

Regular Session, 2012

ACT No. 444

HOUSE BILL NO. 1205 (Substitute for House Bill No. 910 by Representative Johnson)

BY REPRESENTATIVE JOHNSON

1 AN ACT

2 To amend and reenact R.S. 46:236.2(A) and (B) and 236.14(E)(3)(a) and to enact R.S.
3 46:236.1.12, relative to obligations for child support; to provide for the transfer of
4 an obligation for support to a caretaker; to provide for procedures; to provide for
5 employer reporting requirements of the child support program; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 46:236.2(A) and (B) and 236.14(E)(3)(a) are hereby amended and
9 reenacted and R.S. 46:236.1.12 is hereby enacted to read as follows:

10 §236.1.12. Transfer of child support obligation to third party

11 A. Obligations ordered for support of a child are for the use and benefit of
12 the child and shall follow the child.

13 B. If a child with an existing support order has a caretaker who is not the
14 obligee listed in the current support order, the department shall obtain from the court
15 that rendered the support order an amended order naming the current caretaker as the
16 obligee in accordance with the provisions of this Section.

17 C. When the current caretaker applies for support enforcement services
18 pursuant to R.S. 46:236.1.2, the caretaker shall execute an affidavit stating that the
19 minor child resides with him. The affidavit shall contain the following information
20 in substantially the following form:

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**AFFIDAVIT OF CHILD(REN)'S PHYSICAL
PRESENCE IN THE CARETAKER’S HOME**

AFFIDAVIT

I, _____ , the undersigned affiant
Name of the Affiant

do hereby certify and affirm that I am the caretaker of the minor child(ren)
named below;

That I am the applicant/recipient of support enforcement services on behalf
of the minor child(ren) whose name(s) appear(s) below;

That I have requested that the Department of Children and Family Services,
Child Support Enforcement (DCFS, CSE) secure a court order to authorize
the child support payments that are due and payable by the obligor and/or the
obligee on behalf of the minor child(ren) whose name(s) appear(s) below to
be redirected to me, the affiant, on behalf of the minor child(ren);

That I do hereby further certify and affirm that the minor child(ren) whose
name(s) appear(s) below have been **physically** residing with me in my
residence since _____, _____, located in the
parish/county of _____, state of _____.

19

Name(s) of Children	Date of Birth

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 I solemnly swear or affirm that the foregoing statements are true and correct
2 to the best of my knowledge and belief.

3
4 _____
SIGNATURE OF AFFIANT

5
6 _____
PRINT NAME OF AFFIANT

7 SUBSCRIBED AND SWORN TO BEFORE ME ON THIS _____ DAY
8 OF _____ AT _____, LOUISIANA

9
10 _____
PRINT NAME OF ATTORNEY OR NOTARY PUBLIC

11
12 _____
SIGNATURE OF ATTORNEY OR NOTARY PUBLIC

13
14 _____
NOTARY NUMBER OF NOTARY PUBLIC OR BAR ROLL
15 NUMBER OF ATTORNEY

16 MY COMMISSION EXPIRES: _____

17 D. Upon receiving the application and affidavit pursuant to Subsection C
18 of this Section, the department shall send written notice to the obligor and obligee
19 at their last known addresses through the United States Postal Service. The notice
20 shall inform the obligor and obligee of the department's intent to redirect
21 payments to the current caretaker. The notice shall include a copy of the
22 caretaker's affidavit.

23 E. In addition to the notice sent pursuant to Subsection D of this Section,
24 an attempt to contact the obligor and obligee at their last known telephone
25 numbers or e-mail addresses shall be made when telephone numbers or e-mail
26 addresses are available in the department's record.

27 F. At least fifteen days after mailing written notice to the obligor and
28 obligee, the department shall file an ex parte motion and order to have the
29 caretaker recognized as the new obligee and have the department redirect child
30 support payments to the current caretaker.

31 (1) The ex parte motion shall include an affidavit executed by the current
32 caretaker pursuant to the provisions of Subsection C of this Section.

(2) The ex parte motion shall also include an affidavit executed by an authorized representative of the department. The affidavit shall contain the following information in substantially the following form:

AFFIDAVIT OF RECEIPT OF SERVICE AND NOTICE

AFFIDAVIT

I, _____, an authorized
Name of the Affiant

representative of the Department of Children and Family Services, Child Support Enforcement hereby certify and affirm:

That support enforcement services are being furnished to _____.

The following efforts have been made to give the **obligor** reasonable notice of the department's intent to redirect child support payments to the current caretaker. The obligor has not notified the department that (s)he objects to the redirection of support payments.

