

Regular Session, 2008

HOUSE BILL NO. 977

BY REPRESENTATIVE LOPINTO

CHILDREN/SUPPORT: Provides for tax dependency deductions

1 AN ACT

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

4 Be it enacted by the Legislature of Louisiana:

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

6 §315.18. Schedule; information

7 A. The amounts set forth in the schedule in R.S. 9:315.19 presume that the
8 custodial or domiciliary party has the right to claim the federal and state tax
9 dependency deductions and any earned income credit. However, the claiming of
10 dependents for federal and state income tax purposes shall be as provided in
11 Subsection B of this Section.

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

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

19 (a) No arrearages are owed by the obligor.

1 (b) The right to claim the dependency deductions or, in the case of multiple
 2 children, a part thereof would substantially benefit the non-domiciliary party without
 3 significantly harming the domiciliary party. In making this determination, the court
 4 shall consider the net tax savings to each parent, the eligibility of either or both
 5 parties for the federal earned income tax credit or other state or federal tax credit, the
 6 net child care costs, and any other relevant factor concerning the best interest of the
 7 children.

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

14 ~~(2)~~ (4) The child support order shall:

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

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

19 * * *

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)]

Lopinto

HB No. 977

Abstract: Provides for the tax dependency deductions in child support orders.

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

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

Proposed law provides that if the non-domiciliary parent's obligation equals or exceeds 50% of the total obligation, but is less than 65% he may be entitled to the deductions if certain criteria are met.

Proposed law provides factors for the court to consider in determining if the deduction will substantially benefit the non-domiciliary party without significantly harming the domiciliary party.

Proposed law provides that if the non-domiciliary parent's obligation equals or exceeds 65% of the total 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.

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

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Specifies that it is presumed that the non-domiciliary party is entitled to the tax dependency deductions when his obligation equals or exceeds 65% of the total obligation, and he does not owe arrears.