

SUBJECT: Authorizing law enforcement to enforce child custody orders

COMMITTEE: Juvenile Justice and Family Issues — favorable, as amended

VOTE: 6 ayes — Dutton, Goodman, Baxter, Hodge, J. Moreno, Reyna

0 nays

3 absent — Castro, Dunnam, Morrison

WITNESSES: For — Cecelia Burke, Travis County Domestic Relations Office; Roy Getting, Texas Fathers' Alliance; Robert Green, Texas Fathers' Alliance, Lone Star Fatherhood Initiative, Men and Fathers' Resource Center.

Against — None

On — Rose Benham, Child Protective Services; Cathy Morris, Texas Department of Protective and Regulatory Services; Tom Stansbury, Texas Family Law Foundation.

BACKGROUND: A final order for child custody must contain certain information listed in Chapter 105 of the Family Code. In addition to information such as the address and telephone number of each party, it must contain certain statements, displayed in boldfaced type, capital letters, or underlined, regarding requirements related to the order. These include statements regarding failure to obey a court order for child support or for possession of or access to a child, and failure to make a child support payment to the place and in the manner required by the court.

Under Section 37 of the Penal Code, it is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) to make, present, or use a governmental record with knowledge of its falsity if the intent is to defraud or harm another.

DIGEST: HB 227 as amended would require that final child custody orders contain a notice to peace officers stating that they may use reasonable efforts to enforce the terms of the custody order. The notice would state that the officer's

reliance on the terms of the order would be absolute indemnity against any claim regarding good faith acts performed by the officer to enforce the terms of the order. It also would state that any person who knowingly presented an invalid order would commit a state jail felony. This statement would be displayed prominently in boldfaced type, capital letters, or underlined.

HB 227 would take effect on September 1, 2003, and would apply only to orders rendered on or after that date.

**SUPPORTERS
SAY:**

HB 227 would provide an additional tool to help peace officers and parents fairly enforce child custody orders. Currently, local policies and procedures regarding the response of peace officers to child custody disputes vary throughout the state. Some officers are unwilling to get involved in enforcing orders because of concerns about their own liability or questions about the validity of the custody order. HB 227 would provide clear guidance to peace officers in these situations and provide parents with clear, readily available information to present to peace officers who otherwise might be unwilling to intervene in a dispute.

The bill would help prevent difficulties that noncustodial parents, often fathers, sometimes have in enforcing custody orders when peace officers feel inclined to support the custodial parent.

**OPPONENTS
SAY:**

HB 227 would further crowd child custody orders with information that might not achieve the purpose of encouraging peace officers to enforce custody orders. A valid copy of a custody order should be sufficient evidence to prompt peace officers to enforce these orders. Having a printed statement for peace officers on the order is unlikely to change local enforcement policies.

NOTES:

The committee amendment to HB 227 as filed would replace the phrase “you are ordered” with “you may use reasonable efforts” to enforce the terms of a child custody order and would eliminate the phrase “and, if necessary, to use force to do so.”