

By: Dutton

H.B. No. 440

Substitute the following for H.B. No. 440:

By: Strama

C.S.H.B. No. 440

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the modification or enforcement of a child support
3 order during the obligor's confinement in jail or prison.

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) The rendering of a judgment or order for the confinement
8 of an obligor in a local, state, or federal jail or prison for a
9 period of at least 90 consecutive days is a material and substantial
10 change in circumstances for purposes of Subsection (a)(1).

11 SECTION 2. Section 157.008(a), Family Code, is amended to
12 read as follows:

13 (a) An obligor may plead as an affirmative defense in whole
14 or in part to a motion for enforcement of child support that:

15 (1) the obligee voluntarily relinquished to the
16 obligor actual possession and control of a child; or

17 (2) the obligor was confined in a local, state, or
18 federal jail or prison for a period of at least 90 consecutive days
19 and the arrearages and interest on the arrearages alleged in the
20 motion for enforcement are attributable to child support payments
21 that became due during that period of confinement.

22 SECTION 3. Section 156.401(e), Family Code, as added by
23 this Act, applies only to a suit for modification of a child support
24 order that is filed on or after the effective date of this Act. A

1 suit for modification that is filed before the effective date of
2 this Act is governed by the law in effect on the date the suit was
3 filed, and the former law is continued in effect for that purpose.

4 SECTION 4. Section 157.008(a), Family Code, as amended by
5 this Act, applies only to a child support payment that becomes due
6 or interest on child support arrearages that accrues on or after the
7 effective date of this Act. A child support payment that became due
8 or interest on child support arrearages that accrued before the
9 effective date of this Act is governed by the law in effect on the
10 date the payment became due or the interest accrued, and the former
11 law is continued in effect for that purpose.

12 SECTION 5. This Act takes effect September 1, 2005.