

Regular Session, 2010

SENATE BILL NO. 53

BY SENATORS N. GAUTREAUX AND WALSWORTH

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 arrears 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) Not later than January 1, 2011, the board shall institute rulemaking
 19 procedures as necessary to implement the provisions of this Paragraph.

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.

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 Linda Nugent.

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 requires the board to institute rulemaking procedures as necessary to implement proposed law 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.

Senate Floor Amendments to engrossed bill.

1. Clarifies that the board shall institute rulemaking procedures as necessary to implement proposed law.