

Regular Session, 2010

ACT No. 238

HOUSE BILL NO. 221

BY REPRESENTATIVE TIM BURNS

1 AN ACT

2 To amend and reenact R.S. 9:303(C) and 315.11(A), R.S. 13:1621(B)(3) and (4), R.S.
3 15:305(D) and (E)(1), R.S. 46:236.1.2(D)(2) and (J), 236.7(A)(1) and (B), and
4 236.11.1(C)(3), Children's Code Article 311(B)(1)(a), and Code of Evidence Article
5 902(10), relative to child support; to make technical corrections to provisions
6 governing child support; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:303(C) and 315.11(A) are hereby amended and reenacted to read
9 as follows:

10 §303. Income assignment; new orders; deviation

11 * * *

12 C. An income assignment order issued pursuant to this Section shall be
13 payable through the Louisiana state disbursement unit for collection and
14 disbursement of child support payments as provided in R.S. 46:236.11 and shall be
15 governed by the same provisions as immediate income assignment orders that are
16 being enforced by the department, including ~~R.S. 46:236.3 and 236.4~~ R.S. 46:236.1.1
17 et seq. All clerks of court in the state shall provide information to the state
18 disbursement unit on income assignment orders issued pursuant to this Section. The
19 department shall promulgate rules and regulations to implement the provisions of
20 this Section in accordance with the Administrative Procedure Act.

21 * * *

22 §315.11. Voluntarily unemployed or underemployed party

23 A. If a party is voluntarily unemployed or underemployed, child support
24 shall be calculated based on a determination of ~~his or her~~ income earning potential,
25 unless the party is physically or mentally incapacitated, or is caring for a child of the
26 parties under the age of five years. In determining the party's income earning

1 potential, the court may consider the most recently published ~~Louisiana Workforce~~
2 ~~Commission Wage Survey~~ Louisiana Occupational Employment Wage Survey.

3 * * *

4 Section 2. R.S. 13:1621(B)(3) and (4) are hereby amended and reenacted to read as
5 follows:

6 §1621. Juvenile court for the parish of East Baton Rouge; establishment;
7 jurisdiction

8 * * *

9 B. The court shall have concurrent jurisdiction with the family court for the
10 parish of East Baton Rouge in the following proceedings:

11 * * *

12 (3) All proceedings under the ~~Uniform Reciprocal Enforcement of Support~~
13 ~~Law~~ Uniform Interstate Family Support Act.

14 (4) Proceedings brought by the Department of Social Services on its own
15 behalf or on behalf of any person for whom support has been ordered to enforce
16 support by interstate income assignment pursuant to ~~R.S. 46:236.4~~ Children's Code
17 Article 1301.3 et seq., or proceedings brought by the district attorney to establish or
18 enforce support pursuant to the provisions of R.S. 46:236.2 or ~~236.4(F)~~ Children's
19 Code Article 1301.3 et seq.

20 * * *

21 Section 3. R.S. 15:305(D) and (E)(1) are hereby amended and reenacted to read as
22 follows:

23 §305. Probation in neglect of family cases

24 * * *

25 D. The clerk of court shall give notice to the ~~Department of Health and~~
26 ~~Human Resources~~ Department of Social Services in every case in which an offender
27 is placed on probation under this Section.

28 E.(1) If the court finds that the defendant has violated a condition of his
29 probation, it shall order that the probation be revoked and shall sentence the
30 defendant to imprisonment for not more than six months. The court shall also order

1 the defendant to pay the total amount of unpaid support to the spouse, to the tutor or
 2 custodian of the child, to the court-approved fiduciary of the spouse or child, or to
 3 the ~~Department of Health and Human Resources~~ Department of Social Services in
 4 a FITAP case or in a non-FITAP case in which the department is rendering services,
 5 whichever is applicable; hereinafter, said payee shall be referred to as the applicable
 6 payee. Such judgment shall have the same force and effect as a final judgment for
 7 money damages against the defendant. This judgment may be made executory by
 8 any Louisiana court of competent jurisdiction on petition of the department or the
 9 district attorney.

10 * * *

11 Section 4. R.S. 46:236.1.2(D)(2) and (J), 236.7(A)(1) and (B), and 236.11.1(C)(3)
 12 are hereby amended and reenacted to read as follows:

13 §236.1.2. Family and child support programs; responsibilities

14 * * *

15 D.

16 * * *

17 (2) In cases where the department is providing support enforcement services,
 18 if the name of the father appears on the birth certificate of the child, the department
 19 may proceed to establish a court order for child support and medical support against
 20 the father whose name does appear on the birth certificate without the need to
 21 establish paternity in accordance with Civil Code Article ~~209~~ 197.

