Senate Research Center   S.B. 899
83R9584 KKA-F   By: Van de Putte
                                                                                   Jurisprudence
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                                                                                         As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1987, the United States Supreme Court held that a state court has jurisdiction to hold a disabled veteran in contempt for failing to pay child support, even if the veteran's only means of satisfying this obligation is to utilize veterans' benefits received as compensation for a service-connected disability (*Rose v. Rose*, 481 U.S. 619 (1987)). Currently, the application of child support guidelines presumptively includes a disabled veteran's compensation and pension as a net resource, pursuant to Section 154.062 (Net Resources), Family Code. Although sections of the Texas Family Code provide guidance for treatment of a disabled obligor's net resources when the obligor is receiving Social Security benefits, the code is silent as to how to appropriately calculate and allocate a disabled veteran's United States Department of Veterans Affairs (VA) compensation and pension benefits.

S.B. 899 addresses the inconsistency of the law as it treats disabled parents who struggle with contributing to the economic wellbeing of their children. The treatment of disabled parents under the law should be the same regardless of whether the disabled parent is receiving Social Security benefits or VA benefits.

As proposed, S.B. 899 amends current law relating to determination of the amount of certain child support obligations.

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 154.062(b), Family Code, as follows:

> (b) Provides that resources required by the court to calculate for the purpose of determining child support liability as provided by this section (Net Resources), include:

>> (1)-(4) Makes no change to these subdivisions; and

>> (5) all other income actually being received, including severance pay, retirement benefits, pensions, trust income, annuities, capital gains, social security benefits other than supplemental security income, United States Department of Veterans Affairs disability benefits other than non-service-connected disability pension benefits, unemployment benefits, disability and workers' compensation benefits, interest income from notes regardless of the source, gifts and prizes, spousal maintenance, and alimony.

SECTION 2. Amends Section 154.066, Family Code, as follows:

> Sec. 154.066. INTENTIONAL UNEMPLOYMENT OR UNDEREMPLOYMENT. (a) Creates this subsection from existing text. Authorizes the court, except as provided by Subsection (b), if the actual income of the obligor is significantly less than what the

obligor could earn because of intentional unemployment or underemployment, to apply the support guidelines to the earning potential of the obligor.

(b) Prohibits the court from considering the unemployment or underemployment of an obligor as intentional if the obligor is a veteran, as defined by 38 U.S.C. Section 101(2), who has a service-connected disability, as defined by 38 U.S.C. Section 101(16) or a non-service-connected disability, as defined by 38 U.S.C. Section 101(17).

SECTION 3. Amends Section 154.068, Family Code, as follows:

Sec. 154.068. WAGE AND SALARY PRESUMPTION. Requires the court, in the absence of evidence of a party's resources, as defined by Section 154.062(b), to presume that the party has income equal to the federal minimum wage for a 40-hour week to which the support guidelines may be applied, rather than requires the court, in the absence of evidence of the wage and salary income of a party, to presume that the party has wages or salary equal to the federal minimum wage for a 40-hour week.

SECTION 4. Provides the changes in law made by this Act to Sections 154.062, 154.066, and 154.068, Family Code, apply only to a proceeding to establish or modify a child support obligation that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2013.