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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

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DIGEST

SB 134 Engrossed

2015 Regular Session

Peacock

Present law (C.C. Art. 215) provides that a child, whatever be his age, owes honor and respect to his father and mother.

Proposed law (C.C. Art. 236) retains present law.

Present law (C.C. Art. 216) provides that a child remains under the authority of his father and mother until his majority or emancipation and in case of difference between the parents, the authority of the father prevails.

Proposed law (C.C. Arts. 221, 232, 234, and 235) revises present law to provide that a married father and a mother share parental authority over their minor child, unless modified in accordance with law, until the child attains the age of majority or is emancipated, or upon termination of the marriage of the parents of the child.

Present law (C.C. Art. 217) provides that as long as the child remains under the authority of his father and mother, he is bound to obey them in everything which is not contrary to good morals and the laws.

Proposed law (C.C. Art. 228) retains present law.

Present law (C.C. Art. 218) provides that an unemancipated minor cannot quit the parental house without the permission of his father and mother, who have the right to correct him, provided it be done in a reasonable manner.

Proposed law (C.C. Arts. 227 and 223) retains present law.

Present law (C.C. Art. 219) provides that the father and mother have a right to appoint tutors to their children.

Proposed law (C.C. Art. 222) retains present law.

Present law (C.C. Art. 220) provides that fathers and mothers may delegate a part of their authority to teachers and other persons.

Proposed law (C.C. Art. 233) retains present law.

Present law (C.C. Art. 221) provides for the parental administration of a child's estate by the father and in some cases by the mother, during their marriage, until the child attains the age of majority or

is emancipated.

Proposed law (C.C. Art. 229, 230, and 231) provides that each parent has the right and the obligation to administer the property of their unemancipated minor child in accordance with law, until the termination of parental authority.

Present law (C.C. Art. 223) provides that parents have during marriage a usufruct over the property of their unemancipated minor child.

Proposed law (C.C. Arts. 229, 230, and 231) provides for the rights and obligations of parents who administer the property of their unemancipated minor child.

Present law (C.C. Art. 224) provides for the obligations resulting from the parents' usufruct over the property of their unemancipated minor child.

Proposed law (C.C. Arts. 229, 230, and 231) provides for the rights and obligations of parents who administer the property of their unemancipated minor child.

Present law (C.C. Art. 226) provides for exceptions to the parents' usufruct over the property of their unemancipated minor child.

Proposed law suppresses the present law of C.C. Art. 226.

Present law (C.C. Art. 227) provides that fathers and mothers, by the very act of marrying, contract together the obligation of supporting, maintaining, and educating their children.

Proposed law (C.C. Arts. 223, 224, and 226) retains present law.

Present law (C.C. Art. 228) provides that a child has no right to sue either parent for a marriage settlement or other advancement.

Proposed law (R.S. 9:571) provides that an unemancipated minor child may not sue any person having parental authority over him.

Present law (C.C. Art. 229) provides for the reciprocal alimentary duties of ascendants and descendant.

Proposed law (C.C. Art. 237) retains present law.

Present law (C.C. Art. 230) provides for the scope of the alimentary obligation.

Proposed law (C.C. Arts. 237, 238, 239, and 224) retains present law.

Present law (C.C. Art. 231) provides that the alimony shall be granted in proportion to the wants of the person requiring it, and the circumstances of those who are to pay it.

Proposed law (C.C. Art. 238) retains present law.

Present law (C.C. Art. 232) provides for the reduction of alimony or the discharge from payment.

Proposed law (C.C. Art. 239) retains present law.

Present law (C.C. Art. 233) provides that if the obligor cannot pay alimony, the judge may require that the obligor receive the obligee in his house and maintain him.

Proposed law suppresses present law.

Present law (C.C. Art. 234) provides that a father or mother may offer to receive and support a child in his or her house and be dispensed with paying alimony.

Proposed law suppresses present law.

Present law (C.C. Art. 235) provides that fathers and mothers owe protection to their children and may appear for them in court.

Proposed law (C.C. Arts. 223 and 222) retains present law.

Present law (C.C. Art. 236) provides that fathers and mothers may justify themselves in an action against them for assault and battery if they have acted in defense of their children.

Proposed law (C.C. Art. 223) provides that parents have the right and obligation to protect their child.

Present law (C.C. Art. 237) provides that fathers and mothers are answerable for the offenses and quasi-offenses of their children.

Proposed law (C.C. Art. 225) retains present law.

Present law (C.C. Arts. 238 through 245) provides for the duties of parents toward their illegitimate children and for the duties of illegitimate children toward their parents.

Proposed law suppresses present law.

Proposed law (C.C.P. Art. 74.6) is new. Proposed law provides for venue for actions to seek court approval by parents during marriage.

