
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

SB 387 Original	DIGEST 2018 Regular Session	Claitor
-----------------	--------------------------------	---------

Present law provides that an award for support shall not be modified unless the party seeking the modification shows a material change in circumstances of one of the parties between the time of the previous award and the time of the rule for modification of the award.

Proposed law retains present law but provides that the material change in circumstances must be substantial and continuing since the last award for support.

Present law provides that in cases where the Department of Children and Family Services is providing support enforcement services:

- (1) A material change in circumstance exists when a strict application of the child support guidelines would result in at least a 25% change in the existing child support award. A material change in circumstance does not exist under present law if the amount of the award was the result of the court's deviating from the guidelines pursuant to present law and there has not been a material change in the circumstances which warranted the deviation.
- (2) Upon request of either party or on its own initiative and if the best interest of the child so requires, the department shall provide for judicial review and, if appropriate, the court may adjust the amount of the existing child support award every three years if the existing award differs from the amount which would otherwise be awarded under the application of the child support guidelines. The review provided hereby does not require a showing of a material change in circumstance nor preclude a party from seeking a reduction or increase under the other provisions of present law.

Proposed law retains present law but adds that there will be a rebuttable presumption that a material change exists when certain elements of present law are found.

Present law provides that upon request of either party or on its own initiative and if the best interest of the child so requires, the department will provide for judicial review and, if appropriate, the court may adjust the amount of the existing child support award every three years if the existing award differs from the amount which would otherwise be awarded under the application of the child support guidelines. The review provided hereby does not require a showing of a material change in circumstance nor preclude a party from seeking a reduction or increase under the other provisions of this present law.

Proposed law changes present law so that a court has discretion and authority to modify a child support obligation even when there is not a 25% variation between the current obligation and the guidelines when a party has proven a material change in circumstances that is substantial and

continuing. Likewise, a trial court has discretion to deny a modification even when the 25% variation is present, based on a finding that the application of the guidelines in that case would not be in the best interest of the child or would be inequitable to the parties.

Proposed law further provides that if the best interest of the child so requires, it will provide for a judicial review upon request of either party or on its own initiative. If appropriate, the court may adjust the amount of the existing child support award every three years if the existing award differs from the amount which would otherwise be awarded under the application of the child support guidelines. A material change in circumstances will not be required for the purpose of proposed law.

Present law provides that the provisions of present law will not apply when the recipient of the support payments is a public entity acting on behalf of another party to whom support is due.

Proposed law retains present law but makes technical changes.

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

(Amends R.S. 9:311(A)(1), (C)(1) and (2), (E), (F); adds R.S. 9:311(C)(3); repeals R.S. 9:311(G))