

Regular Session, 2008

SENATE BILL NO. 161

BY SENATOR JACKSON

CHILDREN. Provides relative to income assignment orders. (8/15/08)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 9:397.1(B), R.S. 13:4291(A), and R.S. 46:236.3(B)(1) and (K), relative to income assignment orders; to provide for the interruption of prescription of child support payments intercepted through any means; to authorize the use of income assignment orders to collect paternity testing costs; to provide for fines against employers for failing to withhold payments from income assignment orders; to provide terms and conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:397.1(B) is hereby amended and reenacted to read as follows:

§397.1. Compensation of expert witnesses and recovery of testing costs

* * *

B. If the state, a political subdivision of the state, or the petitioner pays the initial costs of testing under this Part in a paternity action, the state, political subdivision, or petitioner may recover those costs from an individual only if he is found to be the father of the child in the action. **If an income assignment order is issued, the reimbursement for the costs shall be ordered through the income assignment order. If an income assignment has not been ordered, The the court**

1 shall determine the manner in which the reimbursement for the costs shall be made.

2 Section 2. R.S. 13:4291(A) is hereby amended and reenacted to read as follows:

3 §4291. Effect of child support payments; legal mortgage and privilege; affidavit of
4 support owed; prescription

5 A. Each payment of child support that is past due under the provisions of an
6 award for child support rendered in a court of this state, or under a foreign child
7 support order registered under the provisions of the Uniform Interstate Family
8 Support Act shall on and after such payment is due be deemed a judgment by
9 operation of law and shall be executory in all respects except that the court shall, in
10 a summary proceeding, determine the amount actually owed. A judgment rendered
11 in such summary proceeding shall not have the effect of a judicial mortgage until it
12 is final and has been recorded in the manner provided by law. **Each payment of**
13 **child support made pursuant to the judgment ordering support, including those**
14 **payments made through income assignment orders, seizures, or tax intercepts,**
15 **shall interrupt prescription.** Notwithstanding any other law to the contrary,
16 prescription shall not begin to run against any such judgment until the child reaches
17 the age of majority or the obligation to provide child support ceases.

18 * * *

19 Section 3. R.S. 46:236.3(B)(1) and (K) are hereby amended and reenacted to read
20 as follows:

21 §236.3. Enforcement of support by income assignment

22 * * *

23 B.(1) Upon entry of any court order for the establishment or modification of
24 support, the court shall order an immediate income assignment, which shall be
25 effectuated immediately by providing a written notice to the payor or payors of
26 income, unless there is a written agreement between the parties or the court finds
27 good cause not to require immediate income assignment. This income assignment
28 may be effectuated by providing a written notice to any payor or payors of income,
29 advising the payor to withhold an amount for current support, **any judgments**

assignment to be immediately provided by written notice to the payor of income unless there is a written agreement between the parties or the court finds good cause not to require immediate income assignment. Requires the income assignment order to advise the payor to withhold an amount for current support, plus an additional amount toward any arrearage. Proposed law retains present law but additionally requires the income assignment order to advise the payor to withhold an amount for any judgments entered for the costs of genetic testing.

Present law (R.S. 46:236.3(K)) requires a court upon due notice and hearing when a payor willfully fails to withhold or pay over income pursuant to a valid income assignment order or willfully discharges or otherwise penalizes a person ordered to pay support to enter judgment against the payor and direct the issuance of an execution for the total amount the payor failed to withhold, and also authorizes the court to order reinstatement of or restitution to the person who was discharged or penalized by the payor.

Proposed law retains present law but additionally authorizes the court to impose a fine against the payor of up to \$25.00 per day for the failure to comply with the income assignment order.

Effective August 15, 2008.

(Amends R.S. 9:397.1(B), R.S. 13:4291(A), and R.S. 46:236.3(B)(1) and (K))