

By: Dutton

H.B. No. 486

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. Section 157.009, Family Code, is amended to read as follows:

Sec. 157.009. AFFIRMATIVE DEFENSE TO MOTION [CREDIT] FOR ENFORCEMENT [PAYMENT] OF CHILD SUPPORT: DISABILITY PAYMENTS [BENEFITS]. (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 [In addition to any other credit or offset available to an] obligor may plead as an affirmative defense in whole or in part to a motion for enforcement of [under this title, if a child for whom the obligor owes] child support that [receives a lump-sum payment as a result of the obligor's disability and that payment is made to the obligee as the representative payee of the child,] 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 [a credit. The credit under this section is] equal to the amount of any benefit payments, including [the] 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 [payment and

1 ~~shall~~] be applied only against arrearages [~~to any child support~~
2 ~~arrearage~~] and interest [~~owed by the obligor on behalf of~~] that
3 accrued during the period of the obligor's disability and that are
4 not assigned to [~~child at the time~~] the Title IV-D agency under
5 Section 231.104(a) [~~payment is made~~].

6 (d) To the extent that this section conflicts with
7 Subchapter F, this section prevails.

8 SECTION 2. (a) Except as provided by Subsection (b) of this
9 section, Section 157.009, Family Code, as amended by this Act,
10 applies to a motion for enforcement of child support that is pending
11 before a trial court on or filed on or after the effective date of
12 this Act.

13 (b) A motion for enforcement of child support involving an
14 obligor who has been awarded a credit under Section 157.009, Family
15 Code, as that section existed immediately before the effective date
16 of this Act, is covered by the law as it existed immediately before
17 that date, and the former law is continued in effect for that
18 purpose.

19 SECTION 3. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2011.