

## **BILL ANALYSIS**

C.S.H.B. 3446  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, a parent may be required to provide financial support for their adult child for an indefinite period if their child is incapable of self-support and requires substantial care and personal supervision because of a mental or physical disability existing on or before the child's eighteenth birthday. However, the statutes concerning this support lack clearly defined standards for making the relevant factual determinations and revisiting them in modification proceedings. Ill-defined standards lead to inconsistent treatment and in some cases injustice. Guidance is necessary because support obligations for parents of an individual with a disability can result in lifelong financial burdens. C.S.H.B. 3446 seeks to provide clear uniform standards regarding financial support for an adult with a disability by defining disability and requiring medical proof of a disability. It also limits support until the age of 21 or for three years if the adult is 21 or older.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3446 amends the Family Code to remove the authorization for a court to order either or both parents to provide for the support of a child for an indefinite period if the child requires substantial care and personal supervision because of a disability and will not be capable of self-support, and the disability exists, or the cause of the disability is known to exist, on or before the child's 18th birthday. The bill provides instead for parental financial support for adults with a medically determinable disability. Specifically, the bill authorizes a court to order either or both parents of the adult to provide for the financial support of that adult until the adult reaches 21 years of age or for a period of three years if the adult is 21 years of age or older. The bill authorizes the court to determine the rights and duties of the parents if the court identifies competent evidence in the record, including medical evidence, and finds the following:

- that the adult, whether institutionalized or not, has a medically determinable disability and requires substantial care and personal supervision and, considering the adult's age, education, skills, and work experience, cannot engage in any kind of substantial gainful work; and
- the medically determinable disability exists on or before the adult's 18th birthday.

The bill requires a court to order a medical examination of an adult before making a finding of a medically determinable disability and to order both parents to share the cost of the examination equally. An appeal of a final judgment for the support order is an accelerated appeal and must

be decided by a court of appeals not later than the 180th day after the date a notice of appeal is filed.

C.S.H.B. 3446 revises existing provisions applicable to support for a disabled child, including provisions relating to possession of or access to an adult disabled child, to reflect the change to financial support for adults with medically determinable disabilities. The bill prohibits the Title IV-D agency, which is the Office of the Attorney General, from enforcing payment of such financial support and makes related conforming changes. The bill requires a court to order that financial support payable to a designated recipient be paid directly to that recipient and prohibits the court from ordering the financial support to be paid to the state disbursement unit.

C.S.H.B. 3446 authorizes either parent to file a motion for termination of an order for support for an indefinite period rendered under the law as it existed before September 1, 2023, if the adult who is the subject of the order has attained a postsecondary education, acquired skills to be gainfully employed, has an employment history of more than six months, is able to perform living functions on the adult's own, does not receive continuous medical treatment for a disability, or does not require substantial care and personal supervision. The bill requires the court to make a determination on the motion by a preponderance of the evidence.

C.S.H.B. 3446 applies to a suit for the financial support of an adult with a medically determinable disability filed on or after the bill's effective date. The bill establishes that the change in law made by the bill does not itself 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 financial support of an adult with a medically determinable disability rendered before the bill's effective date.

C.S.H.B. 3446 defines the following terms for purposes of provisions relating to financial support for an adult with a medically determinable disability:

- "disability" means:
  - the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months; and
  - the impairment is of such severity that the adult is unable to do work previously performed by the adult and, considering the adult's age, education, skills, and work experience, is unable to engage in any other kind of substantial gainful work that exists in the national economy;
- "personal supervision" means guidance and instruction by someone who is physically present and in such proximity that visual contact can be maintained and immediate assistance given when required; and
- "substantial" means ample or sustaining.

### **EFFECTIVE DATE**

September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 3446 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision not in the introduced that requires the court to order that financial support payable to a designated recipient be paid directly to that recipient and prohibits the court from ordering the financial support to be paid through the state disbursement unit.

The substitute includes a provision not in the introduced prohibiting the Title IV-D agency from enforcing payment of financial support for an adult with a medically determinable disability and makes changes conforming to that prohibition that also did not appear in the introduced.

Both the introduced and the substitute authorize a parent to file a motion for termination of an order for support for an indefinite period rendered under existing law under certain conditions, but the substitute includes a provision not in the introduced requiring the court to make a determination on the motion by a preponderance of the evidence.