

Regular Session, 2008

SENATE BILL NO. 265

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

CHILDREN. Provides relative to the emancipation of minors. (1/1/09)

AN ACT

To amend and reenact Chapter 2 of Title VIII of Book I of the Civil Code, formerly comprised of Articles 365 through 385, to be comprised of Articles 365 through 371, Civil Code Article 2318, and Title V of Book VII of the Louisiana Code of Civil Procedure, formerly comprised of Articles 3991 through 3994, to be comprised of Articles 3991 through 3998, all relative to the emancipation of minors; to provide for the kinds of emancipation; to provide for judicial emancipation; to provide for emancipation by marriage; to provide for limited emancipation by authentic act; to provide for the effective date of an emancipation; to provide for the modification or termination of an emancipation; to provide for parental liability of an unemancipated minor; to provide for a petition for a judicial emancipation; to provide for the venue for a judicial emancipation; to provide for the hearing of a petition for a judicial emancipation; to provide for an appeal of a judicial emancipation; to provide for the termination or modification of an emancipation; to provide when an emancipation is effective; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 2 of Title VIII of Book I of the Civil Code, formerly comprised

of Articles 365 through 385, to be comprised of Articles 365 through 371 and Civil Code Article 2318 are hereby amended and reenacted to read as follows:

Chapter 2. ~~Of~~ Emancipation

~~Section 1. General Dispositions~~

~~Art. 365. Kinds of emancipation.~~

~~There are three kinds of emancipation:~~

~~1. Emancipation conferring the power of administration.~~

~~2. Emancipation by marriage.~~

~~3. Emancipation relieving the minor from the time prescribed by law for attaining the age of majority.~~

Art. 365. Emancipation

There are three kinds of emancipation: judicial emancipation, emancipation by marriage, and limited emancipation by authentic act.

Revision Comment – 2008

This revision establishes an emancipation regime under which a minor can be emancipated by a judgment of a court, by marriage, and by an authentic act. Emancipation by authentic act, however, may be limited.

~~Section 2. Of Emancipation Conferring the Power of Administration~~

~~Art. 366. Emancipation by notarial act~~

~~The minor, although not married, may be emancipated by his father or, upon the death of the father, by his mother or, in the event of divorce or separation from bed and board, by the natural tutor or cotutors acting jointly, when he shall have arrived at the full age of fifteen years.~~

~~This emancipation takes place by the declaration to that effect of the father, the mother, or both, before a notary public in the presence of two witnesses.~~

Art. 366. Judicial emancipation

A court may order for good cause the full or limited emancipation of a minor sixteen years of age or older. Full judicial emancipation confers all effects of majority on the person emancipated, unless

1 **otherwise provided by law. Limited judicial emancipation confers the**
2 **effects of majority specified in the judgment of limited emancipation,**
3 **unless otherwise provided by law.**

4 Revision Comments – 2008

5
6 (a) This Article is analogous to the provisions in former Civil Code
7 Article 385 (enacted by Acts 1976, No. 155) that provided for emancipation
8 that relieved the minor from the time prescribed by law for attaining the age
9 of majority. *See* C.C. Art. 385 (enacted by Acts 1976, No. 155).

10
11 (b) Among other effects, full judicial emancipation empowers the
12 minor with capacity to incur conventional obligations and to make donations.
13 Unemancipated minors lack capacity to make many donations, *see* C.C. Art.
14 1476 (Rev. 1991), and to contract, *see id.* C.C. Art. 1918 (Rev. 1984).

