87R22420 EAS-D

By:  West S.B. No. 286

(Neave)

Substitute the following for S.B. No. 286:

By:  Neave C.S.S.B. No. 286

A BILL TO BE ENTITLED

AN ACT

relating to suits affecting the parent-child relationship and child support, including the payment of spousal maintenance by an obligor ordered to pay child support and the disclaimer of a property interest by a child support obligor.

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

SECTION 1.  Subchapter B, Chapter 8, Family Code, is amended by adding Section 8.062 to read as follows:

Sec. 8.062.  PLACE OF PAYMENT. If an obligor is ordered to pay an obligee maintenance under this chapter and child support under Chapter 154, the court shall order the payment of maintenance to the state disbursement unit as provided by Chapter 234.

SECTION 2.  Subchapter B, Chapter 154, Family Code, is amended by adding Section 154.0655 to read as follows:

Sec. 154.0655.  IMPUTATION OF INCOME. (a) In this section, "resources" has the meaning assigned by Section 154.062(b).

(b)  To the extent possible, the court shall rely on evidence of a party's resources when applying the support guidelines.

(c)  In the absence of evidence of a party's resources, the court, when applying Section 154.066 or 154.068, shall consider relevant background circumstances regarding the obligor, including:

(1)  the obligor's:

(A)  assets;

(B)  residence;

(C)  employment;

(D)  earnings history;

(E)  job skills;

(F)  educational attainment;

(G)  literacy;

(H)  age;

(I)  health;

(J)  criminal history;

(K)  barriers to employment; and

(L)  record of seeking work;

(2)  job opportunities in the obligor's community;

(3)  the prevailing wage in the obligor's community; and

(4)  whether there are employers willing to hire the obligor.

SECTION 3.  Section 154.066, Family Code, is amended by adding Subsection (c) to read as follows:

(c)  The court may not consider incarceration as intentional unemployment or underemployment when establishing or modifying a support order.

SECTION 4.  Section 154.125, Family Code, is amended to read as follows:

Sec. 154.125.  APPLICATION OF GUIDELINES TO NET RESOURCES. (a) The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than the maximum amount of net resources to which the statutory guidelines are applicable, as most recently published by the Title IV-D agency in the Texas Register [~~$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater~~].

(a-1)  The [~~dollar~~] amount prescribed by Subsection (a) is adjusted every six years as necessary to reflect inflation. The Title IV-D agency shall compute the adjusted amount, to take effect beginning September 1 of the year of the adjustment, based on the percentage change in the consumer price index during the 72-month period preceding March 1 of the year of the adjustment, as rounded to the nearest $50 increment. The Title IV-D agency shall publish the adjusted amount in the Texas Register before September 1 of the year in which the adjustment takes effect. For purposes of this subsection, "consumer price index" has the meaning assigned by Section 341.201, Finance Code.

(b)  If the obligor's monthly net resources are not greater than the amount described [~~provided~~] by Subsection (a) and the obligor's monthly net resources are equal to or greater than the amount described by Subsection (c), the court shall presumptively apply the following schedule in rendering the child support order:

CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

1 child               20% of Obligor's Net Resources

2 children            25% of Obligor's Net Resources

3 children            30% of Obligor's Net Resources

4 children            35% of Obligor's Net Resources

5 children            40% of Obligor's Net Resources

6+ children           Not less than the amount for 5 children

(c)  If the obligor's monthly net resources are less than $1,000, the court shall presumptively apply the following schedule in rendering the child support order:

LOW-INCOME CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

1 child               15% of Obligor's Net Resources

2 children            20% of Obligor's Net Resources

3 children            25% of Obligor's Net Resources

4 children            30% of Obligor's Net Resources

5 children            35% of Obligor's Net Resources

6+ children           Not less than the amount for 5 children

SECTION 5.  Section 154.129, Family Code, is amended to read as follows:

Sec. 154.129.  ALTERNATIVE METHOD OF COMPUTING SUPPORT FOR CHILDREN IN MORE THAN ONE HOUSEHOLD. (a) If the obligor's monthly net resources are not greater than the amount described by Section 154.125(a) and if the obligor's monthly net resources are equal to or greater than the amount described by Section 154.125(c), in [~~In~~] lieu of performing the computation under the preceding section, the court may determine the child support amount for the children before the court by applying the percentages in the table below to the obligor's net resources:

