

- SUBJECT:** Authority of courts to render amended qualified domestic relations orders
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 5 ayes — Dutton, Goodman, Nixon, Strama, Thompson
0 nays
4 absent — Castro, Y. Davis, Dunnam, J. Moreno
- WITNESSES:** For — (*Registered but did not testify*: Roy Getting, Texas Fathers Alliance)
Against — None
- BACKGROUND:** A domestic relations order is a judgment, decree, or order, including approval of a property settlement agreement, that relates to providing child support, spousal maintenance payments, or marital property rights to a spouse, former spouse, child, or other dependent made pursuant to domestic relations law, including a community property law of Texas or of another state.
- A party to a decree of divorce or annulment may petition the court for a qualified domestic relations order (QDRO). A QDRO permits all or part of a pension or other employee benefits to be paid to an alternate payee, including a spouse, former spouse, child, or other dependent.
- Under current law, a court can render a QDRO if one has not been entered before, or if a plan administrator or other person acting in that capacity determines that the QDRO does not satisfy the requirements of the divorce decree. Family Code, sec. 9.104 provides that a court retains continuing, exclusive jurisdiction over the parties and their property to the extent necessary to render a QDRO.
- DIGEST:** HB 248 would amend the Family Code to specify that a court that entered a QDRO would retain continuing, exclusive jurisdiction to amend the order for correctional purposes or to clarify the terms of the order, so that the court's order for division of property would be carried out properly.

The amended domestic order would have to be submitted to the plan administrator or other person acting in that capacity to determine whether the amended order satisfied the requirements of a QDRO.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005, and would apply to a qualified domestic relations order issued before, on, or after the effective date.

**SUPPORTERS
SAY:**

Texas courts have ruled differently on whether a court continues to have jurisdiction over a matter after a QDRO has been entered. HB 248 would clarify that a court has continuing, exclusive jurisdiction over parties and their property beyond the initial entering of a QDRO. The same court that entered the original QDRO should maintain jurisdiction because it is the court most familiar with the matter.

Under current law, it does not appear that a court has the authority to enter an amended QDRO after an original, but incorrect, QDRO has been accepted by a plan administrator. It also is unclear whether a court has the authority to amend a QDRO that is inconsistent with the requirements of a divorce decree. HB 248 would end the confusion and allow a court to enter an amended QDRO under both circumstances.

HB 248 would clarify further that a QDRO was intended only to carry out the terms of a divorce decree. Court rulings have varied as to whether an amended QDRO had the effect of contractually modifying the terms of the decree, regardless of whether the parties had that intent. This bill would specify that an amended QDRO would not change the terms of a divorce decree but could clarify the terms to effectuate the division of property ordered.

**OPPONENTS
SAY:**

No apparent opposition.