

1-1 By: West S.B. No. 286
 1-2 (In the Senate - Filed January 5, 2021; March 3, 2021, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 20, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 20, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 286 By: Schwertner

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to suits affecting the parent-child relationship and the
 1-22 calculation and enforcement of child support.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter B, Chapter 8, Family Code, is amended
 1-25 by adding Section 8.062 to read as follows:

1-26 Sec. 8.062. PLACE OF PAYMENT. If an obligor is ordered to
 1-27 pay an obligee maintenance under this chapter and child support
 1-28 under Chapter 154, the court shall order the payment of maintenance
 1-29 to the state disbursement unit as provided by Chapter 234.

1-30 SECTION 2. Subchapter B, Chapter 154, Family Code, is
 1-31 amended by adding Section 154.0655 to read as follows:

1-32 Sec. 154.0655. IMPUTATION OF INCOME. (a) In this section,
 1-33 "resources" has the meaning assigned by Section 154.062(b).

1-34 (b) To the extent possible, the court shall rely on evidence
 1-35 of a party's resources when applying the support guidelines.

1-36 (c) In the absence of evidence of a party's resources, the
 1-37 court, when applying Section 154.066 or 154.068, shall consider
 1-38 relevant background circumstances regarding the obligor,
 1-39 including:

- 1-40 (1) the obligor's:
 - 1-41 (A) assets;
 - 1-42 (B) residence;
 - 1-43 (C) employment;
 - 1-44 (D) earnings history;
 - 1-45 (E) job skills;
 - 1-46 (F) educational attainment;
 - 1-47 (G) literacy;
 - 1-48 (H) age;
 - 1-49 (I) health;
 - 1-50 (J) criminal history;
 - 1-51 (K) barriers to employment; and
 - 1-52 (L) record of seeking work;
- 1-53 (2) job opportunities in the obligor's community;
- 1-54 (3) the prevailing wage in the obligor's community;
- 1-55 and
- 1-56 (4) whether there are employers willing to hire the
 1-57 obligor.

1-58 SECTION 3. Section 154.066, Family Code, is amended by
 1-59 adding Subsection (c) to read as follows:

1-60 (c) The court may not consider incarceration as intentional

2-1 unemployment or underemployment when establishing or modifying a
2-2 support order.

2-3 SECTION 4. Section 154.125, Family Code, is amended to read
2-4 as follows:

2-5 Sec. 154.125. APPLICATION OF GUIDELINES TO NET RESOURCES.

2-6 (a) The guidelines for the support of a child in this section are
2-7 specifically designed to apply to situations in which the obligor's
2-8 monthly net resources are not greater than the maximum amount of net
2-9 resources to which the statutory guidelines are applicable, as most
2-10 recently published by the Title IV-D agency in the Texas Register
2-11 [\$7,500 or the adjusted amount determined under Subsection (a-1),
2-12 whichever is greater].

2-13 (a-1) The [~~dollar~~] amount prescribed by Subsection (a) is
2-14 adjusted every six years as necessary to reflect inflation. The
2-15 Title IV-D agency shall compute the adjusted amount, to take effect
2-16 beginning September 1 of the year of the adjustment, based on the
2-17 percentage change in the consumer price index during the 72-month
2-18 period preceding March 1 of the year of the adjustment, as rounded
2-19 to the nearest \$50 increment. The Title IV-D agency shall publish
2-20 the adjusted amount in the Texas Register before September 1 of the
2-21 year in which the adjustment takes effect. For purposes of this
2-22 subsection, "consumer price index" has the meaning assigned by
2-23 Section 341.201, Finance Code.