15
16 (c) By providing that a fully emancipated minor is treated as a major
17 "unless otherwise provided by law," this Article clarifies that laws regulating
18 the conduct of those "under age eighteen," are not affected by emancipation.
19

20 (d) This Article is new in that it provides for limited judicial
21 emancipation. This provision gives a court in an emancipation matter
22 discretion to tailor a judgment of limited emancipation to the needs of the
23 minor and his parents or tutor. For example, if a minor needs capacity to
24 contract in order to further the needs of his business, a judgment of limited
25 emancipation could confer upon him only that capacity. He would be treated
26 as a minor in all other respects.
27

28 (e) Although a court has much discretion to tailor a judgment of
29 limited emancipation to suit the needs of the minor and his parents or tutor,
30 a judgment of limited emancipation might include restrictions on capacity
31 similar to those contained in the 1870 Civil Code, such as (1) limitations on
32 the minor's capacity to alienate immovable property, C.C. Art. 373 (1870);
33 (2) limitations on the amount of the minor's conventional obligations, *see*
34 C.C. Arts. 371-372 (1870); and, (3) limitations on the minor's capacity to
35 make donations, *see* C.C. Art. 374 (1870).
36

37 (f) This Article permits a court to emancipate a minor "for good
38 cause."
39

40 (g) "Good cause" warranting emancipation may exist when the
41 minor's parents need to be protected. For example, emancipation might be
42 appropriate if a minor has run away from home and cannot be found.
43 Emancipation would protect the minor's parents from liability for the acts of
44 an absent child over whom they have no control.
45

46 (h) "Good cause" warranting emancipation may exist when the minor
47 needs the capacity to enter into juridical acts. For example, emancipation
48 might be appropriate if a minor is operating a business and needs to contract
49 with vendors or suppliers without parental assistance.
50

51 (i) "Good cause" warranting emancipation may exist if the parents
52 of a mature and responsible minor give the minor "corrupt examples," "ill
53 treat him excessively," or "refuse him support." *See* C.C. Art. 368 (1870).
54

55 **Art. 367. Emancipation by marriage**

A minor is fully emancipated by marriage. Termination of the marriage does not affect emancipation by marriage. Emancipation by marriage can not be modified or terminated.

Revision Comments – 2008

(a) This Article retains the concept of emancipation by marriage. *See* C.C. Art. 379 (1870). However, it effects a significant change in the law by rendering the minor "fully emancipated" by marriage. Under the former law, a married minor below the age of sixteen obtained only the power of administration through marriage. *See id.* C.C. Art. 382 (1870).

(b) As used in this Article, the term "marriage" includes both lawful marriages and putative marriages.

(c) This Article reproduces the substance of C.C. Art. 383 (1870). Therefore, termination of marriage by divorce or by the death of the emancipated minor's spouse (or otherwise) will not affect his emancipation.

~~Art. 368. Emancipation by reason of ill treatment.~~

~~The minor may be emancipated against the will of his father and mother, when they ill treat him excessively, refuse him support, or give him corrupt examples.~~

Art. 368. Limited emancipation by authentic act

An authentic act of limited emancipation confers upon a minor age sixteen or older the capacity to make the kinds of juridical acts specified therein, unless otherwise provided by law. The act shall be executed by the minor, and by the minor's parents, if parental authority exists, or by the minor's tutor, if parental authority does not exist. All other effects of minority shall continue.

Revision Comments – 2008

(a) This Article retains the concept of limited emancipation by authentic act. It increases the age of eligibility for emancipation from fifteen to sixteen. The limited emancipation by authentic act does not relieve the parents from liability for the damages occasioned by their minor child. *See* Civil Code Article 2318 and the Comments thereto.

(b) Within the authentic act of limited emancipation, the parties may provide that the emancipated minor has the capacity to execute all juridical acts, or certain kinds of juridical acts, or only specific juridical acts.

(c) The requirements for an "authentic act" are set forth in Civil Code Article 1833.

Art. 369. Emancipation; when effective

Judicial emancipation is effective when the judgment is signed. Emancipation by marriage is effective upon marriage. Limited emancipation by authentic act is

1 **effective when the act is executed.**

2 Revision Comment – 2008

3
4 Emancipation is wholly prospective, has no retroactive effects, and does not affect
5 the validity or invalidity of an act made by the emancipated person prior to the emancipation.

