

BILL ANALYSIS

Senate Research Center
86R22127 EAS-F

C.S.S.B. 1675
By: West
State Affairs
4/2/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Child Support Division of the Office of the Attorney General is the Title IV-D agency for Texas. Title IV-D requires states to manage a public child support program. New federal rules require the Title IV-D agency to either immediately initiate a child support review or notify parties of their right to review within 15 business days of learning that a noncustodial parent will be incarcerated for more than 180 days. Incarcerated obligors typically have nonexistent earning capabilities during their periods of confinement. To comply with federal law, S.B. 1675 creates a new expedited administrative procedure in Title IV-D cases to adjust an obligor's current support obligations when the agency is notified that the obligor will be incarcerated for more than 180 days.

The Federal Bipartisan Budget Act of 2018 requires a \$35 annual service fee on IV-D cases with more than \$550 in annual collections (rather than the current \$25 fee on cases with more than \$500 in annual collections). During the 2020-2021 biennium, the estimated difference between the two fees will be approximately \$13.2 million (\$34.8 million vs. \$40 million). If the legislature elects not to change the annual service fee from \$25, it will need approximately \$13.2 million in general revenue to pay the federal Office of Child Support Enforcement in lieu of charging the increased fee. To comply with federal law and eliminate the fiscal impact to the state of non-compliance, S.B. 1675 removes specific reference to \$25 annual service fee for Title IV-D cases and instead states that the annual service fee may not exceed the maximum amount established by federal law.

Finally, S.B. 1675 also makes changes to the service process in Child Support Review Process (CSR) cases, and gives judges more time to review and sign agreed CSR orders before they become confirmed by operation of law. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1675 amends current law relating to the administration of and certain procedures under the Title IV-D program for child support enforcement.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Office of the Attorney General [Title IV-D agency] in SECTION 3 (Section 231.1015, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 156.401(b), Family Code, to create an exception under Sections 231.1015, 231.1016, and 231.1017 to the authorization for a support order to be modified only in a certain manner and to make a nonsubstantive change.

SECTION 2. Amends Section 231.002(e), Family Code, as follows:

(e) Authorizes the Title IV-D to take the following administrative actions with respect to the location of a parent, the determination of parentage, and the establishment, modification, and enforcement of child support, medical support, and dental support orders required by 42 U.S.C. Section 666(c), without obtaining an order from any other judicial or administrative tribunal:

(1)–(2) makes no changes to these subdivisions

(3)–(4) makes nonsubstantive changes to these subdivisions; and

(5) adjust the support obligations of an incarcerated obligor, as provided by Sections 231.1015, 231.1016, and 231.1017.

SECTION 3. Amends Subchapter B, Chapter 231, Family Code, by adding Sections 231.1015, 231.1016, and 231.1017, as follows:

Sec. 231.1015. ADMINISTRATIVE ADJUSTMENT OF SUPPORT OBLIGATIONS DURING OBLIGOR'S INCARCERATION. (a) Requires the Title IV-D agency, subject to Subsection (b), on verification by the Title IV-D agency that a judgment or order has been rendered for the confinement of a child support obligor in a local, state, or federal jail or prison for a period of at least 180 consecutive days, to review and administratively adjust the obligor's child support, medical support, and dental support order to amounts that are based on the application of the child support guidelines under Chapter 154 (Child Support) to the obligor's net resources during incarceration.

(b) Provides that this section does not apply if the Title IV-D agency determines that the obligor is confined due to the obligor's failure to comply with a child support order or for an offense constituting an act of family violence, as defined by Section 71.004 (Family Violence), committed against the obligee or a child covered by the child support order.

(c) Requires the Title IV-D agency, if the agency administratively adjusts a support obligation under Subsection (a), to provide notice of the administrative adjustment to the parties to the support order and file a copy of the notice with the court of continuing, exclusive jurisdiction.

(d) Requires the notice provided under Subsection (c) to state certain information.

(e) Authorizes the Title IV-D agency, notwithstanding Subsection (a), to seek modification of the support order under Subchapter E (Modification of Child Support), Chapter 156, in lieu of administratively adjusting the support obligation under this section.

(f) Provides that the administrative adjustment of a support obligation under this section does not affect a support obligation due before the effective date of the administrative adjustment.

(g) Authorizes the Title IV-D agency to adopt rules to implement this section.

Sec. 231.1016. REVIEW OF ADMINISTRATIVE ADJUSTMENT OF SUPPORT OBLIGATIONS. (a) Authorizes a party to the support order, not later than the 30th day after receiving notice of an administrative adjustment of a support obligation under Section 231.1015, to contest the administrative adjustment by requesting that the Title IV-D agency review the agency's decision to grant the administrative adjustment.