MULTIPLE FAMILY ADJUSTED GUIDELINES

(% OF NET RESOURCES)

Number of children before the court

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Number of | 0 | 20.00 | 25.00 | 30.00 | 35.00 | 40.00 | 40.00 | 40.00 |
| other | 1 | 17.50 | 22.50 | 27.38 | 32.20 | 37.33 | 37.71 | 38.00 |
| children for | 2 | 16.00 | 20.63 | 25.20 | 30.33 | 35.43 | 36.00 | 36.44 |
| whom the | 3 | 14.75 | 19.00 | 24.00 | 29.00 | 34.00 | 34.67 | 35.20 |
| obligor | 4 | 13.60 | 18.33 | 23.14 | 28.00 | 32.89 | 33.60 | 34.18 |
| has a | 5 | 13.33 | 17.86 | 22.50 | 27.22 | 32.00 | 32.73 | 33.33 |
| duty of | 6 | 13.14 | 17.50 | 22.00 | 26.60 | 31.27 | 32.00 | 32.62 |
| support | 7 | 13.00 | 17.22 | 21.60 | 26.09 | 30.67 | 31.38 | 32.00 |

(b)  If the obligor's monthly net resources are less than the amount described by Section 154.125(c), in lieu of performing the computation under the preceding section, the court may determine the child support amount for the children before the court by applying the percentages in the table below to the obligor's net resources:

LOW-INCOME MULTIPLE FAMILY ADJUSTED GUIDELINES

(% OF NET RESOURCES)

Number of children before the court

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Number of | 0 | 15.00 | 20.00 | 25.00 | 30.00 | 35.00 | 35.00 | 35.00 |
| other | 1 | 13.50 | 18.33 | 23.13 | 27.90 | 32.96 | 33.25 | 33.47 |
| children for | 2 | 12.50 | 17.00 | 21.50 | 26.50 | 31.50 | 31.94 | 32.28 |
| whom the | 3 | 11.63 | 15.80 | 20.63 | 25.50 | 30.41 | 30.92 | 31.33 |
| obligor | 4 | 10.80 | 15.33 | 20.00 | 24.75 | 29.56 | 30.10 | 30.55 |
| has a | 5 | 10.63 | 15.00 | 19.53 | 24.17 | 28.88 | 29.43 | 29.90 |
| duty of | 6 | 10.50 | 14.75 | 19.17 | 23.70 | 28.32 | 28.88 | 29.35 |
| support | 7 | 10.41 | 14.56 | 18.88 | 23.32 | 27.85 | 28.40 | 28.88 |

SECTION 6.  Section 156.401, Family Code, is amended by adding Subsection (c-1) to read as follows:

(c-1)  Incarceration of a child support obligor in a local, state, or federal jail or prison for a period exceeding 180 days is a material and substantial change of circumstances for the purposes of this section.

SECTION 7.  Section 157.005(b), Family Code, is amended to read as follows:

(b)  The court retains jurisdiction to confirm the total amount of child support, medical support, and dental support arrearages and render [~~a~~] cumulative money judgments [~~judgment~~] for past-due child support, medical support, and dental support, as provided by Section 157.263, if a motion for enforcement requesting a [~~cumulative~~] money judgment is filed not later than the 10th anniversary after the date:

(1)  the child becomes an adult; or

(2)  on which the child support obligation terminates under the child support order or by operation of law.

SECTION 8.  Section 157.263, Family Code, is amended by amending Subsections (a), (b), and (b-1) and adding Subsections (b-2) and (b-3) to read as follows:

(a)  If a motion for enforcement of child support requests a money judgment for arrearages, the court shall confirm the amount of arrearages and render [~~one~~] cumulative money judgments as follows:

(1)  a cumulative money judgment for the amount of child support owed under Subsection (b);

(2)  a cumulative money judgment for the amount of medical support owed under Subsection (b-1); and

(3)  a cumulative money judgment for the amount of dental support owed under Subsection (b-2) [~~judgment~~].

