

2019 Regular Session

SENATE BILL NO. 185

BY SENATORS WALSWORTH AND THOMPSON AND REPRESENTATIVE TERRY BROWN

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

CHILDREN/FAMILY SERVICES DEPT. Provides relative to amendments of child support orders. (8/1/19)

1 AN ACT

2 To amend and reenact Children's Code Art. 313(B) and R.S. 46:236.2, relative to

3 amendments of child support orders; to provide for a procedure for amending a child

4 support order; to provide for authority of the Department of Children and Family

5 Services; to provide for authority of the district attorney and other interested parties;

6 to provide for a written motion to the court; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Art. 313(B) is hereby amended and reenacted to read as
9 follows:

10 Art. 313. Duration of jurisdiction over proceedings

11 * * *

12 B. A court exercising juvenile jurisdiction no longer exercises such

13 jurisdiction in any proceeding authorized by Article 311(B)(1) upon the filing of a

14 motion in accordance with R.S. 46:236.2(B)~~(2)~~. When the motion is granted, the

15 individual or caretaker to whom the support obligation is owed shall be the proper

16 party to enforce the child support obligation or any arrears owed.

17 Section 2. R.S. 46:236.2 is hereby amended and reenacted to read as follows:

1 §236.2. Redirection Amendment of support payments orders

2 ~~A.(1) Pursuant to 42 U.S.C. 654b(a)(1)(A), the department is authorized to~~
3 ~~receive and disburse support payments made on behalf of each child who is a~~
4 ~~recipient of public assistance, or for any obligee when an individual has applied for~~
5 ~~support enforcement services pursuant to Title IV-D of the Social Security Act.~~
6 ~~Except as provided in this Section, the department is not required to seek an~~
7 ~~amendment to the support order, file a motion to intervene, or subrogate itself to the~~
8 ~~rights of the obligee to exercise its standing as independent party.~~

9 ~~(2) To carry out and effectuate the purposes and provisions of this Section~~
10 ~~and 42 U.S.C. 666(c)(1)(E), the department shall administratively change the payee~~
11 ~~of a support order to the department. Such change shall not occur until the~~
12 ~~department has provided notice of the change to all parties under this Subsection.~~

13 ~~(3) If a court has ordered support payments to be made to an obligee, the~~
14 ~~department shall, on providing notice to the obligee and the obligor, direct the~~
15 ~~obligor or other payor to make support payments payable to the department and to~~
16 ~~transmit the payments to the state disbursement unit. The department shall file a~~
17 ~~copy of the notice with the court by which the order was issued or last registered.~~
18 ~~The notice shall include all of the following:~~

19 ~~(a) A statement that the child's family is receiving support enforcement~~
20 ~~services.~~

21 ~~(b) The name of the child and the obligee for whom support has been ordered~~
22 ~~by the court.~~

23 ~~(c) The docket number and court by which support was ordered or last~~
24 ~~registered.~~

25 ~~(d) Instructions for the payment of ordered support to the department.~~

26 ~~(4) The notice shall be sent by regular mail to the obligor and the obligee at~~
27 ~~the last known address of each as listed in the state case registry. The obligor shall~~
28 ~~be required to submit payment, in accordance with Subparagraph (3)(d) of this~~
29 ~~Subsection, ten days after the date of the notice.~~

1 ~~(5) On receipt of a copy of the notice, the clerk of court shall file the notice~~
2 ~~in the appropriate case record.~~

3 **A.(1) The department or district attorney may, by a written motion**
4 **together with a written certification from the department that support**
5 **enforcement services are being furnished to the individual, to the current**
6 **caretaker of any individual receiving support benefits, or to the payor of any**
7 **support benefits for such individual, obtain an order to require any person**
8 **under an order to support such individual or caretaker to make such support**
9 **payments payable to the department.**

10 ~~B.(1)(a)~~**(2)** Notwithstanding the provisions of R.S. 13:1599(B), in cases
11 receiving support enforcement services from the department, upon the motion of the
12 district attorney or the department to transfer, a support order **payable to the**
13 **department** shall be transferred for subsequent enforcement and modification to the
14 appropriate juvenile court within the parish wherein the support order was rendered
15 or last registered, **except in East Baton Rouge Parish.**

16 ~~(b) The provisions of Subparagraph (a) of this Paragraph shall not apply in~~
17 ~~East Baton Rouge Parish.~~