6
7 ~~Art. 370. Emancipated minor's powers of administration.~~

8
9 ~~The minor who is emancipated has the full administration of his estate, and may pass~~
10 ~~all acts which are confined to such administration, grant leases, receive his revenues and~~
11 ~~moneys which may be due to him, and give receipts for the same.~~

12 **Art. 370. Modification and termination of judicial emancipation**

13
14 **The court may modify or terminate its judgment of emancipation for good**
15 **cause.**

16 **A judgment modifying or terminating a judgment of emancipation is effective**
17 **toward third persons as to immovable property when the judgment is filed for registry**
18 **in the conveyance records of the parish in which the property is situated, and as to**
19 **movables when the judgment is filed for registry in the conveyance records of the**
20 **parish or parishes in which the minor was domiciled at the time of the judgment.**

21 **A judgment modifying or terminating a judgment of emancipation does not**
22 **affect the validity of an act made by the emancipated minor prior to the effective date**
23 **of modification or termination.**

24 **The termination of judicial emancipation places the minor under the same**
25 **authority to which he was subject prior to emancipation, unless otherwise ordered by**
26 **the court for good cause shown.**

27
28 Revision Comments – 2008

29
30 (a) "Good cause" exists whenever the reason justifying emancipation—or any other
31 meritorious reason—exists for termination or modification.

32
33 (b) Through the use of the term "may," this Article leaves termination or
34 modification of judicial emancipation to the sound discretion of the court. For example, a
35 court could exercise its discretion to convert a full emancipation into a limited emancipation.

36
37 (c) This Article clarifies that the termination or modification of emancipation is
38 wholly prospective and has no retroactive effects.

39
40 (d) This Article does not change the law regarding the supervisory regime to which
41 the minor will be subject following a termination of emancipation. Under the 1870 Code,

1 "revocation of emancipation places the minor under the same authority to which he was
2 subject previous to his being emancipated." See C.C. Art. 378 (1870). However, this Article
3 clarifies that a court has discretion to place the minor under different authority.

4
5 ~~Art. 371. Limitation on contractual capacity.~~

6 ~~He can not bind himself legally by promise or obligation for any sum exceeding the~~
7 ~~amount of one year of his revenue.~~

8 **Art. 371. Modification or termination of limited emancipation by authentic act**

9
10 **The parties to an authentic act of limited emancipation may modify or terminate**
11 **the limited emancipation by making a subsequent authentic act. In addition, a court,**
12 **for good cause, may modify or terminate limited emancipation by authentic act.**

13 **An authentic act or judgment modifying or terminating limited emancipation**
14 **by authentic act is effective toward third persons as to immovable property when the**
15 **act or judgment is filed for registry in the conveyance records of the parish in which**
16 **the property is situated and as to movables when the act or judgment is filed for**
17 **registry in the conveyance records in the parish or parishes in which the minor was**
18 **domiciled at the time of the act modifying or terminating limited emancipation by**
19 **authentic act.**

20 **An authentic act or judgment modifying or terminating a prior act of limited**
21 **emancipation does not affect the validity of a juridical act made by the minor prior to**
22 **the effective date of modification or termination.**

23 ~~Art. 372. Limitations on contractual liability; lesion.~~

24 ~~The minor who is emancipated has no right to claim a restitution on the plea of~~
25 ~~simple lesion against acts of simple administration.~~

26 ~~He has no right either to claim a restitution for simple lesion* against obligations or~~
27 ~~promises which do not exceed the amount of one year of his revenue.~~

28 ~~If, however, he has contracted in the same year, towards one or more creditors,~~
29 ~~several obligations, each of which does not exceed the amount of one year of his revenue,~~
30 ~~but which together exceed that amount, these obligations may be reduced according to the~~
31 ~~discretion of the judge, whose duty it shall be in such case, to take into consideration the~~
32 ~~estate of the minor, the probity or dishonesty of the persons who have dealt with him, and~~

1 the utility and inutility of the expenses.

