DIGEST

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SB 127 Reengrossed 2026 Regular Session Miller

Proposed law retains present law (C.C.P. Art. 4566) and further provides that a charitable donation inter vivos or testamentary charitable disposition made in compliance with the provisions of proposed law and approved by the court does not constitute a breach of fiduciary duty nor conflict of interest by the curator even if a curator, undercurator, parent, direct descendant, sibling, or descendant of a sibling of the interdict is affiliated with the charity or a recipient of the donation.

Proposed law provides that a curator without court approval may refuse, renounce, or disclaim a donation, inheritance, or bequest made to an interdict with a direct or beneficial net worth of $100 million or more as a trust beneficiary or otherwise.

Proposed law (R.S. 9:1026) provides that notwithstanding the provisions of proposed law and pursuant to proposed law, upon request of the curator and under curator, the court may authorize a curator, in the name of and on behalf of an interdict with a direct or beneficial net worth of $100 million or more as a trust beneficiary or otherwise, to make donations pursuant to proposed law.

Proposed law provides that subject to proposed law, other than to charitable recipients, an interdict may make, directly or indirectly, donations inter vivos of money and other assets from surplus funds of the interdict utilizing all or a portion of the interdict's annual federal gift tax exclusions pursuant to federal law (26 U.S.C. §2503(b)) and the interdict's lifetime credits and exemptions from federal estate tax and the tax on generation skipping transfers pursuant to federal law (26 U.S.C. §2010 and §2631 et seq.) to one or more of the following: an interdict's direct descendant, sibling, descendant of a sibling, stepsibling or descendant of a stepsibling, step-descendant of a sibling, or to one or more trusts for the benefit of the recipient or one or more class trusts for the benefit of such present and future recipients, including to grantor trusts.

Proposed law provides that additional donations inter vivos pursuant to proposed law may be made, except to a stepsibling, descendant of a stepsibling, or step-descendant of a sibling or trust for the benefit of a stepsibling or step-descendant of a sibling, subject to a maximum lifetime limit of five times the prevailing federal estate tax lifetime exemption equivalent.

Proposed law requires inter vivos noncharitable donations authorized in proposed law in the name or on behalf of an interdict to be made in equal amounts to each member of the same class and generation descending from a common parent.

Proposed law requires inter vivos noncharitable donations authorized in proposed law and made to nieces and nephews, including step-nieces and step-nephews, with the same parent to be made equally to each descendant of that parent.

Proposed law provides that if the federal gift tax has been repealed, cumulative inter vivos transfers otherwise authorized in proposed law are permitted subject to an aggregate lifetime amount equal to 600% of the highest gift tax lifetime exemption in effect prior to the gift tax being repealed. Further provides that annual exclusion donations may be made subject to the provisions of proposed law after donations in the maximum allowable amounts pursuant to proposed law.

Proposed law provides that noncharitable testamentary dispositions made upon the death of the interdict, other than through intestacy, including a self-settled trust in which the interdict is a beneficiary may only be made to a direct descendant, sibling, descendant of a sibling of an interdict or one or more trusts for the benefit of such recipients, or one or more class trusts for the benefit of present and future recipients, including to grantor trusts, but may not

be made to a stepsibling, descendant of a stepsibling, or trust for the benefit of such recipient.

Proposed law provides that testamentary dispositions pursuant to proposed law shall be made in equal amounts to recipients of the same class and generation, except that a catch-up bequest may be made to an interdict's direct descendant, sibling, or descendant of a sibling to equalize a donation to a permissible recipient born after inter vivos donations were made to other recipients of the same degree.

Proposed law provides that proposed law does not annul or supercede a lawful will or trust in effect prior to a person being interdicted.

Proposed law provides that inter vivos charitable dispositions may be made to charitable recipients, including split interest trusts, donor advised funds, charitable trusts, and private foundations, even if such donees are controlled by a parent, direct descendant, sibling, or descendant of a sibling of an interdict, up to a maximum annual aggregate amount of 10% of the interdict's net worth in excess of $100 million. Proposed law prohibits an inter vivos charitable disposition pursuant to proposed law if the interdict's net worth is less than $100 million.

Proposed law provides that inter vivos donations, testamentary, and charitable dispositions, including a charitable remainder trust, to one or more charities may be made that take effect upon the death of the interdict provided that such charitable donations do not exceed an aggregate of 75% of the interdict's gross estate at the time of his death for federal estate tax reporting purposes.

Proposed law provides that the court may authorize a curator to make a donation pursuant to proposed law when the procedure provided for in present and proposed law is complied with and the donation does not materially impair the financial condition of the interdict and is not likely to deprive the interdict of sufficient funds to provide for his future needs and support. Further provides that the court may require the curator to provide documentation to substantiate the request to make a donation and place the information obtained under seal.

Proposed law provides that for purposes of proposed law, it is presumed that a donation does not materially impair the financial condition of the interdict or deprive the interdict of sufficient resources if the curator shows that the direct or beneficial net worth of the interdict is not less than $100 million as a trust beneficiary or otherwise, after subtracting the value of the donation.

Notwithstanding the provisions of present law (C.C. Art. 1495), proposed law (R.S. 9:2374) requires a forced heir who has attained the age of majority, is permanently incapable of taking care of his person or administering his estate due to mental incapacity, physical infirmity, an inherited incurable disease, or other documented medical condition at the time of the death of a decedent who is an ancestor of such forced heir, and who has a direct or beneficial net worth in excess of $50 million as a trust beneficiary or otherwise, to have a forced portion of one dollar.

(Amends C.C.P. Art. 4566(C); Adds R.S. 9:1026 and 2374)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.

2. Provides that recipients of inter vivos noncharitable donations made to nieces and nephews must be distributed equally to those of the same generation.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Specify that a charitable donation does not constitute a breach of fiduciary duty or conflict of interest by the curator even if the curator, undercurator, parent, direct descendant, sibling, or descendant of a sibling of the interdict is affiliated with the charity or a recipient of the donation.

2. Make technical changes.