

Regular Session, 2010

SENATE BILL NO. 54

BY SENATOR N. GAUTREAUX

CHILDREN. Provides relative to tax dependency deductions in child support orders.  
(8/15/10)

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AN ACT

To amend and reenact R.S. 9:315.18(B), relative to child support; to provide for state and federal tax dependency deductions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:315.18(B) is hereby amended and reenacted to read as follows:

§315.18. Schedule; information

\* \* \*

B.(1) The non-domiciliary party whose child support obligation ~~equals or exceeds~~ **is less than** fifty percent of the total child support obligation shall **not** be entitled to claim the federal and state tax dependency deductions.

**(2) The non-domiciliary party whose child support obligation equals or exceeds fifty percent of the total child support obligation but is less than sixty-five percent may be entitled to claim the federal and state tax dependency deductions** if, after a contradictory motion, the judge finds both of the following:

- (a) No arrearages are owed by the obligor.
- (b) The right to claim the dependency deductions or, in the case of multiple children, a part thereof would substantially benefit the non-domiciliary party without

1 significantly harming the domiciliary party. **In making this determination, the**  
 2 **court shall consider the net tax savings to each parent, the eligibility of either**  
 3 **or both parties for the federal earned income tax credit or other state or federal**  
 4 **tax credit, the net child care costs, and any other relevant factor concerning the**  
 5 **best interest of the children.**

6 **(3) For the non-domiciliary party whose child support obligation equals**  
 7 **or exceeds sixty-five percent of the total child support obligation and no**  
 8 **arrearages are owed, it is presumed that the non-domiciliary party is entitled**  
 9 **to claim the federal and state tax dependency deductions. The domiciliary party**  
 10 **may rebut the presumption by a preponderance of the evidence. If arrearages**  
 11 **are owed, the domiciliary party is entitled to the deductions.**

12 ~~(2)~~ **(4)** The child support order shall:

13 (a) Specify the years in which the party is entitled to claim such deductions.

14 (b) Require the domiciliary party to timely execute all forms required by the  
 15 Internal Revenue Service authorizing the non-domiciliary party to claim such  
 16 deductions.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Jerry G. Jones.

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#### DIGEST

Present law relative to child support guidelines provides that the guideline schedule presumes that the domiciliary parent receives the federal and state tax dependency deductions, but the non-domiciliary parent whose child support obligation equals or exceeds 50% of the total child support obligation shall be entitled to it if certain conditions are met.

Proposed law provides that if the non-domiciliary parent's child support obligation is less than 50% of the total child support obligation, he shall not be entitled to the deductions.

Proposed law provides that if the non-domiciliary parent's child support obligation equals or exceeds 50% of the total child support obligation, but is less than 65%, he may be entitled to the deductions if after contradictory motion the court finds that both: (1) no arrearages are owed, and (2) the right to claim the dependency deductions or, in the case of multiple children, a part thereof would substantially benefit the non-domiciliary party without significantly harming the domiciliary party. Also provides that in making such determination, the court shall consider the net tax savings to each parent, the eligibility of

either or both parties for the federal earned income tax credit or other state or federal tax credit, the net child care costs, and any other relevant factor concerning the best interest of the children.

Proposed law further provides that if the non-domiciliary parent's child support obligation equals or exceeds 65% of the total child support obligation and no arrearages are owed, it is presumed that the non-domiciliary parent is entitled to the deductions, but this presumption may be rebutted by a preponderance of the evidence.

Effective August 15, 2010.

(Amends R.S. 9:315.18(B))