

[2015 Session] Exempt Eligible Parents Who Have Been Incarcerated for at Least 90 Days from Accumulating Child Support Debt

Policy Background:

Approximately 85,000 people in Texas prisons are parents.^[1] The future welfare of their minor children largely depends on the ability of their parents to pay child support when they are released from prison. Currently, however, the state of Texas does not automatically modify child support orders while parents are incarcerated.^[2] This means that debt piles up, placing enormous and immediate burdens on non-custodial parents upon their release. Officials at the Texas Attorney General's Office estimate that the average debt owed by an incarcerated non-custodial parent at the time of release is \$36,000.^[3]

Parents who are released from prison with child support debt must pay that debt or risk various penalties, including fines, being found in contempt of court, or re-incarceration. However, previously incarcerated individuals generally face hurdles finding employment due to low education levels, long gaps in work history, and the undeniable stigma of incarceration. As a result, many may turn to crime or to the underground economy to find ways to pay their child support,^[4] risking arrest and incarceration, and making it even less likely that the parent will be able to support his or her family.

Another consequence of this accrued debt is the disruption to families. Parents with crushing child support debt are less likely to become involved in their children's lives.^[5] Children will not only miss out on the financial support they so desperately need; they will become deprived of a nurturing maternal or paternal relationship.

Texas policy-makers should exempt a parent who has been incarcerated for at least 90 days from accumulating child support debt while in confinement, but continue to require an incarcerated parent who has the means to pay child support to pay it.

Key Facts:

- Penalties for non-payment of child support fees may include garnished wages, withholding of tax refunds, liens against property, forfeiture of driver's license, and incarceration.[6]
- Large debt in the form of child support, and the tension it creates within families already struggling with the incarceration of a parent, make it less likely that a parent will provide either monetary or material support for a child.[7]

Relevant Bills:

- **Bill Number:** [HB 364](#) (Dutton, Guillen)
Bill Caption: Relating to the child support obligation of an obligor during the obligor's confinement in jail or prison.
Hearing Notice: House Juvenile Justice & Family Issues Committee, [Notice of Public Hearing on March 18, 2015](#)
TCJE Action: [Card in support](#)
- **Bill Number:** [HB 943](#) (author: Senfronia Thompson | sponsor: Rodríguez)
Bill Caption: Relating to the applicability of a wage and salary presumption to an incarcerated person for purposes of determining child support obligations.
TCJE Materials: [Fact Sheet](#) | [Testimony](#)
House Hearing Notice: House Juvenile Justice & Family Issues Committee, [Notice of Public Hearing on March 18, 2015](#)
Archived House Hearing Video: House Juvenile Justice & Family Issues Committee, [03/18/15 Video](#) [TCJE testimony begins at 00:06:40]
Senate Hearing Notice: Senate State Affairs Committee, [Notice of Public Hearing on May 18, 2015](#)
Archived Senate Hearing Video: Senate State Affairs Committee, [05/18/15 Video](#) [TCJE testimony begins at 00:43:34]
Outcome: **Effective 9/1/15**
- **Bill Number:** [SB 375](#) (Rodríguez)
Bill Caption: Relating to the applicability of a wage and salary presumption to an incarcerated person for purposes of determining child support obligations.
TCJE Materials: [Fact Sheet](#)

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- [1] The Sentencing Project, *Parents in State Prisons*, Table: “Estimated Number of Parents in Prison, 2011”;
http://www.sentencingproject.org/doc/publications/cc_Parents%20in%20State%20Prisons%20Fact%20Sheet.pdf
- [2] Tex..Family. code, 53.021 title 5, Subtitle D, chapter 231, Subchapter A.
- [3] Oscar Esquivel, NCP Program Specialist for the Texas Office of the Attorney General; information provided to Texas Center for Justice and Equity.
- [4] Kirsten D. Levingston and Vicki Turetsky, “Debtors’ Prison: Prisoner’s Accumulation of Debt as a Barrier to Reentry,” *Journal of Poverty Law and Policy*, Volume 41, 2007, pp. 3-4; <http://www.clasp.org/admin/site/publications/files/0394.pdf>
- [5] Project to Avoid Increasing Delinquencies: Office of Child Support Enforcement, *Realistic Child Support Orders for Incarcerated Parents*, June 2012, Administration for Children & Families, U.S. Department of Health and Human Services;
http://www.acf.hhs.gov/sites/default/files/ocse/realistic_child_support_orders_for_incarcerated_parents.pdf
- [6] Greg Abbot, Texas Attorney General, *Pay your child support to avoid penalties*;
<https://www.oag.state.tx.us/agency/weeklyag/2006/0406csd.pdf>
- [7] Project to Avoid Increasing Delinquencies, *Realistic Child Support Orders*.