

BILL ANALYSIS

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S.B. 231
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Family Code provides for the establishment of paternity and for the establishment and enforcement of child and medical support obligations for a child in suits affecting the child-parent relationship. Child and medical support obligations may be enforced through the use of various remedies prescribed by the Family Code, including income withholding and the assertion of liens for past-due support. The Family Code also provides certain administrative processes for the Title IV-D agency, which is administered by the Texas attorney general in compliance with federal mandates as a condition for the state's receipt of federal funds for its child support enforcement and welfare programs.

The Family Code has been repeatedly amended with regard to the establishment and enforcement of child support obligations to reflect new federal mandates, case law, current practice, and the need to clarify provisions and enhance of procedures provided by law.

As proposed, S.B. 231 makes technical corrections to and clarifications in certain provisions of the Family Code relating to the establishment and enforcement of child support obligations. In addition, this bill provides for the enhancement of administrative processes available to the Title IV-D agency under the Family Code for the enforcement of child support obligations, specifically by providing for withholding for support from lump-sum payments due to an obligor in a Title IV-D case.

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 105.006(g), Family Code, as follows:

(g) Requires the Title IV-D agency to promulgate and provide forms for use in reporting certain information to the court and the state case registry under Chapter 234, deleting the condition that it be established in order to provide such forms to the state case registry.

SECTION 2. Amends Section 108.001, Family Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the court clerk to transmit to the bureau of vital statistics (bureau) a certified record of the order rendered in a suit, and content requirements therein. Requires that the record be provided on a form furnished by the bureau, completed by the petitioner, and submitted to the clerk at the time the order is filed for record.

(d) Authorizes the Title IV-D agency to transmit the record and information to the bureau and, if requested, the court clerk in a Title IV-D case. Specifies that such records and information are not required to be certified if transmitted under this subsection.

SECTION 3. Amends Section 108.004, Family Code, as follows:

Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION. Adds Chapters 159 (Uniform Interstate Family Support Act) and 262 (Procedures In Suit By

Governmental Entity To Protect Health And Safety Of Child) to the list of chapters under which the clerk is required to transmit to the bureau a record stating loss of jurisdiction, as well as the content requirements thereof.

SECTION 4. Amends Section 154.186(a) and (b), Family Code, to specify that this section (Notice to Employer Concerning Medical Support) applies to an obligee, obligor, or child support agency of this state or another state, and in certain case, the Title IV-D agency of this state or another state.

SECTION 5. Amends Section 155.101(a), Family Code, to require a court petitioner to request from the bureau the identity of the court that last had exclusive jurisdiction of the child before the rendition of a final order. Deletes existing text relating to conditions under which this subsection does not apply.

SECTION 6. Amends Section 155.103(a), Family Code, to require a court to have jurisdiction over a suit if it has been informed by the bureau that the child has not been the subject of another suit. Deletes existing text relating to a petition stating the lack of continuing, exclusive jurisdiction by any other court.

SECTION 7. Amends Section 155.104, Family Code, as follows:

Sec. 155.104. New heading: VOID ORDER. Prohibits a final order, except a dismissal order, from being rendered until information furnished by the bureau relating to the court having exclusive, continuing jurisdiction, is filed with the court. Specifies that an order rendered in violation of the aforementioned provision is void, rather than voidable in certain circumstances.

SECTION 8. Amends Section 157.066, Family Code, as follows:

Sec. 157.066. FAILURE TO APPEAR. Exempts Title IV-D cases from those cases in which a court is authorized to issue an arrest order for failure to appear, if a person has been personally served with notice to appear. Requires a court to issue an arrest order for a respondent who fails to appear, as described in this section, on request if the Title IV-D agency.

SECTION 9. Amends Section 157.102, Family Code, as follows:

Sec. 157.102. New heading: CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT OFFICIALS. Requires law enforcement officials to treat a capias or arrest warrant under this chapter in the same manner as an arrest warrant for a criminal offense. Makes conforming changes.

SECTION 10. Amends Section 157.114, Family Code, as follows:

Sec. 157.114. Authorizes a court to order a capias for the arrest of a respondent in a Title IV-D case under certain circumstances. Requires the court to issue the capias upon request from the Title IV-D agency if certain requirements are met.

SECTION 11. Amends Section 157.115, Family Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes the court to order a capias in a case other than a Title IV-D case if the respondent fails to appear.

(c) Requires the court to order a capias to be issued upon the request of the Title IV-D agency if the respondent in a Title IV-D case fails to appear.

SECTION 12. Amends Section 157.268, Family Code, as follows:

Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Adds Title IV-D service fees to the list of prioritized items for which collected child support money is to be applied.

SECTION 13. Amends Section 157.318(a), Family Code, to make conforming changes.

SECTION 14. Amends Section 157.324, Family Code, as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. Provides a penalty applicable to a person who sells property that is subject to a child support lien, or fails to surrender nonexempt personal property as directed by a court under this subchapter. Provides that the penalty is equal to the amount of arrearages for which the lien or foreclosure judgment was issued. Deletes existing text relating to administrative orders and levy notices.

SECTION 15. Amends Section 157.327, Family Code, by amending Subsection (b) and adding Subsection (f), as follows:

(b) Places additional content requirements for a notice under this section. Requires the notice of levy to include the amount of arrearages owed at the time the notice is prepared and delivered to the financial institution.