(b)  A cumulative money judgment for the amount of child support owed includes:

(1)  unpaid child support not previously confirmed;

(2)  the balance owed on previously confirmed child support arrearages or lump sum or retroactive child support judgments;

(3)  interest on the child support arrearages; and

(4)  a statement that it is a cumulative judgment for the amount of child support owed.

(b-1)  A cumulative money judgment for the amount of medical support owed includes:

(1)  unpaid medical support not previously confirmed;

(2)  the balance owed on previously confirmed medical support arrearages or lump sum or retroactive medical support judgments;

(3)  interest on the medical support arrearages; and

(4)  a statement that it is a cumulative judgment for the amount of medical support owed.

(b-2)  A cumulative money judgment for the amount of dental support owed includes:

(1)  unpaid dental support not previously confirmed;

(2)  the balance owed on previously confirmed dental support arrearages or lump sum or retroactive dental support judgments;

(3)  interest on the dental support arrearages; and

(4)  a statement that it is a cumulative judgment for the amount of dental support owed.

(b-3)  In rendering a money judgment under this section, the court may not reduce or modify the amount of child support, medical support, or dental support arrearages but, in confirming the amount of arrearages, may allow a counterclaim or offset as provided by this title.

SECTION 9.  Section 159.605(b), Family Code, is amended to read as follows:

(b)  A notice must inform the nonregistering party:

(1)  that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2)  that a hearing to contest the validity or enforcement of the registered order must be requested within 30 [~~20~~] days after notice unless the registered order is under Section 159.707;

(3)  that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4)  of the amount of any alleged arrearages.

SECTION 10.  Section 234.007(a), Family Code, is amended to read as follows:

(a)  A court that orders a party to pay [~~income to be withheld for~~] child support under a temporary or final order shall order that all [~~income ordered withheld for~~] child support payments [~~shall~~] be paid through [~~to~~] the state disbursement unit, including any child support that the court orders an employer to withhold from the income of the obligor.

SECTION 11.  Section 240.009, Property Code, is amended by adding Subsection (e) to read as follows:

(e)  A disclaimer of an interest in property made by an individual must contain a statement under penalty of perjury regarding whether the disclaimant is a child support obligor whose disclaimer is barred under Section 240.151(g). An individual's failure to include the statement does not invalidate a disclaimer if the disclaimer is not barred under Section 240.151(g).

SECTION 12.  The enactment of this Act does not constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for the support of a child rendered before the effective date of this Act.

SECTION 13.  (a) Section 8.062, Family Code, as added by this Act, applies only to a maintenance order rendered on or after the effective date of this Act. A maintenance order rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

(b)  Notwithstanding Subsection (a) of this section, an obligor subject to a maintenance order rendered before the effective date of this Act may choose to remit maintenance payments to the state disbursement unit as provided by Chapter 234, Family Code, and the state disbursement unit shall accept those payments.

SECTION 14.  Section 154.0655, Family Code, as added by this Act, and Section 154.066, Family Code, as amended by this Act, apply only to a proceeding to establish or modify a child support obligation that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 15.  The changes in law made by this Act to Sections 154.125 and 154.129, Family Code, apply to a suit affecting the parent-child relationship that is filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect on the date the suit is filed, and the former law is continued in effect for that purpose.

SECTION 16.  Section 156.401, Family Code, as amended by this Act, applies only to a suit for modification of a child support order that is filed on or after the effective date of this Act. A suit for modification that is filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 17.  Section 157.263, Family Code, as amended by this Act, applies only to a cumulative money judgment rendered on or after the effective date of this Act. A judgment rendered before the effective date of this Act is governed by the law in effect at the time the judgment was rendered, and the former law is continued in effect for that purpose.

SECTION 18.  Section 159.605, Family Code, as amended by this Act, applies only to a support order or income-withholding order issued by a court of another state that is registered in this state on or after the effective date of this Act. A support order or income-withholding order that is registered in this state before the effective date of this Act is governed by the law in effect on the date the order was registered, and the former law is continued in effect for that purpose.

SECTION 19.  Section 240.009, Property Code, as amended by this Act, applies only to a disclaimer made on or after the effective date of this Act. A disclaimer made before the effective date of this Act is governed by the law in effect at the time the disclaimer was made, and the former law is continued in effect for that purpose.

SECTION 20.  This Act takes effect September 1, 2021.