2024 Regular Session

LSLI Disposition Sheet for the Civil Code

Effective date is August 1, 2024 unless otherwise noted

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LSA-R.S.	Effect	Act No.	Section	Sp. Eff. Dt.
Art. 354 thru 362 (Sec.12, Chpt.1, Title VIII, Book I)	Amend	123	1	
Art. 781	Amend	184	1	
Art. 783	Amend	158	1	01/01/2025
Art. 2321	Amend	252	1	
Art. 3492	Repeal	423	2	07/01/2024
Art. 3493	Repeal	423	2	07/01/2024
Art. 3493.~~11~~ 1	Enact	423	1	07/01/2024
Art. 3493.~~12~~ 2	Enact	423	1	07/01/2024

Approved by MW on 7/10/2024
(Attorney)

MW on 8/1/2024
(Revisor)

ACT 123

La. State Law Institute
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Edits To: CC Pgs. 25
Note:

2024 Regular Session **ENROLLED**

SENATE BILL NO. 61

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

AN ACT

To amend and reenact Section 12 of Chapter 1 of Title VIII of Book I of the Civil Code, comprised of Arts. 354 through 362, relative to continuing tutorship; to provide for full continuing tutorship; to provide for limited continuing tutorship; to provide procedures; to provide for the petition; to provide for the contents of the decree; to provide for the authority of the tutor and undertutor; to provide for termination; to provide for legal capacity; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 12 of Chapter 1 of Title VIII of Book I of the Civil Code, comprised of Arts. 354 through 362, is hereby amended and reenacted to read as follows:

SECTION 12 - OF CONTINUING ~~OR PERMANENT~~ TUTORSHIP OF PERSONS WITH ~~INTELLECTUAL~~ DISABILITIES

Art. 354. ~~Procedure for placing~~ **Placing** under **continuing** tutorship

~~Persons, including certain~~ **Certain** children~~,~~ with ~~intellectual~~ disabilities ~~or mental deficiencies~~ may be placed under **full or limited** continuing ~~or permanent~~ tutorship ~~without formal or complete interdiction~~ in accordance with the following rules and the ~~procedures stated in the Louisiana~~ **provisions of the** Code of Civil Procedure.

Revision Comments – 2024

(a) This revision changes the law to provide for the possibility of a limited continuing tutorship for an unemancipated minor and to mirror the law of interdiction, which provides for the possibility of both full and limited interdiction for emancipated minors and persons over the age of majority. Where the unemancipated minor who is a candidate for continuing tutorship has an intellectual or adaptive functioning level that renders him consistently able to make reasoned decisions regarding some but not all matters, a limited continuing tutorship may be appropriate.

(b) This revision changes the nomenclature to refer only to "continuing" tutorship. Previously, the phrases "continuing tutorship" and "permanent tutorship" were used interchangeably. This revision suppresses the use of the phrase

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"permanent tutorship" to promote accuracy and to avoid superfluity.

Art. 355. Petition for **full or limited** continuing ~~or permanent~~ tutorship

When ~~a person~~ **an unemancipated minor** above the age of fifteen possesses less than two-thirds of the intellectual **or adaptive** functioning of a person of the same age with average intellectual **or adaptive** functioning, evidenced by standard testing procedures administered by competent persons or other relevant evidence acceptable to the court, the parents of ~~such person~~ **the minor**, or the person entitled to custody or tutorship **of the minor** if one or both parents are dead, incapacitated, or absent persons~~;~~ or if the parents are judicially separated or divorced or have never been married to each other, may, with the written concurrence of the coroner of the parish of the ~~intellectually disabled person's~~ **minor's** domicile, petition the court of that district to place ~~such person~~ **the minor** under a **full or limited** continuing tutorship ~~which~~ **that** shall not automatically end at any age but shall continue until revoked by the court of domicile. The petitioner shall not bear the coroner's costs or fees associated with securing the coroner's concurrence.

Revision Comments – 2024

(a) This revision changes the standard for placing a person under continuing tutorship to allow the court to consider either intellectual or adaptive functioning. Prior law did not allow children functioning at very low levels in the areas of communication, daily living skills, and socialization to be placed under continuing tutorship if their intellectual functioning was near average. This revision permits broader considerations of disability, including, for example, adaptive functioning under the Vineland-3 Adaptive Behavior Scales.

