

BILL ANALYSIS

C.S.S.B. 590
By: Hughes
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, there is no legal mechanism for obtaining prenatal support before the child is born. Additionally, even after the child is born, a court is not required to order prenatal and postnatal support even when a mother has requested, on the record, this type of support and has provided evidence of the expenses. The mother is solely responsible for maternity costs and any health care-related expenses stemming from the delivery of a child. Rising health care costs associated with childbirth make this disparity between mothers and fathers even more glaring. C.S.S.B. 590 seeks to address this need by providing for retroactive child support to begin on the date of the child's conception and for the reimbursement to the woman for an equitable portion of all prenatal and postnatal health care expenses.

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.S.B. 590 amends the Family Code to establish that it is presumed to be reasonable and in the best interest of a child for a court, in determining the amount of any retroactive child support, to order the support for the child beginning on the earliest possible date of the child's conception as determined by the following:

- a physician using standard medical practice, defined by reference as the degree of skill, care, and diligence that an obstetrician of ordinary judgment, learning, and skill would employ in like circumstances; or
- a preponderance of other evidence presented to the court, including the testimony of a parent of the child.

The bill authorizes the court to order the obligor, on a proper showing, to pay, as additional retroactive child support, an equitable portion of all prenatal and postnatal health care expenses of the mother and the child. The bill requires the court to confirm the amount of retroactive child support and render a cumulative money judgment for the total amount of retroactive child support owed.

C.S.S.B. 590 replaces the authorization for a court, on a finding of parentage with respect to a father of a child, to order retroactive child support and, on a proper showing, to order a party to pay an equitable portion of all of the prenatal and postnatal health care expenses of the mother and the child with the requirement for a court, if it renders an order under the Uniform Parentage Act establishing a child support obligation of a man whose paternity has been established by the

execution of a valid, voluntary acknowledgment of paternity in regard to the child, to order retroactive child support on the request of a party and on a proper showing. Accordingly, the bill repeals the requirement for a court, in rendering an order for retroactive child support, to use the child support guidelines, together with any relevant factors.

C.S.S.B. 590 applies only to an order adjudicating paternity rendered on or after the bill's effective date. An order adjudicating paternity rendered before that date is governed by the law in effect on the date the order is rendered, and the former law is continued in effect for that purpose. The bill applies only to an acknowledgment of paternity executed on or after the bill's effective date. An acknowledgment of paternity executed before that date is governed by the law in effect on the date the acknowledgment is executed, and the former law is continued in effect for that purpose.

C.S.S.B. 590 repeals Section 160.636(h), Family Code.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 590 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a provision absent from the engrossed limiting the authorization for a presumption relating to child support guidelines to be rebutted by certain evidence regarding the obligor to the presumption that a court order limiting the amount of retroactive child support to an amount that does not exceed the total amount of support that would have been due for the four years preceding the date the petition seeking support was filed is reasonable and in the best interest of the child.