

By: Dutton

H.B. No. 364

A BILL TO BE ENTITLED

AN ACT

relating to the modification or enforcement of a child support order during the obligor's confinement in jail or prison.

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

SECTION 1. Section 156.401, Family Code, is amended by adding Subsection (e) to read as follows:

(e) The rendering of a judgment or order for the confinement of an obligor in a local, state, or federal jail or prison for a period of at least 90 consecutive days is a material and substantial change in circumstances for purposes of Subsection (a)(1). This subsection does not apply to the extent the obligor has sufficient resources available to comply with the child support order and the availability of the resources is not affected by the obligor's confinement.

SECTION 2. Section 157.008, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) An obligor may plead as an affirmative defense in whole or in part to a motion for enforcement of child support that:

(1) the obligee voluntarily relinquished to the obligor actual possession and control of a child; or

(2) 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 on the arrearages alleged in the

1 motion for enforcement are attributable to child support payments  
2 that became due during that period of confinement.

3 (a-1) The affirmative defense provided by Subsection (a)(2)  
4 does not apply to the extent the obligor had sufficient resources  
5 during that period of confinement to comply with the child support  
6 order and the availability of the resources was not affected by the  
7 obligor's confinement.

8 SECTION 3. Section 156.401(e), Family Code, as added by  
9 this Act, applies only to a suit for modification of a child support  
10 order that is filed on or after the effective date of this Act. A  
11 suit for modification that is filed before the effective date of  
12 this Act is governed by the law in effect on the date the suit was  
13 filed, and the former law is continued in effect for that purpose.

14 SECTION 4. Section 157.008, Family Code, as amended by this  
15 Act, applies only to a child support payment that becomes due or  
16 interest on child support arrearages that accrues on or after the  
17 effective date of this Act. A child support payment that became due  
18 or interest on child support arrearages that accrued before the  
19 effective date of this Act is governed by the law in effect on the  
20 date the payment became due or the interest accrued, and the former  
21 law is continued in effect for that purpose.

22 SECTION 5. This Act takes effect September 1, 2015.