(b) This revision also clarifies that continuing tutorship may be sought only for persons between the ages of fifteen and eighteen. Once a person reaches the age of majority, Louisiana's law of interdiction applies. See, e.g., ~~Civil Code~~ Article 389 et seq.

Art. 356. Title of proceedings; procedural rules; parent to be named tutor

The title of the proceedings shall be Continuing Tutorship of (Name of Person), A Person with ~~an Intellectual~~ **a** Disability~~:~~**,**

~~(1) When the person to be placed under the continuing tutorship is above the age of fifteen, and under the age of majority;~~ **and** the proceeding shall be conducted according to the procedural rules established for ordinary tutorships.

~~(2) When the person to be placed under the continuing tutorship is above the~~

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~~age of majority, the proceeding shall be conducted according to the procedural rules established for interdictions.~~

~~(3)~~**(1)** When the parents of the person to be placed under ~~the~~ **a full or limited** continuing tutorship are married to each other and petition jointly, the court shall appoint the parents as co-tutors, unless for good cause the court decrees otherwise.

~~(4)~~**(2)** When the parents of the person to be placed under ~~the~~ **a full or limited** continuing tutorship are married to each other but do not petition jointly, the court shall appoint either a petitioning parent as tutor or both individually petitioning parents as co-tutors, in accordance with the best interest of the child.

~~(5)~~**(3)** Upon the petition of a parent of the person to be placed under the **full or limited** continuing tutorship, the court shall, unless good cause requires otherwise, appoint as tutor the petitioning parent who is:

(a) The surviving parent, if one parent is dead.

(b) The parent awarded custody ~~during minority~~ of the ~~person~~ **child** to be placed under the **full or limited** continuing tutorship, if the parents are divorced or judicially separated.

(c) The parent who ~~was~~ **is** tutor or tutrix ~~during minority~~, if the parents were never married to each other.

Art. 357. Decree~~,~~**;** place of recording~~,~~**;** notice~~.~~

If the prayer for **full or limited** continuing ~~or permanent~~ tutorship ~~be~~ **is** granted, the decree shall be recorded in the conveyance and mortgage records of the parish of the minor's domicile, and of any future domicile, and in ~~such~~ other parishes as may be deemed expedient. The decree shall not be effective as to persons without notice thereof outside of the parishes in which it is recorded.

Art. 358. ~~Authority;~~ **Full continuing tutorship; authority;** privileges~~,~~ and duties of tutor and undertutor~~, termination of tutorship~~

The granting of ~~the~~ **a** decree **of full continuing tutorship** shall confer upon the tutor and undertutor the same authority, privileges, and responsibilities as in other tutorships, including the same authority to give consent for any medical treatment or procedure, to give consent for any educational plan or procedure, and

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to obtain medical, educational, or other records, but the responsibility of the tutor for the offenses or quasi-offenses of the person ~~with an intellectual disability~~ **under full continuing tutorship** shall be the same as that of a curator for those of ~~the~~ **an** interdicted person ~~and the tutorship shall not terminate until the decree is set aside by the court of the domicile, or the court of last domicile if the domicile of the person with an intellectual disability is removed from the State of Louisiana.~~

Art. 358.1. Limited continuing tutorship; authority; privileges and duties of tutor and undertutor

The granting of a decree of limited continuing tutorship shall confer upon the tutor and undertutor only the authority, privileges, and responsibilities required to protect the interest of the person under limited continuing tutorship.

Art. 358.2. Termination of continuing tutorship

A full or limited continuing tutorship shall not terminate until the decree is set aside by the court of the domicile of the person under continuing tutorship, or the court of last domicile if the domicile of the person under continuing tutorship is removed from the state.

Art. 359. Restriction on legal capacity

~~The decree if granted shall restrict~~ **A person under full continuing tutorship has** the legal capacity ~~of the person with an intellectual disability to that of a minor.~~ **of an unemancipated minor or any lesser capacity as may be ordered in the decree. A person under limited continuing tutorship has legal capacity in accordance with the decree of continuing tutorship.**

Art. 360. Parents' rights of administration

In addition to the rights of tutorship, the parents shall retain, during the marriage and ~~for~~ **during** the minority of the child ~~with an intellectual disability~~ **under full or limited continuing tutorship**, all rights of administration granted to parents of children ~~without an intellectual disability~~ **not under continuing tutorship** during their minority.

