

2023 Regular Session

SENATE RESOLUTION NO. 31

BY SENATOR FOIL

TUTORSHIP. Requests the Louisiana State Law Institute to study and make recommendations on whether a limited continuing tutorship should be established.

1 A RESOLUTION

2 To urge and request the Louisiana State Law Institute to study and make recommendations
3 to the legislature on whether a limited continuing tutorship should be established.

4 WHEREAS, Civil Code Art. 355 provides that "when a person above the age of
5 fifteen possesses less than two-thirds of the intellectual functioning of a person of the same
6 age with average intellectual functioning, evidenced by standard testing procedures
7 administered by competent persons or other relevant evidence acceptable to the court, the
8 parents of such person, or the person entitled to custody or tutorship may, with the written
9 concurrence of the coroner of the parish of the intellectually disabled person's domicile,
10 petition the court of that district to place such person under a continuing tutorship which
11 shall not automatically end at any age but shall continue until revoked by the court of
12 domicile"; and

13 WHEREAS, Civil Code Art. 356(2) provides that "when the person to be placed
14 under the continuing tutorship is above the age of majority, the proceeding shall be
15 conducted according to the procedural rules established for interdictions"; and

16 WHEREAS, Civil Code Art. 389 allows a court to order the full interdiction of a
17 natural person of the age of majority, or an emancipated minor, who due to an infirmity, is
18 unable to consistently make reasoned decisions regarding the care of his person and

1 property, or to communicate those decisions, and whose interests cannot be protected by less
2 restrictive means; and

3 WHEREAS, Civil Code Art. 390 authorizes the limited interdiction of a natural
4 person of the age of majority, or an emancipated minor, who due to an infirmity is unable
5 consistently to make reasoned decisions regarding the care of his person or property, or any
6 aspect of either, or to communicate those decisions, and whose interests cannot be protected
7 by less restrictive means; and

8 WHEREAS, a limited continuing tutorship may be seen as a mixture of a tutorship
9 and an interdiction, which unlike a regular tutorship, the continuing tutorship does not end
10 when the person reaches the age of eighteen; and

11 WHEREAS, additionally, a limited continuing tutorship may be viewed the same as
12 a tutorship and a full interdiction, wherein the person under a continuing tutorship loses most
13 of his rights and the person appointed as the tutor is responsible for the person just as if he
14 were a minor; and

15 WHEREAS, a continuing tutorship would authorize the tutor to make certain
16 decisions on behalf of the individual; and

17 WHEREAS, there is no provision of law that addresses a limited continuing
18 tutorship, which allows a person to marry, enter into contracts and obligations, make medical
19 decisions, or participate in the electoral process; and

20 WHEREAS, it is important to consider that while an adult may be under a continuing
21 tutorship he may also be capable of independently making certain decisions regarding his
22 personal life; and

23 WHEREAS, in an effort to provide for consistency, a review of the laws, rules,
24 regulations, policies, and procedures related to a limited continuing tutorship and an
25 interdiction should be considered.

26 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
27 does hereby urge and request the Louisiana State Law Institute to study and make
28 recommendations to the legislature on whether a limited continuing tutorship should be
29 established.

30 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the

