

2024 Regular Session

HOUSE BILL NO. 770

BY REPRESENTATIVES CARPENTER AND TAYLOR

1 AN ACT

2 To amend and reenact R.S. 9:315.1(B) and (C), 315.11(A)(2) and (C)(1), 315.13, and
3 315.22(C) and (D) and Code of Civil Procedure Article 10(A)(9), to enact R.S.
4 9:315.14 and 315.22.1, and to repeal R.S. 9:315.21(F) and 315.22(E), relative to
5 child support guidelines; to provide relative to income used when calculating child
6 support; to provide for deviations from the child support guidelines; to provide for
7 support for adult disabled children; to provide for an effective date; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Civil Procedure Article 10(A)(9) is hereby amended and
11 reenacted to read as follows:

12 Art. 10. Jurisdiction over status

13 A. A court which is otherwise competent under the laws of this state has
14 jurisdiction of the following actions or proceedings only under the following
15 conditions:

16 * * *

17 (9) A proceeding for support of an adult child with a disability, as provided
18 in R.S. ~~9:315.22(E)~~ 9:315.22.1, if he is domiciled in, or is in, this state.

19 * * *

20 Section 2. R.S. 9:315.1(B) and (C), 315.11(A)(2) and (C)(1), 315.13, and 315.22(C)
21 and (D) are hereby amended and reenacted and R.S. 9:315.14 and 315.22.1 are hereby
22 enacted to read as follows:

1 §315.11. Voluntarily unemployed or underemployed party

2 A.

3 * * *

4 (2) ~~Absent~~ Upon an express finding by the court that evidence of a party's
5 actual income or income earning potential is totally absent, there is a rebuttable
6 presumption that the party can earn a weekly gross amount equal to thirty-two hours
7 at a minimum wage, according to the laws of his state of domicile or federal law,
8 whichever is higher.

9 * * *

10 C. A party shall not be deemed voluntarily unemployed or underemployed
11 if either:

12 (1) ~~He has been temporarily unable to find work or has been temporarily~~
13 ~~forced to take a lower-paying job as a direct result of Hurricane Katrina or Rita~~ is
14 responsible for the care of an unmarried child, of the party who is incapable of self-
15 support and requires substantial care and personal supervision by that party because
16 of an intellectual or physical disability that is manifested before the child attains the
17 age of majority. The court shall consider the particular circumstances of the child's
18 need for care, including the eligibility of the child for school or any public benefits
19 and services.

20 * * *

21 §315.13. Amounts not set forth in or exceeding schedule

22 A. If the combined adjusted gross income of the parties falls below the
23 lowest level specified in the schedule contained in R.S. 9:315.19, the court shall
24 determine an award of child support based on all of the following:

- 25 (1) Actual earnings or income.
- 26 (2) The factors listed in R.S. 9:315.11.
- 27 (3) Any other evidence of a parent's ability to pay.

28 ~~A.~~ B. If the combined adjusted gross income of the parties falls between two
29 amounts shown in the schedule contained in R.S. 9:315.19, the basic child support
30 obligation shall be based on an extrapolation between the two amounts.

1 ~~B. C.~~ If the combined adjusted gross income of the parties exceeds the
 2 highest level specified in the schedule contained in R.S. 9:315.19, the court:

3 (1) Shall use its discretion in setting the amount of the basic child support
 4 obligation in accordance with the best interest of the child and the circumstances of
 5 each parent as provided in Civil Code Article 141, but in no event shall it be less than
 6 the highest amount set forth in the schedule; and

7 (2) May order that a portion of the amount awarded be placed in a
 8 spendthrift trust for the educational or medical needs of the child. The trust shall be
 9 administered, managed, and invested in accordance with the Louisiana Trust Code.
 10 The trust instrument shall name the child as sole beneficiary of the trust, shall name
 11 a trustee, shall impose maximum spendthrift restraints, and shall terminate when the
 12 child attains twenty-four years of age, unless the parties agree to a later date. The
 13 trustee shall furnish security unless the court, in written findings of fact, dispenses
 14 with security.

15 D. Under no circumstances shall the court determine an award of child
 16 support that is not in the best interest of the child or would be inequitable to the
 17 parties.

18 §315.14. Disabled children, proof of disability, pleadings, orders, requirements

19 A.(1) A pleading to establish, modify or continue an award of child support
 20 for a minor child who has a developmental disability as defined in R.S. 28:451.2
 21 shall allege facts showing that the child has such a developmental disability and that
 22 the obligor has an ongoing duty to provide support until the minor child attains the
 23 age of twenty-two, as long as the child is a full-time student in a secondary school.

