

Disability and Child Support

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Background:

When a veteran with minor children receives disability, there is an allowance for the support of the children in the check.

When that veteran is divorced and his wife gains custody, it is possible to sever the children's part from the veteran's part and have government send the children's part directly to the custodial parent (mother).

Problem:

The state child support agency does not take that into consideration and applies the state child support guidelines against the disabled person's disability check, even though the children receive support directly from the federal government because of the parent's disability. This often means that the disabled veteran cannot afford the basic necessities of or a helper to assist him if he has limbs missing or is paralyzed.

The same thing happens when a person is on Social Security Disability. Many veterans receive both veterans' disability and Social Security Disability payments.

Case example:

In the enclosed case, the disabled veteran also receives Social Security Disability (SSD). Those two checks comprise his total income. He is unable to hold a regular job. He is divorced, and his ex-wife has custody of the children.

State guideline child support for his income, based on his disability checks, is \$617 per month. He presently pays this amount, but--

His children also receive \$480 per month support payable directly to the custodial parent (ex-wife) because of his disability, as follows:

SSD: His children receive \$350 per month support, payable directly to the custodial parent (ex-wife), because of his disability.

Veterans' Disability: His children receive \$130 per month support, payable directly to the custodial parent (ex-wife), because of his disability.

The state child support agency refuses to recognize those direct payments.



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

Child Support Division
P.O. Box 12017
Austin, Texas 78711-2017
(5120 463-2181)

1995

RE:

Dear

This is in response to a recent inquiry by [redacted] who has contacted our office concerning your child support case

I have reviewed your correspondence with our [redacted] office and it appears that their response has thoroughly covered many of these issues. However, to insure that you concerns are addressed I offer the following information.

Your gross income equals your net income because both sources of income our tax exempt, veterans benefits and social security benefits. The Texas Family Code stipulates that the guideline for determining a child support obligation for two children is 25% of an obligor's disposable earnings, which in your case is the same as your gross/net earnings.

We realize that your children receive a \$340.00 per month benefit from the Social Security Administration. However, the law is very clear that this is not to be considered as child support or applied to an existing child support obligation.

We have reviewed your court order and ruled against pursuing a modification in your case, because there has not been a net change in your income. There is no substantive reason to bring a motion before the court for modification. Given the circumstances of your case, the order is appropriate and within guidelines.

While a modification may not always be the end result, our staff are willing to review any information provided regarding a change in an obligor's finances. However, since your income is fixed and derived from dependable sources, it is unlikely that a review will be necessary in the near future.

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AN ACT

relating to the determination of the amount of child support for a child of certain disabled obligors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 154, Family Code, is amended by adding Section 154.132 to read as follows:

Sec. 154.132. APPLICATION OF GUIDELINES TO CHILDREN OF CERTAIN DISABLED OBLIGORS. In applying the child support guidelines for an obligor who has a disability and who is required to pay support for a child who receives benefits as a result of the obligor's disability, the court shall apply the guidelines by determining the amount of child support that would be ordered under the child support guidelines and subtracting from that total the amount of benefits or the value of the benefits paid to or for the child as a result of the obligor's disability.

SECTION 2. This Act takes effect September 1, 1999, and applies only to a suit affecting the parent-child relationship filed on or after that date. A suit affecting the parent-child relationship filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I certify that H.B. No. 2059 was passed by the House on April 16, 1999, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2059 was passed by the Senate on May 26, 1999, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED:

Date

Governor



Bill History
06-21-99 - 15:21:43

Bill Number: TX76RHB 2059

Author: Uher

Sponsor: Brown, Buster

By Uher. Relating to the determination of the amount of child support for a child of certain disabled obligors.

House	Description of Action	Committee	Date
H	Filed		3- 2-99
H	Introduced and referred to committee on	<u>JUVENILE</u>	3- 4-99
H	Hearing set for 1:30 P.M. or Adj., E1.026	<u>JUVENILE</u>	3-22-99
H	Voted favorably from committee on	<u>JUVENILE</u>	3-22-99
H	Reported favorably from committee on	<u>JUVENILE</u>	3-25-99
H	Set on the House Calendar		4-15-99
H	Passed to third reading		4-15-99
H	Passed		4-16-99
S	Received in the Senate - Not referred		4-19-99
S	Referred to Senate Committee on	<u>JUR</u>	4-20-99
S	Hearing set for 1:00 P.M. or Adj. of IGR, E1...	<u>JUR</u>	5-12-99
S	Voted favorably from committee on	<u>JUR</u>	5-12-99
S	Reported favorably from committee on	<u>JUR</u>	5-13-99
S	Recommended for Local/Uncontested Calendar		5-13-99
S	Set on the Local Calendar		5-26-99
S	Placed on the Senate Intent Calendar for		5-26-99
S	Passed on local calendar (Vote: Y: 30/N: 0)		5-26-99
G	Sent to the Governor		5-28-99
G	Signed by the Governor		6-19-99
G	Earliest effective date		9- 1-99

