

Department of Finance and Administration

Legislative Impact Statement

Bill: SB311

Amendment Number: H1

Bill Subtitle: TO AMEND THE LIMITATIONS PERIOD FOR WHEN A PETITION FOR AN INITIAL ORDER OF CHILD SUPPORT MAY BE SOUGHT AND THE PERIOD OF TIME FOR WHICH RETROACTIVE CHILD SUPPORT MAY BE AWARDED.

Basic Change :

Sponsors: Sen. Clark and Rep. Haak

House Amendment No. 1 --- SB311-H1 (engrossed H3/27/23) amends the bill to provide that if the parent was not served with a complaint under Rule 4 of the Rules of Civil Procedure and the parent was not intentionally evading service, the child support order would be effective no earlier than three years prior to the date of service or birth of the child if less than three years old.

Senate Amendment No. 1 --- SB311-S1 (engrossed 3/9/23) provides that, in an initial order, child support may be awarded beginning three years prior to the date of filing of the complaint or the birth of the child if the child is less than three years old. If service of the complaint occurs more than 90 days after filing and there is a finding that the parent did not evade service, child support would be effective three years prior to the date of service.

The original bill is further amended to retain existing law permitting an adult child to seek support from a non-supporting parent but limits support to the three-year period prior to the age of majority.

Original Bill --- SB311 would limit an award for retroactive child support in an initial order to no earlier than the date on which the payor parent was served with a complaint or motion. The bill would repeal existing law that permits an adult child to whom support was owed as a minor to seek a judgment from their non-payor parent.

Revenue Impact :

None.

Taxpayer Impact :

The timeframe during which a parent may be required to reimburse their child's custodial parent or caretaker for past care of the child would be reduced. The period an adult child could be awarded a judgment for support owed while a minor would similarly be reduced.

Resources Required :

No significant resources required.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Office of Child Support Enforcement (OCSE) procedures and training would require updating.

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Other Comments :

None.

Legal Analysis :

House Amendment No. 1 --- Service of process under Rule 4 of the Rules of Civil Procedure must be completed within 120 days of filing of the complaint unless the time for service is extended by order of the court. Unless service is achieved, a final order in the matter will not be entered. The bill may benefit from amendment to establish a time certain or other condition affecting the retroactive period of the child support obligation.

Senate Amendment No. 1 --- SB311-S1 resolves the conflicts noted below in the original bill.

Original Bill --- SB311 conflicts with § 9-10-111, which provides that in establishing paternity of a child, and if claimed by the mother, the court shall grant judgment of not less than \$10 per month retroactive from the birth of the child to age 18. SB311 may also conflict with § 9-14-236(a)(4)(D) and (b), which provide that a person for whom support was ordered is entitled to seek recovery of accrued child support within five years of reaching their majority. It is recommended that SB311 be amended to resolve these conflicts.