2 ~~Art. 373. Limitation on power of alienation; authority of tutor, undertutor or~~
3 ~~administrator.~~

4 ~~The emancipated minor who has only the power of administration of his estate~~
5 ~~cannot alienate, affect or mortgage any of his immovable property without the authorization~~
6 ~~of the court, on the recommendation of his tutor or of the administrator of his estate, as the~~
7 ~~case may be, in accordance with the applicable provisions of the Code of Civil Procedure.~~
8 ~~The authority of the tutor and undertutor, or of the administrator of his estate, of such a~~
9 ~~minor continues for these purposes after his emancipation until the minor reaches the age~~
10 ~~of eighteen years.~~

11 ~~Art. 374. Limitation on right to make donations.~~

12 ~~The emancipated minor has no right to dispose of his movables or immovables by~~
13 ~~donation *inter vivos* unless it be by marriage contract in favor of the person to whom he is~~
14 ~~to be married.~~

15 ~~Art. 376. General capacity concerning trade.~~

16 ~~The emancipated minor who is engaged in trade, is considered as having arrived at~~
17 ~~the age of majority, for all the acts which have any relation to such trade.~~

18 ~~Art. 377. Causes for revocation of emancipation.~~

19 ~~The emancipation, whatever be the manner in which it may have been effected, may~~
20 ~~be revoked, whenever the minor contracts engagements which exceed the limits prescribed~~
21 ~~by law.~~

22 ~~Art. 378. Effect of revocation.~~

23 ~~The revocation of emancipation places the minor under the same authority to which~~
24 ~~he was subject previous to his being emancipated.~~

25 ~~But if he has been emancipated against the will of his father and mother, for~~
26 ~~excessive ill treatment, refusal to support him, or corrupt examples given him, another tutor~~
27 ~~shall be appointed in the manner provided by law.~~

28 **Section 3. Of Emancipation**

29 ~~Art. 379. Emancipation by marriage.~~

~~The minor, whether male or female, is emancipated of right by marriage.~~

~~Art. 380. Right to appear in court.~~

~~The minor, emancipated by marriage, can appear in courts of justice without the assistance of a curator.~~

~~Art. 381. Accounting of former tutor.~~

~~The minor, emancipated by marriage, may demand an account from his tutor and a settlement of the tutorship. The tutor is bound to pay him the balance ascertained to be due, and to deliver the property in his hands belonging to such minor.~~

~~Art. 382. Special effects of emancipation by marriage.~~

~~A married minor below the age of sixteen years has the power of administration of his estate; but he cannot alienate, affect, or mortgage any of his immovable property without the authorization of the court, as provided in Article 373. The authority of the tutor or undertutor, or of the administrator of his estate, of such a minor continues for these purposes after the minor's marriage until the minor reaches the age of sixteen years.~~

~~Art. 383. Irrevocability of emancipation by marriage.~~

~~This emancipation can not be revoked.~~

~~Art. 384. General rules.~~

~~In other respects, minors emancipated by marriage are bound by the rules laid down in the preceding section.~~

~~Section 4. Of Emancipation relieving the Minor From the Time Prescribed by Law For Attaining the Age of Majority~~

~~Art. 385. Emancipation of minor sixteen years or older.~~

~~A minor sixteen years of age or older may be judicially emancipated and relieved of the disabilities which attach to minority as provided in Articles 3991 through 3994 of the Louisiana Code of Civil Procedure.~~

* * *

Art. 2318. Acts of **a minor** minors

The father and the mother ~~and, after the decease of either, the surviving parent,~~ are responsible for the damage occasioned by their minor **child**, ~~or unemancipated children,~~

1 ~~residing~~ **who resides** with them; or **who has been** placed by them under the care of other
2 persons, reserving to them recourse against those persons. **However, the father and**
3 **mother are not responsible for the damage occasioned by their minor child who has**
4 **been emancipated by marriage, by judgment of full emancipation, or by judgment of**
5 **limited emancipation that expressly relieves the parents of liability for damages**
6 **occasioned by their minor child.**

