

Regular Session, 2009

SENATE BILL NO. 230

BY SENATOR SHAW

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

SOCIAL SERVICES DEPT. Provides procedures for the implementation of certain family and child support programs. (8/15/09)

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AN ACT

To amend and reenact R.S. 46:236.1.11(A) and (C) and to enact R.S. 46:236.11.1 through 236.11.4, relative to the family and child support program; to provide for certain electronic data matching and cooperation between the Department of Social Services and insurance companies; to provide relative to disclosure of certain information and penalties for intentional or willful unauthorized disclosure; to provide definitions; to provide for procedures and requirements for notice of payment to the state disbursement units; to provide for the redirection of income assignment payments; to provide for the amendment and use of certain records as evidence; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 46:236.1.11(A) and (C) are hereby amended and reenacted and R.S. 46:236.11.1 through 236.11.4 are hereby enacted to read as follows:

§236.1.11. Family and child support programs; insurance companies; data matching and cooperation; responsibilities

A.(1) ~~The department shall be authorized to obtain, through an interagency agreement with Department of Health and Hospitals, health insurance enrollment~~

1 ~~data currently being provided in accordance with federal law and R.S. 44:14.~~

2 ~~(2) The provisions of Paragraph (A)(1) of this Section shall not apply to the~~
3 ~~following types of insurance: limited benefit health and accident; Civilian Health and~~
4 ~~Medical Program of the Uniformed Services (CHAMPUS); dental; disability~~
5 ~~income; fixed indemnity; long-term care; Medicare supplement; Medicare~~
6 ~~Advantage; specified disease; vision; basic hospital expense; and basic~~
7 ~~medical-surgical expense.~~

8 **The department shall be authorized to obtain health insurance**
9 **enrollment data currently being provided in accordance with federal law and**
10 **R.S. 44:14, through data sharing agreements between the department and**
11 **health insurers, as defined in R.S. 46:446.6, or through an interagency**
12 **agreement with the Department of Health and Hospitals, at the discretion of the**
13 **department.**

14 **(2) As a condition of conducting business in Louisiana, health insurers,**
15 **defined as any insurance company or other entity who is authorized to transact**
16 **and is currently transacting health insurance business in this state, including**
17 **self-insured plans, group health plans as defined in Section 607(1) of the**
18 **Employee Retirement Income Security Act of 1974, service benefit plans,**
19 **managed care organizations, pharmacy benefit managers, third party**
20 **administrators and any other parties that are, by statute, contract, or**
21 **agreement, legally responsible for payment of a claim for a health care item or**
22 **service, shall permit and participate in data matching with the department to**
23 **assist in determining the availability of other sources of health care insurance**
24 **or coverage for beneficiaries of the child support program. Specifically, health**
25 **insurers shall provide to the department or its designee, no less than quarterly,**
26 **an electronic listing of all individuals who may be covered by a health insurer**
27 **and the nature of coverage that is provided, their social security numbers,**
28 **addresses, dates of birth, policy holder, policy identification number, group**
29 **number and effective dates for purposes of identifying coverage and enforcing**

1 medical child support orders administered by the department.

2 (3) The provisions of Paragraph A(1) and (2) of this Section shall not
3 apply to the following types of insurance: limited benefit health and accident;
4 Civilian Health and Medical Program of the Uniformed Services (CHAMPUS);
5 dental; disability income; fixed indemnity; long-term care; Medicare
6 supplement; Medicare Advantage; specified disease; vision; basic hospital
7 expense; and basic medical-surgical expense.

8 * * *

9 C. In any action brought under this Section for unauthorized disclosure, upon
10 a finding of liability on the part of the defendant, the defendant shall be liable to the
11 aggrieved individual in an amount equal to the greater of one thousand dollars for
12 each act of unauthorized disclosure of data match information with respect to which
13 such defendant is found liable or the actual damages sustained by the aggrieved
14 individual as a result of such unauthorized disclosure. In the case of a an intentional
15 or willful disclosure, the defendant shall be liable in an amount not to exceed two
16 times the damages sustained or five thousand dollars, whichever is greater, plus
17 reasonable costs and attorneys fees or a disclosure which is the result of gross
18 negligence, the defendant shall be liable for punitive damages and all costs and
19 attorney fees.

