

BILL ANALYSIS

C.S.H.B. 1878

By: Dutton
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Family Code provides for the establishment and enforcement of child support and medical support obligations in suits affecting parent-child relationships. Among the provisions of the Family Code are procedures for the determination of parentage in contested and non-contested cases and for the ordering of child support obligations through the application of statutory support guidelines. The Family Code also provides several procedures for the enforcement of support obligations, including the use of income withholding, the assertion of liens for past-due child support, and the suspension or revocation of various licenses of a delinquent child support obligor for the purpose of compelling compliance with a child support obligation.

C.S.H.B.1878 provides technical corrections and clarification of intent with respect to certain current code sections 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, which is administered by the Child Support Division of the Office of the Attorney General.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

- Section 1.** Amends Section 154.181(a), Family Code, to provide that an order for medical support of a child must be rendered only in a proceeding in which child support is ordered or modified or any other proceeding affecting the parent-child relationship in which the court determines that medical support of a child must be established, modified, or clarified.
- Section 2.** Amends Section 154.182(b)(4), Family Code, to provide that the obligor may be ordered to pay additional child support to the obligee for the actual cost of the child's participation in the state child health plan under Chapter 62, Health and Safety Code, not the medical assistance program (Medicaid) under Chapter 32, Human Resources Code.
- Section 3.** Amends Section 154.188, Family Code, to provide that a parent is ordered to provide health insurance or to pay the other parent additional child support for the cost of health insurance. A parent ordered to provide health insurance, who fails to do so is liable for necessary medical expenses; regardless of whether the expenses would have been paid if health insurance had been provided; and the cost of health insurance premiums or contributions, if any, paid on behalf of the child.
- Section 4.** Adds Subsection (c) to Section 157.263, Family Code, to provide that where an obligor receives a credit toward the amount of support arrearage owed through an interception of a federal income tax refund, but subsequently the amount intercepted is reduced by the claim of another person with whom the tax return was filed jointly, the court shall render

a new cumulative judgment to include as arrearage an amount equal to the amount by which the credit was reduced.

- Section 5.** Amends Section 157.311, Family Code, to exclude workers' compensation from the definition of "account" with respect to which a child support lien may attach, inasmuch as workers' compensation benefits are paid for lost earnings and are available for payment of court-ordered child support under Section 408.203(b), Labor Code, only through an order or writ of withholding under Chapter 158, Family Code.
- Section 6.** Amends Section 157.312, Family Code, by adding Subsection (g), to provide that a child support lien may not be directed to an employer to attach to the disposable earnings of an obligor paid by the employer.
- Section 7.** Adds Subsection (b) to Section 157.3145, Family Code, to provide that a financial institution doing business in the state must comply with the notice of lien and levy regardless of whether the institution's corporate headquarters is located in this state.
- Section 8.** Amends Section 157.317, Family Code, by deleting reference to workers' compensation as property to which a child support lien may attach.
- Section 9.** Amends Subchapter C, Chapter 158, Family Code, by adding Section 158.213 to provide that an insurance carrier that receives an order or writ of withholding under Section 158.206 for workers' compensation benefits payable to an obligor shall 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. Additionally, an insurance carrier shall 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, provides a rebuttal of a presumption of paternity by the filing of a valid denial of paternity by a presumed father in conjunction with a valid acknowledgment of paternity by another man, as provided under Section 160.305, Family Code.
- Section 11.** Amends Section 160.633, Family Code, to provide that a final order in a proceeding under this subchapter is available for public inspection.
- Section 12.** Amends Section 231.002(c), Family Code, to extend the exemption of the Title IV-D agency from the requirements of Chapters 771 and 783, Government Code, to agreements or contracts between the Title IV-D agency and the agencies or political subdivisions of other states and vendors for delivery of program services, thereby enabling the Title IV-D agency, in carrying out its responsibilities under federal law, to enter into multi-state consortia and to secure program services where the Government Code's contract requirements would be fundamentally inapplicable or unduly restrictive and burdensome.
- Section 13.** Amends Section 231.007(h), Family Code, to provide with that the amount of weekly workers' compensation benefits may be withheld or assigned under this section may not exceed 50 percent of the person's weekly compensation benefits.
- Section 14.** Amends Section 231.104(b), Family Code, by deleting language that reads "to the extent permitted by federal law."
- 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 provide that the court or Title IV-D agency may render an order vacating or staying an order suspending an individual's license on a finding of good cause.
- Section 17.** Amends Section 233.018(a), Family Code, by deleting language that provides for "the making of a record on the petition for confirmation."
- Section 18.** Amends Section 233.024(a), Family Code, to provide that on the filing of an agreed child support review order signed by all parties, together with a waiver of service, the court shall sign the order not later than the third day after the filing of the order. The court may sign the order before filing the order, but the signed order shall immediately be filed.
- Section 19.** Amends Section 233.026, Family Code, to provide for the time in which a court hearing on the confirmation of a child support review order to which the parties have not agreed may be held.
- Section 20.** Amends Section 233.027, Family Code, by adding Subsection (c) to provide that if a party who requested the hearing fails to appear at the hearing, the court shall sign a confirmation order and enter the order as an order of the court.
- Section 21.** Amends Section 192.005(a), Health and Safety Code, to provide that a valid acknowledgment of paternity executed by the father has been filed with the bureau of vital statistics as provided by Subchapter D, Chapter 160 of the Family Code.
- Section 22.** Amends Section 408.203(b), Labor Code, to delete language which reads "a writ of income withholding under Subchapter D, Chapter 158, Family Code."
- Section 23.** Repeals Section 192.005(b), Health and Safety Code.
- Section 24.** This Act takes effect September 1, 2003.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.1878, modifies the original H.B.1878 by adding Section 158.213, of the Family Code to provide for withholding from workers' compensation benefits. Additionally, C.S.H.B.1878 amends Section 192.005(a) by deleting reference to the signing of a birth certificate or consent in writing, by a father on a form prescribed by the department, to be named as the father on the birth certificate. C.S.H.B.1878 further amends Section 160.633 by providing that a final order in a proceeding is available for public inspection, and amends Section 231.108 by adding language to clarify that in a suit adjudicating parentage, the final order is available for public inspection. Finally, C.S.H.B.1878 amends Section 408.203(b), Labor Code, by providing that a benefit that is subject to a lien or claim for payment shall be paid as required by an order or writ of income instead of a writ of withholding.