

Regular Session, 2010

SENATE BILL NO. 53

BY SENATOR N. GAUTREAUX

CHILDREN. Provides procedures to intercept and withhold certain casino winnings for child support arrearages or overpayments owed to Department of Social Services. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 46:236.15(D)(1)(a), and to enact R.S. 27:2(C) and (D) and

3 24(A)(5), relative to support; to provide for public policy regarding gaming and child

4 support; to provide for the intercept and seizure of payments of progressive slot

5 machine annuities and cash gaming winnings for the payment of child support and

6 overpayments to the department; to provide certain procedures and conditions; and

7 to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 27:2(C) and (D) and 24(A)(5) are hereby enacted to read as follows:

10 §2. Public policy of state concerning gaming; status of licenses, contracts, and

11 permits

12 \* \* \*

13 **C. The legislature further finds and declares it to be the public policy of**

14 **the state that parents should provide financial support to their minor children**

15 **who cannot care for themselves. Thus, intervention by the state, through the**

16 **enforcement of child support orders and the collection of child support, is in the**

17 **best interest of its citizens and is necessary when the parents fail to meet their**

1 support obligations. Since children are adversely affected when parents who  
 2 have outstanding support obligations divert their financial support to gaming,  
 3 a parent's winnings from money diverted from a child's support should be  
 4 applied to the parent's outstanding support obligations. The legislature further  
 5 finds and declares that this policy is consistent with the public policy of  
 6 protecting the general welfare of the state's people.

7 D. In accordance with this finding, the Department of Social Services  
 8 shall report to the joint committees on Civil Law and Procedure and Judiciary  
 9 A, no later than fifteen days following the commencement of the regular  
 10 legislative session each year, on the interception and seizure of gaming winnings  
 11 for the payment of child support and overpayments owed to the department.  
 12 This report shall be a public record and shall include but not be limited to the  
 13 number of jackpots intercepted pursuant to this Section and the amount of each  
 14 jackpot intercepted.

15 \* \* \*

16 §24. Rulemaking authority; fees and fines, collection

17 A. The board, in accordance with the Administrative Procedure Act and R.S.  
 18 27:15(B)(8), shall promulgate all rules and regulations necessary to carry out the  
 19 provisions of this Title, including but not limited to the following:

20 \* \* \*

21 (5) A procedure requiring the withholding of payments of progressive  
 22 slot machine annuities and cash gaming winnings of persons who have  
 23 outstanding child support arrearages or owing child support overpayments,  
 24 prior to the payment of a progressive slot machine annuity, beginning with the  
 25 second annuity payment, or cash gaming winnings. Progressive slot machine  
 26 annuities or cash gaming winnings shall only include payments for which the  
 27 entity licensed or permitted under Chapters 1, 4, 5 or 7 of Title 27 of the  
 28 Louisiana Revised Statutes of 1950, is required to file form W2-G, or a  
 29 substantially equivalent form, with the United States Internal Revenue Service.

1           (a) The board may require that the agency reporting current child  
2           support arrearages or overpayments to provide information relating to such  
3           arrearages or overpayments in a manner, format, or record approved by the  
4           board that gives the entity licensed or permitted under Chapters 1, 4, 5 or 7 of  
5           Title 27 of the Louisiana Revised Statutes of 1950, real-time or immediate  
6           electronic database access to the information. If the information relating to such  
7           arrearages or overpayments by the agency reporting current child support  
8           arrearages or overpayments is not available through real-time or immediate  
9           electronic database access, the licensee shall not be responsible for withholding  
10           cash gaming winnings in accordance with the provisions of this Subparagraph.

11           (b) The board or any entity licensed or permitted under Chapters 1, 4,  
12           5 or 7 of Title 27 of the Louisiana Revised Statutes of 1950, including any of its  
13           officers, employees, attorneys, accountants, or other agents, shall not be civilly  
14           or criminally liable to any person, including any customer, for any disclosure  
15           of information made in accordance with this Section, for encumbering or  
16           surrendering assets in response to information provided by the Department of  
17           Social Services, or for any claims for damages arising from withholding or  
18           failing to withhold any progressive slot machine annuities or cash gaming  
19           winnings, based upon information provided to it.

20           (c) If any entity licensed or permitted under Chapters 1, 4, 5 or 7 of Title  
21           27 of the Louisiana Revised Statutes of 1950, determines that the winner of a  
22           progressive slot machine annuity or cash gaming winnings is a person who has  
23           outstanding child support arrearages or owes child support overpayments, the  
24           entity licensed or permitted under Chapters 1, 4, 5 or 7 of Title 27 of the  
25           Louisiana Revised Statutes of 1950, shall deduct the child support arrearage or  
26           child support overpayment from the payment of the progressive slot machine  
27           annuity or cash gaming winnings. The deducted amount shall be forwarded to  
28           the Department of Social Services within seven days and the entity licensed or  
29           permitted under Chapters 1, 4, 5 or 7 of Title 27 of the Louisiana Revised

1        Statutes of 1950, shall pay the remainder to the person who has outstanding  
 2        child support arrearages or owes child support overpayments. If the remainder  
 3        is equal to or less than zero, the person who has an outstanding child support  
 4        arrearsage or child support overpayment shall not receive a payment.

