BILL ANALYSIS

Senate Research Center
81R771 KKA-F

S.B. 1514
By: Watson
Jurisprudence
3/27/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Three Courts of Appeals have held that Section 157.262(a) (relating to a prohibition of the court from reducing or modifying the amount of child support arrearages), Family Code, prohibits a court from reducing a money judgment for arrearages without an express authorization from the legislature. The cases involved lump sum payments received by a child because of the child support obligor's disability but the obligor was denied credit against back child support owed. The Family Law Section of the State Bar of Texas (section) and the Texas Family Law Foundation studied this issue and determined that the lump sum disability should be credited toward the child support arrearage. The full State Bar of Texas Board agreed and authorized the section to go to the legislature with this issue.

As proposed, S.B. 1514 authorizes a court to reduce a child support arrearage based on a lump sum disability payment made to the obligee for the benefit of the child due to the disability of the obligor.

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 157.262(f), Family Code, as follows:

(f) Authorizes a lump sum dependent's disability payment made by the Social Security Administration or the Veterans Administration to the obligee for the benefit of the child as a result of the obligor's disability to be used by the obligor as a counterclaim or offset to a money judgment for arrearages. Deletes existing text authorizing the money judgment for arrearages to be rendered by the court to be subject to a counterclaim or offset as provided by this subchapter.

SECTION 2. Provides that the change in law made by this Act applies to a motion for enforcement of child support that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2009.