7 The same responsibility attaches to the tutors of minors.

8 Revision Comment -- 2008
9

10 The purpose of the 2008 amendment to this Article is to clarify the types of
11 emancipation that will relieve parents from tort liability for their minor children.
12 There is no intent to change the judicial interpretation of Civil Code Article 2318 as
13 expressed in *Turner v. Butcher*, 308 So.2d 270 (La. 1975). This Article, in
14 connection with the 2008 Revision of the law of Emancipation, does change the law
15 as expressed in the case of *Held v. Wilt*, 610 So.2d 1103 (La. App. 5 Cir. 1982)
16 which held that a notarial emancipation relieves a parent from tort liability for the
17 acts of their minor children. Compare *Keller v. Rednour*, 416 So.2d 357 (La. App.
18 4 Cir. 1982). Under the Revision, an emancipation by authentic act has limited
19 effects and does not affect the liability of a parent under Civil Code Article 2318. See
20 Civil Code Article 368 (Rev. 2008). This Article is not intended to change the law
21 with respect to other types of emancipation. See *Speziale v. Kohnke*, 194 So.2d 485
22 (La. App. 4 Cir. 1967) (father not liable for tort committed by judicially emancipated
23 minor) and *Stough v. Young*, 185 So. 476 (La. App. 2 Cir. 1938) (parent not liable
24 for acts of child emancipated by marriage).
25

26 Section 2. Title V of Book VII of the Louisiana Code of Civil Procedure, formerly
27 comprised of Articles 3991 through 3994, to be comprised of Articles 3991 through 3998,
28 is hereby amended and reenacted to read as follows:
29

30 Title V - Judicial Emancipation
31

32 ~~Art. 3991. Petition; court where proceeding brought~~
33

34 The petition of a minor for judicial emancipation shall be filed in the
35 district court in the parish of his domicile, and shall set forth the reasons why
36 he desires to be emancipated and the value of his property, if any.

37 **Art. 3991. Petition for judicial emancipation**
38

39 **A. A minor age sixteen or older may petition for emancipation**
40 **individually without the participation of his tutor or administrator. The minor's**
41 **petition shall name as parties defendant and shall be served personally on the**
42 **minor's parents, if parental authority exists, or his tutor if parental authority**
43 **does not exist.**

B. The parents of a minor age sixteen or older, if parental authority exists, or the minor's tutor, if parental authority does not exist, may petition for the minor's emancipation. A petition filed by the parents or tutor of a minor shall name the minor as defendant and shall be served personally on the minor and on an attorney appointed by the court, who shall represent the minor.

C. A joint petition for judicial emancipation may be filed by a minor age sixteen or older and the minor's parents, if parental authority exists, or the minor's tutor, if parental authority does not exist. A joint petition need not be served on any party.

Revision Comments – 2008

(a) This Article creates an exception to C.C.P. Art. 683, which provides that an unemancipated minor does not have capacity to sue.

(b) An absent defendant may be served in accordance with Code of Civil Procedure Articles 5091-5098.

(c) When a minor has more than one tutor or administrator, each tutor or administrator must join as a party plaintiff or be joined as a party defendant to any action requiring the participation of the minor's tutor or administrator.

