

SENATE JUDICIARY COMMITTEE
Senator Hannah-Beth Jackson, Chair
2019-2020 Regular Session

AB 2046 (Voepel)
Version: March 4, 2020
Hearing Date: July 30, 2020
Fiscal: Yes
Urgency: No
JT

SUBJECT

Family law: child support

DIGEST

This bill limits the amount of child support arrears that can be collected from a low-income child support obligor who is also a disabled veteran receiving disability compensation to five percent of their monthly disability compensation.

EXECUTIVE SUMMARY

Elderly, disabled, or blind individuals with almost no other income or assets can qualify to receive Supplemental Security Income/State Supplementary Payments (SSI/SSP) income, which is means-tested. To prevent the impoverishment of child support obligors who receive SSI, state law limits the past-due support that may be collected from them to five percent of their social security income. This bill seeks to extend this benefit to low-income child support obligors who receive veterans disability benefits from the Department of Veterans Affairs.

The bill is sponsored by the Coalition of California Welfare Rights Organizations and supported by the California Association of Certified Family Law Specialists and the California In-Home Supportive Services Consumer Alliance. It has no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes a uniform, statewide guideline for calculating child support, based on the income of both parents and the time they each spend with the children. (Fam. Code § 4050 et seq.)¹
- 2) Establishes procedures to enforce the payment of child support arrearages, including authorizing a local child support agency to require an employer to withhold income in specified amounts. (§ 17400 et seq.) Generally limits that amount to 50 percent of the obligor's income, although in some circumstances it may be up to 65 percent. (15 U.S.C. § 1673.)
- 3) Provides that, if an obligor is disabled, meets the SSI resource test, and is receiving SSI/ SSP or, but for certain excess income, would be eligible to receive SSI/SSP, as provided, and the obligor has supplied the local child support agency with proof of eligibility for and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the order/notice to withhold income issued by the local child support agency may not exceed five percent of the obligor's total monthly Social Security Disability payments. (§ 5246.)

This bill similarly provides that if a child support obligor is a disabled veteran receiving disability compensation from the United States Department of Veterans Affairs and, but for receipt of the disability compensation, would have an income that would qualify the obligor for Supplemental Security Income/State Supplementary Payments (SSI/SSP), and the obligor has supplied the local child support agency with proof of receipt of disability compensation and proof of other income and assets, the order/notice to withhold income issued by the local child support agency may not exceed five percent of the obligor's total monthly disability compensation.

COMMENTS

1. Limits child support withholdings from veterans' disability compensation

In 2015, the federal Office of Child Support Enforcement reported that the child support program "serves more than one in five children in the United States, providing 41 percent of family income to poor families who receive support payments, lifting one million people out of poverty every year, and reducing the need for public assistance, at little cost to the federal government."² Despite the overall success of the program,

¹ All further section references are to the Family Code, unless otherwise specified.

² Office of Child Support Enforcement, *The Story Behind the Numbers: The Child Support Program is a Good Investment* (Dec. 2016) p. 2.

however, the report noted that in that same year an estimated 254,000 noncustodial parents fell into poverty as a result of having to pay child support.³

Generally, an obligor's income may be garnished by up to 50 percent to pay past-due child support. (15 U.S.C. § 1673.) However, some limitations have been established to protect certain low-income obligors from impoverishment. Of relevance to this bill, section 5246 limits the past-due support that may be collected from obligors who are disabled and receive SSI to no more than five percent of their social security income.

This bill seeks to provide this same protection to low-income child support obligors who receive disability benefits from the Department of Veterans Affairs by similarly limiting the amount of child support arrears they are required to pay to no more than five percent of their monthly disability compensation. The author writes: "There isn't an equalized field when it comes to protecting disabled veterans the same way to non-veterans when it comes to child support. ... It's all about being fair." This sentiment is echoed by the sponsor and supporters of the bill. The author also argues that the bill's protections are necessary to ensure veterans are not driven into destitution, noting that veterans disproportionately experience homelessness, mental illness, and substance abuse problems.

SUPPORT

Coalition of California Welfare Rights Organizations (sponsor)
California Association of Certified Family Law Specialists
California In-Home Supportive Services Consumer Alliance

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

AB 2325 (Carrillo, 2020) would reestablish, until January 1, 2023, a pilot program that provides for the suspension of child support for incarcerated obligors. That bill will be heard in this Committee on the same day as this bill.

AB 3365 (Assembly Judiciary Committee, 2020) would, among other things, remove the sunset on the 2013 increase – from \$1,000 to \$1,500 – to the low-income adjustment to the child support guideline. That bill is pending in this Committee.

³ *Id.* at 11.

Prior Legislation:

AB 1091 (Jones-Sawyer, 2019) would have extended a pilot program that provides for the suspension of child support for incarcerated obligors. The bill was held on the Assembly Floor.

AB 1092 (Jones-Sawyer, 2019) would have limited the interest that may be charged on child support assigned to the county. The bill was vetoed.

SB 337 (Skinner, 2019) would have increased the amount of child support passed through to families receiving public assistance, but was vetoed. However, similar provisions were adopted in this year's budget.

AB 891 (Goldberg, Ch. 651, Stats. 2001) provided that an assignment order against the earnings of a non-custodial parent for purposes of child support, when made against an obligor who is disabled, may not reduce the obligor's income below the amount they receive (or would be eligible to receive but for excess income) from SSI/SSP, and other specified program benefits.

PRIOR VOTES:

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 18, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)
