

GREEN SHEET REDIGEST

HB 680

2017 Regular Session

Marino

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

CHILDREN/SUPPORT: Provides relative to child support when a parent is incarcerated

DIGEST

Proposed law provides for the temporary modification or suspension of a child support order due to an obligor's incarceration of more than 180 days. Requires the DCFS once it is notified that an individual subject to support enforcement services is being incarcerated, to verify that none of the following exceptions exist:

- (1) The incarceration is pursuant to an intentional failure to pay a child support obligation.
- (2) The obligor has the means to pay support while incarcerated.
- (3) The obligor is incarcerated for an offense against the custodial party or the child subject to the support order.

Proposed law adds that a person shall not be considered voluntarily unemployed or underemployed if that person is incarcerated for more than 180 days.

Proposed law requires the DCFS or the sheriff in certain circumstances to distribute information to every person in a prison facility regarding the suspension of child support, including information specific as to what may constitute a material change in circumstances.

Proposed law requires the DCFS to provide notice to the custodial party by certified mail that the child support obligation will be suspended (if none of the exceptions exist) unless the custodial party objects no later than fifteen calendar days from receipt of notice.

Proposed law outlines the grounds for the custodial parent to object to modification or suspension of support, and provides the means required for the custodial parent to object.

Proposed law requires the DCFS to file an affidavit with the court having jurisdiction over the order of child support and provides for the mandatory contents of the affidavit.

Proposed law allows DCFS to petition the court to continue a suspended child support award if the obligor is released from incarceration while the child is still a minor. Proposed law prohibits the continuation from exceeding the amount of time the award was suspended and requires the amount of the award to be set using the child support guidelines.

Proposed law allows the custodial party or the child to petition the court within 24 months of the obligor's release to continue a suspended child support award if the obligor is released from incarceration after the child has reached the age of majority. Proposed law prohibits the continuation from exceeding the amount of time the child support award was suspended and requires the amount of the award to be set using the child support guidelines.

Provides that proposed law does not apply if a court does not have continuous exclusive jurisdiction to modify the order pursuant to the Uniform Interstate Family Support Act.

Effective Jan. 1, 2019.

(Amends R.S. 9:311(A)(2) and (D) and 315.11(A) and (C); Adds Ch.C. Art. 1353(G), R.S. 9:311.1 and 315.27, R.S.13:4611(1)(d)(iii), and R.S. 46:236.6(B)(4) and 236.7(C)(4); Repeals R.S. 9:311(G))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Add a requirement that the Dept. of Public Safety and Corrections or the sheriff must distribute information to every person in a correctional facility regarding the suspension of child support, including information as to what may constitute a material change in circumstances.
2. Change proposed notice requirements to require the Dept. of Children and Family Services to provide notice to the custodial party by certified mail that the child support obligation will be suspended (if none of the exceptions exist) unless the custodial party objects no later than fifteen calendar days from receipt of notice.
3. Outline the grounds for the custodial parent to object to modification or suspension of support, and provides the means required for the custodial parent to object.
4. When no objection is received, require the Dept. of Children and Family Services to file an affidavit with the court having jurisdiction over the order of child support, and provide for the mandatory contents of the affidavit.
5. Provide that proposed law does not apply if a court does not have continuous exclusive jurisdiction to modify the order pursuant to the Uniform Interstate Family Support Act.
6. Provide that when a child support award is suspended due to the obligor's incarceration, a court may, at its discretion and upon motion of any party, continue the award that would be otherwise terminated, but the award shall not be continued for a longer period of time than it was suspended due to the obligor's incarceration.
7. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the reengrossed bill

1. Changes proposed law requirements for the continuation of a suspended child support award.