adjusted gross income of the parties falls below the lowest level, the court shall determine an award for support based on actual earning or income, the factors based in R.S. 9:315.1(A)(1), or any other evidence of a parent's ability to pay.

Provides that under no circumstances shall the determine an award of child support that is not in the best interest of the child or would be inequitable to the parties.

Provides for the procedure and requirements for continuation of child support for a minor child who has a developmental disability.

Effective January 1, 2025. (Amends R.S. 9:315.1(B) and (C), 315.11(A)(2) and (C)(1), 315.13 and 315.22(C) and (D) and C.C.P. Art. 10(A)(9); Adds R.S. 9:315.14 and 315.22.1; Repeals R.S. 9:315.21(F) and 315.22(E))

Custody

Act No. 552 (HB 236) MCMAKIN

CHILDREN/CUSTODY: Provides for evaluations in child custody proceedings

Present law (R.S. 9:331) authorizes the court to order an evaluation by a mental health professional in a child custody or visitation proceeding and prohibits ex parte communication. Proposed law retains present law and clarifies that the evaluation is a mental health evaluation only.

Provides for the awarding of costs with the consideration of the parties' ability to pay and for the reallocation of costs upon conclusion of the matter.

Requires that a licensed mental health professional have experience working with perpetrators and victims of domestic abuse if that is an issue in the case.

Provides that mental health evaluations are subject to certain evidentiary restrictions.

Creates a separate procedure for the appointment of a child custody evaluator to conduct a court-appointed child custody evaluation in a custody or visitation proceeding.

Requires the child custody evaluator to be a licensed mental health professional and to use the Association of Family and Conciliation Courts' Guidelines for Parenting Plan Evaluations in Family Law Cases.

Requires the child custody evaluator to have completed at least five co-evaluations prior to being appointed by the court in addition to having experience working with perpetrators and victims of domestic abuse if that is an issue in the case.

Requires parties and children to cooperate in the evaluation.

Provides for the issuance of a written report to the parties and for the evaluator to serve as a witness and be subject to cross-examination.

Provides that there shall not be a presumption in favor of the evaluator's findings.

Prohibits ex parte communication between the litigants or their attorneys and the child custody evaluator.

Effective August 1, 2024. (Amends R.S. 9:331; Adds R.S. 9:331.3)

Divorce

Act No. 89 (SB29) GREGORY MILLER

DIVORCE: Provides for the allocation of community property following a petition for divorce.

This Act amends R.S. 9:374 and 375. Current law (R.S. 9:374) authorizes the court to award the use and occupancy of community movables or immovables to either spouse, after a petition for divorce is filed, and prior to partition. This Act retains present law and requires the court to consider certain factors in determining the allocation of community property, including the liquidity of community assets, the history of domestic violence, and the history of financial control.

Present law (R.S. 9:375) authorizes the award of attorney fees in support, contribution, and visitation actions. This Act retains present law and additionally authorizes an award of attorney fees in actions allocating the use of community property if either party causes unreasonable delay.

Effective August 1, 2024

Act No. 94 (SB49) GREGORY MILLER

DIVORCE: Provides for the revocation of beneficiary designation for certain assets.

Provides for the automatic revocation of any benefit payable to a former spouse if the parties were divorced after the beneficiary is designated, they remained divorced at the time of a party's death, and no agreement expressly provides otherwise.

Provides that a payor is not liable for having made payment in good faith reliance on the validity of a beneficiary designation affecting any pension, profit-sharing, retirement, or similar benefit plan before the payor has received written notice of the divorce, judgment, or property-settlement agreement at its home office or principal office with notice that the beneficiary designation has been revoked, and has had a reasonable time within which to act.

This shall not apply to any beneficiary designation made pursuant to the Louisiana Public Retirement Law.

Effective August 1, 2024

Act No. 98 (SB188) COUSSAN

FAMILY LAW: Provides for the Uniform Collaborative Family Law Act

Adopts the Uniform Collaborative Family Law Act and limits its application to family law matters. It provides the title, legislative intent, application, construction, and definitions regarding this Act.

