

2020 Regular Session

HOUSE BILL NO. 743

BY REPRESENTATIVE COX

CHILDREN/SUPPORT: Provides relative to the enforcement of orders to pay child support

1 AN ACT

2 To amend and reenact R.S. 14:75(C)(2) and (5) and (E) and R.S. 46:236.6(A) and to enact  
3 R.S. 14:75(C)(6) and R.S. 46:236.1.2(B)(3) and (M), relative to enforcement of  
4 orders to pay child support; to provide relative to the crime of failure to pay child  
5 support; to provide relative to the sentencing of persons convicted of failure to pay  
6 child support; to provide relative to the duties of the Department of Children and  
7 Family Services with respect to providing of child support enforcement services; to  
8 require the Department of Children and Family Services to provide certain  
9 information and documentation to an applicant for support enforcement services; to  
10 provide that failure to pay child support includes the failure to pay any portion of a  
11 child support obligation; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 14:75(C)(2) and (5) and (E) are hereby amended and reenacted and  
14 R.S. 14:75(C)(6) is hereby enacted to read as follows:

15 §75. Failure to pay child support obligation

16 \* \* \*

17 C.

18 \* \* \*

19 (2) For a second or subsequent offense, the penalty for failure to pay a legal  
20 child support obligation shall be a fine of not more than ~~twenty-five~~ two thousand

1        five hundred dollars or imprisonment with or without hard labor for not more than  
2        two years, or both.

3 \* \* \*

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than ~~fifteen~~ seven thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than ~~twenty-five~~ two thousand five hundred dollars, or imprisonment with or without hard labor for not more than two years, or both.

9                   (6)(a) For any person convicted of this offense and sentenced to the custody  
10                   of the Department of Public Safety and Corrections, the department shall, to the  
11                   extent feasible, transfer the person to a facility with an established work release  
12                   program and the person shall be eligible to participate in the program if the person  
13                   is not otherwise prohibited from participating in the program.

14                   (b)(i) For any person convicted of this offense and sentenced to a parish  
15                   prison, the person shall be eligible to participate in a work release program  
16                   administered by the sheriff of the parish or the superintendent of the parish  
17                   correctional facility if the person is not otherwise prohibited from participating in the  
18                   program.

19                    (ii) For any person convicted of this offense and sentenced to a parish prison  
20                    or correctional facility without an established work release program, the sheriff or  
21                    superintendent of the parish prison or correctional facility shall, to the extent  
22                    feasible, transfer the person to a prison or facility with an established work release  
23                    program and the person shall be eligible to participate in the program if the person  
24                    is not otherwise prohibited from participating in the program.

25 \* \* \*

26 E. As used in this Section, the following terms mean:

27 (1) "Fail to pay" includes the failure to pay any portion of a support  
28 obligation.

(2) "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.

~~(2)~~(3) "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

\* \* \*

Section 2. R.S. 46:236.6(A) is hereby amended and reenacted and R.S. 46:236.1.2(B)(3) and (M) are hereby enacted to read as follows:

### §236.1.2. Family and child support programs; responsibilities

\* \* \*

B.

\* \* \*

(3) Upon receipt of any application for support enforcement services pursuant to the provisions of this Subpart, the Department of Children and Family Services shall notify the applicant of the applicant's right to initiate criminal proceedings and shall inform the applicant that the application for services under this Subpart does not automatically file criminal charges against the person who owes the support obligation.

\* \* \*

M. Upon request of the applicant for support enforcement services, the Department of Children and Family Services shall provide the applicant with a copy of any child support order obtained or modified pursuant to the provisions of this Subpart and documentation of all amounts received by or on behalf of the applicant pursuant to this Subpart and documentation of any amounts that are past due or delinquent.

