

2019 Regular Session

SENATE BILL NO. 185

BY SENATORS WALSWORTH AND THOMPSON AND REPRESENTATIVE TERRY
BROWN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN/FAMILY SERVICES DEPT. Provides relative to amendments of child support orders. (8/1/19)

1 AN ACT

2 To amend and reenact Children's Code Art. 313(B), R.S. 46:236.2, and Section 1 of Act No.

3 136 of the 2018 Regular Session of the Legislature, relative to amendments of child

4 support orders; to provide for a procedure for amending a child support order; to

5 provide for authority of the Department of Children and Family Services; to provide

6 for authority of the district attorney and other interested parties; to provide for a

7 written motion to the court; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

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

10 follows:

11 Art. 313. Duration of jurisdiction over proceedings

12 * * *

13 B. A court exercising juvenile jurisdiction no longer exercises such

14 jurisdiction in any proceeding authorized by Article 311(B)(1) upon the filing of a

15 motion in accordance with R.S. 46:236.2(B)(~~2~~). When the motion is granted, the

16 individual or caretaker to whom the support obligation is owed shall be the proper

17 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. Redirection of support payments

3 A.(1) 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 for
6 support enforcement services pursuant to Title IV-D of the Social Security Act.
7 Except as provided in this Section, the department is not required to seek an
8 amendment to the support order, file a motion to intervene, or subrogate itself to the
9 rights of the obligee to exercise its standing as independent party.

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

14 (3) If a court has ordered support payments to be made to an obligee, the
15 department shall, on providing notice to the obligee and the obligor, direct the
16 obligor or other payor to make support payments payable to the department and to
17 transmit the payments to the state disbursement unit. The department shall file a
18 copy of the notice with the court by which the order was issued or last registered.

19 **The redirection of payment to the department is effective when mailed to the**
20 **parties and no further action is necessary for the department to enforce the**
21 **support order.** The notice shall include all of the following:

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

24 (b) The name of the child and the obligee for whom support has been ordered
25 by the court.

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

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

29 (4) The notice shall be sent by regular mail to the obligor and the obligee at

1 the last known address of each as listed in the state case registry. The obligor shall
2 be required to submit payment, in accordance with Subparagraph (3)(d) of this
3 Subsection, ten days after the date of the notice.

4 (5) On receipt of a copy of the notice, the clerk of court shall file the notice
5 in the appropriate case record. **Upon receipt of the notice, the court upon its own**
6 **motion shall issue an order, as promulgated in the Rules for Louisiana District**
7 **Courts, recognizing that the department upon mailing of the notice became**
8 **payee of the support order. The order shall be granted ex parte without**
9 **contradictory hearing. The order shall be served upon the obligor, the obligee,**
10 **and the department.**

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 shall be transferred for
14 subsequent enforcement and modification to the appropriate juvenile court within the
15 parish wherein the support order was rendered or last registered.

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

18 (2)(a) Notwithstanding the provisions of R.S. 13:1599(B), in cases no longer
19 receiving support enforcement services from the department, upon motion to transfer
20 by the interested party, a support order shall be transferred for subsequent
21 enforcement and modification to the district or family court in the same parish as the
22 juvenile court transferring the order.

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

27 (3) In any of the cases in this Subsection, the court shall grant its order ex
28 parte and without hearing any adverse party.

29 C.(1) On termination of support enforcement services under 45 CFR

1 303.11(b), or upon the death of the obligee or caretaker, the department shall send
2 a notice to the obligor and the obligee to terminate the redirection. The notice shall
3 include all of the following:

4 (a) A statement that either:

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

6 (ii) The obligee or caretaker is now deceased.

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

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

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

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

17 (3) The department shall file a copy of the notice with the court in which the
18 order was issued or last registered. On receipt of a copy of the notice, the clerk of the
19 court shall file the notice in the appropriate case record. **Upon receipt of the notice,**
20 **the court upon its own motion shall issue an order, as promulgated in the Rules**
21 **for Louisiana District Courts, recognizing that the department was removed as**
22 **payee of the support order, effective upon the date that notice of redirection of**
23 **payment was mailed to the parties. The order shall be granted ex parte without**
24 **contradictory hearing. The order shall be served upon the obligor, obligee, and**
25 **the department.**

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

29 E. The department shall not enforce or collect any past-due support that

1 accumulated before support enforcement services were provided until a contradictory
2 hearing is held by the appropriate court to determine the amount of past-due
3 support owed.

4 Section 3. Section 1 of Act No. 136 of the 2018 Regular Session of the Legislature
5 is hereby amended and reenacted to read as follows:

6 * * *

7 Section 7. (A) The provisions of this Act shall become effective January 1, 2019.
8 Except as provided in Subsection (B) of this Section, the provisions of Sections 1
9 through 7 of this Act shall become effective on August 1, 2019 2020.

10 * * *

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by LG Sullivan.

DIGEST

SB 185 Reengrossed

2019 Regular Session

Walsworth

Present law provides a procedure for commencement of child support actions and redirection of support payments by the Dept. of Children and Family Services (DCFS). Present law provides that DCFS is authorized to receive and disburse support payments made on behalf of each child who is a recipient of public assistance, and is authorized to administratively change the payee of a support order to the department. Present law provides that DCFS 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.

Present law provides that for cases no longer receiving support enforcement services from the department, upon motion of an interested party, a support order shall be transferred to the district or family court in the same parish as the juvenile court transferring the order. Proposed law retains present law and further provide for an effective date of redirection of support payments.

Proposed law provides that a court shall issue an order recognizing or removing the name of payor or payee when notice of redirection of support payment is filed with the clerk of court.

Proposed law provides that such order shall be served to all parties.

Present law provides for portions of Act 264 of the 2017 Regular Session, as amended by Act 136 of the 2018 Regular Session, that generally provide for suspension of child support during an obligor's incarceration, to become effective on Aug. 1, 2019.

Proposed law changes the effective date to Aug. 1, 2020.

Effective August 1, 2019.

(Amends Ch.C. Art. 313(B), R.S. 46:236.2, and Section 1 of Act No. 136 of the 2018 Regular Session)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Restores present language.
2. Provides relative to notice.
3. Provides relative to court orders.

Senate Floor Amendments to engrossed bill

1. Relative to certain provisions of Act 264 of the 2017 Regular Session, delays the effective date for one year.