

2023 Regular Session

HOUSE BILL NO. 61

BY REPRESENTATIVES SCHLEGEL, AMEDEE, BUTLER, CARRIER, DAVIS, EDMONSTON, EMERSON, FIRMENT, FISHER, FONTENOT, HODGES, HORTON, MIKE JOHNSON, KNOX, LARVADAIN, MACK, MOORE, CHARLES OWEN, SCHAMERHORN, THOMPSON, VILLIO, AND WHITE

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

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

1 AN ACT

2 To enact R.S. 9:2717.1, relative to contracts with minors; to provide relative to interactive

3 computer services; to provide for consent by a legal representative; to provide for

4 exceptions; to provide for nullity; to provide for definitions; and to provide for

5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2717.1 is hereby enacted to read as follows:

8 §2717.1. Legal representative consent in contracts between a minor and an

9 interactive computer service

10 A.(1) No interactive computer service shall enter into a contract or other

11 agreement, including the creation of an online account, with a minor without

12 obtaining the consent of the legal representative of the minor.

13 (2) The interactive computer service may rely on the consent of the legal

14 representative of the minor to enter into a contract or agreement, including the

15 creation of an online account, with a minor unless the interactive computer service

1 knows or reasonably should know that the legal representative is no longer
2 authorized to represent the minor.

3 B. Any contract or agreement entered into between a minor and an
4 interactive computer service without the consent of the legal representative of the
5 minor shall be a relative nullity.

6 C. Nothing in this Section shall bar the use of third parties to obtain the
7 consent of the legal representative, including the consent of the legal representative
8 as to multiple minors and multiple interactive computer services.

9 D. This Section applies only to minors who are domiciled in this state as
10 provided by Civil Code Article 41.

11 E. For the purposes of this Section:

12 (1) "Account" means any website, application, or similar electronic means
13 by which users are able to create and share information, ideas, personal messages,
14 and other content, including texts, photos, and videos, or to participate in social
15 networking, gaming, or a similar online service.

16 (2) "Consent" means having the written authority of a legal representative
17 of a minor to permit the minor to enter into a contract or other agreement with the
18 interactive computer service.

19 (3) "Interactive computer service" means any information service, system,
20 or access software provider that provides or enables computer access by multiple
21 users to a computer server, including a service or system that provides access to the
22 internet and such systems operated or services offered by libraries or educational
23 institutions.

24 (4) "Legal representative" means any of the following:

25 (a) A parent with legal authority over a minor.

26 (b) The tutor of the minor as confirmed or appointed by the court.

27 (5) "Minor" means any person under the age of eighteen who is not
28 emancipated.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 61 Reengrossed

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 any contract entered into between the minor and an interactive computer service without the consent of the legal representative shall be relatively 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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Provide that contracts entered into by a minor without consent of a legal representative shall be relatively null.

The House Floor Amendments to the engrossed bill:

1. Specify that any contract or agreement entered into without consent of the minor's legal representative shall be a relative nullity.
2. Make technical amendments.