Collaborative law is a voluntary, contractually based alternative dispute resolution process for parties who seek to negotiate a resolution of their dispute. The ground rules for collaborative family law participation are set forth in a written agreement in which parties designate

collaborative lawyers and agree not to seek resolution of a dispute by a tribunal during the collaborative law process.

Collaborative law matters that arise under the family law of this state are those matters detailed in R.S. 13:1401 (Family court for the parish of East Baton Rouge; establishment; jurisdiction).

These provisions do not alter the applicability of existing law which affords the state certain rights against the parties in cases in which it provides child support enforcement services.

Effective August 1, 2024

Children and Adoption

Act No. 92 (SB39) MIZELL

CHILDREN’S CODE: Provides for continuous revisions to the Children’s Code.

This Act makes technical and minor changes to multiple Children’s Code Articles. In Children’s Code Art. 625.1, the new language requires the court to advise children ten years of age or older of their rights, including the right to an attorney, to receive notice of all hearings, to have the opportunity to testify, and to reasonable accommodations for any disability.

Present law (Ch.C. Art. 672) authorizes the court on its own motion, for good cause shown and if in the best interest of the child, to disapprove the placement of children as chosen by the Department of Children and Family Services. This Act extends the right to a party to file a motion alleging that the placement is not in the best interest of the child.

Present law (Ch.C. Art. 683) provides for disposition in Child in Need of Care proceedings. This Act retains present law and provides that the court shall not commit a child in state custody to a mental institution without a contradictory hearing and notice to the La. Department of Health. This Act further requires the performance of a psychological or psychiatric evaluation in accordance with present law before committing a child to an institution for intellectual disabilities.

Present law (Ch.C. Art. 720) provides for the contents of a motion for guardianship. This Act clarifies that the motion shall include a statement as to why adoption is not in the best interest of the child and why the child cannot be safely reunified with the parent within a reasonable time. This Act further provides that a parent's statement as to why the child cannot be safely reunified with the parent within a reasonable time shall not be deemed an admission.

Effective August 1, 2024.

Act No. 96 (SB77) GREGORY MILLER

CHILDREN: Provides for the filiation of children.

New law provides that a filiation action pursuant to present law shall be a civil action brought in an ordinary proceeding and may be instituted separately or cumulated in a succession

proceeding. It further provides that the mere commencement of a succession proceeding shall not constitute the instituting of a filiation action for purposes of present law. Act 96 is interpretive, procedural, and remedial.

Effective August 1, 2024.

Act No. 145 (SB92) DUPLESSIS

CHILDREN’S CODE: Provides relative to the Safe Haven Law

Present law provides that "infant" means a child not previously subjected to abuse or neglect, who is not more than 60 days old as determined within a reasonable degree of medical certainty by an examining physician.

Retains present law and further provides, if the infant was admitted to a neonatal intensive care unit upon birth and has not been discharged from the hospital, then the 60 days shall commence from the date of initial discharge.

Effective August 1, 2024.

Act No. 362 (SB496) EDMONDS

CHILDREN: Provides for licensure requirements in adoption services.

Provides that it shall be unlawful for an adoption facilitator or an entity not licensed in La. to assist in the adoption of children. It provides that an individual or entity licensed in La. to participate in the adoption process or assist in the adoption of children shall be considered a mandatory reporter.

Amends R.S. 46:1425.1 to provide that an adoption facilitator shall not engage in any of the following activities:

- (1) Advertising for the purpose of soliciting parties to an adoption, locating children for an adoption, or acting as an intermediary between the parties to an adoption.
- (2) Charging a fee or other valuable consideration for service rendered relating to an adoption, whether directly or indirectly, for locating children for adoption, or acting as an intermediary between the parties to an adoption.

Provides that a violation of this law shall be an unfair trade practice as provided in R.S. 51:1401, et seq.

Effective August 1, 2024.

