

- SUBJECT:** Updating provisions governing calculation of child support
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu  
0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Daniel Collins, El Paso County)  
  
Against — Cecilia Wood  
  
On — Joel Rogers, Office of the Attorney General - Child Support Division; Taran Champagne
- BACKGROUND:** Family Code sec. 154.062 requires a court to calculate net resources for the purpose of determining child support liability. Under this section, resources include:
- 100 percent of all wage and salary income and other compensation for personal services;
  - interest, dividends, and royalty income;
  - self-employment income;
  - net rental income; and
  - all other income actually being received, including severance pay, and pension, retirement, and certain government benefits.
- Sec. 154.125 governs the application of certain guidelines to net resources for the determination of child support obligations. Guidelines for support of a child under that section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than \$7,500 or the adjusted amount determined to reflect inflation, whichever is greater. If the obligor's monthly net resources are under that amount, the court must apply a specified schedule in rendering the child support order.

Sec. 154.129 allows a court to use an alternative method of computing child support for children in more than one household by applying certain percentages to the obligor's net resources.

It has been suggested that it is necessary to modify applicable provisions of the Texas Family Code to bring them into compliance with the new federal regulations for the calculation of child support payments.

**DIGEST:**

CSHB 2952 would amend the Family Code to specify that courts had to rely on actual evidence of an obligor's resources when determining child support amounts, prohibit courts from considering incarceration as intentional unemployment or under employment for the purposes of establishing or modifying child support, and adjust the schedule of child support guideline percentages for low-income obligors.

**Imputation of income.** The bill would require the court, to the extent possible, to rely on evidence of a party's resources when applying child support guidelines. In the absence of evidence of a party's resources, the court would have to consider relevant background circumstances regarding the obligor, including the obligor's assets, residence, employment, earnings history, job skills, educational attainment, literacy, age, health, criminal history, barriers to employment, and record of seeking work. The court also would have to consider job opportunities and the prevailing wage in the obligor's community and whether there were employers willing to hire the obligor.

**Incarceration.** The court would be prohibited from considering incarceration as intentional unemployment or underemployment when establishing or modifying a support order. The bill would specify that incarceration of a child support obligor in a local, state, or federal jail or prison for more than 180 days would be a material and substantial change of circumstances for the modification of child support.

**Child support guidelines.** The bill would amend Family Code sec. 154.125 so that guidelines for the support of a child were designed to

apply to situations in which the obligor's monthly net resources were not greater than the maximum amount to which statutory guidelines were applicable, as most recently published by the Texas attorney general's office in the Texas Register.

If an obligor's monthly net resources were not greater than the maximum amount and were equal to or greater than \$1,000, the court would apply the child support guidelines established under current law. If the obligor's monthly net resources were less than \$1,000, the court would be required to apply the schedule of low-income child support guidelines established by the bill in rendering the order.

The bill would amend provisions governing an alternative method of computing support for children in more than one household so that the court could use adjusted guidelines for determining child support if an obligor's monthly net resources were not greater than the maximum amount and were equal to or greater than \$1,000. If the obligor's monthly net resources were less than \$1,000, the court could determine the amount of child support for such children by applying the applicable percentage under the low-income multiple family adjusted guidelines established by the bill to the obligor's net resources.

**Medical, dental support.** Under the bill, the court would retain jurisdiction to confirm the total amount of child support, medical support, and dental support arrearages and render cumulative money judgments for past due support under certain circumstances.

If a motion for enforcement of child support requested a money judgment for arrearages, the court would have to render separate cumulative judgments for child support, medical support, and dental support arrears as specified in the bill.

**Other provisions.** Under the bill, the time frame for requesting a hearing to contest the validity or enforcement of an out-of-state support order would be changed to 30 days, rather than 20 days.

CSHB 2952 would require court ordered spousal support, when coupled with child support obligations, to be paid through the Attorney General's state disbursement unit (SDU). This requirement would apply only to a maintenance order rendered on or after the bill's effective date. An obligor subject to a spousal support order rendered before the bill's effective date could choose to remit payments to the SDU, and the SDU would be required to accept those payments.

The bill would amend a provision in the Property Code to require a disclaimer of an interest in property to contain a sworn statement regarding whether the disclaimant was a child support obligor whose disclaimer was barred under current law.

The bill would specify that, if enacted, it would not constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provided for the support of a child rendered before the effective date.

The bill would take effect September 1, 2021, and would apply only to a support order or suit rendered on or after the effective date.