

SENATE BILL NO. 80

BY SENATORS FOIL AND BASS (On Recommendation of the Louisiana State Law Institute)

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AN ACT

To amend and reenact Code of Civil Procedure Arts. 4269.1, 4521(A)(3), and 4566(D), relative to trusts for minors and persons with disabilities; to provide for placement of a minor's property in trust; to provide for placement of payments to minors in trust; to provide for placement of an interdict's property in trust; to provide for the use of special needs and pooled trusts under federal law; to provide for termination of trusts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Arts. 4269.1, 4521(A)(3), and 4566(D) are hereby amended and reenacted to read as follows:

Art. 4269.1. Placement of minor's property in trust

At any time during his administration, a tutor may apply to the court for authorization to place some or all of the minor's property in trust ~~for administration, management and investment~~ in accordance with the Louisiana Trust Code **or, for a beneficiary who is disabled as defined in 42 U.S.C. 1382c(a)(3), in a trust qualified under 42 U.S.C. 1396p(d)(4)(C) in accordance with the law of any state.** The trust instrument shall name the minor as sole beneficiary of the trust, shall name a trustee, shall impose maximum spendthrift restraints, and **may allow the trust to last for the lifetime of the beneficiary. Except for trusts qualified under 42 U.S.C. 1396p(d)(4)(A) or 1396p(d)(4)(C), the trust shall, however,** be subject to termination at the option of the beneficiary upon attaining the age of majority, ~~or, should he fail~~ **If the minor fails** to attain majority, **the trust shall be subject to termination** at the option of his heirs or legatees. The court may, upon application, make such changes in the trust instrument as may be advisable. Upon creation of the trust, the tutor shall be entitled to no further commissions with respect to the trust property.

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2 Art. 4521. Payments to minor

3 A. In approving any proposal by which a minor is to be paid funds as the
4 result of a judgment or settlement, the court may order:

5 * * *

6 (3) That the funds be placed in trust in accordance with the Louisiana Trust
7 Code ~~to be administered by an individual or corporate trustee as determined by the~~
8 court or, for a beneficiary who is disabled as defined in 42 U.S.C. 1382c(a)(3), in
9 a trust qualified under 42 U.S.C. 1396p(d)(4)(C) in accordance with the law of
10 any state. The trust instrument shall name the minor as sole beneficiary of the
11 trust, shall name a trustee, shall impose maximum spendthrift restraints, and
12 may allow the trust to last for the lifetime of the beneficiary. Except for trusts
13 qualified under 42 U.S.C. 1396p(d)(4)(A) or 1396p(d)(4)(C), the trust shall,
14 however, be subject to termination at the option of the beneficiary upon
15 attaining the age of majority. If the minor fails to attain majority, the trust shall
16 be subject to termination at the option of his heirs or legatees. ~~However, the~~ The
17 court shall not order funds ~~which~~ that will be paid to an unemancipated minor who
18 is in the legal custody of the Department of Children and Family Services to be
19 placed in trust if the amount of the judgment or settlement is less than fifty thousand
20 dollars.

21 * * *

22 Art. 4566. Management of affairs of the interdict

23 * * *

24 D.~~(+)~~ A curator may place the property of the interdict in trust in accordance
25 with the provisions of Article 4269.1. ~~The~~ Except for trusts qualified under 42
26 U.S.C. 1396p(d)(4)(A) or 1396p(d)(4)(C), the trust shall be subject to termination
27 at the option of the interdict upon termination of the interdiction, ~~or if,~~ if the interdict
28 dies during the interdiction, the trust shall be subject to termination at the option
29 of his heirs or legatees.

30 ~~(2) For the purpose of retaining government benefits and upon a showing by~~

1 clear and convincing evidence that the interdict is permanently disabled and will not
2 recover capacity, the trust shall be irrevocable during the life of the interdict and
3 shall terminate upon the death of the interdict.

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____