

BILL ANALYSIS

Senate Research Center

H.B. 1878
By: Dutton (Harris)
Administration
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Engrossed

DIGEST AND PURPOSE

The Texas Family Code provides for the establishment and enforcement of child support and medical support obligations in suits affecting the parent-child relationship. These provisions include procedures for the determination of parentage, the ordering of child support, the enforcement of support obligations and the suspension or revocation of various licenses of a delinquent child support obligor. H.B. 1878 provides technical corrections and clarifications in certain sections of the Family Code relating to the determination of parentage, the establishment and enforcement of child support and medical support obligations, and administrative procedures used by the Texas Title IV-D child support enforcement program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.181(a), Family Code, to require the court to render an order for the medical support of the child as provided by this section and Section 154.182 in a proceeding in which periodic payments of child support are ordered under this chapter or modified under Chapter 156, in any other suit affecting the parent-child relationship in which the court determines that medical support of the child must be established, modified, or clarified or in a proceeding under Chapter 159.

SECTION 2. Amends Section 154.182(b), Family Code, to replace the phrase "such program" with "the state child health plan" in Subdivision (4).

SECTION 3. Amends Section 154.188, Family Code, as follows:

Sec. 154.188. New heading: FAILURE TO PROVIDE OR PAY FOR REQUIRED HEALTH INSURANCE. Provides that a parent ordered to provide health insurance or to pay the other parent additional child support for the cost of health insurance who fails to do so is liable for certain costs.

SECTION 4. Amends Section 157.263, Family Code, by adding Subsection (c), to require the court to render a new cumulative judgment to include as arrearages an amount equal to the amount by which the credit was reduced, if the amount of arrearages confirmed by the court reflects a credit to the obligor for support arrearages collected from a federal tax refund under 42 U.S.C. Section 664, as amended, and, subsequently, the amount of that credit is reduced because the refund was based on a joint return under which another person was entitled to a share of the refund under 42 U.S.C. Section 664, as amended.

SECTION 5. Amends Sections 157.311(1) and (4), Family Code, as follows:

- (1) Deletes the phrase "including for workers' compensation" in relation to filing a claim, from the definition of "account."
- (4) Removes "workers' compensation insurer" as an entity within the meaning assigned to "financial institution."

SECTION 6. Amends Section 157.312, Family Code, by adding Subsection (g), to prohibit a child support lien under this subchapter from being directed to an employer to attach to the disposable earnings of an obligor paid by the employer.

SECTION 7. Amends Section 157.3145, Family Code, as follows:

- (a) Creates this subsection from existing text.
- (b) Requires a financial institution doing business in this state to comply with the notice of lien and levy under this section regardless of whether the institution's corporate headquarters is located in this state.

SECTION 8. Amends Section 157.317, Family Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

- (a) Makes nonsubstantive and conforming changes.
- (a-1) Creates this subsection from existing text relating to the attachment of a lien.

SECTION 9. Amends Subchapter C, Chapter 158, Family Code, by adding Section 158.213, as follows:

Sec. 158.213. WITHHOLDING FROM WORKERS' COMPENSATION BENEFITS.

- (a) Require an insurance carrier that receives an order or writ of withholding under Section 158.206 for workers' compensation benefits payable to an obligor to withhold an amount not to exceed the maximum amount allowed to be withheld from income under Section 158.009 regardless of whether the benefits payable to the obligor for lost income are paid as lump sum amounts or as periodic payments.
- (b) Requires an insurance carrier subject to this section to send the amount withheld for child support to the place of payment designated in the order or writ of withholding.

SECTION 10. Amends Section 160.204(b), Family Code, to authorize a presumption of paternity established under this section to be rebutted only by an adjudication under Subchapter G or the filing of a valid denial of paternity by a presumed father in conjunction with the filing by another person of a valid acknowledgment of paternity as provided by Section 160.305.

SECTION 11. Amends Section 160.633, Family Code, as follows:

- (a) Provides that a proceeding under this subchapter is open, rather than closed, to the public as in other civil cases. Deletes existing language relating to authorizing the court to order a proceeding closed, on the request of a party and for good cause shown.
- (b) Provides that papers and records in a proceeding under this subchapter are available for public inspection. Deletes existing text relating to a final order in a proceeding under this subchapter being available for public inspection. Deletes existing text relating to certain papers and records being available only with the consent of the parties or on order of the court for good cause.

SECTION 12. Amends Section 231.002(c), Family Code, to authorize the Title IV-D agency to enter into agreements or contracts with federal, state, or other public or private agencies or individuals for the purpose of carrying out the agency's responsibilities under federal or state law. Provides that the agreements or contracts between the agency and other state agencies or political subdivisions of this or another state, including a consortia of multiple states, and agreements or contracts with vendors for the delivery of program services are not subject to Chapter 771 or 783, Government Code.

SECTION 13. Amends Section 231.007(h), Family Code, to delete language relating to the

amount of weekly workers' compensation benefits withheld under this section.

SECTION 14. Amends Section 231.104(b), Family Code, to delete the phrase "to the extent permitted by federal law," relating to the assignment of support rights.

SECTION 15. Amends Section 231.108, Family Code, by adding Subsection (g) to provide that the final order in a suit adjudicating parentage is available for public inspection as provided by Section 160.633.

SECTION 16. Amends Section 232.013(a), Family Code, to include "the court or Title IV-D agency determines that good cause exists for vacating or staying the order," as a condition whereby the court or Title IV-D agency is authorized to render an order vacating or staying an order suspending an individual's license.

SECTION 17. Amends Section 233.018(a), Family Code, to remove "and the making of a record on the petition for confirmation," as a requirement of a child support review order.

SECTION 18. Amends Section 233.024(a), Family Code, to require that on the filing of an agreed child support review order signed by all parties, together with waiver of service, the court sign the order not later than the third day after the filing of the order.

SECTION 19. Amends Section 233.026, Family Code, as follows:

Sec. 233.026. TIME FOR COURT HEARING. (a) Requires the court, when a timely request for a court hearing has been filed as provided by Section 233.023, to hold a hearing on the confirmation of a child support review order that has not been agreed to by the parties not later than the 30th day after the date the request was filed.

(b) Prohibits a court from holding a hearing on the confirmation of a nonagreed child support review order if a party does not timely request a hearing as provided by Section 233.023.

(c) Requires the reset hearing to be held not later than the 30th day after the date set for the initial hearing, if the court resets the time of the hearing.

SECTION 20. Amends Section 233.027, Family Code, by adding Subsection (c) to require the court to sign a confirmation order and enter the order as an order of the court, if the party who requested the hearing fails to appear at the hearing.

SECTION 21. Amends Section 192.005(a), Health and Safety Code, provide that the items on a birth certificate relating to the child's father shall be completed only if certain conditions are met.

SECTION 22. Amends Section 408.203(b), Labor Code, to require a benefit that is subject to a lien or claim for payment of court-ordered child support to be paid as required by an order or writ of withholding under 158, Family Code.

SECTION 23. Repealer: Section 192.005(b)(Record of Paternity), Health and Safety Code.

SECTION 24. (a) Effective date: September 1, 2003.

(b) - (d) Make application of this Act prospective.