

2018 Regular Session

HOUSE BILL NO. 304

BY REPRESENTATIVE JACKSON

CHILDREN/SUPPORT: Provides relative to the recovery of child support payments in certain circumstances

1 AN ACT

2 To enact R.S. 9:315.28, relative to the recoupment of child support payments, to provide for
3 a motion to recover child support paid under certain circumstances; to provide
4 relative to paternity and child support; to provide for a rebuttable presumption; to
5 provide for costs and attorney fees; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:315.28 is hereby enacted to read as follows:

8 §315.28. Motion for recoupment of child support payments made

9 A. Legislative intent. The provisions of this Section are intended to provide
10 for a remedy for a man who has been deceived as to his paternity and has made child
11 support payments as a result of this deception. The legislature recognizes
12 Louisiana's strong public policy favoring the payment of timely and appropriate child
13 support. However, many citizens of this state have reported to the legislature that
14 an increasing number of people are being misidentified as a parent and are being
15 deceived into paying child support for children to which they are not filiated. The
16 legislature, by creating this remedy, intends to balance these two interests, and
17 encourage the full disclosure of the correct identification of the biological father of
18 a child at the beginning of a child's life. The legislature believes that it is in the best
19 interest of the child to fully resolve issues of paternity at the beginning of the child's
20 life prior to a child establishing a bond with a falsely identified father.

21 B. If a man has been intentionally deceived by the mother of a child to
22 believe that he is the biological father of the child, and learns through DNA testing

1 that he is not the biological father, and has made child support payments as a result
2 of her intentional deception, he may file a motion at any time during the child
3 support proceedings against the child's mother to recover all payments made to her
4 in support of the child. However, this motion shall be granted only if both of the
5 following conditions exist:

6 (1) Prior to the child's birth, the mother knew of the possibility of another
7 father but did not disclose this possibility to the man who has paid support.

8 (2) The man who has paid support did not know, at the time he began paying
9 support, of the possibility of another man being the biological father of the child.

10 C. There shall be a rebuttable presumption that the man filing the motion for
11 reimbursement did not know that another man was the biological father of the child
12 at the time that he began paying child support.

13 D. The motion for reimbursement shall be filed exclusively against the
14 mother of the child and shall not be brought against the child's estate.

15 E. An order for reimbursement granted pursuant to this Section shall award
16 to the mover reimbursement of all child support payments paid by the mover and
17 attorney fees and court costs incurred in bringing the motion.

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 304 Engrossed

2018 Regular Session

Jackson

Abstract: Provides for a motion to recoup child support payments made when the mover was deceived as to the paternity of a child.

Proposed law authorizes the filing of a motion by a man to recover child support payment made when he has been intentionally deceived into believing that he is the biological father of a child. Provides for the conditions in which the motion shall be granted and provides for a rebuttable presumption.

Proposed law provides that the order to reimburse child support payments shall award to the mover all child support paid, as well as attorney fees and court costs.

(Adds R.S. 9:315.28)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Identify the intent of the legislature as that to encourage the full disclosure of the correct identification of the biological father rather than the truth about biological parents.
2. Clarify that the motion filed is a motion for reimbursement.
3. Indicate that an order for reimbursement shall award reimbursement to the mover, rather than simply entitle the mover to recover payments.
4. Make technical changes.