

By: Dutton

H.B. No. 939

A BILL TO BE ENTITLED

AN ACT

relating to the application of certain disability payments in connection with a claim for child support arrearages.

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

SECTION 1. Subchapter A, Chapter 157, Family Code, is amended by adding Section 157.009 to read as follows:

Sec. 157.009. AFFIRMATIVE DEFENSE TO MOTION FOR ENFORCEMENT OF CHILD SUPPORT: DISABILITY PAYMENTS. (a) This section applies only to 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.

(b) An obligor may plead as an affirmative defense in whole or in part to a motion for enforcement of child support that the obligor is entitled to an offset against the obligee's claim for child support arrearages and interest. An offset under this section is 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.

(c) The offset permitted under this section may 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 under Section 231.104(a).

(d) To the extent that this section conflicts with

1 Subchapter F, this section prevails.

2 SECTION 2. Section 157.009, Family Code, as added by this  
3 Act, applies to a motion for enforcement of child support that is  
4 pending before a trial court on or filed on or after the effective  
5 date of this Act.

6 SECTION 3. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2009.