



# House of Representatives

## File No. 719

General Assembly

February Session, 2016

**(Reprint of File No. 136)**

Substitute House Bill No. 5256  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 25, 2016

### **AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-215e of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) Notwithstanding any provision of the general statutes, whenever  
4 a child support obligor is institutionalized or incarcerated, the Superior  
5 Court or a family support magistrate shall establish an initial order for  
6 current support, or modify an existing order for current support, upon  
7 proper motion, based upon the obligor's present income and  
8 substantial assets, if any, in accordance with the child support  
9 guidelines established pursuant to section 46b-215a. Downward  
10 modification of an existing support order based solely on a loss of  
11 income due to incarceration or institutionalization shall not be granted  
12 in the case of a child support obligor who is incarcerated or  
13 institutionalized for an offense against the custodial party or the child  
14 subject to such support order.

15       (b) In IV-D support cases, as defined in section 46b-231, when the  
16 child support obligor is institutionalized or incarcerated for more than  
17 ninety days, any existing support order, as defined in section 46b-231,  
18 shall be modified to zero dollars effective upon the date that a support  
19 enforcement officer files an affidavit in the Family Support Magistrate  
20 Division. The affidavit shall include: (1) The beginning and expected  
21 end dates of such obligor's institutionalization or incarceration; and (2)  
22 a statement by such officer that (A) a diligent search failed to identify  
23 any income or assets that could be used to satisfy the child support  
24 order while the obligor is incarcerated or institutionalized, (B) the  
25 offense for which the obligor is institutionalized or incarcerated was  
26 not an offense against the custodial party or the child subject to such  
27 support order, and (C) a notice in accordance with subsection (d) of  
28 this section was provided to the custodial party and an objection form  
29 was not received from such party.

30       (c) A support order that is modified in accordance with subsection  
31 (b) of this section shall be reinstated to the prior support amount  
32 ninety days after the obligor is released from such institutionalization  
33 or incarceration, provided that a support enforcement officer files an  
34 affidavit in the Family Support Magistrate Division that provides: (1)  
35 The date such obligor was no longer institutionalized or incarcerated;  
36 and (2) a statement by such officer that notice, in accordance with  
37 subsection (e) of this section, was provided to the child support  
38 obligor, and an objection form was not received from such obligor.

39       (d) Prior to filing an affidavit under subsection (b) of this section,  
40 the support enforcement officer shall provide notice to the custodial  
41 party in accordance with section 52-57 or by certified mail, return  
42 receipt requested. The notice shall state in clear and simple language  
43 that: (1) Such child support order shall be modified unless the  
44 custodial party objects not later than fifteen calendar days after receipt  
45 of such notice on the grounds that (A) the obligor has sufficient income  
46 or assets to comply with the support order, or (B) the obligor is  
47 incarcerated or institutionalized for an offense against the custodial  
48 party or the child subject to such support order; and (2) the custodial

49 party may object to the proposed modification by delivering a signed  
50 objection form, or other written notice or motion, indicating the nature  
51 of the objection or grounds of the motion, to the support enforcement  
52 officer not later than fifteen calendar days after receipt of such notice.  
53 On receipt of any objection or motion, the support enforcement officer  
54 shall promptly arrange with the clerk of the Family Support Magistrate  
55 Division to enter the appearance of the custodial party, set the matter  
56 for a hearing, send a file-stamped copy of the objection or motion to  
57 the IV-D agency of the state to whom the support order is payable, and  
58 notify all parties of the hearing date set. The court or family support  
59 magistrate shall promptly hear the objection or motion and determine  
60 whether the child support order should be modified in accordance  
61 with subsection (b) of this section.

62 (e) Prior to filing an affidavit under subsection (c) of this section, the  
63 support enforcement officer shall provide notice to the child support  
64 obligor in accordance with section 52-57 or by certified mail, return  
65 receipt requested, or by first class, postage prepaid mail to the  
66 Connecticut correctional facility in which the obligor is incarcerated.  
67 The notice shall state in clear and simple language that: (1) Such child  
68 support order shall be reinstated to the previous support amount  
69 effective ninety days after the date of the obligor's release unless the  
70 obligor objects prior to the ninetieth day to such reinstatement on the  
71 grounds that the obligor has insufficient income or assets to comply  
72 with the support order; and (2) the obligor may object to the proposed  
73 reinstatement by delivering a signed objection form, or other written  
74 motion, indicating the nature of the objection or the grounds for the  
75 motion, to the support enforcement officer prior to the ninetieth day  
76 after the obligor's release date. On receipt of the objection or motion,  
77 the support enforcement officer shall promptly arrange with the clerk  
78 of the Family Support Magistrate Division to enter the appearance of  
79 the obligor, set the matter for a hearing, send a file-stamped copy of  
80 the objection or motion to the IV-D agency of the state to whom the  
81 support order is payable, and notify all parties of the hearing date set.  
82 The court or family support magistrate shall promptly hear the