Present law (C.C.P. Art. 683) provides for proper party plaintiff for an unemancipated minor.

Present law (C.C.P. Art. 683(C)) provides that the father is the proper plaintiff to sue to enforce a right of an unemancipated minor and provides for exceptions to this rule.

Proposed law (C.C.P. Art. 683(B)) provides that all persons having parental authority of an unemancipated minor must join as proper plaintiffs to sue to enforce a right of an unemancipated minor and provides for exceptions to this rule.

Present law (C.C.P. Art. 732) provides for proper party defendant for an unemancipated minor. Present law (C.C.P. Art. 732(C)) provides that the father is the proper defendant in an action to enforce an obligation against an unemancipated minor and provides for exceptions to this rule.

Proposed law (C.C.P. Art. 732(B)) provides that any person having parental authority of an unemancipated minor is a proper defendant in an action to enforce an obligation against a minor.

Present law (C.C.P. Art. 2592) provides for summary proceedings.

Proposed law (C.C.P. Art. 2592(9)) provides that summary proceedings may be used for trial or disposition of an action to compel an accounting at termination of parental authority; an action to seek court approval to alienate, encumber, or lease the property of a minor, incur an obligation of a minor, or compromise the claim of a minor.

Present law (C.C.P. Art. 4501) provides that when married, a father or the mother under specific circumstances, may use the same forms and procedures as a tutor to sell or mortgage the property of a minor, or compromise a claim of the minor, or take any step affecting the interest of the minor.

Proposed law (C.C.P. Art. 4501) retains present law in part. Proposed law (C.C.P. Art. 4501) revises present law to provide that the parents shall seek court approval to act for a minor and provides exceptions to this rule. Proposed law (C.C.P. Art. 4501) also provides that an ascendant having parental authority shall be considered a parent for the purposes of proposed law.

Present law (C.C.P. Art. 4502) provides for when a mother can act for or represent her child.

Proposed law suppresses present law, because the rights of a mother have been provided for in proposed law (C.C.P. 4501).

Present law (C.C.P. Arts. 4521 and 4522) provides for the administration of court judgments in favor of a minor.

Proposed law (C.C.P. Art. 4521) provides for the combination of the principles of present law and for additional protections for a minor.

Present law (R.S. 9:571) provides that a child who is not emancipated cannot sue either parent during the marriage of the parents or the parent who has custody when the marriage of the parents is dissolved or the parents are judicially separated.

Proposed law (R.S. 9:571) provides that a parent, a person having parental authority, and a tutor may not sue the unemancipated minor child. Proposed law further provides that the unemancipated minor child may not sue a person having parental authority or his tutor.

Proposed law (R.S. 9:572) is new. Proposed law provides a list of the acts which a person having parental authority may perform without court approval.

Proposed law (R.S. 9:573) is a redesignation of present law (R.S. 9:572).

Present law (R.S. 9:951-954) provides for provisional custody by mandate.

Proposed law (R.S. 9:951-962) revises present law of provisional custody by mandate to provide for separate rules for persons having parental authority and for tutors.

Proposed law (Section 4 of this Act) directs the Louisiana State Law Institute to prepare, revise, and update any Comment as necessary to reflect the provisions of proposed law as enacted.

Effective January 1, 2016.

(Amends C.C. Arts. 221, 223, 224, 226-239, C.C.P. Arts. 683, 732, 2592, 4501, and 4521, and R.S. 9:571, 572, 951, 952, 953, and 954; adds C.C. Arts. 222 and 225, C.C.P. Art. 74.6, and R.S. 9:573, 961, and 962; repeals C.C. Arts. 215-220 and 240-245 and C.C.P. Arts. 4502 and 4522)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill

1. Adds the phrase "or property" to indicate that a parent may expend, without court approval, the fruits of the child's property for the expenses of the child's household *or* property (not only the child's household, as the original bill read).
2. Removes the word "committed" to provide that, under extraordinary circumstances, such as if one parent is mentally incompetent, interdicted, or imprisoned, or is an absent person, the other parent has exclusive parental authority over his child.
3. Removes the word "committed" so that proposed law provides that, during marriage, the parents shall petition jointly to seek court approval to alienate, encumber, or lease the property of the minor, incur an obligation of the minor, or compromise a claim of the minor, in the same manner and using the same procedure as a tutor, except that such petitions may be brought by one parent alone if the other parent is mentally incompetent, interdicted, or imprisoned, or is an absent person.
4. Removes proposed specific revisions to existing Comments, and instead provides that the Louisiana State Law Institute is directed to prepare, revise, and update any Comment as necessary to reflect the provisions of proposed law as enacted.