Immovable Property

Act No. 129 (HB100) CARLSON

COURTS: Provides relative to jurisdiction of city and parish courts over eviction proceedings

Removes the jurisdictional amounts for eviction proceedings in city and parish courts, and provides that a parish court or city court shall, within its territorial jurisdiction, have jurisdiction, concurrent with the district court, over the following matters, regardless of the amount of daily, monthly, or yearly rent or the rent for the unexpired term of the lease or the annual value of the right of occupancy:

- (1) Suits by owners and landlords for the possession of leased premises.
- (2) Suits by landowners or lessors for eviction of occupants or tenants of leased residential premises.
- (3) Suits to evict an occupant as defined by Article 4704.
- (4) Suits by landowners or lessors for the eviction of occupants or tenants of leased commercial premises and leased farmlands.

Effective August 1, 2024.

Act No. 148 (SB23) GREGORY MILLER

IMMOVABLE PROPERTY: Provides for the Planned Community Act.

Changes the reference from the Homeowners Association Act to the Planned Community Act, which is modeled after the 2008 Uniform Common Interest Ownership Act. Provides for definitions, creation, alteration, and termination of a planned community, along with contents of a declaration, allocation of expenses, voting interests, development rights, lot boundaries, owners associations, transfer of rights, bylaws, insurance, notice, etc.

The actions of the association are intended to follow corporate governance rules, rather than compliance with rules for the imposition of building restrictions in accordance with property law. Matters of routine administration and governance are undertaken by the required vote at a meeting at which a quorum is present. Matters requiring a supermajority vote, such as adding or removing property from the planned community or imposing more burdensome restrictions, are undertaken by a supermajority vote of the total membership of the planned community. The distinction is intentional.

Applies to newly formed planned communities. It is not intended to require existing planned communities to alter their community documents, their method of preparing budgets, or their method of allocating assessments. Applies to existing planned communities only if, and to the extent that, their community documents fail to address matters covered by this Act. Existing planned communities may nevertheless amend their community documents to conform with the provisions of this Act.

It seeks to protect purchasers who acquired a lot in reliance on the community documents in effect at the time of acquisition of the lot, provided an active use has been made of the lot. A lot

purchaser is required to comply with amendments to the community documents if an active use has not commenced, or if a previously active use has ceased for twelve months, subject to the rules of fortuitous events.

Act No. 164 (SB108) SEABAUGH

EXPROPRIATION: Provides relative to expropriation.

Requires domestic and foreign corporations, limited liability companies, or other legal entities created for the purpose of generating, transmitting, and distributing electricity and steam for power, lighting, heating, or other such uses be subject to certain qualifications provided by new law in order to expropriate property.

This Act provides that property may be expropriated exclusively by an "electric public utility" as that term is defined in proposed law or an affiliated entity for either of the following purposes:

- (1) A transmission or generation project that is approved and included in a multi-state regional transmission organization or independent system operator's transmission expansion plan or identified by such regional transmission organization or independent system operator as necessary for the reliability of the electric system or necessary for the interconnection of a generator.
- (2) Generating plants, buildings, transmission lines, stations or substations, distribution lines, or other associated facilities if a majority of the electricity or steam power to be generated, transmitted, or distributed in connection with the facilities will be delivered to end-users within Louisiana.

This Act also provides that in the event that any provision or provisions of new law are declared invalid or unenforceable by any court of competent jurisdiction, the remaining terms and provisions that are not affected thereby shall remain in full force and effect.

Effective August 1, 2024

Act No. 383 (HB580) MUSCARELLO

CIVIL/PROCEDURE: Provides relative to bankruptcy

Current law authorizes a judgment debtor to obtain a partial cancellation of an inscription of a judgment affecting property not owned by him on the date of his filing of a petition under Chapter 7 or Chapter 13 of the U.S. Bankruptcy Code upon the filing of an affidavit that meets the requirements of present law.

Retains present law but removes the limitation to bankruptcy petitions filed under Chapter 7 or Chapter 13 and allows application of the law under any Chapter of the U.S. Bankruptcy Code.

