

SENATE BILL 1722

By Bunch

AN ACT to amend Tennessee Code Annotated, Section 36-5-101, relative to child support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-101(c)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(c)

(1)

(A) The court shall set a specific amount of support that is due each month, to be paid in one (1) or more payments as the court directs;

(B)

(i) In entering any judicial decree or order of support pursuant to this chapter, the court shall consider the provisions of § 34-1-102(b) and shall establish a presumptive date for termination of the current child support obligation. The presumptive date for termination of current child support shall not end the obligation to pay any child support arrears, genetic testing fees, or other fees or court costs which may have accrued or be due as of the presumptive termination date;

(ii) The presumptive termination date shall be included in the order and shall be the eighteenth (18th) birthday of the youngest child included in the order unless the court determines that the youngest child is or may still be in high school on the youngest child's eighteenth (18th) birthday, in which case the court shall set the

presumptive date of termination of the support obligation as the latter of:

(a) The last day of the month of the anticipated date the youngest child included in the order graduates from high school after reaching eighteen (18) years of age;

(b) The last day of the month of the anticipated date that the class of which such child is a member when the child will attain eighteen (18) years of age graduates, whichever occurs first;

(iii) The presumptive termination date may be modified upon motion of the obligee, the obligor, or the department of human services or its contractors at any time any of them determine that changed circumstances may warrant a modification. The motion may be filed prior to or within six (6) months of the last established presumptive termination date. The court shall expedite any hearings concerning extension of the presumptive support termination date;

(iv) The filing of a motion to modify the presumptive termination date, when filed prior to the date previously set by the court as the presumptive termination date, shall stay the termination of support payments based upon such date until such time as the court makes a determination concerning modification of the presumptive date. The person legally obligated to pay support shall continue to pay support in the amount directed in the order in existence at the time such motion is filed until the decision concerning the date of termination of support is entered by the court or pending further orders of the court concerning the continuation of support payments pending a final hearing on the motion;

(v) If the court grants any motion for the extension of the presumptive termination date, and a person legally obligated to pay support ceases payment while the motion is pending or has previously ceased payment based upon any assumption as to the termination date of support, such person shall be ordered by the court to pay all amounts found by the court to be owing as a result of such cessation. Notwithstanding any other law to the contrary, the court shall order such payments be paid either in a lump sum to the obligee or, in Title IV-D cases, to the department of human services, and to the clerk of court for any fees and costs due in the case or, for good cause, in such amounts as will eliminate the balance owing over a period not to exceed six (6) months from the date of the order;

(vi) Absent a court order to the contrary, and notwithstanding any other provisions of this subsection (c) to the contrary, if an arrearage for child support, genetic testing fees or fees due as court costs exists at the time an order for child support would otherwise presumptively terminate, the order of support, or any then existing income withholding arrangement, and all amounts ordered for payment of current support or arrears, including any arrears due for court costs or genetic tests or fees due as court costs, shall continue in effect in an amount equal to the then existing support order or income withholding arrangement until the arrearage, fees and costs due are satisfied. The court may enforce all orders for such arrearages, fees and costs by contempt; and

(vii) Each order entered under this section shall contain the current address of the parties.

SECTION 2. This act shall take effect July 1, 2009, the public welfare requiring it and shall apply to any new or modified child support order entered on or after the effective date of this act.