2017 Regular Session

SENATE BILL NO. 81

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

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

CURATORSHIP. Provides for curatorship. (8/1/17)

1   AN ACT

2   To amend and reenact Children's Code Article 405(A) and (B) and to enact Children's Code

3   Article 116(4.1), relative to curators; to provide for definitions; to provide for the

4   payment of fees; and to provide for related matters.

5   Be it enacted by the Legislature of Louisiana:

6   Section 1. Children's Code Article 405(A) and (B) are hereby amended and

7   reenacted and Children's Code Article 116(4.1) is hereby enacted to read as follows:

8   Art. 116. Definitions

9   Except where the context clearly indicates otherwise, these definitions apply

10   for the following terms used throughout this Code.

11   *   *   *

12   **(4.1) "Diligent effort to locate" means efforts made by a curator that,**

13   **under the circumstances known to the curator, are reasonably calculated to**

14   **locate an absentee. Such efforts may include a review of court records,**

15   **department records, law enforcement records, vital records, military records,**

16   **directory assistance, internet search sites, and licensing agencies. Publication**

17   **shall not be required except as specifically provided in this Code.**

1   *   *   *

2   Comments - 2017

3   The list in Article 116(4.1) is illustrative only. What constitutes a diligent
4   effort is decided on a case-by-case basis. The capacity to conduct searches on the
5   Internet has become readily available and is highly effective; thus, preference should
6   be given to internet searches, particularly in lieu of or prior to publication.

7   *   *   *

8   Art. 405. Court or witness fees; travel expenses

9   A. Except as otherwise provided by law, no court or witness fees shall be

10   allowed against any party to a petition, and no salaried officer of the state or of any

11   parish or municipality therein shall be entitled to receive any fee for the service or

12   for attendance in court in any such proceedings. ~~All~~ **Except as otherwise provided**

13   **in R.S. 13:4521, all** other persons acting under orders of the court may be paid in the

14   same manner as in the district court for services or service of process and attendance

15   or serving as witnesses, the fees provided by law for like services in cases before the

16   district court.

17   B. The court may authorize the payment of necessary travel expenses to

18   witnesses attending in response to summons ~~and the payment of curator fees to be~~

19   ~~fixed by the court~~. ~~Such~~ **Travel** expenses, when authorized by the court, shall be

20   paid from the general fund of the parish or other funds available to the court. **Except**

21   **in proceedings initiated by the state, the court may authorize the payment of**

22   **curator expenses and fees, which, if so authorized, shall be fixed by the court**

23   **and paid by petitioners.**

24   *   *   *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST
SB 81 Original   2017 Regular Session   Bishop

Proposed law defines "diligent effort to locate" in curatorship proceedings to be efforts by
the curator, under circumstances known to the curator, that are reasonably calculated to
locate the absentee. Provides that these efforts may include review of court records,
department records, law enforcement records, vital records, military records, directory
assistance, internet search sites, and licensing agencies. Provides that publication is not
required unless specifically provided in the Children's Code.

<u>Present law</u> (Ch.C. Art. 405) provides for payment of curator fees from the parish or other funds available to the court.

<u>Proposed law</u> delineates responsibility for payment of curator expenses and fees depending upon whether the petitioner is the state or a private party.

Effective August 1, 2017.

(Amends Ch.C. Art. 405(A) and (B); adds Ch.C. Art. 116(4.1))

Coding: Words which are ~~struck through~~ are deletions from existing law;
words in **boldface type and underscored** are additions.