Authorizes a La. licensed attorney to specify by affidavit the liens, judgments, mortgages, or privileges to be cancelled if the order does not provide that information. The affidavit must contain the information required by R.S. 9:5175.1 and be filed with a Request to Cancel and a certified copy of the bankruptcy court order in the mortgage records of the parish in which the

property is situated.

Effective May 28, 2024. (Amends R.S. 9:5175(A), (B), and (C)(1), (2)(a), (f), and (g), and (3); Adds R.S. 9:5175(C)(2)(h) and 5175.1)

Act No. 758 (SB131) GREGORY MILLER

PRIVILEGES/LIENS. Provides for privileges on immovables.

Provides that except as provided in this new law, nothing shall be construed to preclude a surety from asserting any defense to the principal obligation that its principal could assert except lack of capacity or discharge in bankruptcy of the principal obligor. It provides that the surety shall be obligated and required to issue payment to a seller for claims by a seller under the following conditions:

- (a) The claim is for the price of movables delivered in conformity with the specifications provided in the order for such movables.
- (b) No sooner than 45 days after delivery of the movables, the seller sends a notice of nonpayment to the general contractor, surety, and the owner.
- (c) The seller has not been paid in full on or before 90 days after delivery of the movables.

This Act also provides that if these requirements are satisfied, the surety shall pay the seller for the price of the movables sold within 10 days after the seller delivers notice to the surety. Also, the claim of a seller and right to payment as provided in proposed law is in addition to and not in derogation of any other rights, claims, or remedies available to a seller under proposed law.

It provides that any notice required shall be served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the last known address of the general contractor, bond surety, and the owner. And that the return receipt indicating that registered mail or certified mail was properly addressed to the last known address of the general contractor, surety, and the owner and deposited in the U.S. mail regardless of whether the registered or certified mail was actually delivered, refused, or unclaimed satisfies the notice provision of proposed law.

Effective August 1, 2024

Successions and Trusts

Act No. 90 (SB32) GREGORY MILLER

SUCCESSIONS: Provides for small succession procedures.

Amends and clarifies Code of Civil Procedure Articles dealing with small successions.

Amends CCP Art. 3421 to define a small succession as a succession of a person who died domiciled in Louisiana leaving property with a gross value of \$125,000.00 or less valued at the time of death, the ancillary succession of a person who died domiciled outside of Louisiana

leaving property in Louisiana with a gross value of \$125,000.00 or less valued at the time of death, or the succession of a person whose date of death occurred at least twenty years prior to the execution of a small succession affidavit and who died leaving property in Louisiana of any value.

Clarifies the law by eliminating an outdated reference to minimum court costs for a small succession.

Clarifies exiting law by reorganizing the provisions allowing for a “managing co-owner” to perform various actions without the concurrence of other co-owners in dealing with certain types of damaged immovable property subject to a small succession proceeding.

Modifies the law and clarifies when the judicial opening of a small succession is unnecessary for some types of successions. Specifically, it allows for an affidavit of small succession when:

- (1) the person died intestate and the estate qualifies as a small succession;
- (2) the person died testate and domiciled in Louisiana and the estate qualifies as a small succession, and does not transfer immovable property in Louisiana, provided that the surviving spouse, **all persons who would inherit under the testament, and all other persons who would inherit in the absence of a testament** agree to waive probate of the testament and the right to challenge the validity of the testament (Unlike other succession affidavits, all of these persons must sign); and
- (3) the person died domiciled outside of Louisiana, either intestate or testate, and the estate qualifies as a small succession, and the testament has been probated by a foreign court.

Changes the period for giving notice to heirs not signing of the intent to sign the affidavit from ten days to thirty days.

Provides that, in addition to a natural tutor signing the affidavit on behalf of a minor child without the necessity of filing a petition with the court, a curator may also sign the affidavit without the necessity of court authorization.

Allows for a certified copy of the affidavit to be sufficient authorization for a person holding property of the decedent to deliver the property in accordance with the affidavit.

Effective August 1, 2024.

