

SENATE BILL NO. 330

BY SENATOR COLOMB

1 AN ACT

2 To amend and reenact R.S. 9:311 (A)(1), (C), and (F), relative to the modification of support
3 orders; to provide relative to a material change in circumstances; to provide relative
4 to support orders when the Department of Children and Family Services provides
5 support enforcement services; to provide for a rebuttable presumption; to provide for
6 judicial discretion in modifying a support obligation; to provide for judicial review
7 in some circumstances; and provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:311 (A)(1), (C), and (F) are hereby amended and reenacted to read
10 as follows:

11 §311. Modification or suspension of support; material change in circumstances;
12 periodic review by Department of Children and Family Services;
13 medical support

14 A.(1) An award for support shall not be modified unless the party seeking the
15 modification shows a material change in circumstances of one of the parties between
16 the time of the previous award and the time of the rule for modification of the award.

17 **The material change in circumstances must be substantial and continuing since**
18 **the last award for support.**

19 * * *

20 C. For purposes of this Section, in cases where the Department of Children
21 and Family Services is providing support enforcement services:

22 (1) ~~There shall be a rebuttable presumption that a~~ material change in
23 ~~circumstance~~ **circumstances** exists when a strict application of the child support
24 guidelines, Part I-A of this Chapter, would result in at least a twenty-five percent
25 change in the existing child support award. A material change in ~~circumstance~~
26 **circumstances** does not exist under this Paragraph if the amount of the award was
27 the result of the court's deviating from the guidelines pursuant to R.S. 9:315.1 and

1 there has not been a material change in the circumstances which warranted the
2 deviation.

3 (2) ~~Upon request of either party or on its own initiative and if the best interest~~
4 ~~of the child so requires, the department shall provide for judicial review and, if~~
5 ~~appropriate, the court may adjust the amount of the existing child support award~~
6 ~~every three years if the existing award differs from the amount which would~~
7 ~~otherwise be awarded under the application of the child support guidelines. The~~
8 ~~review provided hereby does not require a showing of a material change in~~
9 ~~circumstance nor preclude a party from seeking a reduction or increase under the~~
10 ~~other provisions of this Section.~~ **A court has discretion and authority to modify**
11 **a child support obligation even when there is not a twenty-five percent variation**
12 **between the current obligation and the guidelines when a party has proven a**
13 **material change in circumstances that is substantial and continuing. Likewise,**
14 **a trial court has discretion to deny a modification even when the twenty-five**
15 **percent variation is present, based on a finding that applying the guidelines**
16 **would not be in the best interest of the child or would be inequitable to the**
17 **parties.**

18 **(3) If the best interest of the child so requires, the department shall**
19 **request a judicial review upon request of either party or on its own initiative.**
20 **If appropriate, the court may modify the amount of the existing child support**
21 **award every three years if the existing award differs from the amount which**
22 **would otherwise be awarded under the application of the child support**
23 **guidelines. A material change in circumstances shall not be required for the**
24 **purpose of this Paragraph.**

25 * * *

26 F. The provisions of Subsection E of this Section shall not apply when the
27 ~~mover~~ recipient of the support payments is a public entity acting on behalf of
28 another party to whom support is due **providing support enforcement services as**
29 **defined by R.S. 46:236.1.1(14).**

30 * * *

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____