2-24 (b) If the obligor's monthly net resources are not greater
2-25 than the amount described [~~provided~~] by Subsection (a) and the
2-26 obligor's monthly net resources are equal to or greater than the
2-27 amount described by Subsection (c), the court shall presumptively
2-28 apply the following schedule in rendering the child support order:

2-29 CHILD SUPPORT GUIDELINES

2-30 BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

2-31	1 child	20% of Obligor's Net Resources
2-32	2 children	25% of Obligor's Net Resources
2-33	3 children	30% of Obligor's Net Resources
2-34	4 children	35% of Obligor's Net Resources
2-35	5 children	40% of Obligor's Net Resources
2-36	6+ children	Not less than the amount for 5 children

2-37 (c) If the obligor's monthly net resources are less than
2-38 \$1,000, the court shall presumptively apply the following schedule
2-39 in rendering the child support order:

2-40 LOW-INCOME CHILD SUPPORT GUIDELINES

2-41 BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

2-42	1 child	15% of Obligor's Net Resources
2-43	2 children	20% of Obligor's Net Resources
2-44	3 children	25% of Obligor's Net Resources
2-45	4 children	30% of Obligor's Net Resources
2-46	5 children	35% of Obligor's Net Resources
2-47	6+ children	Not less than the amount for 5 children

2-48 SECTION 5. Section 154.129, Family Code, is amended to read
2-49 as follows:

2-50 Sec. 154.129. ALTERNATIVE METHOD OF COMPUTING SUPPORT FOR

2-51 CHILDREN IN MORE THAN ONE HOUSEHOLD. (a) If the obligor's monthly
2-52 net resources are not greater than the amount described by Section
2-53 154.125(a) and if the obligor's monthly net resources are equal to
2-54 or greater than the amount described by Section 154.125(c), in [In]
2-55 lieu of performing the computation under the preceding section, the
2-56 court may determine the child support amount for the children
2-57 before the court by applying the percentages in the table below to
2-58 the obligor's net resources:

2-59 MULTIPLE FAMILY ADJUSTED GUIDELINES

2-60 (% OF NET RESOURCES)

2-61		Number of children before the court							
2-62		1	2	3	4	5	6	7	
2-63	Number of	0	20.00	25.00	30.00	35.00	40.00	40.00	40.00
2-64	other	1	17.50	22.50	27.38	32.20	37.33	37.71	38.00
2-65	children for	2	16.00	20.63	25.20	30.33	35.43	36.00	36.44
2-66	whom the	3	14.75	19.00	24.00	29.00	34.00	34.67	35.20
2-67	obligor	4	13.60	18.33	23.14	28.00	32.89	33.60	34.18
2-68	has a	5	13.33	17.86	22.50	27.22	32.00	32.73	33.33
2-69	duty of	6	13.14	17.50	22.00	26.60	31.27	32.00	32.62

3-1 support 7 13.00 17.22 21.60 26.09 30.67 31.38 32.00
 3-2 (b) If the obligor's monthly net resources are less than the
 3-3 amount described by Section 154.125(c), in lieu of performing the
 3-4 computation under the preceding section, the court may determine
 3-5 the child support amount for the children before the court by
 3-6 applying the percentages in the table below to the obligor's net
 3-7 resources:

3-8 LOW-INCOME MULTIPLE FAMILY ADJUSTED GUIDELINES
 3-9 (% OF NET RESOURCES)

	Number of children before the court							
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>
3-10		0	15.00	20.00	25.00	30.00	35.00	35.00
3-11		1	13.50	18.33	23.13	27.90	32.96	33.47
3-12	Number of	2	12.50	17.00	21.50	26.50	31.50	31.94
3-13	other	3	11.63	15.80	20.63	25.50	30.41	30.92
3-14	children for	4	10.80	15.33	20.00	24.75	29.56	30.10
3-15	whom the	5	10.63	15.00	19.53	24.17	28.88	29.43
3-16	obligor	6	10.50	14.75	19.17	23.70	28.32	28.88
3-17	has a	7	10.41	14.56	18.88	23.32	27.85	28.40
3-18	duty of							
3-19	support							

3-20 SECTION 6. Section 156.401, Family Code, is amended by
 3-21 adding Subsection (c-1) to read as follows:

3-22 (c-1) Incarceration of a child support obligor in a local,
 3-23 state, or federal jail or prison for a period exceeding 180 days is
 3-24 a material and substantial change of circumstances for the purposes
 3-25 of this section.

