

BILL ANALYSIS

Senate Research Center
77R13777 KSD-D

C.S.H.B. 899
By: Thompson (West, Royce)
Jurisprudence
4/24/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Under current law, when ordering retroactive child support, a court is required to consider the net resources of the obligor during the relevant time period and whether an order will impose an undue hardship on the obligor or the obligor's family. If a non-custodial parent is not in debt from retroactive child support, then the non-custodial parent is more likely to pay the child support obligation. According to the federal Office of the Inspector General of the Department of Health and Human Services in the 2000 report "The Establishment of Child Support Orders for Low Income Non-custodial Parents," when a court does not include in the child support order a retroactive arrearage, 14 percent of obligors nationwide do not pay child support, but when a court orders a non-custodial parent to pay more than 12 months of retroactive child support, nonpayment rises to 34 percent nationwide. C.S.H.B. 899 presumes that a court order for retroactive child support in the amount due for four years preceding the order is reasonable and in the best interest of the child.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.131, Family Code, as follows:

Sec. 154.131. New heading: **RETROACTIVE CHILD SUPPORT**. Changes reference from "biological father" to "obligor." Provides that it is presumed that a court order limiting the amount of retroactive child support to an amount that does not exceed the total amount of support that would have been due for the four years preceding the date the petition seeking support was filed is reasonable and in the best interest of the child. Authorizes the presumption created under this section to be rebutted by certain evidence. Provides that an order under this section limiting the amount of retroactive support does not constitute a variance from the guidelines requiring the court to make specific findings under Section 154.130.

SECTION 2. Amends Section 160.005(b), Family Code, to make a conforming change.

SECTION 3. Amends Section 157.262, Family Code, as follows:

Sec. 157.262. New heading: **REDUCTION OF ARREARAGES; ABEYANCE OF ENFORCEMENT**. (a) Adds language relating to an exception as provided by this section.

(b) Authorizes the court, in an enforcement action under this chapter, with the agreement of the Title IV-D agency, to hold in abeyance the enforcement of any arrearages, including interest, assigned to the Title IV-D agency under Section 231.104(a), if, for the period of the court's order of abeyance of enforcement, the obligor meets certain requirements.

(c) Authorizes the court, if the court orders an abeyance of enforcement of arrearages under this section, to require the obligor to obtain counseling on parenting skills, work skills, job placement, financial planning, conflict resolution, substance abuse, or other matters causing the obligor to fail to obey the child support order.

(d) Requires the court to terminate the abeyance of enforcement of the arrearages if the court finds in a subsequent hearing that the obligor has not met the conditions set by the court's order under this section.

(e) Authorizes the court, on the expiration of the child support order, with the agreement of the Title IV-D agency, to reduce the amount of the arrearages assigned to the Title IV-D agency under Section 231.104(a) if the court finds that the obligor has complied with the conditions set by the court under this section.

SECTION 4. Effective date: September 1, 2001.

Makes application of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

Differs from original by adding a new SECTION 3 relating to abeyance of enforcement. Redesignates original SECTION 3 as SECTION 4.