20 * * *

21 §236.11.1. Notice of payment

22 A. When a court orders income to be withheld in accordance with R.S.
23 9:303 or R.S. 46:236.3, it shall order the income to be paid to the state
24 disbursement unit within the department.

25 B. To redirect payments in accordance with R.S. 46:236.10, the
26 department shall issue a notice to the obligor, obligee, and employer that income
27 withheld for child support shall be paid to the state disbursement unit. A copy
28 of the notice shall be filed with the court of continuing jurisdiction and the clerk
29 of court shall file it in the appropriate case file.

1 **C. The notice shall include all of the following:**

2 **(1) The name of the child and the name of the obligee.**

3 **(2) The caption and docket number of the case in which support is**
4 **ordered.**

5 **(3) Instructions for the payment of support to the state disbursement**
6 **unit in accordance with R.S. 46:236.1.4.**

7 **D. The notice may be used by the department to redirect child support**
8 **payments from the state disbursement unit of this state to the state**
9 **disbursement unit of another state in accordance with 42 U.S.C.A. § 654(B).**

10 **§236.11.2. Deposit, distribution, and issuance of payments**

11 **A. No later than the second business day after the date the state**
12 **disbursement unit receives a child support payment, it shall distribute the**
13 **payment to the department or the obligee.**

14 **B. The state disbursement unit shall deposit daily, in a trust fund with**
15 **the state treasurer, all child support payments received. In agreement with the**
16 **state treasurer, the unit may issue checks from the trust fund.**

17 **§236.11.3. Official child support payment record**

18 **A. The record of child support payments previously maintained by an**
19 **obligee is the official record of a payment received directly by the obligee.**

20 **B. The record of child support payments maintained by the state**
21 **disbursement unit is the official record of a payment received directly by the**
22 **unit.**

23 **C. Upon the redirection of child support payments from an obligee to**
24 **the state disbursement unit, an obligee may combine his records and a record**
25 **of payments furnished by the unit to present a complete payment record to the**
26 **court.**

27 **D. If the obligee does not add payments received by the state**
28 **disbursement unit to the record maintained by the registry as provided by**
29 **Subsection C of this Section, the official record of child support payments shall**

1 consist of the record previously maintained by the obligee for payments
2 received directly by the obligee and the record maintained by the state
3 disbursement unit for payments received directly by the unit.

4 E. A certified child support payment record produced by the state
5 disbursement unit is admissible as evidence of the truth of the information
6 contained in the record and does not require further authentication or
7 verification.

8 **§236.11.4. Administrative review of child support payment record**

9 A. Upon request, the state disbursement unit shall provide to an obligor
10 or obligee a copy of the record of child support payments maintained by the
11 unit. The record shall include the amounts and dates of all payments received
12 from or on behalf of the obligor and disbursed to the obligee.

13 B. An obligor or obligee may request that the department investigate
14 any alleged discrepancy between the child support payment record provided by
15 the unit and the payment records maintained by the requestor. The obligor or
16 obligee shall provide documentation of any alleged discrepancy, including a
17 canceled check or other evidence of a payment or disbursement.

18 C. The department shall respond to a request regarding a discrepancy
19 no later than twenty days after receipt. If after an investigation the department
20 determines that the child support payment record maintained by the unit is not
21 accurate, the record shall immediately be amended and the requestor shall be
22 notified.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Camille Sebastien Perry.

DIGEST

Present law provides that DSS shall be authorized to obtain, through an interagency agreement with DHH, health insurance enrollment data currently being provided in accordance with federal and state law, except for certain types of insurance.

Proposed law authorizes DSS to obtain health insurance enrollment data currently being provided in accordance with federal law and state law through data sharing agreements between DSS and certain health insurers, or through an interagency agreement with DHH, at the discretion of DSS, and maintains the exception for certain types of insurance.

