

RÉSUMÉ DIGEST

ACT 260 (SB 134)

2015 Regular Session

Peacock

Prior law (C.C. Art. 215) provided that a child, whatever be his age, owes honor and respect to his father and mother. New law (C.C. Art. 236) retains prior law.

Prior law (C.C. Art. 216) provided that a child remains under the authority of his father and mother until his majority or emancipation and in case of difference between the parents, the authority of the father prevails.

New law (C.C. Arts. 221, 232, 234, and 235) revises prior law to provide that a married father and a mother share parental authority over their minor child, unless modified in accordance with law, until the child attains the age of majority or is emancipated, or upon termination of the marriage of the parents of the child.

Prior law (C.C. Art. 217) provided that as long as the child remains under the authority of his father and mother, he is bound to obey them in everything which is not contrary to good morals and the laws. New law (C.C. Art. 228) retains prior law.

Prior law (C.C. Art. 218) provided that an unemancipated minor cannot quit the parental house without the permission of his father and mother, who have the right to correct him, provided it be done in a reasonable manner. New law (C.C. Arts. 227 and 223) retains prior law.

Prior law (C.C. Art. 219) provided that the father and mother have a right to appoint tutors to their children. New law (C.C. Art. 222) retains prior law.

Prior law (C.C. Art. 220) provided that fathers and mothers may delegate a part of their authority to teachers and other persons. New law (C.C. Art. 233) retains prior law.

Prior law (C.C. Art. 221) provided for the parental administration of a child's estate by the father and in some cases by the mother, during their marriage, until the child attains the age of majority or is emancipated.

New law (C.C. Art. 229, 230, and 231) provides that each parent has the right and the obligation to administer the property of their unemancipated minor child in accordance with law, until the termination of parental authority.

Prior law (C.C. Art. 223) provided that parents have during marriage a usufruct over the property of their unemancipated minor child.

New law (C.C. Arts. 229, 230, and 231) provides for the rights and obligations of parents who administer the property of their unemancipated minor child.

Prior law (C.C. Art. 224) provided for the obligations resulting from the parents' usufruct over the property of their unemancipated minor child.

New law (C.C. Arts. 229, 230, and 231) provides for the rights and obligations of parents who administer the property of their unemancipated minor child.

Prior law (C.C. Art. 226) provided for exceptions to the parents' usufruct over the property of their unemancipated minor child.

New law suppresses the prior law of C.C. Art. 226.

Prior law (C.C. Art. 227) provided that fathers and mothers, by the very act of marrying, contract together the obligation of supporting, maintaining, and educating their children.

New law (C.C. Arts. 223, 224, and 226) retains prior law.

Prior law (C.C. Art. 228) provided that a child has no right to sue either parent for a marriage settlement or other advancement.

New law (R.S. 9:571) provides that an unemancipated minor child may not sue any person having parental authority over him.

Prior law (C.C. Art. 229) provided for the reciprocal alimentary duties of ascendants and descendant. New law (C.C. Art. 237) retains prior law.

Prior law (C.C. Art. 230) provided for the scope of the alimentary obligation. New law (C.C. Arts. 237, 238, 239, and 224) retains prior law.

Prior law (C.C. Art. 231) provided that the alimony shall be granted in proportion to the wants of the person requiring it, and the circumstances of those who are to pay it. New law (C.C. Art. 238) retains prior law.

Prior law (C.C. Art. 232) provided for the reduction of alimony or the discharge from payment. New law (C.C. Art. 239) retains prior law.

Prior law (C.C. Art. 233) provided that if the obligor cannot pay alimony, the judge may require that the obligor receive the obligee in his house and maintain him. New law suppresses prior law.

Prior law (C.C. Art. 234) provided that a father or mother may offer to receive and support a child in his or her house and be dispensed with paying alimony. New law suppresses prior law.

Prior law (C.C. Art. 235) provided that fathers and mothers owe protection to their children and may appear for them in court. New law (C.C. Arts. 223 and 222) retains prior law.

Prior law (C.C. Art. 236) provided that fathers and mothers may justify themselves in an action against them for assault and battery if they have acted in defense of their children.

