

1 SB346
2 207107-1
3 By Senator Barfoot
4 RFD: Judiciary
5 First Read: 05-MAY-20

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8 SYNOPSIS: This bill would provide for a
9 court-appointed legal guardian or representative
10 payee of a child with special needs or an
11 intellectual disability to receive child support
12 payments following the death of an individual who
13 was the custodial parent, legal guardian, or
14 representative payee of a child of any age with
15 special needs or with an intellectual disability.
16

17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 To amend Sections 30-3-191 and 30-3-197, Code of
22 Alabama 1975, relating to child support to provide that a
23 court-appointed legal guardian or representative payee of a
24 child with special needs or an intellectual disability to
25 receive child support payments following the death of an
26 individual who previously received child support payments as
27 the custodial parent, legal guardian, or representative payee

1 of a child of any age with special needs or with an
2 intellectual disability.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known as "Derrick's
5 Law."

6 Section 2. Sections 30-3-191 and 30-3-197, Code of
7 Alabama 1975, are amended to read as follows:

8 "§30-3-191.

9 "When used in Sections 30-3-191 to 30-3-197,
10 inclusive, the following words shall have the following
11 meanings:

12 "(1) ACCOUNT. A demand deposit account, checking or
13 negotiable withdrawal order account, savings account, time
14 deposit account, or money-market mutual fund account.

15 "(2) BUSINESS DAY. A day on which state offices are
16 open for regular business.

17 "(3) COMMERCIAL DRIVER LICENSE. A license issued to
18 an individual that authorizes the individual to drive a motor
19 vehicle as part of conducting business.

20 "(4) CONFIDENTIAL INFORMATION. Information provided
21 by a service applicant or recipient or obtained from other
22 sources about him or her which may be released only as
23 required by court order or state or federal law.

24 "(5) COURT. A court of competent jurisdiction or
25 administrative agency having the authority to issue and
26 enforce support orders.

1 "(6) DATA MATCH. An automated process of matching
2 specified information from the financial records of financial
3 institutions with records of the state Title IV-D agency.

4 "(7) DELINQUENT or DELINQUENCY. A support debt or
5 support obligation due and unpaid in an amount equal to or
6 greater than six months support payments as of the date of
7 service of a notice of intent to withhold, restrict use of,
8 suspend, or revoke a license.

9 "(8) DEPARTMENT. The Alabama Department of Human
10 Resources, including the county departments of human
11 resources.

12 "(9) FAILURE TO COMPLY. Failure, after receiving
13 appropriate notice, to comply with subpoenas or warrants
14 relating to paternity or child support proceedings.

15 "(10) FINANCIAL INSTITUTION. A depository
16 institution, as defined in Section 3(c) of the Federal Deposit
17 Insurance Act, 12 U.S.C. §1813(c); an institution-affiliated
18 party, as defined in Section 3(u) of 12 U.S.C. §1813(u); and
19 any federal credit union or state credit union, as defined in
20 Section 101 of the Federal Credit Union Act, 12 U.S.C. §1752,
21 including an institution-affiliated party of a credit union,
22 as defined in Section 206(r) of the Federal Credit Union Act,
23 12 U.S.C. §1786(r); and any benefit association, insurance
24 company, safe deposit company, money market mutual fund, or
25 similar entity authorized to do business in the state.

1 "(11) FINANCIAL RECORD. As defined in Section 1101
2 of the Right to Financial Privacy Act of 1978, 12 U.S.C.
3 §3401.

4 "(12) NONCUSTODIAL PARENT. A parent who does not
5 have the child in his or her care and is responsible for
6 paying support. The term includes an obligor.

7 "(13) NOTICE OF LIEN OR LEVY. An official notice
8 from the state Title IV-D agency of a judicial or
9 administrative lien or levy against a noncustodial parent and
10 requesting that funds of a noncustodial parent be surrendered
11 or transferred to the state Title IV-D agency.

12 "(14) OBLIGEE. Either of the following:

13 "a. A person to whom support benefits are ordered by
14 the court.

15 "b. A public agency of this or another state that
16 has the right to receive support payments or otherwise is
17 providing support enforcement services under Title IV-D of the
18 Social Security Act. The term includes the department.

19 "(15) OBLIGOR. A person ordered by a court to make
20 periodic payments for the benefit and support of another
21 person or the parent or alleged parent named in a paternity
22 action.

23 "(16) PROTECTIVE ORDER. Any order issued by a court
24 of this state, a court of another state, or an administrative
25 agency of another state for the purpose of preventing acts of
26 abuse against one party by the other party. The term refers to
27 both ex parte and final orders issued by the court or

1 administrative agency whether obtained by filing an
2 independent action or as a pendente lite order in another
3 proceeding against another party or children of the parties.

4 "(17) RECORDS. Any official document, file, or
5 information system that verifies and records the existence of
6 a divorce decree, support order, paternity order, birth,
7 marriage, or death.

