

By: Dutton

H.B. No. 1878

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of paternity and the establishment and enforcement of child support and medical support for a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 154.181(a), Family Code, is amended to read as follows:

(a) The [~~In a suit affecting the parent-child relationship or in a proceeding under Chapter 159, the~~] court shall render an order for the medical support of the child as provided by this section and Section 154.182 in:

(1) a proceeding in which periodic payments of child support are ordered under this chapter or modified under Chapter 156;

(2) 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

(3) a proceeding under Chapter 159.

SECTION 2. Section 154.182(b), Family Code, is amended to read as follows:

(b) In determining the manner in which health insurance for the child is to be ordered, the court shall render its order in accordance with the following priorities, unless a party shows good cause why a particular order would not be in the best interest of the child:

1 (1) if health insurance is available for the child
2 through the obligor's employment or membership in a union, trade
3 association, or other organization at reasonable cost to the
4 obligor, the court shall order the obligor to include the child in
5 the obligor's health insurance;

6 (2) if health insurance is not available for the child
7 through the obligor's employment but is available for the child at a
8 reasonable cost through the obligee's employment or membership in a
9 union, trade association, or other organization, the court may
10 order the obligee to provide health insurance for the child, and, in
11 such event, shall order the obligor to pay additional child support
12 to be withheld from earnings under Chapter 158 to the obligee for
13 the actual cost of the health insurance for the child;

14 (3) if health insurance is not available for the child
15 under Subdivision (1) or (2), the court shall order the obligor to
16 provide health insurance for the child if the court finds that
17 health insurance is available to the obligor for the child from
18 another source and at reasonable cost;

19 (4) if neither parent has access to private health
20 insurance at a reasonable cost, the court shall order that the
21 custodial parent or, to the extent permitted by law, the
22 noncustodial parent immediately apply on behalf of the child for
23 participation in a medical assistance program under Chapter 32,
24 Human Resources Code, or the state child health plan under Chapter
25 62, Health and Safety Code, and that the obligor pay additional
26 child support, to be withheld from income under Chapter 158, to the
27 obligee for the actual cost of participation of the child in the

1 state child health plan [~~such program~~]; or

2 (5) if health coverage is not available for the child
3 under Subdivision (1), (2), (3), or (4), the court shall order the
4 obligor to pay the obligee, in addition to any amount ordered under
5 the guidelines for child support, a reasonable amount each month as
6 medical support for the child to be withheld from earnings under
7 Chapter 158.

8 SECTION 3. Section 154.188, Family Code, is amended to read
9 as follows:

10 Sec. 154.188. FAILURE TO PROVIDE OR PAY FOR REQUIRED HEALTH
11 INSURANCE. A parent ordered to provide health insurance or to pay
12 the other parent additional child support for the cost of health
13 insurance who fails to do so is liable for:

14 (1) necessary medical expenses of the child, without
15 regard to whether the expenses would have been paid if health
16 insurance had been provided; and

17 (2) the cost of health insurance premiums or
18 contributions, if any, paid on behalf of the child.

19 SECTION 4. Section 157.263, Family Code, is amended by
20 adding Subsection (c) to read as follows:

21 (c) If the amount of arrearages confirmed by the court
22 reflects a credit to the obligor for support arrearages collected
23 from a federal tax refund under 42 U.S.C. Section 664, as amended,
24 and, subsequently, the amount of that credit is reduced because the
25 refund was based on a joint return under which another person was
26 entitled to a share of the refund under 42 U.S.C. Section 664, as
27 amended, the court shall render a new cumulative judgment to

1 include as arrearages an amount equal to the amount by which the
2 credit was reduced.

3 SECTION 5. Sections 157.311(1) and (4), Family Code, are
4 amended to read as follows:

5 (1) "Account" means:

6 (A) any type of a demand deposit account,
7 checking or negotiable withdrawal order account, savings account,
8 time deposit account, money market mutual fund account, certificate
9 of deposit, or any other instrument of deposit in which an
10 individual has a beneficial ownership either in its entirety or on a
11 shared or multiple party basis, including any accrued interest and
12 dividends; and

13 (B) a life insurance policy in which an
14 individual has a beneficial ownership or liability insurance
15 against which an individual has filed a claim or counterclaim [~~7~~
16 ~~including for workers' compensation~~].

