

SUBJECT: Direct support payments to adult disabled children, custodians, guardians

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Goodman, Staples, McReynolds, Naishtat, A. Reyna

0 nays

4 absent — J. Jones, McClendon, Smith, Williams

SENATE VOTE: On final passage, Local and Uncontested Calendar, March 13 — 31-0

WITNESSES: None

BACKGROUND : The Family Code authorizes a court to order either or both parents to provide for the support of a disabled child for an indefinite period. This applies to children, whether institutionalized or not, who require substantial care and personal supervision because of a mental or physical disability and will not be capable of self-support. The disability must exist, or the cause of the disability must be known to exist, on or before the 18th birthday of the child. Only a parent of the child may file suit to establish, modify or enforce a support order for a disabled child. The parent may not transfer or assign the cause of action to any person, including a governmental or private entity or agency, except for an assignment made to the state child support agency.

DIGEST: CSSB 497 would require a court that orders support for a disabled child to designate a parent of the child or another person having physical custody or guardianship of the child under a court order to receive the support for the child. The court could designate a child who is 18 years of age or older to receive the support directly.

The bill would expand the persons who could file suit to establish, modify or enforce a support order for a disabled child to include another person having physical custody or guardianship of the child under a court order or the child, if the child is 18 years or older. The child or other person would also be prohibited from transferring or assigning the cause of action.

CSSB 497 would take effect September 1, 1997.

SUPPORTERS SAY: CSSB 497 would make it clear that a person other than a parent may receive court-ordered support for an adult disabled child. In many cases, the custody and care of an adult disabled child are undertaken by a grandparent or another relative. In other cases, adult disabled children are capable take care of themselves. CSSB 497 would ensure that a court could order support payments to be made directly to an adult disabled child or a disabled child's caretaker with physical custody or guardianship.

The bill would also enable an adult disabled child or a person with physical custody or guardianship of a disabled child to file suit to establish, modify or enforce court-ordered support. This would help adult disabled children to receive the support they need and cannot provide for themselves to meet costs of living and care.

OPPONENTS SAY: No apparent opposition.

NOTES: The committee substitute removed references to "entities" from the bill provisions addressing standing to sue and transfer or assignment of a cause of action.