
DIGEST

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Greene

HB No. 104

Abstract: Provides for the calculation and modification of child support for parties affected by Hurricanes Katrina and Rita.

Present law (R.S. 9:315(C)(3)) defines gross income as income from any source.

Proposed law clarifies that gross income includes disaster unemployment assistance received from the U.S. Department of Labor.

Proposed law also provides that gross income does not include disaster assistance received through FEMA or any other nonprofit tax-exempt organization.

Present law (R.S. 9:315.1(B)) provides that the court may deviate from the guidelines if they are not in the best interest of the child or it would be inequitable to the parties.

Proposed law additionally provides that the court may deviate if the application of the guidelines would be unjust or inequitable to a party who was denied access to the courts as a direct result of Hurricane Katrina or Rita.

Present law (R.S. 9:315.11) provides that if a party is voluntarily unemployed or underemployed, child support shall be calculated based on his income-earning potential.

Proposed law provides that a party shall not be deemed voluntarily unemployed or underemployed if he has been temporarily unable to find work or has been temporarily forced to take a lower paying job due to Hurricane Katrina or Rita.

Present law (R.S. 9:315.21) provides that an award of child support shall be retroactive to the date of judicial demand, except for good cause shown.

Proposed law provides that the court may make a child support modification retroactive to the date an emergency was declared for Hurricane Katrina or Rita, if judicial demand is filed before April 15, 2006. However proposed law provides that this provision shall not be effective unless 42 USC 666(a)(9)(c), (the Bradley Amendment), is amended to permit retroactive modification of support.

Proposed law directs the Louisiana State Law Institute to prepare comments regarding the provisions of this Act.

Proposed law provides that this Act shall apply to all pending and future cases.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 9:315(C)(3)(a) and 315.1(B); Adds R.S. 9:315(C)(3)(d)(v), 315.11(C), and 315.21(F))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Deletes authority of the court to deviate from the mandatory minimum if the party demonstrates that as a direct result of Hurricane Katrina or Rita extraordinary circumstances justify a deviation and judicial demand is made prior to August 26, 2006.