8 "(18) REPRESENTATIVE PAYEE - A person or
9 organization appointed by the Social Security Administration
10 to receive Social Security or SSI benefits on behalf of a
11 person who is unable to manage or cannot direct the management
12 of his or her benefits. A payee is required to use the
13 benefits to pay for the current and future needs of the
14 beneficiary, and properly save any benefits not needed to meet
15 current needs. A representative payee must keep a record of
16 expenses and provide an accounting to the Social Security
17 Administration of how the benefits were saved or used.

18 "~~(18)~~ 19) STATE TITLE IV-D AGENCY. The state agency
19 designated to administer the statewide child support program
20 authorized under Title IV-D of the Social Security Act.

21 "~~(19)~~ 20) SUPPORT or SUPPORT ORDER. Support of a
22 minor child and spousal support when the spousal support is
23 collected pursuant to the requirements of Title IV-D of the
24 Social Security Act. Support order shall mean any order,
25 decree, or judgment for the support of a child, or in the case
26 of an order being enforced pursuant to the requirements of
27 Title IV-D of the Social Security Act, a spouse or former

1 spouse, issued by a court or other entity authorized to issue
2 orders.

3 "(~~20~~ 21) UNAUTHORIZED USE OR DISCLOSURE. The release
4 or sharing of information by an employee of the state Title
5 IV-D agency without actual, implied, or apparent authority.

6 "§30-3-197.

7 "(a) Provided that no actions are pending before any
8 circuit and district court of this state, the state Title IV-D
9 agency may take the following actions related to establishment
10 of paternity or to the establishment, modification, or
11 enforcement of support orders, without the necessity of
12 obtaining an order from any other judicial or administrative
13 tribunal, or in furtherance of any existing order, and to
14 recognize and enforce the authority of the state Title IV-D
15 agencies of other states of the following actions:

16 "(1) To order genetic testing for the purpose of
17 paternity establishment.

18 "(2) To subpoena any financial or other information
19 needed to establish, modify, or enforce a support order, and
20 to impose penalties for failure to respond to a subpoena.

21 "(3) To require all entities in the state, including
22 for profit, nonprofit, and governmental employers, to provide
23 promptly, in response to a request by the state Title IV-D
24 agency of this or any other state administering the Title IV-D
25 child support program, information on the employment,
26 compensation, and benefits of any individual employed by the

1 entity as an employee or contractor, and to sanction failure
2 to respond to any such request.

3 "(4) Upon providing notice to the obligor, obligee,
4 and the appropriate court, to direct the obligor or other
5 payor to change the payee to the appropriate governmental
6 agency in cases in which support is subject to an assignment
7 in order to comply with eligibility requirements for state
8 assistance, or to a requirement to pay through the state Title
9 IV-D agency.

10 "(5) To order that income withholding be
11 implemented.

12 "(6) In cases in which there is a support arrearage,
13 to secure assets to satisfy the arrearage by intercepting or
14 seizing periodic or lump-sum payments from a state or local
15 agency, including unemployment compensation, worker's
16 compensation, and other benefits; by attaching judgments,
17 settlements, and lottery winnings and other lump-sum payments;
18 attaching and seizing assets of the obligor held in financial
19 institutions; attaching public and private retirement funds;
20 and imposing liens in accordance with Section 30-3-198 and, in
21 appropriate cases, to force sale of property and distribution
22 of proceeds.

23 "(7) For the purpose of securing overdue support,
24 unless otherwise ordered by a court in individual cases, to
25 increase the amount of monthly support payments to include
26 amounts for arrearages.

1 "(b) The expedited procedures required under this
2 section shall be subject to due process safeguards, including
3 requirements for notice, opportunity to contest the action,
4 and opportunity for an appeal on the record to a judicial
5 tribunal and shall include the following rules and authority,
6 applicable with respect to all proceedings to establish
7 paternity or to establish, modify, or enforce support orders:

8 "(1) Each party to any paternity or child support
9 proceeding shall, subject to privacy safeguards, file with the
10 state Title IV-D agency upon entry of an order, and update as
11 appropriate, information on location and identity of the
12 party, including Social Security number, residential and
13 mailing addresses, telephone number, driver's license number,
14 name, address, and telephone number of employer.

15 "(2) In any subsequent child support enforcement
16 action between the parties, upon sufficient showing that
17 diligent effort has been made to ascertain the location of a
18 party, state due process requirements for notice and service
19 of process shall be deemed to be met with respect to the
20 party, upon delivery of written notice to the most recent
21 residential or employer address filed with the state Title
22 IV-D agency pursuant to subdivision (1).

23 "(8) In the event of the death of an obligee who was
24 the custodial parent, legal guardian, or representative payee
25 of a child of any age with special needs or with an
26 intellectual disability, and upon notice to the obligor and
27 the appropriate court, the state Title IV-D agency may direct

1 the obligor to change the payee to a court-appointed legal
2 guardian or representative payee of the surviving child with
3 special needs or an intellectual disability. In the event that
4 there are any minor siblings without special needs or
5 intellectual disabilities who also receive support from the
6 obligor, the amount provided to the child with special needs
7 or an intellectual disability shall be made on a prorated
8 basis."

9 Section 3. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.