(b) Requires the Title IV-D agency, if a party to the support order does not request the Title IV-D agency to review the administrative adjustment within the time prescribed by Subsection (a), to file an administrative adjustment order with the court of continuing, exclusive jurisdiction. Requires the order to contain a signed statement from the Title IV-D agency that neither party to the order requested an administrative review within the time required by Subsection (a) and state the amount of the obligor's adjusted support obligation during incarceration and the effective date of the administrative adjustment. Requires the court to sign the order not later than the seventh day after the date the order is filed. Provides that on expiration of the seventh day after the date the order is filed, the order is

considered confirmed by the court by operation of law, regardless of whether the court has signed the order.

(c) Requires the Title IV-D agency, on request by a party under Subsection (a), to:

(1) review the administrative adjustment of the support obligation to determine whether the exceptions under Section 231.1015(b) apply and whether the administrative adjustment accurately reflects the obligor's net resources during incarceration; and

(2) provide an opportunity for review with the parties in person or by telephone, as appropriate.

(d) Requires the Title IV-D agency, after conducting a review under Subsection (c), to:

(1) affirm the administrative adjustment of the support obligation by issuing a notice of determination to the parties regarding the agency's decision to affirm the administrative adjustment; or

(2) withdraw the administrative adjustment of the support obligation by filing a notice with the court of continuing, exclusive jurisdiction withdrawing the administrative adjustment and issuing a notice of determination to the parties regarding the agency's decision to withdraw the administrative adjustment.

(e) Authorizes a party, not later than the 30th day after the party receives notice under Subsection (d)(1), to file a motion requesting a hearing with the court of continuing, exclusive jurisdiction to contest the Title IV-D agency's administrative adjustment of the support obligation. Provides that the administrative adjustment remain in effect until:

(1) the agency files a notice with the court of continuing, exclusive jurisdiction withdrawing the administrative adjustment; or

(2) the court renders an order regarding the administrative adjustment.

(f) Requires the Title IV-D agency, if a party to a support order does not file a motion requesting a hearing with the court of continuing, exclusive jurisdiction within the time prescribed by Subsection (e), to file an administrative adjustment order with the court of continuing, exclusive jurisdiction and to attach to the order a copy of the notice of determination issued under Subsection (d)(1). Requires the order to state the amount of the obligor's adjusted support obligation during incarceration and the effective date of the administrative adjustment. Requires the court to sign the order not later than the seventh day after the date the order is filed. Provides that on expiration of the seventh day after the date the order is filed, the order is considered confirmed by the court by operation of law, regardless of whether the court has signed the order.

Sec. 231.1017. MODIFICATION OF SUPPORT OBLIGATION AFTER OBLIGOR'S RELEASE FROM INCARCERATION. Requires the Title IV-D agency, in a Title IV-D case, on the release of an obligor whose support obligations were administratively adjusted during incarceration under Section 231.1015, to review the obligor's support order as provided by Section 231.101 (Title IV-D Child Support Services) to determine if modification is necessary and is authorized to proceed under Chapter 156 or Chapter 233.

SECTION 4. Amends Sections 231.103(a) and (c), Family Code, as follows:

(a) Authorizes the Title IV-D agency to charge a reasonable application fee, charge an annual service fee, rather than a \$25 annual service fee, and, to the extent permitted by federal law, recover costs for the services provided in a Title IV-D case.

(c) Prohibits the application and service fees from exceeding the maximum amounts established by federal law, rather than prohibiting an application fee from exceeding a maximum amount established by law.

SECTION 5. Amends Section 233.021(c), Family Code, to require the clerk to deliver by personal service, or if court-ordered, a method of substituted service, a copy of the petition for confirmation of a nonagreed review order and a copy of the order, to each party entitled to service who has not waived service.

SECTION 6. Amends Section 233.024(a), Family Code, to require the court to sign an agreed child support review order not later than the seventh, rather than the third, day after the filing of the order signed by all parties, together with waiver of service and to provide that on expiration of the seventh, rather than the third, day after the filing of the order, the order is considered confirmed by the court by operation of law, regardless of whether the court has signed the order.

SECTION 7. (a) Provides that the changes in law made by Section 231.002(e), Family Code, as amended by this Act, and Sections 231.1015, 231.1016, and 231.1017, Family Code, as added by this Act, apply to a child support order regardless of whether the order was rendered before, on, or after the effective date of this Act.

(b) Provides that the change in law made by this Act described by Subsection (a) of this section constitutes a material and substantial change of circumstances under Section 156.401 (Grounds for Modification of Child Support), Family Code, sufficient to warrant modification of a court order or a portion of a decree that provides for the support of a child rendered before the effective date of this Act.

SECTION 8. Makes application of Section 233.021(c), Family Code, as amended by this Act, prospective.

SECTION 9. Makes application of Section 233.024(a), Family Code, as amended by this Act, prospective.

SECTION 10. Effective date: September 1, 2019.