

**SUBJECT:** Credit for lump-sum disability payments on owed child support.

**COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended

**VOTE:** 6 ayes — Dutton, Bolton, Farias, Farrar, Gonzalez Toureilles, Hernandez  
0 nays  
3 absent — Eiland, Strama, Vaught

**WITNESSES:** For — Sally Emerson, Texas Family Law Foundation; Roy Getting, Texas Fathers Alliance; Bill McKee; Doug Woodburn, Texas Family Law Foundation  
  
Against — None  
  
On — (*Registered, but did not testify*: Alicia Key, Office of the Attorney General)

**BACKGROUND:** Under Family Code, sec. 154.132, if a child receives monthly benefits based on the non-custodial parent's disability, these benefits are subtracted from the amount of child support owed when applying the child support guidelines to a disabled obligor. However, two Texas courts of appeal cases, *The Attorney General of Texas v. Stevens*, 84 S.W.3d 720 (Tex. App.- Houston (1st) 2002) and *In the Interest of G.L.S.*, No. 04-04-00798-CV (Tex. App.- San Antonio 2005) have declined to subtract lump-sum disability payments to a child from child support arrearages. The cases held that sec. 157.262 indicates that counterclaims and offsets must be found exclusively in the code. The cases also held that given the policy and equity issues, whether an obligor is entitled to an offset against past unconfirmed child support arrearages is an issue for the Legislature to decide.

**DIGEST:** CSHB 983 would amend Family Code, sec. 154.132 to provide that if a child received a lump-sum payment as a result of a child support obligor's disability that was to be paid to the obligee as the representative payee of the child, the obligor would be entitled to a credit equal to the amount of the lump-sum payment against any child support arrearage and interest that accrued during the period of the obligor's disability and that was

owed by the obligor on behalf of that child at the time the lump-sum payment was made. This credit would be in addition to any adjustment for benefits a child received as a result of the obligor's disability.

This credit calculation would prevail over rules governing unpaid child support, reduction of arrearages, and accrual of interest on child support in the Family Code. The bill would apply only to a money judgment for child support arrearages that was rendered on or after the effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

The Social Security Administration takes one to two years to find a person disabled and therefore entitled to disability payments. During the time of disability determination, the disabled person has child support obligations that accrue and that the person may be unable to pay. Once the disability is determined, the Social Security Administration pays a lump-sum of retroactive benefits to both the disabled worker and to the worker's dependent children. Lump-sum payments to the child should result in a reduction of child support arrearages and interest owed by the obligor. HB 983 would directly address the lump-sum payment issue in the Family Code so that courts will not decline to apply the credit to child support based on lack of specificity in the code or lack of clarity on legislative intent.

**OPPONENTS  
SAY:**

Obligors should not get credit for arrears that are owed to the state due to financial assistance provided to the dependent child. Public benefit programs administered by the state to the dependent children are funded using a state-federal match, and thus the state would be at a fiscal loss if the arrears were not paid.