

2016 Regular Session

HOUSE BILL NO. 486

BY REPRESENTATIVE ROBERT JOHNSON

CHILDREN/SUPPORT: Provides for administrative hearings for property or assets frozen by the Department of Children and Family Services

1 AN ACT

2 To amend and reenact R.S. 46:236.15(D)(1)(introductory paragraph) and (a), relative to
3 child support enforcement; to provide relative to authority for seizures and intercepts
4 by the Department of Children and Family Services; to provide for an administrative
5 hearing process; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 46:236.15(D)(1)(introductory paragraph) and (a) are hereby amended
8 and reenacted to read as follows:

9 §236.15. Limited administrative authority for certain paternity and child support
10 actions

11 * * *

12 D. Authority to seize and intercept.

13 (1) In cases in which there is a child support arrearage or child support
14 overpayment made to a custodial parent party, and after notice of such arrearage or
15 overpayment has been made by certified or regular mail, personal service, or
16 domiciliary service, the agency shall have the administrative authority to:

17 (a) Intercept, encumber, freeze, or seize periodic or lump sum payments
18 from a state or local agency or any entity licensed or permitted by any state agency
19 or board under Chapters 1, 4, 5, or 7 of Title 27 of the Louisiana Revised Statutes of
20 1950, including but not limited to unemployment compensation benefits, workers'
21 compensation, and other benefits, judgments, settlements, lottery winnings,

1 progressive slot machine annuities beginning with the second annuity payment, cash
 2 gaming winnings, assets held in financial institutions, and public and private
 3 retirement funds. However, child support overpayments are excluded from recovery
 4 from unemployment compensation benefits. The provisions of R.S. 13:3881
 5 providing general exemptions from seizure are applicable to the provisions of this
 6 Subparagraph. After the agency encumbers, intercepts, or freezes any assets set out
 7 in this Subsection, it shall notify the payor or custodial party that he has thirty days
 8 to advise the agency that he wishes to appeal the seizing of ~~said~~ the assets. Upon
 9 receipt of such notice, the agency shall either release the property or schedule a
 10 hearing ~~with the appropriate court~~ in accordance with the Administrative Procedure
 11 Act. Such hearing may be conducted telephonically or by means of any other such
 12 electronic media. The sole issue at the administrative hearing shall be whether the
 13 obligor is in compliance with an order of support or whether the custodial party owes
 14 an overpayment of support. If the payor or custodial party fails to file an appeal
 15 within thirty days, the agency may institute proceedings through administrative
 16 process to seize or sell the property in accordance with state law.

17 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 486 Engrossed 2016 Regular Session Robert Johnson

Abstract: Allows administrative hearings to be conducted telephonically on the seizure of assets with regard to child support orders.

Present law allows the Dept. of Children and Family Services, in instances of overpayment of arrearages made to a custodial parent, to intercept, encumber, freeze, or seize specified payments or assets. Present law further provides that when DCFS exercises this right, it must notify the parent of its actions, and afford the parent an opportunity to appeal the seizing of the assets.

Proposed law provides that a hearing on the seizure of assets may be done telephonically, and that the sole issue at the hearing will be whether the obligor is in compliance with the order of support or whether the custodial party owes an overpayment of support.

(Amends R.S. 46:236.15(D)(1)(intro. para.) and (a))