Date of Action	Action Taken

The following efforts have been made to give the **obligee** reasonable notice of the department's intent to redirect child support payments to the current caretaker. The obligee has not notified the department that (s)he objects to the redirection of support payments.

Date of Action	Action Taken

I solemnly swear or affirm that the foregoing statements are true and correct to the best of my knowledge and belief.

SIGNATURE OF AFFIANT

PRINT NAME OF AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS _____ DAY
OF _____ AT _____, LOUISIANA

PRINT NAME OF ATTORNEY OR NOTARY PUBLIC

SIGNATURE OF ATTORNEY OR NOTARY PUBLIC

NOTARY NUMBER OF NOTARY PUBLIC OR BAR ROLL
NUMBER OF ATTORNEY

MY COMMISSION EXPIRES:_____

G. Upon submission of the ex parte motion, order, and affidavits, the court shall determine whether the department has made sufficient efforts to notify the obligor and obligee of the department's intent to redirect child support payments to the current caretaker. Upon finding that the department has made sufficient efforts, the court shall:

(1) Issue an interim order naming the current caretaker as the obligee and authorizing the department to redirect payments to the current caretaker, and

(2) Issue a rule to show cause ordering the obligor and obligee to appear and show cause why the interim order should not be made permanent.

H. The rule to show cause shall be set for a hearing not more than thirty days after the court signs the interim order.

I. The interim order shall remain in effect until the rule to show cause is heard and ruled upon by the court or until the court orders otherwise.

J. The provisions of this Section shall not change the legal custody of a child or affect the rights and obligations of a parent relating to a child.

1 §236.2. Amendment of support orders

2 A.(1) The department or district attorney may, by a written motion together
3 with a written certification from the department that support enforcement services
4 are being furnished to the individual, to the current caretaker of any individual
5 receiving support benefits, or to the payor of any support benefits for such
6 individual, obtain an order to require any person under an order to support such
7 individual or caretaker to make such support payments payable to the department.

8 (2) Notwithstanding the provisions of R.S. 13:1599(B), in cases receiving
9 support enforcement services from the department, upon the ~~district attorney's or the~~
10 ~~department's~~ motion of the district attorney or the department to transfer, a support
11 order payable to the department shall be transferred for subsequent enforcement and
12 modification to the appropriate juvenile court within the parish wherein the support
13 order was rendered or last registered, except in East Baton Rouge Parish.

14 B.(1)(a) Any interested party may by a written motion, together with a
15 written certification from the department that the department is not presently
16 furnishing and does not contemplate furnishing FITAP for or on behalf of an
17 individual and that no services are being rendered by the department on behalf of the
18 individual, obtain from the court to which the order to support the individual had
19 previously been transferred, an amended order to require that support payments be
20 made payable to the individual or current caretaker instead of the department.

21 (b) If the support order was originally established in juvenile, family, or
22 district court, any interested party may, by written motion, together with a written
23 certification from the department that it is not presently furnishing and does not
24 contemplate furnishing FITAP for or on behalf of an individual and that no support
25 enforcement services are being rendered by the department, obtain from the court
26 which rendered the order of support, an amended order requiring payments in
27 accordance with the order to be made to the individual or current caretaker instead
28 of the department. When the motion is granted, the individual or current caretaker
29 to whom support is owed shall be the proper party to enforce the support obligation
30 or any arrears owed.

(c) As used in this ~~Paragraph~~ Section, "interested party" shall include only the department, district attorney, contract attorney providing support services pursuant to Title IV-D, the person owing the support obligation, or the individual or current caretaker to whom the support obligation is owed.

(2)(a) Notwithstanding the provisions of R.S. 13:1599(B), in cases receiving support enforcement services from the department, upon the ~~district attorney's or the department's~~ motion of the district attorney or the department to transfer, a support order amended to change the payee to the individual or current caretaker instead of the department under this Subsection, shall be transferred for subsequent enforcement and modification to the appropriate court which was enforcing the support order prior to its transfer under Paragraph (A)(2) of this Section.

(b) Notwithstanding the provisions of R.S. 13:1599(B), in cases not receiving support enforcement services from the department, upon motion to transfer by the interested party, a support order amended to change the payee to the individual or current caretaker in accordance with Subparagraph (1)(b) of this Subsection shall be transferred for subsequent enforcement and modification to the district or family court in the same parish as the juvenile court transferring the order.

* * *

§236.14. Employer reporting program

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E.

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- (3) The report shall contain all of the following:
- 2
- (a) The employee's name, address, social security number, and occupation,
- 3
- and the date services for remuneration were first performed by the employee.
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- * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____