\* \* \*

### §236.6. Failure to pay support; procedure, penalties and publication

A.(1) If a defendant violates the terms of a court order, issued pursuant to the provisions of R.S. 46:236.1.1 et seq., and 236.2, Children's Code Articles 1301 et

1 seq., or R.S. 13:4241, requiring him to pay child support to the Department of  
2 Children and Family Services, a representative of the child support collection agency  
3 as set forth in R.S. 46:236.1.8 ~~may~~ shall issue and serve on the defendant a summons  
4 ordering him to appear and show cause before the proper court of competent  
5 jurisdiction, on a date which shall be specified by the court, why he should not be  
6 held in contempt of court. Prior to or at the hearing, the Department of Children and  
7 Family Services or the district attorney shall file with the court any summons served  
8 and a rule for contempt which shall be served in open court on the defendant, setting  
9 forth the terms of the original court order for child support and all modifications  
10 thereof, along with the allegations purporting to place the defendant in contempt. If  
11 the defendant denies the allegations or offers a defense to the rule, the court may,  
12 upon motion of either party or on its own motion, continue the hearing. In the  
13 alternative, a representative of the child support collection agency as set forth above  
14 may serve on the defendant a rule to show cause why he should not be held in  
15 contempt for failing to abide by the previous orders of the court, with the rule setting  
16 forth the same terms as in a rule for contempt, if the representative does not serve a  
17 summons on the offender. The rule shall contain a specific time, place, and date  
18 where the offender is to appear and show cause in answer to the rule. Hearings tried  
19 on rules for contempt or rules to show cause shall be tried in a summary manner.

20 (2) For purposes of this Section, a defendant's violation of the terms of a  
21 court order to pay child support includes the failure to pay any portion of the child  
22 support obligation.

23 \* \* \*

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#### 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)]

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HB 743 Original

2020 Regular Session

Cox

**Abstract:** Provides relative to the enforcement of orders to pay child support.

Present law provides for the crime of failure to pay child support and defines the crime as the intentional failure of an obligor to pay a support obligation for any child who resides in the state of La., if such obligation has remained unpaid for a period longer than six months or is greater than \$2,500.

Present law provides for the following penalties for persons who commit the offense:

- (1) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than \$500 or imprisonment for not more than six months, or both.
- (2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than \$2,500 or imprisonment with or without hard labor for not more than two years, or both.
- (3) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than \$15,000 thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than \$2,500, or imprisonment with or without hard labor for not more than two years, or both.

Proposed law amends present law to do all of the following:

- (1) Decrease the threshold amount of arrearage for which the penalties described in Paragraph (3) above are applied from \$15,000 to \$7,000.
- (2) Provide that any person convicted of the offense shall, to the extent feasible, be transferred to a facility with an established work release program and the person shall be eligible to participate in the program if the person is not otherwise prohibited from participating in the program.
- (3) Provide that the failure to pay for purposes of the crime includes the failure to pay any portion of a support obligation.

Present law authorizes the Dept. of Children and Family Services (DCFS) to develop and implement a program of family support in cases in which the state is required by federal law or regulation to provide services designed to enforce, collect, and distribute the support obligation owed by any person to his child or children and to his spouse or former spouse with whom the child is living if a support obligation has been established with respect to such spouse or former spouse.

Proposed law requires DCFS, upon receipt of any application for support enforcement services pursuant to the provisions of present law, to notify the applicant of the applicant's right to initiate criminal proceedings and shall inform the applicant that the application for services under present law does not automatically file criminal charges against the person who owes the support obligation.

Proposed law further requires DCFS, upon request of the applicant for support enforcement services, to provide the applicant with a copy of any child support order obtained or modified pursuant to the provisions of present law and documentation of all amounts received by or on behalf of the applicant pursuant to present law and documentation of any amounts that are past due or delinquent.

Present law provides that if a defendant violates the terms of a court order issued pursuant to provisions of present law requiring the defendant to pay child support to DCFS, a representative of the child support collection agency as set forth in present law may issue and serve on the defendant a summons ordering him to appear and show cause before the proper court of competent jurisdiction, on a date which shall be specified by the court, why he should not be held in contempt of court.

Proposed law amends present law to require, instead of authorize, the issuance of a summons upon the defendant ordering the defendant to appear and show cause why he should not be held in contempt of court for violating the terms of the court order.

Proposed law further provides that a defendant's violation of the terms of a court order to pay child support includes the defendant's failure to pay any portion of the child support obligation.

(Amends R.S. 14:75(C)(2) and (5) and (E) and R.S. 46:236.6(A); Adds R.S. 14:75(C)(6) and R.S. 46:236.1.2(B)(3) and (M))