

BILL ANALYSIS

Senate Research Center
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S.B. 1236
By: West
Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2001, the 77th Texas Legislature amended the Family Code to provide courts with the authority, with the agreement of the Title IV-D agency (in Texas, the Office of the Attorney General), to hold in abeyance the enforcement of assigned arrears (including interest) if the child support obligor complied with a number of conditions. On the expiration of the support order, the court could—again with the agreement of the Title IV-D agency—reduce the amount of the assigned arrears. This attempt to negotiate arrears proved to have significant limitations, the chief one being the inability of either the court or the agency to monitor fully the several conditions an obligor was required to meet. Also, reduction in the arrears could only occur on the expiration of the support order, which could be many years out.

Currently, 43 states have child support debt compromise programs of one sort or another. Twenty of these states are operating fully implemented or pilot debt compromise programs under which non-custodial parents are, for example, offered the opportunity to reduce support arrears in exchange for negotiated lump-sum or regular, partial payments on arrears, coupled with compliance with current support obligations or other conditions of participation in the program. The other states settle arrearage debt more informally on a case-by-case basis.

This bill would authorize the Title IV-D agency to establish a program to promote payment of arrears assigned to the state. Through voluntary enrollment in this program, obligors would be given a matching credit (in an amount determined by the agency) for every dollar they paid towards arrears during each month of enrollment. This would, however, be conditioned on their fully and timely meeting their current support obligation, if one is then in effect. The intent is that the program would encourage not only ongoing payment toward satisfaction of support arrears, but also compliance with any current support order or obligation. Fulfillment of the conditions for participation in the program could be immediately monitored through payment records. The agency would be responsible for setting criteria for the participation and continued enrollment of eligible obligors in the program.

As proposed, S.B. 1236 amends current law relating to the reduction and confirmation of child support arrearages and an incentive program to encourage payment of arrearages.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Office of the Attorney General (Title IV-D agency) in SECTION 2 (Section 231.124, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 157.263, Family Code, by adding Subsection (b-1), to prohibit the court, in rendering a money judgment under this section, from reducing or modifying the amount of child support arrearages but authorizes the court, in confirming the amount of arrearage, to allow a counterclaim or offset as provided by this title.

SECTION 2. Amends Subchapter B, Chapter 231, Family Code, by adding Section 231.124, as follows:

Sec. 231.124. CHILD SUPPORT ARREARAGES PAYMENT INCENTIVE PROGRAM. (a) Authorizes the Title IV-D agency to establish and administer a payment incentive program to promote payment by obligors who are delinquent in satisfying child support arrearages assigned to the Title IV-D agency under Section 231.104(a).

(b) Requires a program established under this section to provide to a participating obligor a credit for every dollar amount paid by the obligor on interest and arrearages balances during each month of the obligor's voluntary enrollment in the program. Requires the Title IV-D agency by rule, in establishing a program under this section, to prescribe criteria for a child support obligor's initial eligibility to participate in the program, the conditions for a child support obligor's continued participation in the program, procedures for enrollment in the program, and the terms of the financial incentives to be offered under the program.

(c) Requires the Title IV-D agency to provide eligible obligors with notice of the program and enrollment instructions.

SECTION 3. Repealer: Section 157.262 (Reduction of Arrearages; Abeyance of Enforcement), Family Code.

SECTION 4. Provides that Section 157.263(b-1), Family Code, as added by this Act, applies to a motion for enforcement of child support that is pending before a trial court on or filed on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2011.