

Regular Session, 2009

HOUSE BILL NO. 600

BY REPRESENTATIVE JOHNSON

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

1 AN ACT

2 To amend and reenact R.S. 9:315.2(A) and to enact R.S. 9:315.1.1 and 326, relative to  
3 support; to provide for the determination of income for the payment of child and  
4 spousal support obligations; to provide for redirected income; to provide for deferred  
5 income; to provide for the admissibility of evidence of income; to provide for  
6 required documentation; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:315.2(A) is hereby amended and reenacted and R.S. 9:315.1.1 and  
9 326 are hereby enacted to read as follows:

10 §315.1.1. Determination of income; evidence

11 A. When a party alleges that income is being concealed or underreported, the  
12 court shall admit evidence relevant to establishing the actual income of the party,  
13 including but not limited to the following:

14 (1) Redirected income. (a) Loans to the obligor by a business in which the  
15 obligor has an ownership interest and whether the loans will be repaid. There shall  
16 be a presumption that such loans are income of the obligor which may be rebutted  
17 if the obligor demonstrates there is a history of similar past loans being made and  
18 repaid in a timely manner with market interest rates, or the current loan is at market  
19 interest rates and is fully paid in accordance with a commercially reasonable time.  
20 The amount by which a commercially reasonable repayment amount exceeds the  
21 amount actually repaid shall be treated as income.

22 (b) Payment made by the obligor or by a business in which the obligor has  
23 an ownership interest to a person related by blood or affinity in the form of wages  
24 or salary. There shall be a presumption that such payments are income of the

1            obligor, which may be rebutted if the obligor demonstrates there is a history of  
 2            payments preceding the separation of the parties or the filing of an action to establish  
 3            or modify child support, or that the payments are fair market value for services  
 4            actually performed.

5            (2) Deferred income. Recent reductions in distributions of income, such as  
 6            salary, bonuses, dividends, or management fees as a percentage of gross income of  
 7            the business of the obligor. There shall be a presumption that past distributions of  
 8            income will continue, which may be rebutted if the obligor demonstrates business  
 9            conditions justify a reduction in distributions.

10           (3) Standard of living and assets. The standard of living and assets of the  
 11           obligor both prior and subsequent to the establishment of a child support order, to  
 12           establish the actual income if the amount claimed is inconsistent with his lifestyle.

13           B. When the income of an obligor cannot be sufficiently established,  
 14           evidence of wage and earnings surveys distributed by government agencies for the  
 15           purpose of attributing income to the obligor is admissible.

16           §315.2. Calculation of basic child support obligation

17           A. Each party shall provide to the court a verified income statement showing  
 18           gross income and adjusted gross income, together with documentation of current and  
 19           past earnings. Spouses of the parties shall also provide any relevant information with  
 20           regard to the source of payments of household expenses upon request of the court or  
 21           the opposing party, provided such request is filed in a reasonable time prior to the  
 22           hearing. Failure to timely file the request shall not be grounds for a continuance.  
 23           Suitable documentation of current earnings shall include but not be limited to pay  
 24           ~~stubs, stubs or employer statements, or receipts and expenses if self-employed.~~ The  
 25           documentation shall include a copy of the party's most recent federal tax return. A  
 26           copy of the statement and documentation shall be provided to the other party. When  
 27           an obligor has an ownership interest in a business, suitable documentation shall  
 28           include but is not limited to the last three personal and business state and federal  
 29           income tax returns, including all attachments and all schedules, specifically Schedule  
 30           K-1 and W-2 forms, 1099 forms, and amendments, the most recent profit and loss

1           statements, balance sheets, financial statements, quarterly sales tax reports, personal  
2           and business bank account statements, receipts, and expenses. A copy of all  
3           statements and documentation shall be provided to the other party.

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5           §326. Determination of income for spousal support; evidence

6                   A. Each party shall provide to the court a verified income statement showing  
7                   gross income and adjusted gross income, together with documentation of current and  
8                   past earnings. Suitable documentation of current earnings shall include but not be  
9                   limited to pay stubs or employer statements. The documentation shall include a copy  
10                  of the party's most recent federal tax return. A copy of the statement and  
11                  documentation shall be provided to the other party. When an obligor has an  
12                  ownership interest in a business, suitable documentation shall include but is not  
13                  limited to the last three personal and business state and federal income tax returns,  
14                  including all attachments and all schedules, specifically Schedule K-1 and W-2  
15                  forms, 1099 forms, and amendments, the most recent profit and loss statements,  
16                  balance sheets, financial statements, quarterly sales tax reports, personal and  
17                  business bank account statements, receipts, and expenses. A copy of all statements  
18                  and documentation shall be provided to the other party.

19                   B. When a party alleges that income is being concealed or underreported, the  
20                   court shall admit evidence relevant to establishing the actual income of the party,  
21                   including but not limited to all of the following:

22                           (1) Redirected income. (a) Loans to the obligor by a business in which the  
23                           obligor has an ownership interest and whether the loans will be repaid. There shall  
24                           be a presumption that the loans are income of the obligor which may be rebutted if  
25                           the obligor demonstrates there is a history of similar past loans being made and  
26                           repaid in a timely manner with market interest rates, or the current loan is at market  
27                           interest rates and is fully paid in accordance with a commercially reasonable time.  
28                           The amount by which a commercially reasonable repayment amount exceeds the  
29                           amount actually repaid shall be treated as income.

1           (b) Payment made by the obligor or by a business in which the obligor has  
 2           an ownership interest to a person related by blood or affinity in the form of wages  
 3           or salary. There shall be a presumption that the payments are income of the obligor,  
 4           which may be rebutted if the obligor demonstrates there is a history of payments  
 5           preceding the separation of the parties or the filing of an action to establish or modify  
 6           spousal support, or that the payments are fair market value for services actually  
 7           performed.

8           (2) Deferred income. Recent reductions in distributions of income, such as  
 9           salary, bonuses, dividends, or management fees as a percentage of gross income of  
 10           the business of the obligor. There shall be a presumption that past distributions of  
 11           income will continue, which may be rebutted if the obligor demonstrates business  
 12           conditions justify a reduction in distributions.

13           (3) Standard of living and assets. The current standard of living and assets  
 14           of the obligor both prior and subsequent to the establishment of a spousal support  
 15           order, to establish the actual income if the amount claimed is inconsistent with his  
 16           lifestyle.

17           C. When the income of an obligor cannot be sufficiently established,  
 18           evidence of wage and earnings surveys distributed by government agencies for the  
 19           purpose of attributing income to the obligor is admissible.

20           Section 2. The Louisiana State Law Institute is hereby directed to prepare comments  
 21           to the provisions of this Act.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_