

2020 Regular Session

HOUSE BILL NO. 593

BY REPRESENTATIVE SEABAUGH

CHILDREN/SUPPORT: Provides relative to the prescriptive period for child support judgments

1 AN ACT

2 To amend and reenact R.S. 13:4291, relative to the legal mortgage securing child support
3 payments; to provide for a prescriptive period; to provide for the contents of the
4 judgment and affidavit filed in the mortgage records; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:4291 is hereby amended and reenacted to read as follows:

8 §4291. Effect of child support payments; legal mortgage and privilege; affidavit of
9 support owed; prescription

10 A. Each payment of child support that is past due under the provisions of an
11 award for child support rendered in a court of this state, or under a foreign child
12 support order registered under the provisions of the Uniform Interstate Family
13 Support Act shall on and after such payment is due be deemed a judgment by
14 operation of law and shall be executory in all respects except that the court shall, in
15 a summary proceeding, determine the amount actually owed. The judgment shall
16 contain the birth date of each child who is the subject of the support obligation. A
17 judgment rendered in such summary proceeding shall not have the effect of a judicial
18 mortgage unless it contains the birth date of each child who is the subject of the
19 support obligation, and until it is final and has been recorded in the manner provided
20 by law. Each payment of child support made pursuant to the judgment ordering

1 support, including those payments made through income assignment orders, seizures,
2 or tax intercepts, shall interrupt prescription. ~~Notwithstanding any other law to the~~
3 ~~contrary, prescription shall not begin to run against any such judgment until the child~~
4 ~~reaches the age of majority or the obligation to provide child support ceases.~~

5 B.(1) In all cases where the Department of Children and Family Services is
6 enforcing child support services, a judgment created by operation of law pursuant to
7 Subsection A of this Section shall be executory in all respects, without the necessity
8 of a judicial proceeding to determine the amount actually owed. The director of the
9 child support enforcement section, office of children and family services,
10 Department of Children and Family Services, or his designee shall certify the actual
11 amount in an affidavit entitled "Child Support Mortgage and Privilege by Affidavit
12 of DCFS". The affidavit shall contain the birth date of each child who is the subject
13 of the support obligation. Such affidavit shall have the effect of a judgment. Such
14 affidavit containing the birth date of each child who is the subject of the support
15 obligation shall have the effect of ~~and when filed and recorded in the manner~~
16 ~~provided by law shall create~~ a legal mortgage and privilege as provided in R.S.
17 46:236.16 when filed and recorded in the manner provided by law. ~~Notwithstanding~~
18 ~~any other law to the contrary, prescription shall not begin to run against any such~~
19 ~~judgment until the child reaches the age of majority or the obligation to provide child~~
20 ~~support ceases.~~

21 (2) The intentional making of a false statement in an affidavit provided for
22 in this Subsection shall constitute a false statement as provided for in R.S. 14:125.

23 C. The department shall provide notice by certified mail, by personal service,
24 or by domiciliary service, to the child support obligor thirty days prior to a "Child
25 Support Mortgage and Privilege by Affidavit of DCFS" being filed and recorded.
26 The notice shall advise the child support obligor that he has fifteen days to file an
27 appeal. Upon notice of appeal, the department shall schedule a judicial hearing.
28 ~~Notwithstanding any other law to the contrary, prescription shall not begin to run~~

1 ~~against any such judgment until the child reaches the age of majority or the~~
2 ~~obligation to provide child support ceases.~~

3 D. Unless revived and reinscribed in accordance with law, the legal
4 mortgage provided in this Section shall prescribe four years after the minor reaches
5 majority.

6 Section 2. The provisions of this Act shall apply to judgments or affidavits recorded
7 in the manner provided by law on or after the effective date of this Act.

8 Section 3. The provisions of this Act shall become effective January 1, 2021.

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 593 Original

2020 Regular Session

Seabaugh

Abstract: Provides a prescriptive period on judicial mortgages securing past-due child support payments and requires the child's birth date to appear on judgments of past-due child support.

Present law provides that each payment of child support that is past due shall be deemed a judgment by operation of law and shall be executory in all respects. For cases where the Department of Children and Family Services (DCFS) is enforcing child support services, DCFS shall certify the actual amount past due in an affidavit. For cases where DCFS is not enforcing child support services, the court shall by summary proceeding determine the amount actually owed. Proposed law retains present law and requires that the judgment or affidavit shall contain the birth date of the child who is the subject of the support obligation.

Present law provides that the resulting judgment or affidavit shall have the effect of a legal mortgage once recorded as provided by law. Proposed law provides that the judgment or affidavit shall not have the effect of a judicial mortgage unless it contains the child's birth date.

Present law provides that prescription shall not begin to run against any such judgment until the child reaches the age of majority or the obligation to provide child support ceases.

Proposed law repeals present law and provides that unless revived and reinscribed, the legal mortgage shall prescribe four years after the minor reaches majority.

Effective Jan. 1, 2021.

(Amends R.S. 13:4291)