

2019 Regular Session

HOUSE BILL NO. 417

BY REPRESENTATIVE HILL

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

CIVIL/PROCEDURE: Provides relative to payments to a minor from a judgment or settlement

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 4521(A)(3) and (B) and to repeal
3 Code of Civil Procedure Article 4521(C), relative to payments to a minor from a
4 judgment or settlement; to provide for the payment of funds to a minor in the custody
5 of the Department of Children and Family Services; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 4521(A)(3) and (B) are hereby amended
9 and reenacted to read as follows:

10 Art. 4521. Payments to minor

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

13 * * *

14 (3) That the funds be placed in trust in accordance with the Louisiana Trust
15 Code to be administered by an individual or corporate trustee as determined by the
16 court. However, the court shall not order funds which will be paid to an
17 unemancipated minor who is in the legal custody of the Department of Children and
18 Family Services to be placed in trust if the amount of the judgment or settlement is
19 less than fifty thousand dollars.

20 * * *

1 B. ~~In approving any proposal by which funds will be paid to an~~
2 ~~unemancipated minor who is in the legal custody of the Department of Children and~~
3 ~~Family Services, the court shall order that the funds be placed in trust in accordance~~
4 ~~with the Louisiana Trust Code and the provisions of Article 4269.1, to be~~
5 ~~administered by an individual or corporate trustee as determined by the court.~~

6 ~~E.~~ In determining whether a proposed periodic payment schedule is in the
7 best interest of the minor, the court shall consider the following factors:

8 (1) Age and life expectancy of the minor.

9 (2) Current and anticipated financial needs of the minor.

10 (3) Income and estate tax implications.

11 (4) Impact on eligibility for government benefits.

12 (5) Present value of the proposed payment arrangement and the method by
13 which the value is calculated.

14 Section 2. Code of Civil Procedure Article 4521(C) is hereby repealed in its entirety.

15 Section 3. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 417 Engrossed

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Abstract: Sets a minimum value for a judgment or settlement to be placed in trust for a minor in the custody of the Dept. of Children and Family Services (DCFS.).

Present law provides that for any funds owed to a minor from a settlement or judgment, monies may be paid directly into the registry of the court, invested in an interest-bearing investment approved by the court, placed in trust, paid under a structured settlement, or paid in any combination thereof.

Present law further provides that for monies owed to a minor in the custody of the DCFS, the court may only place the funds in trust in accordance with the Trust Code and a present law provision for the placement of a minor's property in trust by a tutor.

Proposed law limits the amount that can be placed in trust for a minor in custody of the DCFS to no less than \$50,000 and removes the requirement that the court place the funds in trust in accordance with the present law provision for the placement of minor's property in trust by a tutor.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.C.P. Art. 4521(A)(3) and (B); Repeals C.C.P. Art. 4521(C))