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DIGEST

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Morrell

SB No. 130

Present law provides for the rights and responsibilities for FITAP recipients.

Proposed law retains present law and provides that FITAP recipients shall not enter into contracts for the collection of support and a contract shall be considered a violation of public policy and shall be considered null and void.

Proposed law provides for the Louisiana Child Support Collection Protection Act.

Proposed law provides for definitions.

Proposed law provides that the DSS, certain attorneys, and certain other persons are not private child support collection agencies.

Proposed law provides that private child support collection agencies shall register with the secretary of state and shall provide certain information and either a surety bond or a deposit of money in the amount of \$50,000.00.

Proposed law provides requirements for contracts between obligees and collection agencies. Any contract shall be in writing and shall include a clear description of the services provided, amount to be collected, all fees and the retention and refund thereof, cancellation, contact information, the services provided by DSS at little or no cost to the obligee, prohibition of assigning any rights to a third party, and a notice that the collection agency is required to keep case records for a period of two years after the termination of the contract.

Proposed law provides that private child support enforcement service contract shall not include a requirement that the obligee waive any right to file a civil or agree to resolve disputes in a jurisdiction outside of this state or the application of other state's laws.

Proposed law also prohibits the contract from requiring a change of the payee, the closing of a case with DSS, a waiver of rights and a clause that prohibits termination.

Proposed law provides that a private child support enforcement contract may not be modified by subsequent agreement, unless the obligee has signed it after receiving a written copy.

Proposed law requires the collection agency to act as a trustee and fiduciary, advise that there is no obligation to hire a private agency to collect support, and provide an accounting.

Proposed law requires any collection agency to forward collections due to the obligee within two days of receipt.

Proposed law provides that case records shall be safeguarded in a manner reasonably expected to prevent intentional or accidental disclosure of information.

Proposed law provides that every person who contracts with a private child support collection agency has the right to obtain copies of all files and documents regarding the case which are not required to be kept confidential.

Proposed law requires the collection agency to convey any offer of settlement or compromise made by the obligor to the obligee in writing.

Proposed law requires the collection agency to obtain from the obligee a certified copy of the order of support, a statement executed under oath of the arrears balance and the dates they accrued, and any judgments at the time the contract is signed.

Proposed law provides that the collection agency contact the obligor and provide him with an opportunity to dispute the existence or amount of the child support obligation within 30 days after receipt of the notice.

Proposed law provides that a collection agency shall not engage in any acts which violate the Fair Debt Collection Practices Act or the Federal Trade Commission Act.

Proposed law provides various civil penalties for violations of proposed law and authorizes the court to award court costs and attorney fees in certain circumstances.

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

(Adds R.S. 46:236.1.5(D) and R.S. 51:1441-1448)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill.

1. Changes required registry information for private child support collection agencies.
2. Changes provision requiring private child support collection agencies to file surety bonds from being filed, held, and approved by the secretary of state to be filed, held, and approved by the state treasurer.
3. Legislative Bureau technical amendment.

#### Summary of Amendments Adopted by House

##### Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill.

1. Provided numerous technical amendments.
2. Deleted prohibited practices and criminal penalties in proposed law.
3. Provided civil penalties and authorized attorney fees.
4. Prohibited actions in violation of the Federal Debt Collection Practices Act and the Federal Trade Commission Act.