

- SUBJECT:** Adjusting support obligations of certain incarcerated individuals
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 7 ayes — Dutton, Murr, Bowers, Calanni, Dean, Lopez, Talarico
- 0 nays
- 2 absent — Cyrier, Shine
- SENATE VOTE:** On final passage, April 10 — 30-0
- WITNESSES:** *On House companion bill, HB 2265:*
For — Joshua Jaros, Montgomery County United for Shared Parenting;
(*Registered, but did not testify:* Aimee Bertrand, Harris County Domestic Relations Office; Steve Bresnen, Texas Family Law Foundation)
- Against — (*Registered, but did not testify:* Jeffrey Morgan)
- On — (*Registered, but did not testify:* Joel Rogers, Office of the Attorney General-Child Support Division)
- BACKGROUND:** Family Code ch. 231 governs the state's Title IV-D program, which manages the child support program. The Office of the Attorney General is the state's Title IV-D agency.
- Sec. 231.103 authorizes the Title IV-D agency to charge a reasonable application fee and a \$25 annual service fee, and, to the extent permitted by federal law, recover costs for the services provided in Title IV-D cases. Application fees cannot exceed certain maximum amounts established by federal law.
- Sec. 233.024 requires that courts, on the filing of agreed child support review orders signed by all parties, together with waivers of service, sign these orders within three days of their filing.

Some have noted that the laws surrounding the duties of the Office of the Attorney General to enforce child support need to be updated to align more closely with newly enacted federal laws.

DIGEST: SB 1675 would require the state's Title IV-D agency, upon verifying that a judgment or order had been rendered for the confinement of a child support obligor in a local, state, or federal jail or prison for at least 180 consecutive days, to review and administratively adjust the obligor's child support, medical support, and dental support orders to amounts based on the obligor's net resources during incarceration.

This requirement would not apply to obligors confined because of their failure to comply with child support orders or for offenses constituting family violence against obligees or children covered by the child support order.

If the agency administratively adjusted a support obligation, it would have to provide notice of the adjustment to the parties to the support order and file a copy of the notice with the court of continuing, exclusive jurisdiction.

This notice would be required to state the amount and effective date of the adjustment and the style and cause number of the case in which the support order was rendered.

The agency could seek modification of support orders in lieu of adjusting the support obligation. Additionally, adjustments of support obligations would not affect support obligations due before the effective date of the adjustment. The agency also could adopt rules to implement these requirements.

Adjustment reviews. Parties to support orders could contest administrative adjustments within 30 days of receiving notice of the adjustments. On request by these parties, the Title IV-D agency would have to:

- review the adjustment and determine whether obligors were confined because of their failure to comply with child support orders or for certain family violence offenses and whether the adjustment accurately reflected the obligor's net resources during incarceration; and
- provide an opportunity for review with the parties in person or by telephone, as appropriate.

After conducting a review, the agency would be required to affirm its adjustment by issuing a notice of determination to the parties or withdraw its adjustment by filing a notice with the court of continuing, exclusive jurisdiction and issuing a notice of determination to the parties.

Parties could file a motion with the court of continuing, exclusive jurisdiction to contest the agency's affirmation of its adjustment within 30 days of receiving notice from the agency. The administrative adjustment would remain in effect until the agency filed a notice with the court withdrawing its adjustment or the court rendered an order regarding the adjustment.

If the agency affirmed its adjustment, and no parties requested a hearing with the court of continuing, exclusive jurisdiction within 30 days, the agency would have to file an administrative adjustment order with the court and attach a copy of its determination to affirm the adjustment. The order also would have to state the amount of the adjusted obligation and the effective date of the adjustment.

If no parties contested the adjustment or requested a review within the required timeframe, the agency would have to file an administrative adjustment order with the court of continuing, exclusive jurisdiction that stated this, along with the obligor's adjusted support obligation and the effective date of the adjustment.

Courts would be required to sign these orders from the agency within seven days of the orders being filed. After seven days, orders would be considered confirmed by the courts by operation of law, regardless of

whether courts had signed the orders.

Modification of support obligations after incarceration. SB 1675 would require the Title IV-D agency, upon the release of an obligor whose support obligations were administratively adjusted during incarceration, to review the obligor's support order to determine if modification was necessary.

Other provisions. SB 1675 would remove the \$25 cap on annual service fees that the Title IV-D agency could charge and establish that these fees could not exceed the maximum amounts established by federal law.

Additionally, the bill would require court clerks to deliver copies of petitions for confirmation of nonagreed review orders and copies of the order to each party entitled to service by personal service or, if court-ordered, a method of substituted service. SB 1675 would require courts, upon the filing of agreed child support review orders signed by all parties, together with waivers of service, to sign the orders within seven days of filing.

Scope. SB 1675 would apply to child support orders rendered before, on, or after the effective date of the bill. Additionally, adjustments under the bill would constitute material and substantial changes of circumstances sufficient to warrant modifications of court orders or portions of decrees that provided for the support of children rendered before the effective date.

The bill would take effect September 1, 2019, and would apply only to petitions for confirmation of nonagreed orders and agreed child support review orders filed on or after that date.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated positive impact of \$13 million to general revenue related funds through fiscal 2020-21.