

2018 Regular Session

SENATE BILL NO. 288

BY SENATOR PERRY

CHILDREN. Provides relative to child support orders. (10/1/18)

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AN ACT

To amend and reenact Children's Code Art. 313(B) and R.S. 46:236.2, relative to child support proceedings; to provide for changing the payee of a child support order in certain circumstances; to provide relative to the Department of Children and Family Services; to provide for compliance with federal law; to provide certain terms, conditions, and procedures; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Art. 313(B) is hereby amended and reenacted to read as follows:

Art. 313. Duration of jurisdiction over proceedings

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B. A court exercising juvenile jurisdiction no longer exercises such jurisdiction in any proceeding authorized by Article 311(B)(1) upon the filing of a motion in accordance with R.S. 46:236.2(B)(2). When the motion is granted, the individual or caretaker to whom the support obligation is owed shall be the proper party to enforce the child support obligation or any arrears owed.

1 Section 2. R.S. 46:236.2 is hereby amended and reenacted to read as follows:

2 §236.2. Amendment **Redirection** of support orders **payments**

3 Pursuant to 42 U.S.C. 654b(a)(1)(A), the department is authorized to
4 receive and disburse support payments made on behalf of each child who is a
5 recipient of public assistance, or for any obligee when an individual has applied
6 for support enforcement services pursuant to Title IV-D of the Social Security
7 Act. Except as provided in this Section, the department is not required to seek
8 an amendment to the support order, file a motion to intervene, or subrogate
9 itself to the rights of the obligee to exercise its standing as independent party.

10 A.(1) ~~The department or district attorney may, by a written motion together~~
11 ~~with a written certification from the department that support enforcement services~~
12 ~~are being furnished to the individual, to the current caretaker of any individual~~
13 ~~receiving support benefits, or to the payor of any support benefits for such~~
14 ~~individual, obtain an order to require any person under an order to support such~~
15 ~~individual or caretaker to make such support payments payable to the department.~~

16 To carry out and effectuate the purposes and provisions of this Section and 42
17 U.S.C. 666(c)(1)(E), the department shall administratively change the payee of
18 a support order to the department. Such change shall not occur until the
19 department has provided notice of the change to all parties under this
20 Subsection.

21 (2) If a court has ordered support payments to be made to an obligee, the
22 department shall, on providing notice to the obligee and the obligor, direct the
23 obligor or other payor to make support payments payable to the department
24 and to transmit the payments to the state disbursement unit. The department
25 shall file a copy of the notice with the court by which the order was issued or
26 last registered. The notice shall include all of the following:

27 (a) A statement that the child's family is receiving support enforcement
28 services.

29 (b) The name of the child and the obligee for whom support has been

1 ordered by the court.

2 (c) The docket number and court by which support was ordered or last
3 registered.

4 (d) Instructions for the payment of ordered support to the department.

5 (3) The notice shall be sent by regular mail to the last known address of
6 the obligor and the obligee as listed in the state case registry. The obligor shall
7 be required to submit payment, in accordance with Subparagraph (2)(d), ten
8 days after the date of the notice.

9 (4) On receipt of a copy of the notice, the clerk of the court shall file the
10 notice in the appropriate case record.

11 B.(1)(a) Notwithstanding the provisions of R.S. 13:1599(B), in cases
12 receiving support enforcement services from the department, upon the motion of the
13 district attorney or the department to transfer, a support order ~~payable to the~~
14 ~~department~~ shall be transferred for subsequent enforcement and modification to the
15 appropriate juvenile court within the parish wherein the support order was rendered
16 or last registered, ~~except in East Baton Rouge Parish.~~

17 (b) The provisions of Subparagraph (a) shall not apply in East Baton
18 Rouge Parish.

19 ~~B.(1)(a) Any interested party may by a written motion, together with a~~
20 ~~written certification from the department that the department is not presently~~
21 ~~furnishing and does not contemplate furnishing FITAP for or on behalf of an~~
22 ~~individual and that no services are being rendered by the department on behalf of the~~
23 ~~individual, obtain from the court to which the order to support the individual had~~
24 ~~previously been transferred, an amended order to require that support payments be~~
25 ~~made payable to the individual or current caretaker instead of the department.~~

26 ~~(b) If the support order was originally established in juvenile, family, or~~
27 ~~district court, any interested party may, by written motion, together with a written~~
28 ~~certification from the department that it is not presently furnishing and does not~~
29 ~~contemplate furnishing FITAP for or on behalf of an individual and that no support~~

