

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

To amend and reenact R.S. 46:236.2 and Section 7(A) of Act No. 264 of the 2017 Regular Session of the Legislature as amended by Section 1 of Act No. 136 of the 2018 Regular Session of the Legislature, relative to amendments of child support orders; to provide for a procedure for amending a child support order; to provide for authority of the Department of Children and Family Services; to provide for authority of the district attorney and other interested parties; to provide for a written motion to the court; to provide for a delayed effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§236.2. Redirection of support payments

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

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

(3) If a court has ordered support payments to be made to an obligee, the

1 department shall, on providing notice to the obligee and the obligor, direct the
2 obligor or other payor to make support payments payable to the department and to
3 transmit the payments to the state disbursement unit. The department shall file a
4 copy of the notice with the court by which the order was issued or last registered.

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

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

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

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

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

15 (4) The notice shall be sent by regular mail to the obligor and the obligee at
16 the last known address of each as listed in the state case registry. The obligor shall
17 be required to submit payment, in accordance with Subparagraph (3)(d) of this
18 Subsection, ten days after the date of the notice.

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

26 B.(1)(a) Notwithstanding the provisions of R.S. 13:1599(B), in cases
27 receiving support enforcement services from the department, upon the motion of the
28 district attorney or the department to transfer, a support order shall be transferred for
29 subsequent enforcement and modification to the appropriate juvenile court within the
30 parish wherein the support order was rendered or last registered.

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

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

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

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

14 C.(1) On termination of support enforcement services under 45 CFR
15 303.11(b), or upon the death of the obligee or caretaker, the department shall send
16 a notice **to the obligor and the obligee** to terminate the redirection. The notice shall
17 include all of the following:

18 (a) A statement that either:

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

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

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

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

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

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

1 (3) The department shall file a copy of the notice with the court in which the
2 order was issued or last registered. On receipt of a copy of the notice, the clerk of the
3 court shall file the notice in the appropriate case record. Upon receipt of the notice,
4 the court upon its own motion shall issue an order, as promulgated in the Rules
5 for Louisiana District Courts, recognizing that the department was removed as
6 payee of the support order, effective upon the date that notice of redirection of
7 payment was mailed to the parties. The order shall be granted ex parte without
8 contradictory hearing. The order shall be served upon the obligor, obligee, and
9 the department.

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

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

17 Section 2. Section 7(A) of Act No. 264 of the 2017 Regular Session of the
18 Legislature as amended by Section 1 of Act No. 136 of the 2018 Regular Session of the
19 Legislature is hereby amended and reenacted to read as follows:

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

22 * * *

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____