22 * * *

23 J. The department, in conjunction with the administrator of the ~~Louisiana~~
 24 ~~Employment Security Law~~ Louisiana Workforce Commission, shall take all steps
 25 necessary to implement and utilize procedures for collection of child support
 26 payments from unemployment compensation benefits, pursuant to R.S. 23:1600(8)
 27 and 1693. The department shall determine on a periodic basis, from information
 28 supplied to it pursuant to the federal unemployment statute, 29 U.S.C. 49(b), whether
 29 any persons receiving compensation under the state's unemployment compensation
 30 law, including amounts payable pursuant to any agreement under any federal

1 unemployment compensation law, owe child support obligations which are being
 2 enforced by the department. The department may enforce any such obligation which
 3 is not being met by the person through a written agreement with the person to have
 4 specified amounts withheld from compensation benefits otherwise payable to the
 5 person and by submitting a copy of the agreement to the administrator of the
 6 ~~Louisiana Employment Security Law~~ Louisiana Workforce Commission or, in the
 7 absence of such an agreement, by using legal means to require the withholding of
 8 specified amounts from the unemployment compensation benefits to apply toward
 9 satisfaction of the support obligation, provided that in either case the maximum
 10 amount of withholding shall not exceed the amount specified in the garnishment
 11 statute, R.S. 13:3881. However, if the amount deducted and withheld is less than the
 12 amount of the support obligation, the balance is not discharged and shall remain an
 13 outstanding debt of the person. The department shall comply with all rules and
 14 regulations imposed by the administrator of the ~~Louisiana Employment Security Law~~
 15 Louisiana Workforce Commission, including payment of any fee assessed to
 16 reimburse that office for the administrative costs incurred in applying the
 17 withholding procedure.

* * *

§236.7. Order of support; stipulation by district attorney and party

20 A.(1) In cases in which the responsible parent or other person owes a duty
 21 of support to a spouse or minor child, the responsible parent or other person owing
 22 such duty and the district attorney may stipulate to an order of support. The juvenile
 23 and family courts of this state shall have the power to issue an order of support under
 24 the provisions of this Section. This order shall be considered a civil order of support
 25 enforceable in the juvenile or family court of this state which rendered the order.
 26 This order may be registered in other family or juvenile courts of this state pursuant
 27 to the provisions of ~~R.S. 13:1691 through 1696 inclusive~~ Children's Code Article
 28 1301.3 et seq. This support shall be ordered payable to the spouse, to the tutor or
 29 custodian of the child, to the court-approved fiduciary of the spouse or child, or to
 30 the Department of Social Services in a FITAP case or in a non-FITAP case in which

1 the department is rendering services, whichever is applicable; hereinafter, said payee
2 shall be referred to as the "applicable payee". The amount of support as set by the
3 court may be increased or decreased as the circumstances may require.

4 * * *

5 B. If a defendant violates the terms of a court order issued pursuant to the
6 provisions of ~~R.S. 46:236.7~~ this Section requiring him to pay child support to the
7 Department of Social Services, a representative of the child support collection
8 agency as set forth in ~~R.S. 46:236.1(K)~~ R.S. 46:236.1.1 et seq. may serve on the
9 defendant a summons ordering him to appear and show cause before the proper court
10 of competent jurisdiction why he should not be held in constructive contempt of
11 court. Prior to or at the hearing, the district attorney shall file with the court and
12 serve in open court on the defendant a rule for contempt, setting forth the terms of
13 the original court order for child support and all modifications thereof, along with
14 the grounds for contempt. If the defendant denies the allegations or offers a defense
15 to the rule, the court may, upon motion of either party or on its own motion, continue
16 the hearing. In the alternative, a representative of the department may serve on the
17 defendant a rule to show cause why he should not be held in constructive contempt
18 for violating the previous order of the court, with the rule setting forth the same
19 terms as in a rule for contempt, if the representative does not serve a summons on the
20 offender. The rule shall set forth a specific time, place, and date where the offender
21 is to show cause in answer to the rule. Hearings held on rules for contempt or rules
22 to show cause shall be tried in a summary manner.

23 * * *

24 §236.11.1. Notice of payment

25 * * *

26 C. The notice shall include all of the following:

27 * * *

28 (3) Instructions for the payment of support to the state disbursement unit ~~in~~
29 ~~accordance with R.S. 46:236.1.4.~~

30 * * *

1 Section 5. Code of Evidence Article 902(10) is hereby amended and reenacted to
2 read as follows:

3 Art. 902. Self-authentication

4 Extrinsic evidence of authenticity as a condition precedent to admissibility
5 is not required with respect to the following:

6 * * *

7 (10) Labor reports. A copy of a report from the Louisiana Workforce
8 Commission, or from any state or federal reporting agency, which is in the
9 possession of a field officer of the support enforcement services program, office of
10 family support, Department of Social Services, introduced as evidence in any child
11 or spousal support proceeding. "Field officer" means any person designated or
12 authorized as a field officer pursuant to the provisions of ~~R.S. 46:236.1(K)~~ R.S.
13 46:236.1.8.

14 Section 6. Children's Code Article 311(B)(1)(a) is hereby amended and reenacted to
15 read as follows:

16 Art. 311. Juvenile jurisdiction over adults; support proceedings; coexistent orders

17 * * *

18 B.(1) A court exercising juvenile jurisdiction shall have concurrent
19 jurisdiction in the following cases involving support of family:

20 (a) Proceedings brought by the district attorney pursuant to the provisions
21 of Article ~~1303.7~~ 1301.1 et seq. of the Uniform Interstate Family Support Act.

22 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____