1 ~~enforcement services are being rendered by the department, obtain from the court~~
2 ~~which rendered the order of support, an amended order requiring payments in~~
3 ~~accordance with the order to be made to the individual or current caretaker instead~~
4 ~~of the department. When the motion is granted, the individual or current caretaker~~
5 ~~to whom support is owed shall be the proper party to enforce the support obligation~~
6 ~~or any arrears owed.~~

7 ~~(c) As used in this Section, "interested party" shall include only the~~
8 ~~department, district attorney, contract attorney providing support services pursuant~~
9 ~~to Title IV-D, the person owing the support obligation, or the individual or current~~
10 ~~caretaker to whom the support obligation is owed.~~

11 (2)(a) Notwithstanding the provisions of R.S. 13:1599(B), in cases receiving
12 support enforcement services from the department, upon the motion of the district
13 attorney or the department to transfer, a support order ~~amended to change the payee~~
14 ~~to the individual or current caretaker instead of the department under this Subsection,~~
15 shall be transferred for subsequent enforcement and modification to the appropriate
16 court which was enforcing the support order prior to its transfer under ~~Paragraph~~
17 ~~(A)(2) of this Section~~ **Subsection**.

18 (b)(i) Notwithstanding the provisions of R.S. 13:1599(B), in cases not
19 receiving support enforcement services from the department, upon motion to transfer
20 by the interested party, a support order ~~amended to change the payee to the~~
21 ~~individual or current caretaker in accordance with Subparagraph (1)(b) of this~~
22 ~~Subsection~~ shall be transferred for subsequent enforcement and modification to the
23 district or family court in the same parish as the juvenile court transferring the order.

24 **(ii) As used in this Section, "interested party" shall include only the**
25 **department, district attorney, contract attorney providing support services**
26 **pursuant to Title IV-D, the person owing the support obligation, or the**
27 **individual or current caretaker to whom the support obligation is owed.**

28 ~~€(3)~~ In either **any** of the above cases **in this Subsection**, the court shall
29 grant its order ex parte and without hearing any adverse party.

1 **C.(1) On termination of support enforcement services under 45 C.F.R.**
2 **§303.11(b), or upon the death of the obligee or caretaker, the department shall**
3 **send a notice to terminate the redirection. The notice shall include all of the**
4 **following:**

5 **(a) A statement that either:**

6 **(i) The child's family is no longer receiving support enforcement services.**

7 **(ii) The obligee or caretaker is now deceased.**

8 **(b) The name of the child and the obligee for whom support has been**
9 **ordered by the court.**

10 **(c) The docket number and court in which support was ordered or last**
11 **registered.**

12 **(d) Instructions for the payment of ordered support and any past-due**
13 **support that has accrued.**

14 **(2) The notice shall be sent by regular mail to the address listed in the**
15 **state case registry for the obligor and the obligee, as appropriate. The obligor**
16 **shall be required to submit payments in accordance with the instructions in this**
17 **notice ten days after the date of the notice.**

18 **(3) The department shall file a copy of the notice with the court in which**
19 **the order was issued or last registered. On receipt of a copy of the notice, the**
20 **clerk of the court shall file the notice in the appropriate case record.**

21 D. This Section applies regardless of whether the individual applying for or
22 receiving support enforcement services has ever received any public assistance and
23 regardless of whether there is a delinquency.

24 **E. The department shall not enforce or collect any past-due support that**
25 **accumulated before support enforcement services were provided until a**
26 **contradictory hearing is held by the appropriate court to determine the amount**
27 **of past-due support owed.**

28 Section 3. The provisions of this Act shall become effective October 1, 2018.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

DIGEST

SB 288 Original 2018 Regular Session Perry

Present law relative to the Dept. of Children and Family Services (Dept.) provides procedures for child support enforcement actions, including provisions for amendments of support payments.

Proposed law revises procedure for commencement of child support actions to be in compliance with federal law, 42 U.S.C. 666, and provides for redirection of support payments.

Proposed law provides that the Dept. is authorized to receive and disburse support payments made on behalf of each child who is a recipient of public assistance.

Proposed law provides that the Dept. is authorized to administratively change the payee of a support order to the Dept.

Proposed law provides that the Dept. shall give notice of such change to the obligee and the obligor and shall file a copy of such notice with the court by which the order was issued or last registered.

Effective October 1, 2018.

(Amends Ch.C. Art. 313(B) and R.S. 46:236.2)