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**HOUSE COMMITTEE AMENDMENTS**

2021 Regular Session

Amendments proposed by House Committee on Civil Law and Procedure to Original House Bill No. 449 by Representative Wilford Carter

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1 AMENDMENT NO. 1

2 On page 1, line 4, after "obligations;" and before "to authorize" insert the following:

3 "to provide for suspension during an obligor's incarceration; to remove exceptions  
4 to suspension of a support order during the obligor's incarceration; to provide for  
5 requirements of the Department of Children and Family Services when providing  
6 support enforcement services; to provide for the request for judicial review by the  
7 Department of Children and Family Services; to provide for definitions; to provide  
8 for notifications required of the Department of Public Safety and Corrections and the  
9 Department of Children and Family Services; to provide a timeframe for the  
10 Department of Children and Family Services to file an affidavit with the court; to  
11 remove provisions regarding notice given to the custodial party; to provide for the  
12 contents of an order suspending a support obligation; to provide for the voluntary  
13 unemployment or underemployment of the obligor;"

14 AMENDMENT NO. 2

15 On page 1, line 19, after "on" and before "the" change "it's" to "its"

16 AMENDMENT NO. 3

17 On page 2, line 20, after "more" delete the remainder of the line and delete lines 21 through  
18 26 in their entirety and insert a period " ."

19 AMENDMENT NO. 4

20 On page 3, delete line 8 in its entirety and at the beginning of line 9, delete "scheduled due  
21 date" and insert "an abatement"

22 AMENDMENT NO. 5

23 On page 3, at the beginning of line 10, delete "or as previously suspended."

24 AMENDMENT NO. 6

25 On page 3, delete lines 25 through 28 in their entirety and delete pages 4 and 5 in their  
26 entirety and on page 6, delete lines 1 through 3 in their entirety and insert the following:

27 D.(+) When the Department of Children and Family Services is providing  
28 support enforcement services, the department shall, upon receipt of notice in  
29 accordance with ~~Paragraph (C)(1)~~ Subsection C of this Section, ~~verify that none of~~  
30 ~~the conditions in Subsection A exists~~ provide such notice to the custodial party by  
31 regular mail.

32 ~~(2) Upon finding that none of the conditions in Subsection A exists, the~~  
33 ~~department shall provide notice to the custodial party by certified mail, return receipt~~  
34 ~~requested. The notice shall state all of the following:~~

35 ~~(a) The child support order shall be suspended unless the custodial party~~  
36 ~~objects no later than fifteen calendar days after receipt of such notice on any of the~~  
37 ~~following grounds:~~

38 ~~(i) The obligor has sufficient income or assets to comply with the order of~~  
39 ~~child support.~~

1           (ii) ~~The obligor is incarcerated for an offense against the custodial party or~~  
2 ~~the child subject to the order of child support.~~

3           (iii) ~~The offense for which the obligor is incarcerated is due to the obligor's~~  
4 ~~failure to comply with an order to pay child support.~~

5           (b) ~~The custodial party may object to the proposed modification by delivering~~  
6 ~~a signed objection form, indicating the nature of the objection to the department no~~  
7 ~~later than fifteen calendar days after receipt of the notice in this Paragraph.~~

8           (3) ~~If no objection is received from the custodial party in accordance with~~  
9 ~~Paragraph (2) of this Subsection, E. No more than fifteen days after receiving the~~  
10 ~~notice provided in Paragraph (C)(1) of this Section, the department shall file an~~  
11 ~~affidavit with the court that has jurisdiction over the order of child support. The~~  
12 ~~affidavit shall include all of the following:~~

13           (a) ~~The beginning and expected end dates of such obligor's incarceration.~~

14           (b) ~~A statement by the affiant of all of the following:~~

15           (i) ~~A diligent search failed to identify any income or assets that could be~~  
16 ~~used to satisfy the order of child support while the obligor is incarcerated.~~

17           (ii) ~~The offense for which the obligor is incarcerated is not an offense against~~  
18 ~~the custodial party or the child subject to the order of child support.~~

19           (iii) ~~The offense for which the obligor is incarcerated is not due to the~~  
20 ~~obligor's failure to comply with an order to pay child support.~~

21           (iv) ~~A notice was provided to the custodial party in accordance with~~  
22 ~~Paragraph (2) of this Subsection and an objection was not received from such party.~~

23           (4) ~~The suspension of the order of support shall begin upon the date that the~~  
24 ~~department files the affidavit.~~

25           (5) ~~If the custodial party makes a timely objection, the department shall file~~  
26 ~~a contradictory motion with the court that has jurisdiction over the order of child~~  
27 ~~support.~~

28           (6) ~~If a timely objection is made, the order of child support shall continue~~  
29 ~~until further order of the court.~~

30           E. F. ~~Nothing in this Section shall prevent either party from seeking a~~  
31 ~~suspension or a modification of the order of support under this Section or any other~~  
32 ~~provision of law.~~

33           F.(1) ~~Upon motion of either party or the Department of Children and Family~~  
34 ~~Services, after notice and hearing, the court shall suspend the child support~~  
35 ~~obligation unless it finds one of the conditions in Subsection A of this Section exists.~~

36           (2) ~~If one of the conditions in Subsection A of this Section exists, the court~~  
37 ~~shall use the child support guidelines in R.S. 9:315 et seq. to determine an obligor's~~  
38 ~~support obligation during his period of incarceration.~~

39           G.(1) ~~An order of support A child support order~~ suspended ~~in accordance~~  
40 ~~with this Section shall resume by operation of law on the first day of the second full~~  
41 ~~month after the obligor's release from incarceration.~~

42           (2) ~~An order that suspends an obligor's order of support because of the~~  
43 ~~obligor's incarceration shall contain a provision that the previous order will be~~  
44 ~~reinstated on the first day of the second full month after the obligor's release from~~  
45 ~~incarceration.~~

46           (3) ~~Unless the terms of the order of support have been otherwise modified,~~  
47 ~~the suspended order of support shall resume at the same terms that existed before the~~  
48 ~~suspension.~~

49 AMENDMENT NO. 7

50 On page 6, line 5, after "that" and before "accrued" delete "has"

51 AMENDMENT NO. 8

52 On page 6, line 13, after "suspend the" and before "child" insert "obligor's"

1 AMENDMENT NO. 9

2 On page 6, line 14, after "order" delete the remainder of the line and insert a period ".\_"

3 AMENDMENT NO. 10

4 On page 6, delete lines 15 through 17 in their entirety and at the beginning of line 18, delete  
5 "(3)" and insert "(2)"

6 AMENDMENT NO. 11

7 On page 7, at the end of line 25, delete "January 1, 2022." and insert the following:  
8 "upon signature by the governor or, if not signed by the governor, upon expiration  
9 of the time for bills to become law without signature by the governor, as provided  
10 by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor  
11 and subsequently approved by the legislature, this Act shall become effective on the  
12 day following such approval."