

SB 682 A STAFF MEASURE SUMMARY

Carrier: Sen. Dembrow, Sen. Winters

Senate Committee On Judiciary

Action Date: 04/10/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 5-0-0-0
Yeas: 5 - Dembrow, Linthicum, Manning Jr, Prozanski, Thatcher
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Establishes that an obligor incarcerated for 180 consecutive days or more is presumed unable to pay child support, and obligations do not accrue during incarceration. Requires Department of Justice and Department of Corrections to agree to conduct data matches to identify incarcerated obligors. Outlines process to notify obligee when payments are suspended due to incarceration and process for obligee to object and provide evidence to rebut the presumption of inability to pay support. Reinstates prior court obligation at 50 percent on the first day of the month that follows the 120th day after release, and requires administrator to review the order for modification within 60 days of reinstatement. Establishes that an obligor's incarceration for 180 consecutive days or more and release from such incarceration are considered a substantial change of circumstances for the purpose of modification. Allows administrator or court to apply a credit to months that support did not accrue unless presumption of inability to pay was rebutted. Applies changes to child support obligations of incarcerated obligors that accrue on or after effective date of Act.

ISSUES DISCUSSED:

- Helps with reentry for the formerly incarcerated
- Need for changes to comply with recent change in federal regulation
- Mechanics of the measure

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

According to the Governor's Reentry Council, incarcerated individuals who owe child support and accumulate debt from being unable to pay support while incarcerated creates challenges for many of the 93 percent of inmates who will someday be released. This issue was addressed during the 2015-16 interim by the Joint Interim Task Force on Reentry, Employment and Housing (Senate Bill 969, 2015). According to the task force's report, "A person's preexisting, ordinary debt obligations prior to conviction – such as credit cards, lease agreements, child support obligations, civil judgments – are not automatically suspended or modified during incarceration. If not addressed prior to incarceration, such obligations may accrue, go into collection or be written-off. In addition, things like federal veterans benefits must be suspended or modified during periods of incarceration, or overages may be owed upon release." (page 23) Senate Bill 682-A is one of several legislative concepts sponsored by members of the task force and introduced this session.

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SB 682-A replaces current law, which authorizes a modification of a support order during an obligor's incarceration and reinstates the prior order 61 days after release. SB 682-A instead presumes an incarcerated obligor is unable to pay, reinstates a suspended order at 50 percent on the first day of the month following the 120th day after release, and requires review of the order for modification 60 days after reinstatement. It also creates a process for an obligee to rebut the presumption of inability to pay.