(f) Authorizes a financial institution to deduct certain fees and costs from an obligor's assets before paying the claimant.

SECTION 16. Amends Section 157.330, Family Code, as follows:

Sec. 157.330. FAILURE TO COMPLY WITH NOTICE. (a) Creates this subsection from existing text.

(b) Authorizes a claimant to recover costs and reasonable attorney's fees incurred in an action under this section.

SECTION 17. Amends Subchapter C, Chapter 158, Family Code, by adding Section 158.214, as follows:

Sec. 158.214. WITHHOLDING FROM LUMP-SUM PAYMENTS. Defines "lump-sum payment." Specifies to whom this section applies. Sets forth the manner, conditions, and time frame in which an employer to whom this section applies may make a lump-sum payment to the obligor in an amount over \$500. Prohibits an employer from making a lump-sum payment to the obligor before the earlier of specified dates, after the employer has notified the Title IV-D agency in compliance with the provisions in this section. Requires an employer who receives timely authorization from the Title IV-D agency to make the lump-sum payment only in accordance with the terms of authorization.

SECTION 18. Amends Section 158.502(a), Family Code, to make a conforming change.

SECTION 19. Amends Section 158.503(b), Family Code, to require the entity issuing the administrative writ of withholding, rather than the Title IV-D agency, to file a certified copy thereof in the court of continuing jurisdiction, except in Title IV-D cases.

SECTION 20. Amends Section 158.506, Family Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Authorizes the obligor to file a motion to withdraw the administrative writ of withholding and request a hearing in certain cases under a specified time frame. Prohibits the court from withdrawing the administrative writ without the obligor showing that he or she has exhausted the administrative remedies provided under this section. Deletes existing text relating to an obligor's remedy entitlements for cases in which an application notice for judicial writ of withholding was not received.

(d) Authorizes an obligor to file a motion in accordance with Subsection (c) if the administrative writ is issued on the order of a tribunal of another state not registered under Chapter 159 (Uniform Interstate Family Support Act).

SECTION 21. Amends Section 158.507, Family Code, to make conforming changes.

SECTION 22. Amends Section 231.006(b), Family Code, to delete text providing that a child support obligor ineligible to receive payments under Subsection (a-1) remains ineligible until certain actions have taken place.

SECTION 23. Amends the heading of Section 231.012, Family Code, to read as follows:

Sec. 231.012. CHILD SUPPORT WORK GROUP.

SECTION 24. Amends Sections 231.012(a), (b), and (c), Family Code, as follows:

(a) Authorizes the director of the Title IV-D agency to convene a work group composed of certain entities with an interest in child support enforcement in Texas to work with the director to develop strategies to improve enforcement. Deletes existing text relating to requiring the director to establish a county advisory work group and composition thereof.

(b) Requires the director to appoint the members of the work group after consulting with appropriate public and private entities. Deletes existing text relating to consulting with relevant professional or trade associations, and text relating to requiring the director to appoint the members and presiding officer of the work group.

(c) Requires the work group to meet as convened by the director and to consult with the director on matters relating to child support enforcement in Texas, including the delivery of Title IV-D services. Deletes existing text relating to specific plans and programs on which the work group and director are to be required to convene.

SECTION 25. Amends Section 231.103, Family Code, by amending Subsections (a) and (f) and adding Subsection (g-1), as follows:

(a) Authorizes the Title IV-D agency to charge appropriate service fees, rather than a specified \$25 annual fee.

(f) Authorizes the state disbursement unit to collect a \$3 monthly service fee in each case in which support payments are processed through the unit.

(g-1) Specifies that an authorized fee under this section is part of the obligor's child support obligation and may be enforced in any manner available for the enforcement of child support, including contempt.

SECTION 26. Amends Section 233.019, Family Code, by adding Subsection (d), to require a child support order issued by a tribunal of another state and filed with an agreed review order to be treated as a confirmed order, notwithstanding registration under Subchapter G, Chapter 159.

SECTION 27. Amends Section 234.008(a), Family Code, to make a conforming change.

SECTION 28. Amends Subchapter A, Chapter 234, Family Code, by adding Section 234.012, as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Requires the state case registry to provide, on request and to the extent permitted by federal law, the required information under Sections 105.006 and 105.008 in any case to specified persons or entities, unless otherwise prohibited in accordance with Section 105.006(c).

SECTION 29. Repealer: Section 231.006(a-1) (relating to the ineligibility for student financial assistance for a delinquent child support obligor), Family Code.

Repealer: Section 231.103(d) (Relating to a service fee that a Title IV-D agency may charge), Family Code.

Repealer: Sections 234.008(c), (d), and (e) (Disposition of funds), Family Code.

Repealer: Chapter 235 (Sharing Information In State Case Registry), Family Code.

SECTION 30. (a), (c)-(g) Makes application of this Act prospective.

(b) Provides that the changes in law made by this Act to Sections 157.066, 157.114, and 157.115, Family Code, apply to a respondent who fails to appear on or after the effective date of this act, regardless of the suit's commencement date or the date the respondent was served with notice to appear.

SECTION 31. Effective date: September 1, 2007.