

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**May 20, 2005**

**TO:** Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB440** by Dutton (Relating to the modification or enforcement of a child support order during the obligor's confinement in jail or prison.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would address the modification of a child support order during the obligor's confinement in jail or prison. The bill adds subsections (e) and (f) to Section 156.401, "Grounds for Modification of Child Support," Family Code, making a prison sentence of 90 days or greater a "material and substantial" change in circumstances, unless the incarceration is for family violence; adds subsection (g), stating that "All accruing interest for an obligor's child support obligation shall be suspended during an obligor's incarceration in a local, state, or federal jail or prison." The bill would amend Section 157.008, "Affirmative Defense to Motion for Enforcement of Child Support," Chapter 157, "Enforcement," adding an affirmative defense to a motion for enforcement of child support, in addition to the existing defense of support provided to the child during periods of excess possession, that "the obligor was confined in a local, state, or federal jail or prison for a period of at least 90 consecutive days and the arrearages and interest alleged in the motion for enforcement are attributable to child support payments that became due during that period."

The Office of the Attorney General anticipates some cost for reprogramming their automated child support system to adhere to the guidelines in this bill, but it is assumed these costs could be reasonably absorbed within current agency resources.

This Act takes effect September 1, 2005.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General

**LBB Staff:** JOB, MS, LB