

2016 Regular Session

HOUSE BILL NO. 447

BY REPRESENTATIVE GREGORY MILLER

CHILDREN/TUTORSHIP: Provides for changes to procedures for continuing tutorships

1 AN ACT

2 To amend and reenact Civil Code Article 355, relative to continuing tutorships; to provide
3 for procedures for continuing tutorships; to provide relative to certain costs; and to
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Civil Code Article 355 is hereby amended and reenacted to read as
7 follows:

8 Art. 355. Petition for continuing or permanent tutorship

9 When a person above the age of fifteen possesses less than two-thirds of the
10 ~~average mental ability~~ intellectual functioning of a ~~normal~~ person of the same age
11 with average intellectual functioning, evidenced by standard testing procedures
12 administered by competent persons or other relevant evidence acceptable to the
13 court, the parents of such person, or the person entitled to custody or tutorship if one
14 or both parents ~~be~~ are dead, incapacitated, or an absent person, or if the parents ~~be~~
15 are judicially separated or divorced, may, with the concurrence of the coroner of the
16 parish of the ~~mentally deficient~~ intellectually disabled person's domicile, petition the
17 court of that district to place such person under a continuing tutorship which shall
18 not automatically end at any age but shall continue until revoked by the court of
19 domicile. The petitioner shall not bear the coroner's costs or fees associated with
20 securing the coroner's concurrence.

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 447 Reengrossed

2016 Regular Session

Gregory Miller

Abstract: Adds permissible evidence in continuing tutorship hearings and provides that the petitioner shall not bear the cost of securing the concurrence of the coroner.

Present law provides that to establish that a person above the age of 15 possesses less than 2/3 of the average mental ability of a normal person of the same age, there must be standard testing procedures administered by competent persons.

Proposed law expands present law to allow the court to consider other relevant evidence in addition to standard testing procedures.

Present law requires that in order to continue the tutorship of a person above the age of 15, there must be concurrence of the coroner of the parish of the mentally deficient person's domicile.

Proposed law maintains the requirement of concurrence of the coroner to continue the tutorship of a person above the age of 15, and clarifies that the petitioner shall not bear the coroner's costs or fees associated with securing the coroner's concurrence.

(Amends C.C. Art. 355)

Summary of Amendments Adopted by House

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

1. Reinstates the present law requirement of concurrence by the coroner to petition the court for the continuing tutorship.
2. Changes an obsolete term referring to those with certain disabilities.
3. Adds that the petitioner shall not bear the coroner's costs or fees associated with securing the coroner's concurrence.

The House Floor Amendments to the engrossed bill:

1. Changes language referencing "mental ability" to "intellectual functioning".