

## **BILL ANALYSIS**

C.S.S.B. 286  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There have been calls to update the law pertaining to suits affecting the parent-child relationship and the calculation and enforcement of child support. Accounting issues can arise in child support cases when an obligor is ordered to pay an obligee both spousal maintenance and child support and the payment of maintenance is not ordered payable to the state disbursement unit. Issues of distribution can also arise when multiple arrearage obligations such as child support, medical support, and dental support are combined in an enforcement action, as such obligations are often subject to assignment for public benefit programs. Additionally, a federal requirement for each state to incorporate a low-income adjustment method into the state's child support guidelines has not been addressed in Texas. C.S.S.B. 286 seeks to address these issues by requiring a court to order the payment of maintenance to the state disbursement unit in certain cases, providing for a child support guideline schedule for low-income obligors, and requiring a court to render separate cumulative judgments for child support, medical support, and dental support arrears in an enforcement action, among other provisions.

### **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. 286 amends the Family Code to require a court in a suit for dissolution of a marriage to order the payment of maintenance to the state disbursement unit if an obligor is ordered to pay an obligee maintenance and child support.

C.S.S.B. 286 requires the court to rely to the extent possible on evidence of a party's resources when applying child support guidelines that are considered for the purpose of determining a child support obligation. The bill requires the court, in the absence of such evidence and when applying the support guidelines to the earning potential of the obligor due to intentional unemployment or underemployment or to the wage and salary presumption of a party's income, to consider specified personal background circumstances of the obligor and job opportunities in the obligor's community, the prevailing wage in the obligor's community, and whether there are employers willing to hire the obligor.

C.S.S.B. 286 prohibits the court from considering incarceration as intentional unemployment or underemployment when establishing or modifying a child support order and establishes that incarceration of a child support obligor in a local, state, or federal jail or prison for a period

exceeding 180 days is a material and substantial change of circumstances for purposes of the grounds for modification of child support.

C.S.S.B. 286 changes the cap on an obligor's monthly net resources that triggers the application of child support guidelines from the greater of \$7,500 or the adjusted amount determined as necessary to reflect inflation to the maximum amount of net resources to which the statutory guidelines are applicable, as most recently published by the attorney general's office in the Texas Register. The bill clarifies that the court is required to presumptively apply the schedule of such statutory guidelines in rendering the child support order if the obligor's monthly net resources are not greater than that maximum amount and are equal to or greater than \$1,000. If the obligor's monthly net resources are less than \$1,000, the court is required to presumptively apply the schedule of low-income child support guidelines established by the bill in rendering the order. The bill clarifies that the court may determine an alternative amount of child support for children in more than one household if the obligor's monthly net resources are not greater than the maximum amount and are equal to or greater than \$1,000. If the obligor's monthly net resources are less than \$1,000, the court may determine an alternative amount of child support for the children before the court by applying the percentages in the low-income multiple family adjusted guidelines established by the bill to the obligor's net resources.

C.S.S.B. 286 establishes that a court retains jurisdiction to confirm, in addition to child support arrearages, the total amount of medical support and dental support arrearages and to render separate cumulative judgments for past-due medical support and dental support. The bill requires a court to confirm the amount of child support arrearages on a motion for enforcement requesting a money judgment. The bill requires the court to render separate cumulative money judgments for the amounts of medical support and dental support owed, sets out the elements of those cumulative money judgments, and prohibits a court from reducing or modifying the amount of medical or dental support arrearages in rendering a money judgment, while allowing for certain counterclaims or offsets in confirming the amounts.

C.S.S.B. 286 increases from within 20 days to within 30 days the period within which a hearing to contest the validity or enforcement of a registered support order or income-withholding order issued in another state must be requested by the nonregistering party after notice to the party.

C.S.S.B. 286 amends the Property Code to require a disclaimer of an interest in property made by an individual to contain a statement under penalty of perjury regarding whether the disclaimant is a child support obligor whose disclaimer is barred as provided by applicable law. An individual's failure to include the statement does not invalidate such a disclaimer if the disclaimer is not barred under that law.

#### **EFFECTIVE DATE**

September 1, 2021.

#### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 286 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 revises a provision in the engrossed that required a disclaimer of an interest in property to contain a sworn statement regarding whether the disclaimant is an applicable child support obligor by requiring such a disclaimer instead to include a statement under penalty of perjury to the same effect. The substitute adds a specification that an individual's failure to include the statement does not invalidate the disclaimer if the disclaimer is not barred as provided by applicable law.