Art. 361. Contest of decree restricting legal capacity

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The decree restricting ~~his~~ legal capacity may be contested in the court of domicile by the person **under full or limited continuing tutorship** ~~himself~~ or by anyone adversely affected by the decree. For good cause, the court may modify or terminate the decree restricting legal capacity.

Revision Comments – 2024

Under this Article, a person may contest the decree by objecting to its initial issuance or by seeking a later modification or termination of the decree.

Art. 362. Persons subject to interdiction

Persons subject to ~~mental or physical illness or disability, whether of a temporary or permanent nature, of such a degree as to render them subject to~~ interdiction, ~~under~~ **in accordance with** the provisions of Title IX ~~hereof~~ **of this Book**, remain subject to interdiction as provided in Articles 389 ~~to~~ **through** 399~~, inclusive,~~ and ~~such~~ **any** other **applicable** laws ~~as may relate thereto~~.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: May 22, 2024

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ACT 184

ENROLLED

2024 Regular Session

HOUSE BILL NO. 23

BY REPRESENTATIVE MELERINE

La. State Law Institute
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Edits To: CC Pgs. 1
Note:

AN ACT

To amend and reenact Civil Code Article 781, relative to building restrictions; to provide for a noticeable violation of building restrictions; to provide for a definition; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Article 781 is hereby amended and reenacted to read as follows:

Art. 781. Termination; liberative prescription

No action for injunction or for damages on account of the violation of a building restriction may be brought after two years from the commencement of a noticeable violation. A violation is noticeable when an apparent activity has occurred on the immovable in violation of the building restriction. The recordation of an instrument that provides for a violation of the building restriction does not constitute a noticeable violation. After the lapse of this period, the immovable on which the violation occurred is freed of the restriction that has been violated.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: Angélique Freel May 23, 2024

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

ACT 158
2024 Regular Session
Edit Sheet

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Classification CC
- NOTE § 3
- COPY PGS 1, 64

ACT 158

La. State Law Institute
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Edits To: ALL Pgs.
Note: SEE ATTACHED EDIT SHEET

2024 Regular Session

ENROLLED

SENATE BILL NO. 23

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

AN ACT

To amend and reenact Civil Code Art. 783 and Part II-B of Chapter 1 of Code Title I of Code Book II of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:1141.1 through 1141.50, Part III of Chapter 1 of Code Title I of Code Book II of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:1145 through 1148, and R.S. 9:2792.7(B)(3) and 3132(1)(g), relative to common interest ownership property; to provide for the Planned Community Act; to provide for definitions; to provide for the creation, alteration, and termination of a planned community; to provide for the contents of a declaration; to provide for the allocation of expenses; to provide for voting interests; to provide development rights; to provide for lot boundaries; to provide for rights of secured parties; to provide for owners associations; to provide for association powers and duties; to provide for a board of directors and officers; to provide for declarant control; to provide for the transfer of rights; to provide for bylaws; to provide for meetings of the association; to provide for insurance; to provide for assessments; to provide for privileges; to provide for notice to lot owners; to provide consumer protections; to provide for a public offering statement; to provide for warranties; to provide for a purchaser's right to cancel; to provide for attorney fees; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Art. 783 is hereby amended and reenacted to read as follows:

Art. 783. Matters of interpretation and application

Doubt as to the existence, validity, or extent of building restrictions is resolved in favor of the unrestricted use of the immovable. The provisions of the Louisiana Condominium Act, the Louisiana Timesharing Act, and the Louisiana ~~Homeowners Association~~ **Planned Community** Act shall supersede any and all provisions of this Title in the event of a conflict.

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As used in this Chapter:

(1) "Private transfer fee" means a fee or charge required by a private transfer fee obligation and payable upon the transfer of an interest in an immovable, or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the immovable, the purchase price, or other consideration given for the transfer. "Private transfer fee" shall not include the following:

* * *

(g) Any fee, charge, assessment, fine, or other amount authorized ~~under~~ **by the** Louisiana Condominium Act, R.S. 9:1121.101 et seq.; the Louisiana Timesharing Act, R.S. 9:1131.1 et seq.; or the Louisiana ~~Homeowners Association~~ **Planned Community** Act, R.S. 9:1141.1 et seq.

* * *

[Acts 2024, No. 158]

Section 3. (A) This Act shall become effective on January 1, 2025, except as otherwise provided by this Section, and shall apply to declarations establishing planned communities filed for registry on or after that date.