- General Notes -

** EFFECTIVE - SEPTEMBER 1, 1999.

- End of Listing -

THOMAS H. MOORER
ADMIRAL, U.S. NAVY RETIRED

6901 LUPINE LANE
MCLEAN, VIRGINIA 22101

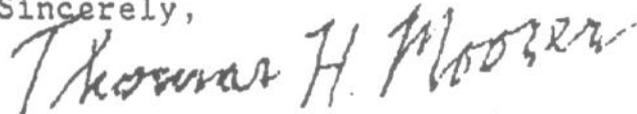
April 18, 1997

The Honorable Jim McReynolds
P.O. Box 2910
Austin, Texas 78768

Dear Congressman McReynolds,

I fully support H.B. . . . The provision to veterans and other disabled parents of the opportunity to purchase the services they require because of their disability while still providing full support for their children constitutes one of our most important social programs.

Sincerely,



Thomas H. Moorer

VETERANS ADMINISTRATION DEPENDENTS DISABILITY COMPENSATION

Veterans disability compensation as of September 1997:

- 2.7 million veterans are receiving disability compensation payments from VA.

Source: Department of Veterans Affairs www.va.gov/organization/Dvavba.html

BACKGROUND

Prior to U.S. involvement in WWI, the congress passed "An Act to Authorize the Establishment of a Bureau of War Risk Insurance in the Treasury Department." Although the Bureau did not provide veterans benefits per se, by default it became the forerunner of today's Veterans' Administration. The following is a chronological outline of legislation that established the Veterans Administration and provided for disability benefits for dependents:

- SIXTY-FIFTH CONGRESS Session I, Chapter 105 (Public No. 90)
H.R. 5723: October 6, 1917

Established the Bureau of War Risk Insurance. Art II of this act provided for compulsory Allotments and Family (wife/children) Allowances.

- SIXTY-EIGHTH CONGRESS Session I, Chapter 320 (Public No. 242)
S. 2257: June 7, 1924: World War Veterans' Act, 1924

This act consolidated previous laws affecting the establishment of the United States Veterans' Bureau. Disability compensation for the member and his or her dependents was established based on a minimum disability rating of 10 percent.

- SIXTY-EIGHTH CONGRESS Session II, Chapter 553 (Public No. 628)
H.R. 12308: March 4, 1925: "An Act To Amend the World War Veterans' Act, 1924

This amendment clarified definitions of dependents eligible for death and disability compensation, and raised the amounts of compensation.

- Public Law 28
S.J. Res. 72: May 11, 1951

Provided benefits for persons and their families who served in the Armed Forces of the United States on and after June 27, 1950.

- Public Law 85-56
Date: June 17, 1957

Outlined wartime family death and disability compensation, established rates of peacetime disability compensation, and provided for additional compensation for dependents.

- Public Law 85-857
Date: September 2, 1958: Title 38

Consolidated laws concerning the Veterans' Administration under one title: "Title 38." Established nonassignability and exempt status of veterans' benefits. Increased rates of wartime/peacetime disability compensation, and provided for additional compensation for dependents.

SOCIAL SECURITY DEPENDENTS DISABILITY COMPENSATION

Social Security disabled beneficiaries as of May 1999:

- 5,680,400 disabled workers.
- 1,428,800 minor or student children of disabled workers.

Source: SSA <http://www.ssa.gov/statistics/highssd.html>

BACKGROUND

The original Social Security Act of 1935 did not include dependent benefits for the children of disabled workers. It wasn't until 1958 that the disabled were given the same benefits as retired individuals. The following is based on the Congressional Record.

- Public Law 85-840
H.R. 13549: July 31, 1958: Social Security Amendments of 1958

Benefits extended to dependents of disabled workers in the same manner as dependents of retired workers. Amends the original act by stating that: "Every child of an individual entitled to old-age or disability insurance benefits...shall be entitled to a child's insurance benefit each month."

- Public Law 92-603
Social Security Amendment of 1972

Enactment of Supplemental Security Income program (replacing aid to aged, blind and disabled administered by Social and Rehabilitation Service) led to creation of Bureau of Supplemental Security Income in SSA in 1973.