
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 680 Reengrossed

2017 Regular Session

Marino

Abstract: Provides for the modification or suspension of child support under certain circumstances when an obligor is incarcerated for 180 days or more.

Proposed law provides for the temporary modification or suspension of a child support order due to an obligor's incarceration of more than 180 days. Requires the Dept. of Children and Family Services, once it is notified that an individual subject to support enforcement services is being incarcerated, to verify that none of the following exceptions exist:

- (1) The incarceration is pursuant to an intentional failure to pay a child support obligation.
- (2) The obligor has the means to pay support while incarcerated.
- (3) The obligor is incarcerated for an offense against the custodial party or the child subject to the support order.

Proposed law adds that a person shall not be considered voluntarily unemployed or underemployed if that person is incarcerated for more than 180 days.

Proposed law requires the Dept. of Public Safety and Corrections or the sheriff in certain circumstances to distribute information to every person in a prison facility regarding the suspension of child support, including information specific as to what may constitute a material change in circumstances.

Proposed law requires the Dept. of Children and Family Services to provide notice to the custodial party by certified mail that the child support obligation will be suspended (if none of the exceptions exist) unless the custodial party objects no later than fifteen calendar days from receipt of notice.

Proposed law outlines the grounds for the custodial parent to object to modification or suspension of support, and provides the means required for the custodial parent to object.

Proposed law requires the Dept. of Children and Family Services to file an affidavit with the court having jurisdiction over the order of child support and provides for the mandatory contents of the affidavit.

Proposed law permits a court, at its discretion and upon motion of any party, to continue an award of child support that would be otherwise terminated, if the award was suspended due to the obligor's

incarceration. Proposed law prohibits such a continuation from exceeding a longer period of time than the award was suspended due to the obligor's incarceration.

Provides that proposed law does not apply if a court does not have continuous exclusive jurisdiction to modify the order pursuant to the Uniform Interstate Family Support Act.

Effective Jan. 1, 2019.

(Amends R.S. 9:311(A)(2) and (D) and 315.11(A) and (C); Adds Ch.C. Art. 1353(G), R.S. 9:311.1 and 315.22(F), R.S.13:4611(1)(d)(iii), and R.S. 46:236.6(B)(4) and 236.7(C)(4); Repeals R.S. 9:311(G))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Add a requirement that the Dept. of Public Safety and Corrections or the sheriff must distribute information to every person in a correctional facility regarding the suspension of child support, including information as to what may constitute a material change in circumstances.
2. Change proposed notice requirements to require the Dept. of Children and Family Services to provide notice to the custodial party by certified mail that the child support obligation will be suspended (if none of the exceptions exist) unless the custodial party objects no later than fifteen calendar days from receipt of notice.
3. Outline the grounds for the custodial parent to object to modification or suspension of support, and provides the means required for the custodial parent to object.
4. When no objection is received, require the Dept. of Children and Family Services to file an affidavit with the court having jurisdiction over the order of child support, and provide for the mandatory contents of the affidavit.
5. Provide that proposed law does not apply if a court does not have continuous exclusive jurisdiction to modify the order pursuant to the Uniform Interstate Family Support Act.
6. Provide that when a child support award is suspended due to the obligor's incarceration, a court may, at its discretion and upon motion of any party, continue the award that would be otherwise terminated, but the award shall not be continued for a longer period of time than it was suspended due to the obligor's incarceration.
7. Make technical changes.