Act No. 274 (SB498) FOIL

TRUSTS: Provides for special charitable trusts. (gov sig)

Provides that a special charitable trust may be created when a person makes a donation inter vivos to the trust in an amount not less than \$50 million for purposes of improving the health and lives of the people of La. and forms the trust pursuant to the provisions of the Act. Provides that the special charitable trust may provide for any type of beneficiary, including an institutional beneficiary as defined in present law. It also provides that subject to any limitations, restrictions, reservations in the trust, resolution of the trustees, or applicable law, the special charitable trust shall be managed by the trustees. Provides that the trustee has a fiduciary duty to act in the best

interest of the special charitable trust and its beneficiaries, and shall exercise due diligence in the performance of his duties pursuant to the provisions of present law.

Effective on May 23, 2024.

Tutorships and Interdictions

Act No. 25 (HB449) MELERINE

CIVIL/LAW: Provides relative to delivery of judgment of interdiction

Provides that interdiction records be mailed to the registrar of voters in the parish in which the interdict is registered to vote.

Currently, the law provides that the clerk of court shall record a notice of the filing of the interdiction suit and record every judgment granting, modifying, or terminating interdiction in the conveyance and mortgage records of the parish in which the judgment was rendered, and that the curator shall cause the judgment of interdiction to be recorded in the conveyance and mortgage records of every other parish in which the interdict owns immovable property.

Act 25 retains present law but provides that within 15 days of his qualification, the curator shall mail a copy of the judgment of interdiction to the registrar of voters and shall mail a copy of any modification or termination to the registrar of voters of the parish in which the interdict resides. It also provides that the curator shall also provide to the registrar of voters the date of birth of the interdict and the last four digits of the social security number of the interdict to ensure that the proper person is removed from the voting records.

Effective August 1, 2024. (Amends C.C.P. Art. 4552(C); Adds C.C.P. Art. 4552(D))

Act No. 123 (SB61) FOIL

TUTORSHIP: Provides for full or limited continuing tutorship. (8/1/24)

Present law (C.C. Arts. 354-362) provides for the continuing or permanent tutorship for certain children with intellectual disabilities or mental deficiencies. New law provides for either a full or limited continuing tutorship for certain children with disabilities.

Act 123 (C.C. Art. 355) provides for the additional applicability of full or limited continuing tutorship to unemancipated minors above the age of 15 who possess less than two-thirds of the adaptive functioning of a person of the same age with average adaptive functioning.

Effective August 1, 2024.

Act No. 163 (SB80) FOIL

TRUSTS: Provides for trusts for minors and persons with disabilities

Current law (C.C.P. Art. 4269.1) provides for the placement of a minor's property in trust in accordance with the Louisiana Trust Code and for termination of the trust when the minor reaches the age of majority. Present law (C.C.P. Art. 4521(A)(3)) provides that funds awarded to

a minor in judgment or settlement may be placed in trust in accordance with the Louisiana Trust Code. Present law (C.C.P. Art. 4566(D)(1)) provides for the placement of an interdict's property in trust and for termination of the trust upon termination of the interdiction.

Act 163 provides that these funds, property, etc., can be placed in a pooled trust pursuant to the laws of other states.

Effective August 1, 2024

Judiciary and Courts

Act No. 15 (HB104) MUSCARELLO

COURTS: Repeals certain reporting requirements from the district courts to the judicial administrator of the supreme court

Removes the requirement that clerks of district courts collect and disburse a fee and submit certain information required by the supreme court when suit has been filed in district court for damages arising from an offense or quasi offense. (Repeals R.S. 13:4688)

Act No. 377 (HB433) ZERINGUE

JUDGES: Provides with respect to annual financial reports on state and local court funding and expenses

Provides that no later than Oct. 1st of each calendar year, the judicial administrator of the supreme court shall develop or revise a uniform budget document designed to show itemized revenues and expenditures for the supreme court, district courts, courts of appeal, city courts, municipal courts, and traffic courts.

Act No. 405 (SB177) MORRIS

COURTS: Constitutional amendment to increase membership on the judiciary commission and disciplinary action to be instituted on recommendation by the commission.

