

## **BILL ANALYSIS**

Senate Research Center

S.B. 1675  
By: West  
State Affairs  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Child Support Division of the Office of the Attorney General is the Title IV-D agency for Texas. Title IV-D requires states to manage a public child support program. New federal rules require the Title IV-D agency to either immediately initiate a child support review or notify parties of their right to review within 15 business days of learning that a noncustodial parent will be incarcerated for more than 180 days. Incarcerated obligors typically have nonexistent earning capabilities during their periods of confinement. To comply with federal law, S.B. 1675 creates a new expedited administrative procedure in Title IV-D cases to adjust an obligor's current support obligations when the agency is notified that the obligor will be incarcerated for more than 180 days.

The Federal Bipartisan Budget Act of 2018 requires a \$35 annual service fee on IV-D cases with more than \$550 in annual collections (rather than the current \$25 fee on cases with more than \$500 in annual collections). During the 2020-2021 biennium, the estimated difference between the two fees will be approximately \$13.2 million (\$34.8 million vs. \$40 million). If the legislature elects not to change the annual service fee from \$25, it will need approximately \$13.2 million in general revenue to pay the federal Office of Child Support Enforcement in lieu of charging the increased fee. To comply with federal law and eliminate the fiscal impact to the state of non-compliance, S.B. 1675 removes specific reference to \$25 annual service fee for Title IV-D cases and instead states that the annual service fee may not exceed the maximum amount established by federal law.

Finally, S.B. 1675 also makes changes to the service process in Child Support Review Process (CSR) cases, and gives judges more time to review and sign agreed CSR orders before they become confirmed by operation of law.

As proposed, S.B. 1675 amends current law relating to the duties of the Title IV-D agency regarding the collection, modification, and enforcement of child support.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Office of the Attorney General [Title IV-D agency] in SECTION 4 (Section 231.1015, Family Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 156.401, Family Code, to create an exception under Sections 231.1015 and 231.1016 to the authorization for a support order to be modified only in a certain manner and to make a nonsubstantive change.

SECTION 2. Amends Section 231.002(e), Family Code, by amending Subdivisions (3) and (4) and adding Subdivision (5), as follows:

(3)–(4) makes nonsubstantive changes to these subdivisions; and

(5) administratively modify the support obligations of incarcerated obligors, as provided by Sections 231.1015 and 231.1016.

SECTION 3. Amends Sections 231.103(a), (b), and (c), Family Code, as follows:

(a) Authorizes the Title IV-D agency to charge a reasonable application fee, charge an annual service fee, rather than a \$25 annual service fee, and to the extent permitted by federal law, recover costs for the services provided in a Title IV-D case.

(b) Makes no changes to this subsection.

(c) Prohibits the application and service fees from exceeding the maximum amounts established by federal law.

SECTION 4. Amends Subchapter B, Chapter 231, Family Code, by adding Section 231.1015, as follows:

Sec. 231.1015. NOTICE OF ADMINISTRATIVE ADJUSTMENT OF SUPPORT OBLIGATIONS DURING INCARCERATION. (a) Requires the Title IV-D agency, in a Title IV-D case, upon learning that the obligor will be incarcerated for more than 180 consecutive calendar days in a local, state, or federal jail or prison, to review and adjust an obligor's current child support, medical support, and dental support obligations to amounts that are based on the application of the child support guidelines in Chapter 154 (Child Support) to the current net resources available to the obligor to pay support while incarcerated. Provides that this section does not apply if:

(1) the incarceration resulted from the obligor's failure to comply with a court order to pay child support; or

(2) the obligor is incarcerated for an offense constituting family violence as defined by Section 71.004 (Family Violence) against the obligee or the supported child.

(b) Provides that the adjustment of the obligor's current support obligations under this section does not affect support obligations due prior to the effective date of the adjustment.

(c) Requires the Title IV-D agency, in a case meeting the requirements of Subsection (a), to file a notice of administrative adjustment with the court of continuing, exclusive jurisdiction and notify the parties of the administrative adjustment. Requires the notice of adjustment to state certain information. Authorizes the Title IV-D agency, in lieu of filing a notice of administrative adjustment, to elect to seek a modification of the support order of an incarcerated obligor under Subchapter E (Modification of Child Support), Chapter 156.

(d) Authorizes the obligor or obligee to contest the notice of administrative adjustment by requesting an administrative review as provided by Section 231.1016.

(e) Requires the Title IV-D agency, in a Title IV-D case, following the release from incarceration of an obligor whose support obligations were adjusted under this section, to conduct a review under Section 231.101(d) (relating to authorizing the Title IV-D agency to make a petition for modification of a support order if certain circumstances change) and authorizes the Title IV-D agency to pursue appropriate remedies under Chapter 156 or Chapter 233 (Child Support Review Process to Establish or Enforce Support Obligations).

(f) Authorizes the Title IV-D agency to adopt rules to implement this section.

SECTION 5. Amends Subchapter B, Chapter 231, Family Code, by adding Section 231.1016, as follows:

Sec. 231.1016. CONTEST TO NOTICE OF ADMINISTRATIVE ADJUSTMENT DUE TO INCARCERATION. (a) Requires an obligor or obligee contesting an adjustment under Section 231.1015, within 30 days of receipt of a notice of adjustment, to request a review by the Title IV-D agency to resolve any issue in dispute regarding the applicability of Section 231.1015(a) or the amounts of the adjusted support obligations. Requires the Title IV-D agency to provide an opportunity for a review, by telephonic conference or in person, as may be appropriate under the circumstances.

(b) Requires the Title IV-D agency, following a review under this section, to issue to the parties a notice of determination affirming the adjustment or file a notice with the court withdrawing the notice of administrative adjustment and notify the parties of the outcome of the review.

(c) Authorizes a party, if a review under this sections fails to resolve any issue in dispute, to file a motion with the court of continuing, exclusive jurisdiction to contest the administrative adjustment and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Requires the administrative adjustment, in the event a party files a motion pursuant to this subsection, to remain in effect until either the Title IV-D agency files a notice of withdrawal of the adjustment, or further order of the court.

SECTION 6. Amends Section 233.021(c), Family Code, to require the clerk to deliver by personal service, or by substituted service, if court ordered, a copy of the petition for confirmation of a nonagreed review order and a copy of the order, to each party entitled to service who has not waived service.

SECTION 7. Amends Section 233.024(a), Family Code, to require the court to sign an agreed child support review order not later than the seventh, rather than the third, day after the filing of the order and to provide that on expiration of the seventh, rather than the third, day after the filing of the order, the order is considered confirmed by the court by operation of law, regardless of whether the court has signed the order.

SECTION 8. Makes application of Sections 231.1015 and 231.1016, Family Code, as added by this Act, prospective.

SECTION 9. Effective date: September 1, 2019.