

By: Dutton

H.B. No. 2265

A BILL TO BE ENTITLED

AN ACT

relating to the duties of the Title IV-D agency regarding the collection, modification, and enforcement of child support.

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

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

(b) Except as provided by Sections 231.1015 and 231.1016, a [A] support order may be modified with regard to the amount of support ordered only as to obligations accruing after the earlier of:

(1) the date of service of citation; or

(2) an appearance in the suit to modify.

SECTION 2. Section 231.002(e), Family Code is amended by modifying Subsections (3) and (4) and adding Subsection (5) to read as follows:

(3) order income withholding, as provided by Chapter 233, and issue an administrative writ of withholding, as provided by Chapter 158; ~~and~~

(4) take any action with respect to execution, collection, and release of a judgment or lien for child support necessary to satisfy the judgment or lien, as provided by Chapter 157; ~~and~~

(5) administratively modify the support obligations of incarcerated obligors, as provided by Sections 231.1015 and

1 231.1016.

2 SECTION 3. Sections 231.103(a), (b) and (c), Family Code
3 are amended to read as follows:

4 (a) The Title IV-D agency may:

5 (1) charge a reasonable application fee;

6 (2) charge an [\$25] annual service fee; and

7 (3) to the extent permitted by federal law, recover
8 costs for the services provided in a Title IV-D case.

9 (b) An application fee may not be charged in a case in which
10 the Title IV-D agency provides services because the family receives
11 public assistance.

12 (c) ~~[An]~~ The application and service fees may not exceed ~~[a]~~
13 the maximum amounts established by federal law.

14 SECTION 4. Subchapter B, Chapter 231, Family Code, is
15 amended by adding Section 231.1015 to read as follows:

16 Sec. 231.1015. NOTICE OF ADMINISTRATIVE ADJUSTMENT OF
17 SUPPORT OBLIGATIONS DURING INCARCERATION. (a) In a Title IV-D
18 case, upon learning that the obligor will be incarcerated for more
19 than 180 consecutive calendar days in a local, state, or federal
20 jail or prison, the Title IV-D agency shall review and adjust an
21 obligor's current child support, medical support, and dental
22 support obligations to amounts that are based on the application of
23 the child support guidelines in Chapter 154 to the current net
24 resources available to the obligor to pay support while
25 incarcerated. This section does not apply if:

26 (1) The incarceration resulted from the obligor's
27 failure to comply with a court order to pay child support; or

1 (2) The obligor is incarcerated for an offense
2 constituting family violence as defined by Section 71.004 against
3 the obligee or the supported child.

4 (b) The adjustment of the obligor's current support
5 obligations under this section does not affect support obligations
6 due prior to the effective date of the adjustment.

7 (c) In a case meeting the requirements of subsection (a),
8 the Title IV-D agency shall file a notice of administrative
9 adjustment with the court of continuing, exclusive jurisdiction and
10 notify the parties of the administrative adjustment. The notice of
11 adjustment shall state the amounts of the adjusted support
12 obligations, the effective date of the adjustment, and include the
13 style and the cause number of the case in which support was ordered.
14 In lieu of filing a notice of administrative adjustment, the Title
15 IV-D agency may elect to seek a modification of the support order of
16 an incarcerated obligor under Subchapter E, Chapter 156.

17 (d) The obligor or obligee may contest the notice of
18 administrative adjustment by requesting an administrative review
19 as provided by Section 231.1016.

20 (e) In a Title IV-D case, following the release from
21 incarceration of an obligor whose support obligations were adjusted
22 under this section, the Title IV-D agency shall conduct a review
23 under Section 231.101(d) and may pursue appropriate remedies under
24 Chapter 156 or Chapter 233.

25 (f) The Title IV-D agency may adopt rules to implement this
26 section.

27 SECTION 5. Subchapter B, Chapter 231, Family Code, is

1 amended by adding Section 231.1016 to read as follows:

2 Sec. 231.1016. CONTEST TO NOTICE OF ADMINISTRATIVE
3 ADJUSTMENT DUE TO INCARCERATION. (a) An obligor or an obligee
4 contesting an adjustment under Section 231.1015 shall, within 30
5 days of receipt of a notice of adjustment, request a review by the
6 Title IV-D agency to resolve any issue in dispute regarding the
7 applicability of Section 231.1015(a) or the amounts of the adjusted
8 support obligations. The Title IV-D agency shall provide an
9 opportunity for a review, by telephonic conference or in person, as
10 may be appropriate under the circumstances.

11 (b) Following a review under this section, the Title IV-D
12 agency shall:

13 (1) issue to the parties a notice of determination
14 affirming the adjustment; or

15 (2) file a notice with the court withdrawing the
16 notice of administrative adjustment and shall notify the parties of
17 the outcome of the review.

18 (c) If a review under this section fails to resolve any
19 issue in dispute, a party may file a motion with the court of
20 continuing, exclusive jurisdiction to contest the administrative
21 adjustment and request a hearing with the court not later than the
22 30th day after receiving notice of the agency's determination. In
23 the event a party files a motion pursuant to this subsection, the
24 administrative adjustment shall remain in effect until either the
25 Title IV-D agency files a notice of withdrawal of the adjustment, or
26 further order of the court.

27 SECTION 6. Section 233.021(c), Family Code is amended to

1 read as follows:

2 (c) The clerk shall deliver by personal service, or by
3 substituted service, if court ordered, a copy of the petition for
4 confirmation of a nonagreed review order and a copy of the order, to
5 each party entitled to service who has not waived service.

6 SECTION 7. Sec. 233.024(a), Family Code is amended to read
7 as follows:

8 (a) On the filing of an agreed child support review order
9 signed by all parties, together with waiver of service, the court
10 shall sign the order not later than the [~~third~~] seventh day after
11 the filing of the order. On expiration of the [~~third~~] seventh day
12 after the filing of the order, the order is considered confirmed by
13 the court by operation of law, regardless of whether the court has
14 signed the order. The court may sign the order before filing the
15 order, but the signed order shall immediately be filed.

16 SECTION 8. The change in law made by this Act to Subchapter
17 B, Chapter 231, Family Code, in adding Sections 231.1015 and
18 231.1016 applies to all orders with current child support, medical
19 support or dental support accruals on or after September 1, 2019.

20 SECTION 9. This Act takes effect September 1, 2019.