Present constitution provides that the judiciary commission consist of the following:

- (1) One court of appeal judge and two district court judges selected by the supreme court.
- (2) Two attorneys admitted to the practice of law for at least ten years and one attorney admitted to the practice of law for at least three years but not more than ten years, selected by the Conference of Court of Appeal Judges or its successor. They shall not be judges, active or retired, or public officials, other than notaries public.
- (3) Three citizens, not lawyers, judges active or retired, or public officials, selected by the Louisiana District Judges' Association.

Retains these provisions of the constitution but increases the members of the judiciary commission as follows:

- (1) Two members appointed by the speaker of the house.
- (2) Two members appointed by the president of the senate.
- (3) One member appointed by the governor.

Present constitution allows the supreme court, on recommendation of the judiciary commission, to censure, suspend with or without salary, remove from office or retire involuntarily a judge for wilful misconduct relating to his office.

Retains this authority but after an investigation by the judiciary commission which shall be instituted on recommendation by the commission or by directive from a majority of the court.

It also adds "malfeasance while in office" to the list of specified actions for which the supreme court may pursue disciplinary action against a sitting judge.

Present constitution authorizes the supreme court to disqualify a judge from exercising any judicial function without loss of salary during pendency of proceedings in the supreme court. Act 405 retains this authority with the supreme court but on recommendation of the judiciary commission or its own motion.

Present constitution authorizes the supreme court to retire involuntarily a judge for disability that seriously interferes with the performance of his duties that is or is likely to become permanent. Act 405 retains this authority with the supreme court but after an investigation by the judiciary commission instituted on recommendation by the commission or by directive of a majority of the supreme court.

Specifies submission of the amendment to the voters at the statewide election to be held on November 5, 2024.

Act No. 463 (HB969) GREEN

COURTS: Provides relative to certain judicial proceedings conducted by remote technology

This Act provides that in any civil proceeding that does not require witness testimony or the introduction of evidence, a party may provide written notice to the court at least 10 days prior to the scheduled hearing date that he will appear remotely.

It further provides that if the court has the requisite technology, the court shall allow the party to appear by any audio-visual means, unless the court provides written reasons declining the remote appearance for good cause.

The Act provides that when allowing a remote appearance as provided by this new law, the court shall ensure the technology enables all parties, whether appearing remotely or in person, to fully participate. Provides further that the court shall require that a remote appearance by a party

abide by any necessary privacy and security requirements appropriate for the conference, hearing, proceeding, or trial as established by the court.

It also provides that the court shall have a process for a party, court reporter, or other court personnel to alert of any technology or audibility issues arising during a remote proceeding.

Act No. 501 (SB75) MORRIS

COURTS: Provides for electronic filing and record retention.

Present law (C.C.P. Art. 253) provides with respect to the filing of pleadings, documents, and exhibits with the clerk of court, including electronic transmission, electronic conversion, and use of electronic signatures. Act 501 retains present law and requires the original of any filed document or exhibit to be maintained by the filer during the pendency of the proceeding and to be made available for inspection or production to the court. It would also require the original of all documents and exhibits introduced or proffered into evidence, submitted with a petition for executory process, or filed in a summary judgment proceeding to be retained by the clerk of court during the pendency of the proceeding.

(C.C.P. Art. 2911) Requires permanent retention by the clerks of court of testaments that have been probated or ordered to be filed and executed and provides for the retention of other filed testaments. It also provides for the electronic transmission of documents in traffic or criminal actions pursuant to the policy of the clerk of court.

Effective August 1, 2024.

Act No. 628 (HB669) BOYD

COURTS: Provides relative to judicial security

This is enacting laws to restrict the access to personal information of certain protected individuals, which include:

- (1) A current or retired justice of the Louisiana Supreme Court or a current or retired judge of an appellate, district, family, juvenile, parish, city, or municipal court established under the Constitution of Louisiana.
- (2) A current or retired justice or judge of a federal court, including a United States Bankruptcy Court, domiciled in the state.
- (3) A current or retired magistrate appointed by a court of the state.
- (4) A current or retired United States magistrate judge domiciled in the state.
- (5) A current or retired commissioner or hearing officer of any district court in the state.