(B) For planned communities established by a declaration or similar document filed for registry on or before December 31, 2024, this Act shall become effective on January 1, 2026.

[NOTE: ALL PROVISIONS IN THIS ACT]

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: Angelique Freel May 23, 2024

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ACT 252

ENROLLED

2024 Regular Session

HOUSE BILL NO. 784

BY REPRESENTATIVES SCHAMERHORN, BOURRIAQUE, EGAN, FIRMENT, FISHER, GADBERRY, HORTON, TRAVIS JOHNSON, LAFLEUR, JACOB LANDRY, MACK, MCMAHEN, ORGERON, OWEN, ROMERO, SELDERS, TAYLOR, THOMPSON, TURNER, VENTRELLA, AND WALTERS AND SENATORS BARROW, CATHEY, EDMONDS, HENSGENS, KLEINPETER, MIGUEZ, MIZELL, MORRIS, REESE, AND WOMACK

La. State Law Institute
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Edits To: CC Pgs. 1
Note:

AN ACT

To amend and reenact Civil Code Article 2321, relative to liability for damages caused by livestock; to provide for strict liability under certain circumstances; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Article 2321 is hereby amended and reenacted to read as follows:

Art. 2321. Damage caused by animals; livestock

A. The owner of an animal, including livestock, is answerable for the damage caused by the animal. However, ~~he~~ the owner is answerable for the damage only upon a showing that ~~he~~ the owner knew or, in the exercise of reasonable care, should have known that his animal's behavior would cause damage, that the damage could have been prevented by the exercise of reasonable care, and that ~~he~~ the owner failed to exercise such reasonable care.

B. Nonetheless, the owner of a dog is strictly liable for damages for injuries to persons or property caused by the dog and which the owner could have prevented and which did not result from the injured person's provocation of the dog.

C. The owner of livestock is liable for damages for injuries to persons or property caused by the livestock that escape an enclosure and the owner could have prevented by an exercise of reasonable care. The owner of livestock is not liable for

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damages for injuries to person or property for livestock that escape an enclosure due to any of the following:

(1) A fortuitous event.

(2) No fault of the owner.

(3) Third-party provocation of the livestock.

D. Nothing in this Article shall preclude the court from the application of the doctrine of res ipsa loquitur in an appropriate case.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: Angelique Freel May 23, 2024

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ACT 423

ENROLLED

2024 Regular Session

HOUSE BILL NO. 315

BY REPRESENTATIVES MIKE JOHNSON, BAYHAM, BILLINGS, ROBBY CARTER, DICKERSON, EDMONSTON, GREEN, LARVADAIN, MUSCARELLO, STAGNI, AND VENTRELLA AND SENATORS BOUDREAUX, CARTER, CONNICK, DUPLESSIS, FIELDS, HARRIS, JACKSON-ANDREWS, JENKINS, AND SEABAUGH

La. State Law Institute
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Note: - NOTE § 3

AN ACT

To enact Civil Code Articles 3493.11 and 3493.12, and to repeal Civil Code Articles 3492 and 3493, relative to tort actions; to provide prescriptive periods for tort actions; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 3493.11 and 3493.12 are hereby enacted to read as follows:

3493.1

Art. 3493.11. Delictual actions

Delictual actions are subject to a liberative prescription of two years. This prescription commences to run from the day that injury or damage is sustained. It does not run against minors or interdicts in actions involving permanent disability and brought pursuant to the Louisiana Products Liability Act or state law governing product liability actions in effect at the time of the injury or damage.

3493.2

Art. 3493.12. Damage to immovable property; commencement and accrual of prescription

When damage is caused to immovable property, the two-year prescription commences to run from the day that the owner of the immovable acquired, or should have acquired, knowledge of the damage.

ART. 3493.10 → 3493.3. Delictual actions; two-year prescription; criminal act

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Section 2. Civil Code Articles 3492 and 3493 are hereby repealed their entirety.

[Acts 2024, No. 423]

Section 3. The provisions of this Act shall be given prospective application only and shall apply to delictual actions arising after the effective date of this Act.

[Acts 2024, No. 423, eff. 7/1/2024]

Section 4. This Act shall become effective on July 1, 2024.

[NOTE: ALL PROVISIONS IN THIS ACT]

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: 6-3-24

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