

SUBJECT: Collecting income withholding for child support from certain employees

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 8 ayes — Neave, Swanson, Cook, Frank, Ramos, Talarico, Vasut, Wu

0 nays

1 absent — Leach

WITNESSES: For — Keith Maples, Texas Family Law Foundation; (*Registered, but did not testify*: Amy Bresnen, Texas Family Law Foundation; Cecilia Wood)

Against — Julie Campbell

On — Charles Reed, Dallas County Commissioners Court; Joel Rogers, Office of the Attorney General-Child Support Division

BACKGROUND: Family Code sec. 101.011 defines earnings to mean a payment to or due an individual, regardless of source and how denominated. The term includes a periodic or lump-sum payment for:

- wages, salary, compensation received as an independent contractor, overtime pay, severance pay, commission, bonus, and interest income;
- payments made under a pension, an annuity, workers' compensation, and a disability or retirement program; and
- unemployment benefits.

Occupations Code sec. 2402.001 defines a "transportation network company" to mean a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity's digital network, a digitally prearranged ride.

DIGEST: CSHB 458 would add to the types of periodic or lump-sum payments that

are considered "earnings" in the Family Code to include compensation from a transportation network company and compensation from a person that operates a technology platform used to make deliveries to customers.

The bill would change the definition of "employee" as applicable to the Office of the Attorney General-Child Support Division's state directory of new hires to include:

- a driver who logged in to the digital network of a transportation network company regardless of whether the driver was considered an independent contractor under the Occupations Code; and
- an individual who logged in to or otherwise used a technology platform to make deliveries for compensation.

The bill would include among the persons who were considered employers a transportation network company and a person that operates a technology platform used to make deliveries to customers. An employee who had not received earnings from the employer and an employee who was previously employed by the employer but had not received earnings from the employer for at least 60 consecutive days would be included among the persons considered newly hired employees.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 458 would help to ensure that Texas children get the financial support they deserve by amending the Family Code to clarify the requirements for collecting child support wages from certain transportation network companies, such as ride-share operators Uber and Lyft, who hire "gig" employees. Current law requires a court or the Child Support Division of the Office of the Attorney General in a child support proceeding to issue an Income Withholding Order (IWO) so that income may be withheld from an individual's income to pay child support. However, many "gig economy" employers do not currently report the independent contractors who perform these tasks to the state directory of new hires. As a result, the attorney general's office has incomplete information about an obligor's income and resources and is unable to issue

IWOs to ensure child support is paid promptly and consistently.

CRITICS
SAY:

CSHB 458 could lead to the garnishing of a gig worker's wages, putting them at risk financially and potentially driving them to off-the-books work to hide income, which would ultimately deprive those who depend on the worker for child support payments.