Present law provides that in any action for unauthorized disclosure, upon a finding of liability on the part of the defendant, he shall be liable to the individual in an amount equal to the greater of \$1000 for each act of unauthorized disclosure or the actual damages sustained by the individual. Present law provides that in the case of a willful disclosure or a disclosure which is the result of gross negligence, the defendant shall be liable for punitive damages and all costs and attorney fees.

Proposed law provides that in the case of an intentional or willful disclosure, the defendant shall be liable in an amount not to exceed two times the damages sustained or \$5,000, whichever is greater, plus reasonable costs and attorney fees.

Proposed law requires as a condition of conducting business in La., that health insurers, defined as any insurance company or other entity who is authorized to transact and is currently transacting health insurance business in this state, including self-insured plans, group health plans, service benefit plans, managed care organizations, pharmacy benefit managers, third party administrators and any other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, permit and participate in data matching with DSS to assist in determining the availability of other sources of health care insurance or coverage for beneficiaries of the child support program.

Proposed law specifically requires health insurers to provide to DSS or its designee, no less than quarterly, an electronic listing of all individuals who may be covered by a health insurer and the nature of coverage that is provided, for purposes of identifying coverage and enforcing medical child support orders administered by the department.

Proposed law provides for notice of payment when a court orders income to be withheld and orders the income to be paid to the state disbursement unit within DSS.

Present law provides for a state case registry of child support orders. Proposed law retains present law and further provides for the redirection of payments when DSS issues a notice to the obligor, obligee, and employer that income withheld for child support shall be paid to the state disbursement unit. A copy of the notice will be filed with the court of continuing jurisdiction and the clerk of court will file it in the appropriate case file. The notice will include all of the following:

1. The name of the child and the name of the obligee.
2. The caption and docket number of the case in which support is ordered.
3. Instructions for the payment of support to the state disbursement unit.

The notice may be used by DSS to redirect child support payments from the state disbursement unit of this state to the state disbursement unit of another state.

Proposed law requires the state disbursement unit to distribute the payment to DSS or the obligee no later than the second business day after the date the state disbursement unit receives a child support payment.

Proposed law requires the state disbursement unit to daily deposit all child support payments received in a trust fund with the state treasurer and the unit may issue checks from the trust fund in agreement with the state treasurer.

Proposed law provides that the official child support payment record previously maintained by an obligee is the official record of a payment received directly by the obligee and the record of child support payments maintained by the state disbursement unit is the official record of a payment received directly by the unit.

Proposed law authorizes an obligee to combine his records and a record of payments furnished by the unit to present a complete payment record to the court, upon the redirection

of child support payments from an obligee to the state disbursement unit.

Proposed law provides that if the obligee does not add payments received by the state disbursement unit to the record maintained by the registry, the official record of child support payments shall consist of the record previously maintained by the obligee for payments received directly by the obligee and the record maintained by the state disbursement unit for payments received directly by the unit.

Proposed law provides that a certified child support payment record produced by the state disbursement unit is admissible as evidence of the truth of the information contained in the record and does not require further authentication or verification.

Proposed law requires the state disbursement unit, upon request, to provide to an obligor or obligee a copy of the record of child support payments maintained by the unit and further requires the record to include the amounts and dates of all payments received from or on behalf of the obligor and disbursed to the obligee.

Proposed law authorizes an obligor or obligee to request that DSS investigate any alleged discrepancy between the child support payment record provided by the unit and the payment records maintained by the requestor and requires the obligor or obligee to provide documentation of any alleged discrepancy.

Proposed law requires DSS to respond to a request regarding a discrepancy no later than 20 days after receipt and if after an investigation it is determined that the child support payment record maintained by the unit is not accurate, the record will be amended and the requestor notified.

Effective August 15, 2009.

(Amends R.S. 46:236.1.11(A) and (C); adds R.S. 46:236.11.1 through 236.11.4)