~~Art. 3992. Consent of parent or tutor~~

~~The petition of the minor shall be accompanied by a written consent to the emancipation and a specific declaration that the minor is fully capable of managing his own affairs, by the following:~~

~~(1) The father and mother if both are alive, or the survivor if one is dead. If either parent is absent or unable to act, the consent of the other parent alone is necessary. If the parents are judicially separated or divorced, and the custody of the minor has been awarded by judgment to one of the parents, the consent of that parent alone is necessary. A surviving parent is not required to qualify as natural tutor in order to give such consent, nor is the appointment of a special tutor necessary.~~

~~If the petition is filed on the ground of ill treatment, refusal to support, or corrupt examples, parental consent is unnecessary, but the parents or the surviving parent shall be cited to show cause why the minor should not be emancipated.~~

~~(2) The tutor of the minor if one has been appointed. If a tutor of his~~

property and a tutor of his person have been appointed for the minor, the consent of both is necessary. If no tutor has been appointed, or if the tutor has died, resigned, or been removed, and there is no surviving parent who is able to act, a special tutor shall be appointed. If the tutor or special tutor refuses to give his consent, he may be cited to show cause why the minor should not be emancipated.

Art. 3992. Petition requirements

The petition shall be verified by all petitioners and shall set forth the following with particularity:

(1) The name, domicile, age, and, if known, the current address of the minor.

(2) The names and current addresses of the parents and any tutors of the minor, if known.

(3) The reasons why good cause exists for emancipation.

(4) If limited judicial emancipation is requested, the effects of majority sought to be conferred upon the minor.

(5) A descriptive list of the minor's property, including the location of such property, if known.

Revision Comment – 2008

This Article is new. It is based upon Code of Civil Procedure Article 4541.

~~Art. 3993. Hearing; judgment~~

~~If the judge is satisfied that there is good reason for emancipation and that the minor is capable of managing his own affairs, he shall render a judgment of emancipation, which shall declare that the minor is fully emancipated and relieved of all the disabilities which attach to minority, with full power to perform all acts as fully as if he had reached the age of majority.~~

Art. 3993. Venue for judicial emancipation

Venue for a judicial emancipation proceeding is the parish where a party is domiciled.

Revision Comments – 2008

(a) Under Civil Code Article 39, the "domicile of a minor not emancipated is that of his father, mother, or tutor."

(b) Civil Code Article 218 (1870) provides that an unemancipated minor may not quit the parental house without the permission of his father and mother.

(c) For issues relative to jurisdiction, see Code of Civil Procedure Article 10(A)(2).

~~Art. 3994. Expenses of proceeding~~

~~Whether the minor succeeds or fails in obtaining a judgment of emancipation, all expenses which he may have incurred shall be paid out of his estate.~~

Art. 3994. Emancipation hearing

A. An emancipation hearing shall be a summary proceeding.

B. Except for good cause shown, the minor shall be present at the hearing and may be called as a witness by the court.

C. With the consent of all parties and the court, judicial emancipation may be granted without a hearing upon a joint petition for emancipation.

Revision Comment – 2008

This Article is new.

Art. 3995. Judgment of limited emancipation

A judgment of limited emancipation shall specify the effects of majority conferred and shall state that the minor retains all other effects of minority.

Revision Comment – 2008

This Article is new.

Art. 3996. Appeal

A judgment granting, modifying, or terminating emancipation is not suspended during the pendency of an appeal. The validity of an act of the minor shall not be affected by the subsequent modification or termination of the judgment.

Revision Comment – 2008

1 This Article is new.
2

3 **Art. 3997. Modification or termination of emancipation**
4

5 **On motion of the court or any person, the court may modify or terminate**
6 **its judgment of emancipation or an act of limited emancipation by authentic act**
7 **when the court finds that good cause exists.**

8 Revision Comment – 2008
9

10 This Article is new.
11

12 **Art. 3998. Recordation**
13

14 **A. The clerk of court shall record every judgment granting, modifying,**
15 **or terminating emancipation in the conveyance records of the parish in which**
16 **the judgment was rendered.**

17 **B. Within fifteen days of the signing of a judgment granting, modifying,**
18 **or terminating emancipation, the petitioner shall cause it to be recorded in the**
19 **conveyance records of every other parish in which the minor owns immovable**
20 **property.**

21 Section 3. The headings and comments in this Act are not part of the law and are not
22 enacted into law by virtue of their inclusion in this Act.

