

BILL ANALYSIS

H.B. 939
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

When the parents of a child are granted a divorce, the noncustodial parent is typically ordered to pay child support. Current law provides that if the child receives benefits, such as Social Security, based on the noncustodial parent's disability, these benefits reduce the parent's child support obligation. A problem arises when the benefit is initially awarded in the form of a lump-sum payment.

Although a lump-sum payment will be made to the obligee, the credit for this payment is not specifically addressed in current law. Furthermore, there have been two Texas courts of appeals cases that have held that, although the child's monthly benefits reduce the current child support owed, the retroactive award the child receives doesn't reduce the arrearages.

H.B. 939 provides that if a child receives a lump-sum payment as a result of the obligor's disability, the obligor is entitled to a credit equal to the amount of the lump-sum payment against any child support arrearage owed and any interest that accrued during the obligor's disability. The bill authorizes an obligor to plead as an affirmative defense to a motion for enforcement of child support, that the obligor is entitled to an offset of any lump-sum benefit payments made to the obligee as a result of the obligor's disability.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 939 amends the Family Code to create an affirmative defense in whole or in part to a motion for enforcement of child support for an obligor who has a disability and who is required to pay support for a child who receives benefits as a result of the obligor's disability. The bill authorizes the obligor to plead that the obligor is entitled to an offset against the obligee's claim for child support arrearages and interest. The bill establishes the offset to be an amount equal to the amount of any benefit payments, including lump-sum benefit payments, made as a result of the obligor's disability to the obligee as the representative payee of the child. The bill authorizes the offset to be applied only against arrearages and interest that accrued during the period of the obligor's disability and that are not assigned to the Title IV-D agency on approval of an application for or receipt of financial assistance under the Aid to Families with Dependent Children program. The bill establishes that provisions of the bill prevail to the extent of any conflict with provisions of other law relating to judgment and interest in a suit affecting the parent-child relationship.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.