New law (C.C. Art. 223) provides that parents have the right and obligation to protect their child.

Prior law (C.C. Art. 237) provided that fathers and mothers are answerable for the offenses and quasi-offenses of their children. New law (C.C. Art. 225) retains prior law.

Prior law (C.C. Arts. 238 through 245) provided for the duties of parents toward their illegitimate children and for the duties of illegitimate children toward their parents.

New law suppresses prior law.

New law (C.C.P. Art. 74.6) is new. New law provides for venue for actions to seek court approval by parents during marriage.

Prior law (C.C.P. Art. 683) provided for proper party plaintiff for an unemancipated minor.

Prior law (C.C.P. Art. 683(C)) provided that the father is the proper plaintiff to sue to enforce a right of an unemancipated minor and provides for exceptions to this rule.

New law (C.C.P. Art. 683(B)) provided that all persons having parental authority of an unemancipated minor must join as proper plaintiffs to sue to enforce a right of an unemancipated minor and provides for exceptions to this rule.

Prior law (C.C.P. Art. 732) provided for proper party defendant for an unemancipated minor. Prior law (C.C.P. Art. 732(C)) provided that the father is the proper defendant in an action to enforce an obligation against an unemancipated minor and provides for exceptions to this rule.

New law (C.C.P. Art. 732(B)) provides that any person having parental authority of an unemancipated minor is a proper defendant in an action to enforce an obligation against a minor.

Prior law (C.C.P. Art. 2592) provided for summary proceedings.

New law (C.C.P. Art. 2592(9)) provides that summary proceedings may be used for trial or disposition of an action to compel an accounting at termination of parental authority; an action to seek court approval to alienate, encumber, or lease the property of a minor, incur an obligation of a minor, or compromise the claim of a minor.

Prior law (C.C.P. Art. 4501) provided that when married, a father or the mother under specific circumstances, may use the same forms and procedures as a tutor to sell or mortgage the property of a minor, or compromise a claim of the minor, or take any step affecting the interest of the minor.

New law (C.C.P. Art. 4501) retains prior law in part. New law (C.C.P. Art. 4501) revises prior law to provide that the parents shall seek court approval to act for a minor and provides exceptions to this rule. New law (C.C.P. Art. 4501) also provides that an ascendant having parental authority shall be considered a parent for the purposes of new law.

Prior law (C.C.P. Art. 4502) provided for when a mother can act for or represent her child.

New law suppresses prior law, because the rights of a mother have been provided for in new law (C.C.P. 4501).

Prior law (C.C.P. Arts. 4521 and 4522) provided for the administration of court judgments in favor of a minor.

New law (C.C.P. Art. 4521) provides for the combination of the principles of prior law and for additional protections for a minor.

Prior law (R.S. 9:571) provided that a child who is not emancipated cannot sue either parent during the marriage of the parents or the parent who has custody when the marriage of the parents is dissolved or the parents are judicially separated.

New law (R.S. 9:571) provides that a parent, a person having parental authority, and a tutor may not sue the unemancipated minor child. New law further provides that the unemancipated minor child may not sue a person having parental authority or his tutor.

New law (R.S. 9:572) is new. New law provides a list of the acts which a person having parental authority may perform without court approval.

New law (R.S. 9:573) is a redesignation of prior law (R.S. 9:572).

Prior law (R.S. 9:951-954) provided for provisional custody by mandate.

New law (R.S. 9:951-962) revises prior law of provisional custody by mandate to provide for separate rules for persons having parental authority and for tutors.

New law (Section 4 of this Act) directs the La. State Law Institute to prepare, revise, and update any Comment as necessary to reflect the provisions of new law as enacted.

Effective January 1, 2016.

(Amends C.C. Arts. 221, 223, 224, 226-239, C.C.P. Arts. 683, 732, 2592, 4501, and 4521, and R.S. 9:571, 572, 951, 952, 953, and 954; adds C.C. Arts. 222 and 225, C.C.P. Art. 74.6, and R.S. 9:573, 961, and 962; repeals C.C. Arts. 215-220 and 240-245 and C.C.P. Arts. 4502 and 4522)