83 objection or motion and determine whether the child support order  
84 should be reinstated or otherwise modified in accordance with the  
85 child support guidelines established pursuant to section 46b-215a. Any  
86 objection filed in accordance with this section shall constitute a proper  
87 motion to modify a child support order.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	46b-215e

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Judicial Dept.	GF - Savings	96,000	96,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes changes to child support obligations for incarcerated obligators by eliminating service of process costs and replacing it with certified mail costs, resulting in a net savings of approximately \$96,000 annually. There are approximately 3,500 such obligators and the cost of both notifications is approximately \$44,000. Additionally there will be savings of approximately \$140,000 associated with eliminating the service of process requirement.<sup>1</sup>

House "A" makes a clarifying change that does not result in a fiscal impact.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

<sup>1</sup> Assumes obligators are incarcerated and released in the same fiscal year or that the same number of obligators are incarcerated and released in the same fiscal year.

---

**OLR Bill Analysis****sHB 5256 (as amended by House "A")\******AN ACT EXPEDITING CHILD SUPPORT MODIFICATION ORDERS FOR INCARCERATED OR INSTITUTIONALIZED OBLIGORS.*****SUMMARY:**

By law, "IV-D child support cases" are cases in which the Department of Social Services' Bureau of Child Support Enforcement (BCSE) provides child support enforcement services for children who are Temporary Family Assistance (TFA) or Medicaid beneficiaries, or in foster care.

This bill shortens the child support modification process when an obligor (i.e., person owing child support) is institutionalized or incarcerated for more than 90 days. Under the bill, such an obligor's existing support order (i.e., a court or agency order requiring the obligor to pay child support) is modified to zero and reinstated 90 days after his or her release. Currently, a court order modification or reinstatement requires a full judicial hearing.

The bill specifies steps that a support enforcement officer must follow for the modification and reinstatement to take effect. This includes (1) filing certain affidavits with the Family Support Magistrate Division (FSMD) and (2) providing notice to the child's custodian and the obligor. The bill also creates a process for any modification or reinstatement objections to be heard and ruled upon by the court or family support magistrate.

\*House Amendment "A" specifies that notice sent to an obligor in a correctional facility for a support order reinstatement must be sent by first class mail, postage prepaid instead of regular mail, as under the original bill.

EFFECTIVE DATE: October 1, 2016

**CHILD SUPPORT ORDER MODIFICATION**

For a child support modification under the bill to take effect, a support enforcement officer must file an affidavit with FSMD stating the obligor’s imprisonment or institutionalization start and expected end dates.

It must also state that:

1. the officer’s diligent search failed to identify any income or assets that could satisfy the support order during that time,
2. the offense for which the obligor is incarcerated or institutionalized was not against the child who is the subject of the support order or the child’s custodian, and
3. notice of this modification was provided to the child’s custodian and the officer did not receive an objection form.

The officer must serve a modification notice to the custodian or send it by certified mail, return receipt requested. The notice must clearly and simply state that the:

1. support order will be modified unless the custodian, within 15 days after receiving the notice, objects on the grounds that the obligor (a) has sufficient income or assets to comply with the existing order or (b) is incarcerated or institutionalized for an offense against the custodian or child and
2. custodian may object by delivering a signed objection form or other written notice or motion to the officer within 15 days after the notice’s mailing or service date.

**CHILD SUPPORT ORDER REINSTATEMENT**

Under the bill, a modified support order must be reinstated to the original amount 90 days after the obligor is released, provided the support officer files an affidavit with FSMD stating (1) the date the

institutionalization or incarceration ended and (2) that notice was provided to the obligor and the officer did not receive an objection form.

Before filing an affidavit to reinstate a support order, an officer must (1) serve notice to the obligor or send it to him or her by certified mail, return receipt requested or (2) send notice by first class mail, postage prepaid, to the Connecticut correctional facility in which the obligor is incarcerated. The notice must clearly and simply state that the:

1. support order will be reinstated to the prior amount 90 days after release unless the obligor objects before then on the grounds that he or she has insufficient income or assets to comply with the order and
2. obligor may object to the reinstatement by delivering a signed objection form or other written motion to the officer before the 90 day deadline.

**OBJECTIONS**

If the officer receives an objection or motion from (1) the custodian about a support order modification or (2) the obligor about a support order reinstatement, the officer must promptly arrange with the FSMC clerk for a hearing, send a file-stamped copy of the objection or motion to DSS, and notify all parties of the hearing date. The court or family support magistrate must promptly hear the objection and determine whether to modify or reinstate the support order in accordance with the child support guidelines, as appropriate.

Any objection filed under the bill constitutes a proper motion to modify a child support order.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable  
Yea 16 Nay 0 (03/10/2016)

Judiciary Committee

Joint Favorable

Yea 28 Nay 11 (04/06/2016)