18 **B.(1)(a) Any interested party may by a written motion, together with a**
19 **written certification from the department that the department is not presently**
20 **furnishing and does not contemplate furnishing FITAP for or on behalf of an**
21 **individual and that no services are being rendered by the department on behalf**
22 **of the individual, obtain from the court to which the order to support the**
23 **individual had previously been transferred, an amended order to require that**
24 **support payments be made payable to the individual or current caretaker**
25 **instead of the department.**

26 **(b) If the support order was originally established in juvenile, family, or**
27 **district court, any interested party may, by written motion, together with a**
28 **written certification from the department that it is not presently furnishing and**
29 **does not contemplate furnishing FITAP for or on behalf of an individual and**

1 that no support enforcement services are being rendered by the department,
 2 obtain from the court which rendered the order of support, an amended order
 3 requiring payments in accordance with the order to be made to the individual
 4 or current caretaker instead of the department. When the motion is granted, the
 5 individual or current caretaker to whom support is owed shall be the proper
 6 party to enforce the support obligation or any arrears owed.

7 (c) As used in this Section, "interested party" shall include only the
 8 department, district attorney, contract attorney providing support services
 9 pursuant to Title IV-D, the person owing the support obligation, or the
 10 individual or current caretaker to whom the support obligation is owed.

11 (2)(a) Notwithstanding the provisions of R.S. 13:1599(B), in cases
 12 receiving support enforcement services from the department, upon the motion
 13 of the district attorney or the department to transfer, a support order amended
 14 to change the payee to the individual or current caretaker instead of the
 15 department under this Subsection, shall be transferred for subsequent
 16 enforcement and modification to the appropriate court which was enforcing the
 17 support order prior to its transfer under Paragraph (A)(2) of this Section.

18 ~~(2)(a)~~ **(b)** Notwithstanding the provisions of R.S. 13:1599(B), in cases ~~no~~
 19 ~~longer~~ **not** receiving support enforcement services from the department, upon motion
 20 to transfer by the interested party, a support order **amended to change the payee to**
 21 **the individual or current caretaker in accordance with Subparagraph (1)(b) of**
 22 **this Subsection** shall be transferred for subsequent enforcement and modification
 23 to the district or family court in the same parish as the juvenile court transferring the
 24 order.

25 ~~(b) As used in this Section, "interested party" shall include only the~~
 26 ~~department, the district attorney, the contract attorney providing support services~~
 27 ~~pursuant to Title IV-D, the person owing the support obligation, or the individual or~~
 28 ~~current caretaker to whom the support obligation is owed.~~

29 ~~(3)~~ **C.** In any **either** of the **above** cases ~~in this Subsection~~, the court shall

1 grant its order ex parte and without hearing any adverse party.

2 ~~C.(1) On termination of support enforcement services under 45 CFR~~
3 ~~303.11(b), or upon the death of the obligee or caretaker, the department shall send~~
4 ~~a notice to terminate the redirection. The notice shall include all of the following:~~

5 ~~(a) A statement that either:~~

6 ~~(i) The child's family is no longer receiving support enforcement services.~~

7 ~~(ii) The obligee or caretaker is now deceased.~~

8 ~~(b) The name of the child and the obligee for whom support has been ordered~~
9 ~~by the court.~~

10 ~~(c) The docket number and court in which support was ordered or last~~
11 ~~registered.~~

12 ~~(d) Instructions for the payment of ordered support and any past-due support~~
13 ~~that has accrued.~~

14 ~~(2) The notice shall be sent by regular mail to the address listed in the state~~
15 ~~case registry for the obligor and the obligee, as appropriate. The obligor shall be~~
16 ~~required to submit payments in accordance with the instructions in this notice ten~~
17 ~~days after the date of the notice.~~

18 ~~(3) The department shall file a copy of the notice with the court in which the~~
19 ~~order was issued or last registered. On receipt of a copy of the notice, the clerk of the~~
20 ~~court shall file the notice in the appropriate case record.~~

21 D. This Section applies regardless of whether the individual applying for or
22 receiving support enforcement services has ever received any public assistance and
23 regardless of whether there is a delinquency.

24 E. ~~The department shall not enforce or collect any past-due support that~~
25 ~~accumulated before support enforcement services were provided until a contradictory~~
26 ~~hearing is held by the appropriate court to determine the amount of past-due support~~
27 ~~owed.~~