24 (2) Any order or judgment granting or continuing an award of support for a
 25 child with a developmental disability shall state that the child in question has a
 26 developmental disability, as defined in R.S. 28:451.2, and is eligible for support from
 27 the obligor until he attains the age of twenty-two.

28 B.(1) A pleading to establish, modify, or continue an award of child support
 29 in accordance with R.S. 9:315.22.1 shall allege facts showing all of the following:

1 full-time student in a secondary school. The primary domiciliary parent or legal
2 guardian is the proper party to enforce an award of child support pursuant to this
3 Subsection.

4 (b) An award of child support shall be continued by the court with respect
5 to any minor disabled child in accordance with R.S. 9:315.22.1(A).

6 (2)(a) A contradictory motion filed under Paragraph (1) of this Subsection
7 shall be filed before the minor child in question attains the age of majority or is
8 emancipated relieving him of the disabilities attached to minority.

9 (b) A copy of the judgment continuing the support order shall be furnished
10 to all counsel of record and to all unrepresented parties appearing in the suit record.

11 (3) Nothing in this Subsection shall limit a parent's ability to agree to provide
12 continued support or the court's power to determine whether an agreement to provide
13 additional support has been made.

14 ~~E.(1) An award of child support continues or shall be set with respect to any~~
15 ~~unmarried child who, whether institutionalized or not, is incapable of self-support~~
16 ~~and requires substantial care and personal supervision because of an intellectual or~~
17 ~~physical disability that is manifested before the child attains the age of majority. A~~
18 ~~disability under this Subsection shall not include substance abuse or addiction.~~

19 ~~(2) An action under this Subsection may be filed regardless of the age of the~~
20 ~~child.~~

21 ~~(3) Either the major child or his tutor or curator is the proper party to file an~~
22 ~~action to establish, modify, or enforce an award of child support pursuant to this~~
23 ~~Subsection.~~

24 ~~(4) Except as otherwise provided in this Subsection, the substantive and~~
25 ~~procedural rights and remedies in an action relating to the establishment,~~
26 ~~modification, or enforcement of child support orders for minor children apply to an~~
27 ~~action filed, and to an award of, child support rendered under this Subsection.~~

28 ~~(5) The court shall consider the eligibility of the child for public benefits and~~
29 ~~services and may make orders necessary to promote the best interest of the child,~~
30 ~~including ordering the creation of a trust and placing the award in trust.~~

1 ~~(6) When the Department of Children and Family Services is providing~~
 2 ~~support enforcement services, those services will continue under this Subsection only~~
 3 ~~if the major child or his tutor or curator obtains and submits to the Department,~~
 4 ~~before the child attains the age of majority, a judgment ordering the continuation of~~
 5 ~~support for the child.~~

6 §315.22.1. Support for disabled children

7 A. In accordance with the child support guidelines contained in this Part, an
 8 award of child support continues or shall be set with respect to any unmarried child
 9 who, whether institutionalized or not, is incapable of self-support and requires
 10 substantial care and personal supervision because of an intellectual or physical
 11 disability that is manifested before the child attains the age of majority. A disability
 12 under this Section shall not include substance abuse or addiction.

13 B. An action under this Section to establish an initial award of child support
 14 may be filed regardless of the age of the child.

15 C.(1) An action to establish, modify, continue, or enforce an award of child
 16 support pursuant to this Section may be filed by the domiciliary parent or any other
 17 proper party as determined by the court or law.

18 (2) Nothing in this Section or any other provision of law shall be construed
 19 to require the Department of Children and Family Services to obtain an order of
 20 continuing tutorship or judgment of interdiction.

21 D. Except as otherwise provided in this Part, the substantive and procedural
 22 rights and remedies in an action relating to the establishment, modification, or
 23 enforcement of child support orders for minor children apply to an action filed, and
 24 to an award of, child support rendered under this Section.

25 E. The court shall consider the eligibility of the child for public benefits and
 26 services and may make orders necessary to promote the best interest of the child,
 27 including ordering the creation of a trust and placing the award in trust.

28 F. Nothing in this Section shall require the Department of Children and
 29 Family Services to provide support enforcement services to a family not otherwise

1 qualified to receive them under Title IV-D of the Social Security Act and related
2 portions of Title IV-A of such Act.

3 Section 3. R.S. 9:315.21(F) is hereby repealed in its entirety.

4 Section 4. This Act shall become effective January 1, 2025.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____