

2019 Regular Session

HOUSE BILL NO. 537

BY REPRESENTATIVE MIKE JOHNSON

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

HEALTH/CHILDREN: Provides relative to the assignment of rights to the Department of Children and Family Services of individuals whose children are in foster care

1 AN ACT

2 To enact R.S. 46:51.1.1 relative to the assignment of rights to the Department of Children
3 and Family Services; to provide for obligations owed to the department by parents
4 or other individuals responsible for providing support to their children in foster care;
5 to provide for the appointment of the child support enforcement administrator as
6 attorney for parents or other individuals whose children are in foster care when
7 subject to support proceeding; to provide for the involuntary consent of parents or
8 other individuals to such proceedings; to prohibit parents and other individuals from
9 entering a contract for the collection of support when their children are in foster care;
10 to provide for application; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 46:51.1.1 is hereby enacted to read as follows:

13 §51.1.1 Child support programs; foster care; rights; responsibilities

14 A. (1) If a child is removed from a parent's or another individual's custody
15 or voluntarily placed into foster care by the parent or the individual, the parent or
16 individual shall be deemed to have made an assignment to the department of his
17 entire right, title, and interest to any support obligation the parent or individual may
18 have in his own behalf or on behalf of any family member receiving foster care
19 services which has accrued at the time of the placement of the child in foster care and

1 which accrues during the time the child is in foster care without necessity of signing
2 any documents.

3 (2) Voluntary child support payments made to the parent or individual at the
4 time of placement of the child in foster care or during the time the child is in foster
5 care shall be deemed to have been assigned to the department, unless the assignment
6 is contrary to a valid court order. The department may thereafter collect the support
7 payments by appropriate process.

8 B.(1) The parent or individual shall also be deemed to have consented to all
9 of the following:

10 (a) The designation of the department as payee in an initial or amended order
11 of support.

12 (b) The appointment of the child support enforcement administrator as the
13 parent's or individual's true and lawful attorney-in-fact to act in the parent or
14 individual's name, place, and stead to perform the specific act of endorsing any and
15 all drafts, checks, money orders, or other negotiable instruments representing support
16 payments which are received on behalf of the parent or individual.

17 (2) The department shall be an indispensable party to any proceeding
18 involving a support obligation or arrearage owed pursuant to this Subpart.

19 C. No parent or individual who has had a child removed from the parents'
20 custody or voluntarily placed in foster care shall be permitted to enter into a contract
21 for the collection of support pursuant to R.S. 51:1441 et seq. Any such contract shall
22 be considered a violation of public policy and shall be void.

23 D. Nothing in this Section shall be construed to require the child support
24 enforcement program to violate 45 C.F.R. § 302.51 or 45 C.F.R. § 302.52.

25 E. The provisions of this Section shall apply retroactively to all support rights
26 assigned, whether by written assignment or by operation of law, prior and subsequent
27 to the effective date of this Section.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 537 Original

2019 Regular Session

Mike Johnson

Abstract: Provides for the assignment of rights to the Department of Children and Family Services of parents or other individuals whose children are in foster care.

Proposed law provides that parents or other individuals of children who have been voluntarily or involuntarily placed in foster care, are deemed to have made an assignment of their right to the Department of Children and Family Services (DCFS).

Proposed law provides such assignment includes the parent or individual's entire right, title, and interest, to any support obligation such parent or individual may have and:

- (1) Occurs without the necessity of signing any documents.
- (2) Constitutes an obligation owed to DCFS.
- (3) Includes voluntary payments made to the parent at the time of placement.

Proposed law provides that during such assignment, without the necessity of signing any document, the parent or individual shall be deemed to have consented to:

- (1) The designation as DCFS as payee.
- (2) Having the child support enforcement administrator act as his attorney and act in his name, place, and stead.
- (3) Having the child support enforcement administrator perform the specific act of endorsing any and all draft, checks, money orders, or other negotiable instruments representing support payments which are received on behalf of such individual or parent.
- (4) Having DCFS be an indispensable party to any proceeding involving a support obligation or arrearage owed.

Proposed law prohibits any parent or individual who has had a child removed from the parents' custody or voluntarily placed in foster care from entering into a contract for the collection of support. Proposed law provides that any such contract is void and shall be considered a violation of public policy.

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

(Adds R.S. 46:51.1.1)