23 Section 4. This Act shall be effective on January 1, 2009.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Camille Sebastien Perry.

DIGEST

Quinn

SB No. 265

Present law (C.C. Art. 365) provides that there are three kinds of emancipation: (1) emancipation conferring the power of administration; (2) emancipation by marriage; and (3) emancipation relieving the minor of the time required to attain the age of majority.

Proposed law (C.C. Art. 365) modifies present law and provides that there are three kinds of emancipation: (1) judicial emancipation; (2) emancipation by marriage; and (3) limited emancipation by authentic act.

Present law (C.C. Art. 366) provides for the emancipation of a minor, who is fifteen years of age or older, by a notarial act executed by the minor's father, mother, or tutor before a notary public and two witnesses.

Proposed law (C.C. Art. 368) modifies present law and provides for the limited emancipation of a minor, who is sixteen years of age or older, by an authentic act executed by the minor, and his parents or tutor. The authentic act of limited emancipation shall specify the kinds

of juridical acts that the emancipated minor shall have the capacity to make. All other effects of minority shall continue.

Present law (C.C. Art. 368) provides for the emancipation of a minor against the will of his father and mother, when they ill treat him, or refuse him support, or give him corrupt examples.

Proposed law is silent. However, proposed law (C.C.P. Art. 3991) provides that a minor may petition for his emancipation.

Proposed law (C.C. Art. 369) provides that a judicial emancipation is effective on the date the judgment is signed, that an emancipation by marriage is effective upon marriage, and that a limited emancipation by authentic act when executed.

Present law (C.C. Art. 370) provides that a minor who is emancipated has the full administration of his estate.

Proposed law (C.C. Art. 366) retains present law if the judgment of emancipation provides for full emancipation. However, proposed law also provides for limited emancipation.

Present law (C.C. Art. 371) provides that an emancipated minor may not bind himself for any sum exceeding the amount of one year of his revenue.

Present law (C.C. Art. 372) provides that an emancipated minor may seek a reduction of his debts only if the total of his debts exceed one year of his revenue.

Present law (C.C. Art. 373) provides that an emancipated minor may alienate, affect, or mortgage his immovable property only with the recommendation of his tutor or the administrator of his estate and with the authorization of the court.

Present law (C.C. Art. 374) provides that an emancipated minor has no right to make an inter vivos donation of his property, unless it is provided for by marriage contract in favor of the person to whom he is to be married.

Present law (C.C. Art. 376) provides that an emancipated minor who is engaged in trade is considered to have arrived at the age of majority for all acts related to such trade.

Present law (C.C. Art. 377) provides that an emancipation may be revoked whenever the minor contracts engagements which exceed the limits prescribed by law.

Proposed law (C.C. Arts. 370 and 371) provides that a judicial emancipation and an emancipation by authentic act may be terminated or modified for good cause. Proposed law (C.C. Art. 367) provides that an emancipation by marriage may not be modified or terminated.

Present law (C.C. Art. 378) provides that the revocation of an emancipation places the minor under the same authority to which he was subject previous to the emancipation or under the authority of a tutor as provided by the court.

Proposed law (C.C. Art. 370) retains present law.

Present law (C.C. Art. 379) provides that a minor is emancipated of right by marriage.

Proposed law (C.C. Art. 367) retains present law.

Present law (C.C. Art. 380) provides that a minor who has been emancipated by marriage may appear in court without the assistance of a curator.

Proposed law is silent.

Present law (C.C. Art. 381) provides that a minor who has been emancipated by marriage may demand an accounting from his tutor.

Present law (C.C. Art. 382) provides that a minor, who has been emancipated by marriage and who is below the age of sixteen, may not alienate, affect, or mortgage his immovable property except as provided for under C.C. Art. 373 (1870).

Present law (C.C. Art. 383) provides that an emancipation by marriage cannot be revoked. Proposed law (C.C. Art. 367) retains present law.

