

2020 Updates to Louisiana Civil Code Articles

Art. 355. Petition for continuing or permanent tutorship

When a person above the age of fifteen possesses less than two-thirds of the intellectual functioning of a person of the same age with average intellectual functioning, evidenced by standard testing procedures administered by competent persons or other relevant evidence acceptable to the court, the parents of such person, or the person entitled to custody or tutorship if one or both parents are dead, incapacitated, or absent persons, or if the parents are judicially separated or divorced or have never been married to each other, may, with the written concurrence of the coroner of the parish of the intellectually disabled person's domicile, petition the court of that district to place such person under a continuing tutorship which shall not automatically end at any age but shall continue until revoked by the court of domicile. The petitioner shall not bear the coroner's costs or fees associated with securing the coroner's concurrence.

Added by Acts 1966, No. 496, §2. Amended by Acts 1974, No. 714, §1; Acts 1991, No. 107, §1; Acts 2016, No. 115, §1; Acts 2018, No. 164, §1; Acts 2020, No. 218, §1.

Art. 356. Title of proceedings; procedural rules; parent to be named tutor

The title of the proceedings shall be Continuing Tutorship of (Name of Person), A Person with an Intellectual Disability.

(1) When the person to be placed under the continuing tutorship is above the age of fifteen, and under the age of majority, the proceeding shall be conducted according to the procedural rules established for ordinary tutorships.

(2) When the person to be placed under the continuing tutorship is above the age of majority, the proceeding shall be conducted according to the procedural rules established for interdictions.

(3) When the parents of the person to be placed under the continuing tutorship are married to each other and petition jointly, the court shall appoint the parents as co-tutors, unless for good cause the court decrees otherwise.

(4) When the parents of the person to be placed under the continuing tutorship are married to each other but do not petition jointly, the court shall appoint either a petitioning parent as tutor or both individually petitioning parents as co-tutors, in accordance with the best interest of the child.

(5) Upon the petition of a parent of the person to be placed under the continuing tutorship, the court shall, unless good cause requires otherwise, appoint as tutor the petitioning parent who is:

(a) The surviving parent, if one parent is dead.

(b) The parent awarded custody during minority of the person to be placed under the continuing tutorship, if the parents are divorced or judicially separated.

(c) The parent who was tutor or tutrix during minority, if the parents were never married to each other.

Added by Acts 1966, No. 496, §2. Amended by Acts 1974, No. 714, §1; Acts 2014, No. 26, §1; Acts 2014, No. 811, §30, eff. June 23, 2014; Acts 2020, No. 218, §1.

Art. 477. Ownership; content

Ownership is the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.

Acts 1979, No. 180, §1; Acts 1995, No. 640, §1, eff. Jan. 1, 1996; HR 17, 1998 1st Ex. Sess.; HCR 13, 1998 R.S.; Acts 2020, No. 20, §1.

Art. 811. Partition by licitation or by private sale

When the thing held in indivision is not susceptible to partition in kind, the court shall decree a partition by licitation or by private sale and the proceeds shall be distributed to the co-owners in proportion to their shares. In the event that one or more of the co-owners are absentees or have not consented to a partition by private sale, the court may set the terms of the sale and order a partition by private sale.

Acts 1990, No. 990, §1, eff. Jan. 1, 1991; Acts 2020, No. 281, §1, eff. June 11, 2020.

Art. 897. Ascendant's right to inherit immovables donated to descendant

Ascendants, to the exclusion of all others, inherit the immovables given by them to their children or their descendants of a more remote degree who died without descendants, when these objects are found in the succession.

If these objects have been alienated, and the price is yet due in whole or in part, the ascendants have the right to receive the price. They also succeed to the right of reversion on the happening of any event which the child or descendant may have inserted as a condition in his favor in disposing of those objects.

Acts 1981, No. 919, §1, eff. Jan. 1, 1982; Acts 2020, No. 19, §1.

Art. 1495. Amount of forced portion and disposable portion

Donations *inter vivos* and *mortis causa* may not exceed three-fourths of the property of the donor if he leaves, at his death, one forced heir, and one-half if he leaves, at his death, two or more forced heirs. The portion reserved for the forced heirs is called the forced portion and the remainder is called the disposable portion.

Amended by Acts 1981, No. 442, §1, eff. Jan. 1, 1982; Acts 1989, No. 788, §1, eff. July 1, 1990; Acts 1990, No. 147, §1, eff. July 1, 1990; Acts 1995, No. 1180, §1, eff. Jan. 1, 1996; Acts 1996, 1st Ex. Sess., No. 77, §1; Acts 2020, No. 19, §1.

Art. 1495.1. Calculation of the legitime

To determine the legitime of a forced heir when all forced heirs are of the first degree, the division of the forced portion is made by heads.

When representation occurs for purposes of forced heirship, the division is made by roots among those qualifying as forced heirs or being represented. Within each root, any subdivision is also made by roots in each branch, with those qualifying as forced heirs by representation taking by heads.

Nevertheless, if the fraction that would otherwise be used to calculate the legitime is greater than the fraction of the decedent's estate to which the forced heir would succeed by intestacy, then the legitime shall be calculated by using the fraction of an intestate successor.

Acts 2020, No. 19, §1.

Art. 1505. Calculation of disposable portion on mass of succession

A. To determine the reduction to which the donations, either *inter vivos* or *mortis causa*, are subject, an aggregate is formed of all property belonging to the donor or testator at the time of his death; the sums due by the estate are deducted from this aggregate amount; to that is fictitiously added the property disposed of by donation *inter vivos* within three years of the date of the donor's death, according to its value at the time of the donation.

B. The disposable quantum is determined on the above calculation, taking into consideration the number of forced heirs.

C. Neither the premiums paid for insurance on the life of the donor nor the proceeds paid pursuant to such coverage shall be included in the above calculation. Moreover, the value of such proceeds at the donor's death payable to a forced heir, or for his benefit, shall be deemed applied and credited in satisfaction of his forced share.

D. Employer and employee contributions under any plan of deferred compensation adopted by any public or governmental employer or any plan qualified under Sections 401 or 408 of the Internal Revenue Code, and any benefits payable by reason of death, disability, retirement, or termination of employment under any such plans, shall not be included in the above calculation, nor shall any of such contributions or benefits be subject to the claims of forced heirs. However, the value of such benefits paid or payable to a forced heir, or for the benefit of a forced heir, shall be deemed applied and credited in satisfaction of his forced share. Amended by Acts 1981, No. 646, §1; Acts 1981, No. 909, §1; Acts 1982, No. 356, §1; Acts 1983, No. 656, §1; Acts 1990, No. 147, §1, eff. July 1, 1990; Acts 1995, No. 1180, §1, eff. Jan. 1, 1996; Acts 1996, 1st Ex. Sess., No. 77, §1; Acts 2020, No. 19, §1.

Art. 3344. Refusal for failure of original signature or proper certification; effect of recordation; necessity of proof of signature recordation of a duplicate

A. Except as otherwise provided by law, the recorder shall refuse to record:

(1) An instrument that does not bear the original signature of a party.

(2) A judgment, administrative decree, or other act of a governmental agency that is not properly certified in a manner provided by law.

B. Recordation does not dispense with the necessity of proving that the signatures are genuine unless they are authenticated in the manner provided by law.

Acts 2005, No. 169, §1, eff. Jan. 1, 2006; Acts 2005, 1st Ex. Sess., No. 13, §1, eff. Nov. 29, 2005; Acts 2020, No. 254, §1.

NOTE: Acts 2005, 1st Ex. Sess., No. 13, §1, changed the effective date of Acts 2005, No. 169, to July 1, 2006.