The personal information listed in this new law include: home address, telephone numbers, email addresses, Social Security number, driver's license number, martial record, employment location of spouse or child, school of child, etc.

Act 628 permits a protected individual or the judicial administrator's office on behalf of a protected individual to request a governmental entity or third party to remove a judge's personal information. There are time limitations and penalties included.

Act No. 694 (HB380) ZERINGUE

COURTS: Provides relative to electronic filings

Requires, beginning Jan. 1, 2026, that all documents in a civil, traffic, or criminal action filed by an attorney be transmitted electronically through the system selected by the filing attorney in accordance with the system established by a clerk of court or LCRAA. Provides for the adoption of a system to retain certain original documents and exhibits and permits the conversion of any documents filed in civil, traffic, and criminal actions by the clerk of court.

Prohibits the clerk of court from refusing to accept for filing any pleading or other document that is signed by electronic signature and executed in connection with court proceedings, or that complies with the procedures for electronic filing implemented pursuant to this Article, solely on the ground that the pleading or document was signed by electronic signature. Provides further that upon adoption of uniform filing standards by the LCRAA, no clerk of court shall accept a filing not in accordance with the adopted standards.

Miscellaneous

Act No. 13 (HB 55) by Representative Owen

Designates Act No. 470 of the 2022 Regular Session as the "Jean and Elise Act".

Effective August 1, 2024.

Act No. 194 (HB 124) BEAULLIEU

CHILDREN: Provides for the prospective and retroactive application of the Uniform Transfers to Minors Act

Provides for prospective and retroactive application of the provisions of the Uniform Transfer to Minors Act as amended by Act No. 60 of the 2023 Regular Session.

Effective August 1, 2024. (Amends Act No. 60 of the 2023 R.S., §2; Repeals Act No. 60 of the 2023 R.S.,§3)

Act No. 208 (HB 232) MUSCARELLO

CIVIL/LAW: Provides relative to warranty for negotiable instruments and depository and collecting banks

Requires a warrantor of a claim for a negotiable instrument to pay expenses and reasonable attorney fees if the warrantor fails to pay a claim for breach of warranty within 30 days of receiving written notice from a drawee or the person to whom warranties are to be made. Requires the notice be delivered via commercial courier or by either registered or certified mail.

Effective August 1, 2024. (Amends R.S. 10:3-416(b) and (c), 3-417(b), (c), and (e), 4-207(c) and

(d), and 4-208(b), (c), and (e))

Act No. 436 (HB 608) WILDER

Defines "boy" as a human male who is a minor.

Defines "changing room" as a room or area in which a person may be in a state of undress in the presence of others, including a locker room or shower room.

Defines "correctional facilities" as a correctional facility owned and operated by the state of the Correctional Facilities Corporation housing prisoners committed to the custody of the Dept. of Public Safety and Corrections.

Defines "domestic violence shelter" as a community-based shelter for victims of domestic violence that is managed by the Dept. of Children and Family Services.

Defines "father" as a parent who is of the male sex.

Defines "female" as an individual whose biological reproductive system is developed to produce ova; who has, had, will have or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports, and utilizes eggs for fertilization.

Defines "girl" as a human female who is a minor.

Defines "juvenile detention facilities" as a correctional facility that houses minor prisoners including the La. Training Institute for Juveniles and its extension locations.

Defines "male" as an individual whose biological reproductive system is developed to fertilize the ova of a female who has, had, will have or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports, and utilizes sperm for fertilization.

Defines "man" as a human male that has reached the age of majority.

Defines "mother" as a parent who is a member of the female sex.

Defines "public school" as a school which is created pursuant to R.S. 17:1371 and R.S. 17:3971, et seq.

Defines "restroom" as a room that includes one or more toilets or urinals.

Defines "sex" as an individual's biological sex, either male or female, as observed or clinically verified at birth. Gender identity and other subjective terms shall not apply to this Part and shall not be used as synonyms or substitutes for sex.

Defines "sleeping quarters" as a room with more than one bed in which more than one individual

is housed overnight.

