

By: West
(Dutton)

S.B. No. 1675

A BILL TO BE ENTITLED

AN ACT

relating to the administration of and certain procedures under the Title IV-D program for child support enforcement.

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

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

(b) Except as provided by Sections 231.1015, 231.1016, and 231.1017, 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 to read as follows:

(e) The Title IV-D agency may take the following administrative actions with respect to the location of a parent, the determination of parentage, and the establishment, modification, and enforcement of child support, medical support, and dental support orders required by 42 U.S.C. Section 666(c), without obtaining an order from any other judicial or administrative tribunal:

(1) issue an administrative subpoena, as provided by Section 231.303, to obtain financial or other information;

(2) order genetic testing for parentage

1 determination, as provided by Chapter 233;

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

5 (4) take any action with respect to execution,
6 collection, and release of a judgment or lien for child support
7 necessary to satisfy the judgment or lien, as provided by Chapter
8 157; and

9 (5) adjust the support obligations of an incarcerated
10 obligor, as provided by Sections 231.1015, 231.1016, and 231.1017.

11 SECTION 3. Subchapter B, Chapter 231, Family Code, is
12 amended by adding Sections 231.1015, 231.1016, and 231.1017 to read
13 as follows:

14 Sec. 231.1015. ADMINISTRATIVE ADJUSTMENT OF SUPPORT
15 OBLIGATIONS DURING OBLIGOR'S INCARCERATION. (a) Subject to
16 Subsection (b), on verification by the Title IV-D agency that a
17 judgment or order has been rendered for the confinement of a child
18 support obligor in a local, state, or federal jail or prison for a
19 period of at least 180 consecutive days, the Title IV-D agency shall
20 review and administratively adjust the obligor's child support,
21 medical support, and dental support order to amounts that are based
22 on the application of the child support guidelines under Chapter
23 154 to the obligor's net resources during incarceration.

24 (b) This section does not apply if the Title IV-D agency
25 determines that the obligor is confined:

26 (1) due to the obligor's failure to comply with a child
27 support order; or

1 (2) for an offense constituting an act of family
2 violence, as defined by Section 71.004, committed against the
3 obligee or a child covered by the child support order.

4 (c) If the Title IV-D agency administratively adjusts a
5 support obligation under Subsection (a), the agency must:

6 (1) provide notice of the administrative adjustment to
7 the parties to the support order; and

8 (2) file a copy of the notice with the court of
9 continuing, exclusive jurisdiction.

10 (d) The notice provided under Subsection (c) must state:

11 (1) the amount of the obligor's adjusted support
12 obligation during incarceration;

13 (2) the effective date of the administrative
14 adjustment of the support obligation; and

15 (3) the style and cause number of the case in which the
16 support order was rendered.

17 (e) Notwithstanding Subsection (a), the Title IV-D agency
18 may seek modification of the support order under Subchapter E,
19 Chapter 156, in lieu of administratively adjusting the support
20 obligation under this section.

21 (f) The administrative adjustment of a support obligation
22 under this section does not affect a support obligation due before
23 the effective date of the administrative adjustment.

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

26 Sec. 231.1016. REVIEW OF ADMINISTRATIVE ADJUSTMENT OF
27 SUPPORT OBLIGATIONS. (a) Not later than the 30th day after

1 receiving notice of an administrative adjustment of a support
2 obligation under Section 231.1015, a party to the support order may
3 contest the administrative adjustment by requesting that the Title
4 IV-D agency review the agency's decision to grant the
5 administrative adjustment.

6 (b) If a party to the support order does not request the
7 Title IV-D agency to review the administrative adjustment within
8 the time prescribed by Subsection (a), the Title IV-D agency shall
9 file an administrative adjustment order with the court of
10 continuing, exclusive jurisdiction. The order must contain a
11 signed statement from the Title IV-D agency that neither party to
12 the order requested an administrative review within the time
13 required by Subsection (a) and state the amount of the obligor's
14 adjusted support obligation during incarceration and the effective
15 date of the administrative adjustment. The court shall sign the
16 order not later than the seventh day after the date the order is
17 filed. On expiration of the seventh day after the date the order is
18 filed, the order is considered confirmed by the court by operation
19 of law, regardless of whether the court has signed the order.

