

By: Dutton

H.B. No. 344

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the suspension of an obligor's child support
3 obligations during certain periods.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 156.401, Family Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) Confinement of an obligor in a local, state, or federal
8 jail or prison for a period exceeding 90 days is a material and
9 substantial change in circumstances for purposes of Subsection
10 (a)(1).

11 SECTION 2. Subchapter E, Chapter 156, Family Code, is
12 amended by adding Section 156.411 to read as follows:

13 Sec. 156.411. SUSPENSION OF CHILD SUPPORT OBLIGATIONS.

14 (a) An obligor who is confined in a local, state, or federal jail or
15 prison for at least 30 consecutive days may file with the court a
16 sworn statement that the obligor is without sufficient resources to
17 pay the obligor's child support obligations, accompanied by a
18 notice of confinement requesting that the child support obligations
19 be suspended during the period of confinement. The obligor may
20 request the suspension regardless of whether the obligor is
21 confined before trial, after conviction, or after revocation of
22 community supervision, parole, or mandatory supervision.

23 (b) On receipt of a notice of confinement that satisfies the
24 requirements of this section, the court shall, on its own motion and

1 without conducting a hearing, order that the obligor's child
2 support obligations and the accrual of interest on the obligor's
3 child support arrearages are suspended during the obligor's period
4 of confinement. Not later than the fifth day after the date the
5 court orders the suspension, the clerk of the court shall notify the
6 obligee in writing of:

7 (1) the suspension;

8 (2) the address of the jail or prison in which the
9 obligor is confined; and

10 (3) if known, the obligor's expected date of release
11 from confinement.

12 (c) An order suspending an obligor's child support
13 obligations rendered under this section expires on the date the
14 obligor is released from confinement.

15 (d) The Title IV-D agency shall adopt a form for the notice
16 of confinement under this section and shall make the form available
17 to local, state, and federal jails and prisons to be given to each
18 person who is an obligor under a child support order rendered by a
19 court of this state on confinement of the obligor in a jail or
20 prison.

21 (e) This section does not apply to a person who is confined
22 for:

23 (1) failing to pay a child support obligation;

24 (2) committing an act of family violence against the
25 obligee; or

26 (3) violating a protective order.

27 SECTION 3. Section 157.262(a), Family Code, is amended to

1 read as follows:

2 (a) Except as provided by this section or Section
3 157.263(c), in a contempt proceeding or in rendering a money
4 judgment, the court may not reduce or modify the amount of child
5 support arrearages.

6 SECTION 4. Section 157.263, Family Code, is amended by
7 amending Subsection (b) and adding Subsection (c) to read as
8 follows:

9 (b) Except as provided by Subsection (c), a [A] cumulative
10 money judgment includes:

- 11 (1) unpaid child support not previously confirmed;
12 (2) the balance owed on previously confirmed
13 arrearages or lump sum or retroactive support judgments;
14 (3) interest on the arrearages; and
15 (4) a statement that it is a cumulative judgment.

16 (c) In confirming the amount of arrearages and rendering a
17 cumulative money judgment, the court may not include child support
18 payments that became due and interest on child support arrearages
19 that accrued during a period in which the obligor was confined in
20 jail or prison if, during the period of confinement, the obligor was
21 the subject of a court order suspending the payments and interest
22 under Section 156.411.

23 SECTION 5. The Title IV-D agency shall adopt a form for a
24 notice of confinement under Section 156.411, Family Code, as added
25 by this Act, not later than December 1, 2003.

26 SECTION 6. The changes in law made by this Act apply to a
27 child support payment that becomes due or interest on child support

1 arrearages that accrues on or after the effective date of this Act.
2 A child support payment that became due or interest on child support
3 arrearages that accrued before the effective date of this Act is
4 governed by the law in effect on the date the payment became due or
5 the interest accrued, and the former law is continued in effect for
6 that purpose.

7 SECTION 7. (a) Except as provided by Subsection (b) of this
8 section, this Act takes effect January 1, 2004.

9 (b) Section 5 of this Act takes effect September 1, 2003.