

SUBJECT: Credit for disability payments to children in determining child support

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 8 ayes — Goodman, Pickett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna, Truitt

0 nays

1 absent — Isett

WITNESSES: For — None

Against — None

BACKGROUND: The Texas Family Code lists several factors to be considered when a court determines the amount of child support. Disability benefits paid to or for the child based on the disability of the parent who pays child support (the obligor) are not listed specifically as relevant factors. However, the Family Code does provide that all relevant factors should be considered. Disability payments may be considered under the factor “any financial resources available for the support of the child” in Sec. 154.123(b)(3).

DIGEST: HB 2059 would revise the determination of child support payments by obligors who are disabled and required to pay child support for a child who receives disability benefits as a result of the obligor’s disability. The bill would require courts first to apply the guidelines for determining child support payments and decide on the payment amount, then to subtract from that amount any disability benefits paid to or for the child as a result of the obligor’s disability.

HB 2059 would take effect September 1, 1999, and apply to suits affecting the parent-child relationship filed on or after that date.

SUPPORTERS SAY: HB 2059 would clarify that disability payments made to a child because of the disability of a parent owing the support should be considered by the courts when the courts are determining how much child support is owed.

Disabled parents in this situation definitely should receive full credit for payments the child receives as part of this parent's contribution to the child.

The current Family Code generally allows such payments to be considered as a factor when determinations of child support are made. But there is no requirement that the disabled parent be given full credit, or any credit at all, for such funds.

Disabled parents would not get double credit for such funds. The courts would be fully aware that disability payments would be subtracted from the child support amount, so they would not consider such payments as a factor in making their determination of the amount.

While HB 2059 might result in lower amounts of child support payments in some cases, this would only be because the particular child support payments were unfairly high because the disabled parent was not being given full credit for disability payments going to the child. Courts still would have the discretion to order a fair amount for the support of the child.

**OPPONENTS
SAY:**

By helping obligors to lower their child support payments, HB 2059 could result in less money going to children. Under HB 2059, the disability benefits would be subtracted from the amount of child support determined by the court after all the relevant factors had been considered. A parent could get double credit since the obligor could get credit for the disability payments in the initial calculation of the child support amount and then again when the disability payment was subtracted from that amount.

**OTHER
OPPONENTS
SAY:**

HB 2059 would give the parent owing child support credit for disability payments "to or for" the child. This would include payments that may go directly to the parent that are intended for the child, but there is no mechanism to ensure whether the child actually will receive these payments. The parent owing child support should not get credit for these indirect disability payments until the money actually has reached the child.