20 (c) On request by a party under Subsection (a), the Title
21 IV-D agency shall:

22 (1) review the administrative adjustment of the
23 support obligation to determine whether:

24 (A) the exceptions under Section 231.1015(b)
25 apply; and

26 (B) the administrative adjustment accurately
27 reflects the obligor's net resources during incarceration; and

1 (2) provide an opportunity for review with the parties
2 in person or by telephone, as appropriate.

3 (d) After conducting a review under Subsection (c), the
4 Title IV-D agency shall:

5 (1) affirm the administrative adjustment of the
6 support obligation by issuing a notice of determination to the
7 parties regarding the agency's decision to affirm the
8 administrative adjustment; or

9 (2) withdraw the administrative adjustment of the
10 support obligation by filing a notice with the court of continuing,
11 exclusive jurisdiction withdrawing the administrative adjustment
12 and issuing a notice of determination to the parties regarding the
13 agency's decision to withdraw the administrative adjustment.

14 (e) Not later than the 30th day after a party receives
15 notice under Subsection (d)(1), the party may file a motion
16 requesting a hearing with the court of continuing, exclusive
17 jurisdiction to contest the Title IV-D agency's administrative
18 adjustment of the support obligation. The administrative
19 adjustment remains in effect until:

20 (1) the agency files a notice with the court of
21 continuing, exclusive jurisdiction withdrawing the administrative
22 adjustment; or

23 (2) the court renders an order regarding the
24 administrative adjustment.

25 (f) If a party to a support order does not file a motion
26 requesting a hearing with the court of continuing, exclusive
27 jurisdiction within the time prescribed by Subsection (e), the

1 Title IV-D agency shall file an administrative adjustment order
2 with the court of continuing, exclusive jurisdiction and shall
3 attach to the order a copy of the notice of determination issued
4 under Subsection (d)(1). The order must state the amount of the
5 obligor's adjusted support obligation during incarceration and the
6 effective date of the administrative adjustment. The court shall
7 sign the order not later than the seventh day after the date the
8 order is filed. On expiration of the seventh day after the date the
9 order is filed, the order is considered confirmed by the court by
10 operation of law, regardless of whether the court has signed the
11 order.

12 Sec. 231.1017. MODIFICATION OF SUPPORT OBLIGATION AFTER
13 OBLIGOR'S RELEASE FROM INCARCERATION. In a Title IV-D case, on the
14 release of an obligor whose support obligations were
15 administratively adjusted during incarceration under Section
16 231.1015, the Title IV-D agency shall review the obligor's support
17 order as provided by Section 231.101 to determine if modification
18 is necessary and may proceed under Chapter 156 or Chapter 233.

19 SECTION 4. Sections 231.103(a) and (c), Family Code, are
20 amended to read as follows:

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

22 (1) charge a reasonable application fee;

23 (2) charge an [~~a~~ \$25] annual service fee; and

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

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

1 SECTION 5. Section 233.021(c), Family Code, is amended to
2 read as follows:

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

8 SECTION 6. Section 233.024(a), Family Code, is amended to
9 read as follows:

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

18 SECTION 7. (a) The changes in law made by Section
19 231.002(e), Family Code, as amended by this Act, and Sections
20 231.1015, 231.1016, and 231.1017, Family Code, as added by this
21 Act, apply to a child support order regardless of whether the order
22 was rendered before, on, or after the effective date of this Act.

23 (b) The change in law made by this Act described by
24 Subsection (a) of this section constitutes a material and
25 substantial change of circumstances under Section 156.401, Family
26 Code, sufficient to warrant modification of a court order or a
27 portion of a decree that provides for the support of a child

1 rendered before the effective date of this Act.

2 SECTION 8. The change in law made by this Act to Section
3 233.021(c), Family Code, applies only to a petition for
4 confirmation of a nonagreed order filed on or after the effective
5 date of this Act. A petition filed before the effective date of
6 this Act is governed by the law in effect on the date the petition
7 was filed, and the former law is continued in effect for that
8 purpose.

9 SECTION 9. The change in law made by this Act to Section
10 233.024(a), Family Code, applies only to an agreed child support
11 review order filed on or after the effective date of this Act. An
12 order filed before the effective date of this Act is governed by the
13 law in effect on the date the order was filed, and the former law is
14 continued in effect for that purpose.

15 SECTION 10. This Act takes effect September 1, 2019.