

BILL ANALYSIS

Senate Research Center
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S.B. 431
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law relating to child support enforcement provides that a court retains jurisdiction under a 10-year statute of limitations.

As proposed, S.B. 431 eliminates the 10-year statute of limitations. The bill requires a financial institution that receives a child support lien to disclose the balance in the account to the claimant and the state, if requested. In addition, the bill authorizes a claimant to request information on transactions that occur after the date the lien was received.

The bill clarifies that the levy applies to any funds that subsequently come into the account as well as the funds on hand when the levy was received and that any person who claims they have an interest in the funds must file a motion in the same time period as the obligor.

The bill authorizes a financial institution to charge fees for processing a levy and collect those fees from the obligor, but prohibits the financial institution from deducting those fees from the amounts paid to the child support recipient.

Finally, the bill clarifies that child support collections are governed solely by Section 157.269 (Retention of Jurisdiction), Family Code, and not by Section 34.001 (No Execution on Dormant Judgment), Civil Practice and Remedies Code.

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 157.005(b), Family Code, as follows:

(b) Provides that the court retains jurisdiction to confirm the total amount of child support arrearages and render judgment for past-due child support until the date all current child support arrearages, including interest and any applicable fees and costs, have been paid. Deletes existing text providing that the court retains jurisdiction to confirm the total amount of child support arrearages and render for past due child support if a motion for enforcement requesting a money judgment is filed not later than the 10th anniversary after the date the child becomes an adult or on which the child support obligation terminates under the child support order or by operation of law.

SECTION 2. Amends Section 157.311(1), Family Code, to redefine "account."

SECTION 3. Amends Section 157.312(g), Family Code, as follows:

(g) Prohibits a child support lien under this subchapter from being directed to an employer in lieu of an order or writ under Chapter 158 (Withholding From Earnings for Child Support) to withhold child support from the disposable earnings of an obligor, rather than to attach to the disposable earnings of an obligor paid by the employer.

SECTION 4. Amends Section 157.314, Family Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Requires the financial institution, if a child support lien notice is delivered to a financial institution with respect to an account of the obligor, to provide the claimant with the last known address of the obligor and disclose to the claimant the amount in the account at the time of receipt of the notice.

(e) Requires a financial institution to which a child support lien notice has been delivered on request, to provide the claimant with a statement showing all transactions involving the obligor's account that occurred from the date of receipt of the child support lien notice to the date of receipt of the request for information.

SECTION 5. Amends Section 157.327(b), (c), and (f), Family Code, as follows:

(b) Requires that notice under this subsection direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor at the time the levy is paid that are held or controlled by the institution or that should be held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless certain actions occur, including that the obligor or another person with an ownership interest in the account files, not later than the 10th day after the date of delivery of the notice, a suit under Section 157.323 (Foreclosure or Suit to Determine Arrearages) requesting a hearing by the court.

(c) Prohibits a financial institution that receives a notice of levy under this section from closing an account in which the obligor has a beneficial ownership interest, rather than an ownership interest, permitting a withdrawal from any account the obligor owns, in whole or in part, or paying funds to the obligor or a nominal owner so that any amount remaining in the account is less than the amount of the arrearages identified in the notice, plus any fees due to the institution and any costs of the levy identified by the claimant.

(f) Authorizes a financial institution to collect any fees and costs identified in Subsection (c) from the obligor but prohibits a financial institution from deducting those fees and costs from the obligor's assets before paying the appropriate amount to the claimant. Deletes existing text authorizing a financial institution to deduct the fees and costs identified in Subsection (c) the obligor's assets before paying the appropriate amount to the claim.

SECTION 6. Amends Section 34.001, Civil Practice and Remedies Code, by adding Subsection (c), as follows:

(c) Provides that this section does not apply to a child support judgment or any other child support collection remedy authorized by the Family Code.

SECTION 7. Provides that changes in law to Section 157.005, Family Code, apply to child support arrearages regardless of date when the child support became due or the child support obligation terminates.

SECTION 8. Makes application of the changes in law made by this Act to Sections 157.311 and 157.312, Family Code, prospective.

SECTION 9. Makes application of the changes in law made by this Act to Sections 157.314 and 157.327(f), Family Code, prospective.

SECTION 10. Provides that changes in law made by this Act to Section 34.001, Civil Practice and Remedies Code, apply to each child support judgment or collection remedy, regardless of the date on which the judgment is rendered or the remedy is sought.

SECTION 11. Effective date: September 1, 2009.