5                (d) Any entity licensed or permitted under Chapters 1, 4, 5 or 7 of Title  
 6        27 of the Louisiana Revised Statutes of 1950, may deduct an administrative fee  
 7        from each payment of a progressive slot machine annuity, beginning with the  
 8        second annuity payment, or cash gaming winnings, of persons who have  
 9        outstanding child support arrearages or owe child support overpayments per  
 10        singular or periodic payment, not to exceed thirty-five dollars.

11                (e) The board shall also require that the entity licensed or permitted  
 12        under Chapters 1, 4, 5, or 7 of Title 27 of the Louisiana Revised Statutes of  
 13        1950, adopt procedures designed to prevent employees from willfully failing to  
 14        withhold payments of progressive slot machine annuities or cash gaming  
 15        winnings from persons who have outstanding child support arrearages or child  
 16        support overpayments, based upon the information provided by the  
 17        Department of Social Services that allows the licensee to identify such persons.

18                (f) The board shall enact such rules and regulations in accordance with  
 19        the provisions of this Subparagraph by January 1, 2011.

20                                \*        \*        \*

21        Section 2. R.S. 46:236.15(D)(1)(a) is hereby amended and reenacted to read as  
 22 follows:

23        §236.15. Limited administrative authority for certain paternity and child support  
 24                                actions

25                                \*        \*        \*

26                D. Authority to seize and intercept.

27                (1) In cases in which there is a child support arrearage or child support  
 28        overpayment made to a custodial parent, and after notice of such arrearage or  
 29        overpayment has been made by certified or regular mail, personal service, or

1 domiciliary service, the agency shall have the administrative authority to:

2 (a) Intercept, encumber, freeze, or seize periodic or lump sum payments from  
3 a state or local agency or any entity licensed or permitted by any state agency or  
4 board under Chapters 1, 4, 5, or 7 of Title 27 of the Louisiana Revised Statutes of  
5 1950, including but not limited to unemployment compensation benefits, workers'  
6 compensation, and other benefits, judgments, settlements, lottery winnings,  
7 progressive slot machine annuities beginning with the second annuity payment, **cash**  
8 **gaming winnings**, assets held in financial institutions, and public and private  
9 retirement funds. The provisions of R.S. 13:3881 providing general exemptions from  
10 seizure are applicable to the provisions of this Subparagraph. After the agency  
11 encumbers, intercepts, or freezes any assets set out in this Subsection, it shall notify  
12 the payor that he has thirty days to advise the agency that he wishes to appeal the  
13 seizing of said assets. Upon receipt of such notice, the agency shall either release the  
14 property or schedule a hearing with the appropriate court. If the payor fails to file an  
15 appeal within thirty days, the agency may institute proceedings through  
16 administrative process to seize or sell the property in accordance with state law.

17 \* \* \*

18 Section 3. This Act shall become effective upon signature by the governor or, if not  
19 signed by the governor, upon expiration of the time for bills to become law without signature  
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
22 effective on the day following such approval.

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The original instrument was prepared by Jerry G. Jones. The following  
digest, which does not constitute a part of the legislative instrument, was  
prepared by Angela Lockett De Jean.

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#### DIGEST

N. Gautreaux (SB 53)

Present law provides for the withholding of payments and annuities to persons who have outstanding child support arrearages or child support overpayments, but limits the administrative authority solely to progressive slot machines.

Proposed law authorizes DSS to intercept and seize certain gaming winnings for the payment of child support and overpayments owed to the department.

Proposed law authorizes Gaming Control Board to adopt rules establishing a procedure requiring the withholding by licensed entities of payments and progressive slot machine annuities and cash gaming winnings of persons who have outstanding child support arrearages or owing child support overpayments, on payments for which the entity is required to file form W2-G with the Internal Revenue Service. Further provides that the board may require the agency reporting current child support arrearages or overpayments to provide real-time or immediate electronic database access by the licensed entity to such information for the purposes of the proposed law and, if the agency does not, the entity shall not be responsible for withholding cash gaming winnings.

Proposed law provides immunity from liability for disclosure of information under the proposed law.

Proposed law provides for deduction of the child support arrearage or overpayment from the payment of the progressive slot machine annuity or cash gaming winnings, with the deducted amount being forwarded to DSS within seven days and payment of the remainder to the person who has outstanding child support arrearages or owes child support overpayments. If the remainder is equal to zero, no payment shall be made. Also provides for an administrative fee by the entity, not to exceed \$35.00.

Proposed law provides that board shall enact such rules and regulations by January 1, 2011.

Proposed law authorizes DSS to intercept and seize casino winnings over \$1,200 from individuals in arrears in support or owing overpayments to the department.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 46:236.15(D)(1)(a); adds R.S. 27:2(C) and (D) and 24(A)(5))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill.

1. Clarifies that the board may require the agency reporting current child support arrearages or overpayments to provide real-time or immediate electronic database access.
2. Clarifies that immunity from liability for disclosure of information includes any claims for damages arising from withholding or failing to withhold any progressive slot machine annuities or cash gaming winnings.
3. Requires the deducted amount of the child support arrearage or overpayment from the payment of the progressive slot machine annuity or cash gaming winnings to be forwarded to DSS within seven days.