Present law (C.C. Art. 384) provides that a minor who has been emancipated by marriage is also bound by the rules provided in Section 2 of Chapter 2 of Title VIII of Book I of the Civil Code.

Present law (C.C. Art. 385) provides that a minor may also be judicially emancipated in accordance with Articles 3991 through 3994 of the Louisiana Code of Civil Procedure.

Proposed law (C.C. Art. 366) retains present law and also provides for limited emancipation. Present law (C.C. Art. 2318) provides that the father and mother are responsible for the damage occasioned by their minor or unemancipated children.

Proposed law (C.C. Art. 2318) provides that the father and mother are not responsible for the damage occasioned by their minor child who has been emancipated by marriage, by judgment of full emancipation, or by judgment of limited emancipation that expressly relieves the parents of liability for damages occasioned by their minor child.

Present law (C.C.P. Art. 3991) provides that a petition for the judicial emancipation of a minor shall be filed in the district court in the parish of his domicile.

Proposed law (C.C.P. Art. 3993) modifies present law and provides that venue for a judicial emancipation shall be the parish where a party is domiciled.

Present law (C.C.P. Art. 3992) provides that the petition for the judicial emancipation of a minor shall be accompanied with a written consent to the emancipation from either the father, mother, or tutor, unless the petition seeks an emancipation on the ground of ill treatment.

Proposed law (C.C.P. Art. 3991) provides that a minor can petition for emancipation without the participation of his tutor or administrator, that the parents or the tutor of a minor can petition for the emancipation of the minor, and that a minor and his parents or tutor can file a joint petition for judicial emancipation of the minor.

Proposed law (C.C.P. Art. 3992) provides that a verified petition for the emancipation of a minor shall set forth (1) the name, domicile, age, and address of the minor; (2) the name and addresses of the parents or the tutor of the minor; (3) the reasons why good cause exists for emancipation; (4) the effects of majority sought to be conferred upon the minor, if limited emancipation is sought; and (5) a descriptive list of the minor's property, including its location.

Present law (C.C.P. Art. 3993) provides that if there is good reason for emancipation and that the minor is capable of managing his own affairs, the judge shall render a judgment of emancipation.

Proposed law (C.C. Art. 366) provides that a court may order the full or limited emancipation of a minor for good cause.

Present law (C.C.P. Art. 3994) provides that all expenses for seeking an emancipation of a minor shall be paid out of the minor's estate.

Proposed law (C.C.P. Art. 3994) provides that (1) the emancipation hearings shall be a summary proceeding; (2) except for good cause shown, the minor shall be present; and (3) with the consent of all parties and the court, a judicial emancipation may be granted without a hearing.

Proposed law (C.C.P. Art. 3995) provides that a judgment of limited emancipation shall specify the effects of majority conferred.

Proposed law (C.C.P. Art. 3996) provides that a judgment granting, modifying, or terminating emancipation is not suspended during the pendency of an appeal.

Proposed law (C.C.P. Art. 3997) provides that a court may modify or terminate its judgment of emancipation or an act of limited emancipation by authentic act when the court finds good cause.

Present law (C.C. Art. 377) provides that an emancipation may be revoked whenever the emancipated minor contracts beyond the limits prescribed by law.

Proposed law (C.C.P. Art. 3998) provides for the recordation of every judgment granting, modifying, or terminating emancipation.

Present law (C.C. Art. 2318) provides that parents are liable for the damage occasioned by their minor unemancipated children.

Proposed law retains present law and lists the kinds of emancipation that relieve the parents from liability but changes jurisprudence by providing that an emancipation by authentic act does not relieve the parents from such liability.

Effective January 1, 2009.

(Amends Chapter 2 of Title VIII of Book I of the Civil Code formerly comprised of Arts. 365- 385, to comprise Arts. 365 -371, C. C. Art. 2318, and Title V of Book VII of the Louisiana Code of Civil Procedure, formerly comprised of Arts. 3991-3994, to comprise Arts. 3991-3998)