3-26 SECTION 7. Section 157.005(b), Family Code, is amended to
 3-27 read as follows:

3-28 (b) The court retains jurisdiction to confirm the total
 3-29 amount of child support, medical support, and dental support
 3-30 arrearages and render [a] cumulative money judgments [judgment] for
 3-31 past-due child support, medical support, and dental support, as
 3-32 provided by Section 157.263, if a motion for enforcement requesting
 3-33 a [cumulative] money judgment is filed not later than the 10th
 3-34 anniversary after the date:

- 3-35 (1) the child becomes an adult; or
- 3-36 (2) on which the child support obligation terminates
- 3-37 under the child support order or by operation of law.

3-38 SECTION 8. Section 157.263, Family Code, is amended by
 3-39 amending Subsections (a), (b), and (b-1) and adding Subsections
 3-40 (b-2) and (b-3) to read as follows:

3-41 (a) If a motion for enforcement of child support requests a
 3-42 money judgment for arrearages, the court shall confirm the amount
 3-43 of arrearages and render [one] cumulative money judgments as
 3-44 follows:

- 3-45 (1) a cumulative money judgment for the amount of
- 3-46 child support owed under Subsection (b);
- 3-47 (2) a cumulative money judgment for the amount of
- 3-48 medical support owed under Subsection (b-1); and
- 3-49 (3) a cumulative money judgment for the amount of
- 3-50 dental support owed under Subsection (b-2) [judgment].

3-51 (b) A cumulative money judgment for the amount of child
 3-52 support owed includes:

- 3-53 (1) unpaid child support not previously confirmed;
- 3-54 (2) the balance owed on previously confirmed child
- 3-55 support arrearages or lump sum or retroactive child support
- 3-56 judgments;
- 3-57 (3) interest on the child support arrearages; and
- 3-58 (4) a statement that it is a cumulative judgment for
- 3-59 the amount of child support owed.

3-60 (b-1) A cumulative money judgment for the amount of medical
 3-61 support owed includes:

- 3-62 (1) unpaid medical support not previously confirmed;
- 3-63 (2) the balance owed on previously confirmed medical
- 3-64 support arrearages or lump sum or retroactive medical support
- 3-65 judgments;
- 3-66 (3) interest on the medical support arrearages; and
- 3-67 (4) a statement that it is a cumulative judgment for
- 3-68 the amount of medical support owed.

3-69 (b-2) A cumulative money judgment for the amount of dental

4-1 support owed includes:

- 4-2 (1) unpaid dental support not previously confirmed;
 4-3 (2) the balance owed on previously confirmed dental
 4-4 support arrearages or lump sum or retroactive dental support
 4-5 judgments;
 4-6 (3) interest on the dental support arrearages; and
 4-7 (4) a statement that it is a cumulative judgment for
 4-8 the amount of dental support owed.

4-9 (b-3) In rendering a money judgment under this section, the
 4-10 court may not reduce or modify the amount of child support, medical
 4-11 support, or dental support arrearages but, in confirming the amount
 4-12 of arrearages, may allow a counterclaim or offset as provided by
 4-13 this title.

4-14 SECTION 9. Section 159.605(b), Family Code, is amended to
 4-15 read as follows:

4-16 (b) A notice must inform the nonregistering party:

4-17 (1) that a registered order is enforceable as of the
 4-18 date of registration in the same manner as an order issued by a
 4-19 tribunal of this state;

4-20 (2) that a hearing to contest the validity or
 4-21 enforcement of the registered order must be requested within 30
 4-22 [~~20~~] days after notice unless the registered order is under Section
 4-23 159.707;

4-24 (3) that failure to contest the validity or
 4-25 enforcement of the registered order in a timely manner will result
 4-26 in confirmation of the order and enforcement of the order and the
 4-27 alleged arrearages; and

4-28 (4) of the amount of any alleged arrearages.

