

- SUBJECT:** Allowing wage garnishment for spousal maintenance
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 6 ayes — Goodman, Isett, P. King, Morrison, Naishtat, Truitt
1 nay — Pickett
2 absent — A. Reyna, E. Reyna
- WITNESSES:** For — None
Against — Robert L. Green, Jr., and David Allen Shelton, Texas Fathers Alliance
- BACKGROUND:** Under the Texas Constitution and current law, court-ordered wage garnishment is allowable only in cases that involve a failure to make child-support payments.

Spousal maintenance is court-ordered support paid to one spouse by another after divorce. A court orders such support in cases in which:
- ! the spouse who is to pay the support is convicted of or receives deferred adjudication for an offense of family violence within two years of the divorce or while the case is pending; or
 - ! the marriage lasted 10 years or more and the spouse seeking support lacks sufficient financial resources to provide for his or her minimum needs.
- A spouse seeking support also must prove the inability to support himself or herself because of an incapacitating physical or mental disability, because the spouse is the custodian of a child who requires substantial care, or because the spouse clearly lacks earning ability in the labor market adequate to provide support for his or her minimum reasonable needs.
- DIGEST:** HB 145 would amend the Family Code to authorize a court to enforce an order for spousal maintenance by ordering garnishment of the wages of the person ordered to pay the spousal maintenance. The bill would allow the use of other means to garnish wages as authorized by Family Code, sec. 8.009,

which provides for the enforcement of maintenance orders through contempt proceedings and default judgment.

HB 145 would take effect September 1, 1999.

**SUPPORTERS
SAY:**

HB 145 would address a growing problem in Texas: the deadbeat spouse who refuses to pay court-ordered spousal maintenance. Spousal maintenance was enacted with the express purpose of providing temporary financial assistance for ex-spouses who have no or limited job skills and financial resources. The intent is to keep such spouses from relying on government assistance. Wage garnishment is especially effective against spouses who do not respond to court orders or default judgments.

As it is for collecting child support, wage garnishment would be an appropriate remedy for ensuring that the money owed actually is paid. The procedures for garnishment involving child support are well established, and adding spousal maintenance would not impose a burden on employers.

Enactment of HB 145, the enabling legislation for HJR 16 by Thompson, would allow the people of Texas decide in a November 1999 general election whether the state should allow garnishment of the wages of a spouse who refuses to obey a court order for spousal maintenance.

**OPPONENTS
SAY:**

HB 145 would bring Texas closer to the alimony system in California, where wages are garnished. Spousal maintenance in Texas is evolving toward outright alimony, and this bill would accelerate that trend. Many spouses of lesser means who already may be paying 30 percent of their income for child support would be placed in an even worse position. Combined child support and spousal maintenance payments could approach 50 percent of some spouses' income.

Garnishment of wages is a drastic step that should be reserved for payment of child support, not allowed for alimony-type payments. Unlike child support, spousal maintenance payments are used to support adults who may be capable of supporting themselves.

NOTES: HJR 16 by Thompson, which would propose the constitutional amendment for the November 1999 ballot on wage garnishment to enforce spousal maintenance, is on today's Constitutional Amendments Calendar.