

BILL ANALYSIS

Senate Research Center
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S.B. 1430
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Jurisprudence
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DIGEST AND PURPOSE

Under current Texas law, a court, in a paternity action, may order retroactive child support back to the birth of the child. Such an order can impose a financial burden that may deter compliance with the support order in payment of current support. As proposed, S.B. 1430 provides for a limit, under certain conditions, to the amount of retroactive support a court may order and amends other provisions regarding child support arrearages.

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**. (b) Requires the court, in ordering retroactive child support, to consider the net resources of the obligor during the relevant time period and whether:

- the mother of the child had made any previous attempts to notify the obligor, rather than biological father, of his paternity or probable paternity;
- the obligor, rather than biological father, had knowledge of his paternity or probable paternity;
- the order of retroactive child support will impose an undue financial hardship on the obligor or the obligor's family; and
- the obligor has provided actual support or other necessities before the filing of the action.

(c) 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.

(d) Authorizes the presumption created under this section to be rebutted by certain evidence.

(e) 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 add an exception as provided under Section 154.131.

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

Sec. 157.262. New heading: REDUCTION OF ARREARAGES; ABEYANCE OF ENFORCEMENT. (a) Prohibits the court, except as provided by this section, in a contempt proceeding or in rendering a money judgment, from reducing or modifying the amount of child support arrearages.

(b) Authorizes the court, in an enforcement action under this chapter, to hold in abeyance, with the agreement of the Title IV-D agency, 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 conditions.

(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, 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, to terminate the abeyance of enforcement of the arrearages.

(e) Authorizes the court, on the expiration of the child support order, to reduce, with the agreement of the Title IV-D agency, 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.

Reletters existing text of Subsection (b) as Subsection (f).

SECTION 4. (a) Effective date: September 1, 2001.

Makes application of this Act prospective.

(b) Provides that the enactment of this Act does not by itself constitute a material and substantial change in circumstances sufficient to warrant modification of a court order or a portion of a decree providing for the payment of child support that is rendered before the effective date of this Act.