4-29 SECTION 10. Section 234.007(a), Family Code, is amended to
 4-30 read as follows:

4-31 (a) A court that orders a party to pay [~~income to be withheld~~
 4-32 ~~for~~] child support under a temporary or final order shall order that
 4-33 all [~~income ordered withheld for~~] child support payments [~~shall~~] be
 4-34 paid through [~~to~~] the state disbursement unit, including any child
 4-35 support that the court orders an employer to withhold from the
 4-36 income of the obligor.

4-37 SECTION 11. Section 240.009, Property Code, is amended by
 4-38 adding Subsection (e) to read as follows:

4-39 (e) A disclaimer of an interest in property made by an
 4-40 individual must contain a sworn statement regarding whether the
 4-41 disclaimant is a child support obligor whose disclaimer is barred
 4-42 under Section 240.151(g).

4-43 SECTION 12. The enactment of this Act does not constitute a
 4-44 material and substantial change of circumstances sufficient to
 4-45 warrant modification of a court order or portion of a decree that
 4-46 provides for the support of a child rendered before the effective
 4-47 date of this Act.

4-48 SECTION 13. (a) Section 8.062, Family Code, as added by this
 4-49 Act, applies only to a maintenance order rendered on or after the
 4-50 effective date of this Act. A maintenance order rendered before the
 4-51 effective date of this Act is governed by the law in effect on the
 4-52 date the order was rendered, and the former law is continued in
 4-53 effect for that purpose.

4-54 (b) Notwithstanding Subsection (a) of this section, an
 4-55 obligor subject to a maintenance order rendered before the
 4-56 effective date of this Act may choose to remit maintenance payments
 4-57 to the state disbursement unit as provided by Chapter 234, Family
 4-58 Code, and the state disbursement unit shall accept those payments.

4-59 SECTION 14. Section 154.0655, Family Code, as added by this
 4-60 Act, and Section 154.066, Family Code, as amended by this Act, apply
 4-61 only to a proceeding to establish or modify a child support
 4-62 obligation that is pending in a trial court on or filed on or after
 4-63 the effective date of this Act.

4-64 SECTION 15. The changes in law made by this Act to Sections
 4-65 154.125 and 154.129, Family Code, apply to a suit affecting the
 4-66 parent-child relationship that is filed on or after the effective
 4-67 date of this Act. A suit filed before the effective date of this Act
 4-68 is governed by the law in effect on the date that the suit is filed,
 4-69 and the former law is continued in effect for that purpose.

5-1 SECTION 16. Section 156.401, Family Code, as amended by
5-2 this Act, applies only to a suit for modification of a child support
5-3 order that is filed on or after the effective date of this Act. A
5-4 suit for modification that is filed before the effective date of
5-5 this Act is governed by the law in effect on the date the suit was
5-6 filed, and the former law is continued in effect for that purpose.

5-7 SECTION 17. Section 157.263, Family Code, as amended by
5-8 this Act, applies only to a cumulative money judgment rendered on or
5-9 after the effective date of this Act. A judgment rendered before
5-10 the effective date of this Act is governed by the law in effect at
5-11 the time the judgment was rendered, and the former law is continued
5-12 in effect for that purpose.

5-13 SECTION 18. Section 159.605, Family Code, as amended by
5-14 this Act, applies only to a support order or income-withholding
5-15 order issued by a court of another state that is registered in this
5-16 state on or after the effective date of this Act. A support order or
5-17 income-withholding order that is registered in this state before
5-18 the effective date of this Act is governed by the law in effect on
5-19 the date the order was registered, and the former law is continued
5-20 in effect for that purpose.

5-21 SECTION 19. Section 240.009, Property Code, as amended by
5-22 this Act, applies only to a disclaimer made on or after the
5-23 effective date of this Act. A disclaimer made before the effective
5-24 date of this Act is governed by the law in effect at the time the
5-25 disclaimer was made, and the former law is continued in effect for
5-26 that purpose.

5-27 SECTION 20. This Act takes effect September 1, 2021.

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