

- SUBJECT:** Calculating child support obligations
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 6 ayes — Dutton, Eiland, Bolton, Farrar, Gonzalez Toureilles, Hernandez
0 nays
2 absent — Farias, Strama
1 present not voting — Vaught
- WITNESSES:** For — Steve Bresnen, Texas Family Law Foundation; Sally Emerson, Texas Family Law Foundation; Shantell Thomas; Harry Tindall; Doug Woodburn, Texas Family Law Foundation; (*Registered, but did not testify*: Heidi Bruegel Cox; Cecelia Burke, Texas Association of Domestic Relations Offices)

Against — Roy Getting, Texas Father’s Alliance; Robert L. Green, Texas Parents Alliance; Dean Metusalem, Financial Analyst; Chris Mire; Drew Montz, Eddie Rueffer, Texas Parent Alliance; (*Registered, but did not testify*: Joshi Sudir)
- BACKGROUND:** Family Code, sec. 154.125 provides child support guidelines for situations in which the obligor’s monthly net resources are \$6,000 or less, while sec. 154.126 provides child support guidelines in situations where the obligor’s monthly net resources are more than \$6,000.

According to sec. 154.062, in calculating net resources to determine child support liability, the court must deduct expenses for health insurance coverage for the obligor’s child. Secs. 154.182-183 govern determinations of which party is responsible for health insurance coverage for the child and when the obligor must pay extra child support to reimburse the obligee for maintaining health insurance.
- DIGEST:** HB 448 would amend Family Code, sec. 154.125 to increase the top net resources bracket from \$6,000 to \$7,500, making the child support presumptive guidelines apply to an obligor whose monthly net resources were \$7,500 or less. If the obligor’s monthly net resources were less than

\$2,000, the court could order additional amounts of child support as appropriate, after application of the guidelines. The court could order this additional support based on the income of each party and the proven needs of the child, except that the obligor could not be required to pay more than the greater of the presumptive amount in the guidelines or the amount equal to 100 percent of the proven needs of the child.

HB 448 also would amend sec. 154.126 to reflect the increase of the top bracket to \$7,500 with respect to the rules governing when the obligor's monthly net resources exceeded the top bracket. The presumptive guidelines would apply to the first \$7,500 of the obligor's net resources, and if an award exceeded the presumptive amount, the entire amount of the presumptive award would be subtracted from the proven total needs of the child. The court then could allocate the responsibilities according to the circumstances of the parties, with the exception that the obligor could not be required to pay an additional amount of child support that was more than the greater of the presumptive amount or the amount equal to 100 percent of the proven needs of the child.

The bill would require that when a court was calculating additional child support to be withheld from the obligor's earnings to pay for a child's health insurance, the court would divide the total cost to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan. The same calculation would occur if the court ordered an obligee to maintain health insurance for the child at the obligee's expense and therefore ordered the obligor to pay additional child support. The bill would require the same cost division for multiple dependents in calculating expenses for health insurance to be deducted from an obligor's net resources available for child support.

This bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 448 would raise the level of net resources used for application of the presumptive guidelines for child support from \$6,000 or less to \$7,500 or less in order to account for inflation, wage increases, and the cost of raising a child. The top net resources dollar bracket has not been adjusted in more than a decade. Those who are earning more should be paying more in child support but have escaped paying more due to the existing cap of \$6,000. Proof of changed circumstances still would have to be proven for the court to order a higher child support award based on the increase in the cap. Also, current law does not give clear guidance to

courts regarding lower wage earners, and this bill would provide rules for monthly net incomes lower than \$2000, ensuring that the obligor was not ordered to pay more than the proven needs of the child.

HB 448 also would provide a formula that does not currently exist for calculating the cost of health insurance when multiple children are covered by the same policy but some are not from the marriage covered by the child support order. This formula should be codified because it already is current practice.

OPPONENTS
SAY:

This bill would be skewed in favor of the custodial parent. Non-custodial parents paying child support have experienced cost increases, just as custodial parents. Raising the top bracket for net resources by \$1,500 would increase the likelihood that the extra money paid in child support would effectively be alimony, rather than child support. The \$6,000 limit would provide all of a child's needs, and any extra paid could end up being used by the ex-spouse.

Also, a non-custodial parent sometimes is able to obtain health insurance more cheaply than a custodial parent. It should not be presumed that it is economically advantageous to have the obligor reimburse the obligee for providing the child's health insurance.

NOTES:

The companion bill, SB 304 by Harris, passed the Senate on the Local and Uncontested Calendar on March 28 and has been referred to the Juvenile Justice and Family Issues Committee.