

- SUBJECT:** Barring contempt findings where child support paid in full.
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 5 ayes — Dutton, Riddle, Peña, Sanford, J. White
- 0 nays
- 2 absent — Hughes, Rose
- WITNESSES:** For — (*Registered, but did not testify*: Ingrid Montgomery, Intended Parents’ Rights; Emily Gerrick, Texas Fair Defense Project; Yannis Banks, Texas NAACP)
- Against — Karl Hays, Texas Family Law Foundation; Cecilia Wood
- On — Elizabeth “Liz” Kromrei, Child Protective Services
- BACKGROUND:** The 83rd Legislature enacted HB 847, which repealed a subsection of Family Code, ch. 157 that prohibited a court from finding a person in contempt for failure to pay child support if that person appeared during a hearing to enforce a child support order with a copy of a payment record or other evidence showing he or she was current in payments as ordered. HB 847 also provided that a court could order court costs and reasonable attorney’s fees to be awarded even if a person was not found in contempt.
- DIGEST:** HB 545 would prohibit the court from finding a person in contempt for failure to pay child support if that person appeared at the hearing with proof that he or she was current on support payments. The person owing support would need to present either a copy of the payment record or other evidence acceptable to the court in order to bar a contempt finding.
- The bill would take effect September 1, 2015, and would apply only to hearings for suits affecting the parent-child relationship commenced on or after that date.

**SUPPORTERS  
SAY:**

HB 545 would fill a gap in current law, providing protection for child support obligors who make the support payments late but in full. Before legislation enacted in 2013 by the 83rd Legislature, the law protected individuals in this situation. The protection was eliminated as a way to provide recourse for the court when an obligor waited until the last minute to pay support. HB 545 would reestablish this protection and prevent parents who had paid their child support from being sent to jail, which can stop all payments to the families that depend on the support.

Few if any other instances exist under the law where a person can be jailed for money owed even after the money is paid. The bill would prevent this and would correct a misapplication of contempt laws, which should not apply when a person has complied completely with a court's order. Sometimes a clerical error made by a person's employer or another entity leads to unpaid child support payments through no fault of the obligor.

**OPPONENTS  
SAY:**

HB 545 would eliminate an important enforcement mechanism for courts when a person waits until the last minute to catch up on child support payments. Many individuals use the child support system to exert control over dependents, falling several months behind in payments until the date of the hearing while families struggle and must hire an attorney or contact the attorney general's office. Legislation in 2013 permitted courts to find individuals in contempt if they were engaging in this sort of behavior, but HB 545 would remove this protection. While courts often avoid imprisoning obligors, in part to prevent loss of income to pay support, it is important to have this enforcement mechanism to use when necessary.