

2024 Regular Session

SENATE BILL NO. 80

BY SENATOR FOIL (On Recommendation of the Louisiana State Law Institute)

TRUSTS. Provides for trusts for minors and persons with disabilities. (8/1/24)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

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

1 name a trustee, shall impose maximum spendthrift restraints, and may allow the  
 2 trust to last for the lifetime of the beneficiary. Except for trusts qualified under  
 3 42 U.S.C. 1396p(d)(4)(A) or 1396p(d)(4)(C), the trust shall, ~~however,~~ be subject  
 4 to termination at the option of the beneficiary upon attaining the age of majority, ~~or,~~  
 5 ~~should he fail~~ If the minor fails to attain majority, the trust shall be subject to  
 6 termination at the option of his heirs or legatees. The court may, upon application,  
 7 make such changes in the trust instrument as may be advisable. Upon creation of the  
 8 trust, the tutor shall be entitled to no further commissions with respect to the trust  
 9 property.

10 \* \* \*

11 Art. 4521. Payments to minor

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

14 \* \* \*

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

\* \* \*

Art. 4566. Management of affairs of the interdict

\* \* \*

D.~~(1)~~ A curator may place the property of the interdict in trust in accordance with the provisions of Article 4269.1. **The Except for trusts qualified under 42 U.S.C. 1396p(d)(4)(A) or 1396p(d)(4)(C), the** trust shall be subject to termination at the option of the interdict upon termination of the interdiction, ~~or if.~~ **If** the interdict dies during the interdiction, **the trust shall be subject to termination** at the option of his heirs or legatees.

~~(2) For the purpose of retaining government benefits and upon a showing by clear and convincing evidence that the interdict is permanently disabled and will not recover capacity, the trust shall be irrevocable during the life of the interdict and shall terminate upon the death of the interdict.~~

\* \* \*

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Hanna Gettys.

---

DIGEST

SB 80 Engrossed

2024 Regular Session

Foil

Present 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.

Proposed law retains present law but permits the use of pooled trusts created pursuant to the laws of other states. Proposed law also adds an exception to termination in cases involving pooled and special needs trusts under federal law.

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.

Proposed law retains present law and additionally allows the funds to be placed in a pooled trust pursuant to the laws of other states. Proposed law further provides for the required contents of the trust instrument and provides for termination of the trust when the beneficiary reaches the age of majority, with exceptions for pooled and special needs trusts under federal law.

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.

Proposed law retains present law but adds an exception to termination in cases involving pooled and special needs trusts under federal law.

Present law (C.C.P. Art. 4566(D)(2)) requires the trust to be irrevocable for the life of the interdict upon a showing that the interdict is permanently disabled and will not recover capacity.

Proposed law deletes present law.

Effective August 1, 2024.

(Amends C.C.P. Arts. 4269.1, 4521(A)(3), and 4566(D))