Defines "woman" as a human female who has reached the age of majority.

Provides that no governmental agency shall prohibit distinction between the sexes with respect to athletics, correctional facilities, juvenile detention facilities, domestic violence shelters, or other accommodations where biology, safety, or privacy are implicated. Additionally provides that such separate accommodations are substantially related to the important government interest of protecting health, safety, and privacy of individuals in such circumstances.

Provides that a domestic violence shelter, public school, correctional facility, or juvenile detention facility is not prohibited from establishing single-occupancy restrooms, changing rooms, or sleeping quarters, or from redesignating a restroom, changing room, or juvenile detention facility as needed.

Provides that a domestic violence shelter, public schools, correctional facilities and juvenile facilities shall designate separate areas to be used by the members of each sex only, but shall not apply to the following circumstances:

- (1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that are normally to be used by the opposite sex.
- (2) To render medical assistance.
- (3) To render assistance by law enforcement.
- (4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

Does not prevent domestic violence shelters, public schools, correctional facilities, or juvenile detention facilities from making accommodations relative to the ADA.

Provides that students shall not share sleeping quarters with a member of the opposite sex on school authorized events unless such persons are members of the same family and the student has received approval from the parent or legal guardian to do so.

Provides for appropriate relief in the following circumstances:

- (1) Injunctive relief, protective order, writ of mandamus or a prohibition, or declaratory relief to prevent any violation. Authorizes the court to waive the requirement that the petitioner post bond for good cause shown.
- (2) Actual damages, reasonable attorney fees, and costs.
- (3) All actions shall be initiated within two years from the date that the harm occurred.

Provides that there is a rebuttable presumption that requiring biological females to be housed with biological males at a domestic violence shelter, juvenile detention center, corrections facility, or public school is inherently discriminatory to biological females and is a cognizable harm to biological women.

Effective August 1, 2024. (Adds. R.S. 9:55-65)

Act No. 765 (SB355) STINE

CONTRACTS: Provides for regulation of litigation funding by a third party that is foreign person, state, or wealth fund.

Provides that in any civil action in which a foreign third-party litigation funder provides funds intended to defray litigation expenses or the financial impact of a negative judgment and the source or sources of its funding includes a foreign entity, the third-party litigation funder shall meet certain requirements. This disclosure shall be made no later than 30 days after execution of any agreement or date on which the civil action is filed.

This Act provides that it shall be unlawful for any foreign third-party litigation funder to engage in any of the following:

- (1) Knowingly enter into an agreement creating a right for anyone, other than the named parties, counsel of record, or law firm of record, to receive or make any payment that is contingent on the outcome of a civil action or any matter within a portfolio that includes the civil action and involves the same counsel of record or affiliated counsel, the terms of which are to be satisfied by funds directly sourced, in whole or in part, from a foreign entity.
- (2) Direct or make any decisions with respect to the course of any civil action for which the litigation funder has provided funding intended to defray litigation expenses or the financial impact of a negative judgment related to the civil action. This prohibition includes, but is not limited to, decisions in appointing or changing counsel, choice or use of expert witnesses, litigation strategy, and settlement or other disposition.
- (3) Be assigned rights to or in a civil action for which the litigation funder has provided funding intended to defray litigation expenses related to the civil action or the financial impact of a negative judgment, other than the right to receive a share of the proceeds pursuant to the litigation financing agreement.

The attorney general may institute a legal action to enforce compliance, impose fines, or prohibit foreign third-party litigation funder from operating within this state. Attorney general shall also report foreign involvement to the Senate President and Speaker of the House every year.

Provides that a litigation financier with a litigation financing contract or agreement with the party shall not decide, influence, or direct the party or the party's attorney with respect to the conduct of the underlying civil proceeding or any settlement or resolution of the civil proceeding, or make any decision with respect to the conduct of the underlying civil proceeding or any

settlement or resolution of the civil proceeding. Further provides that the right to make these decisions remains solely with the party and the party's attorney in the civil proceeding.

Effective August 1, 2024