17 (4) "Financial institution" has the meaning assigned
18 by 42 U.S.C. Section 669a(d)(1) and includes a depository
19 institution, credit union, benefit association, liability or life
20 insurance company, [~~workers' compensation insurer,~~] money market
21 mutual fund, and any similar entity authorized to do business in
22 this state.

23 SECTION 6. Section 157.312, Family Code, is amended by
24 adding Subsection (g) to read as follows:

25 (g) A child support lien under this subchapter may not be
26 directed to an employer to attach to the disposable earnings of an
27 obligor paid by the employer.

1 SECTION 7. Section 157.3145, Family Code, is amended to
2 read as follows:

3 Sec. 157.3145. SERVICE ON FINANCIAL INSTITUTION. (a)
4 Service of a child support lien notice on a financial institution
5 relating to property held by the institution in the name of, or in
6 behalf of, an obligor is governed by Section 59.008, Finance Code,
7 if the institution is subject to that law, or may be delivered to
8 the registered agent, the institution's main business office in
9 this state, or another address provided by the institution under
10 Section 231.307.

11 (b) A financial institution doing business in this state
12 shall comply with the notice of lien and levy under this section
13 regardless of whether the institution's corporate headquarters is
14 located in this state.

15 SECTION 8. Section 157.317, Family Code, is amended by
16 amending Subsection (a) and adding Subsection (a-1) to read as
17 follows:

18 (a) A child support lien attaches to all real and personal
19 property not exempt under the Texas Constitution or other law,
20 including:

21 (1) an account in a financial institution;

22 (2) [7] a retirement plan, including an individual
23 retirement account; and

24 (3) [7] the proceeds of a life insurance policy, a
25 claim for negligence, or personal injury, [~~or workers'~~
26 compensation,] or an insurance settlement or award for the claim,
27 due to or owned by the obligor.

1 (a-1) A lien attaches on or after the date the lien notice or
2 abstract of judgment is filed with the county clerk of the county in
3 which the property is located, with the court clerk as to property
4 or claims in litigation, or, as to property of the obligor in the
5 possession or control of a third party, from the date the lien
6 notice is filed with that party.

7 SECTION 9. Chapter 157, Family Code, is amended by adding
8 Subchapter J to read as follows:

9 SUBCHAPTER J. WITHHOLDING FROM WORKERS' COMPENSATION BENEFITS

10 Sec. 157.451. WITHHOLDING FROM WORKERS' COMPENSATION
11 BENEFITS. (a) An insurance carrier that receives an order or writ
12 of withholding under Section 158.206 for workers' compensation
13 benefits payable to an obligor shall withhold an amount not to
14 exceed the maximum amount allowed to be withheld from income under
15 Section 158.009 regardless of whether the benefits payable to the
16 obligor for lost income are paid as lump sum amounts or as periodic
17 payments.

18 (b) An insurance carrier subject to this section shall send
19 the amount withheld for child support to the place of payment
20 designated in the order or writ of withholding.

21 SECTION 10. Section 160.204(b), Family Code, is amended to
22 read as follows:

23 (b) A presumption of paternity established under this
24 section may be rebutted only by:

- 25 (1) an adjudication under Subchapter G; or
26 (2) the filing of a valid denial of paternity by a
27 presumed father in conjunction with the filing by another person of

1 a valid acknowledgment of paternity as provided by Section 160.305.

2 SECTION 11. Section 160.633(b), Family Code, is amended to
3 read as follows:

4 (b) A final order in a proceeding under this subchapter is
5 available for public inspection. Other papers and records are
6 available for public inspection unless protected from disclosure to
7 the public by [~~only with the consent of the parties or on~~] order of
8 the court for good cause.

9 SECTION 12. Section 231.002(c), Family Code, is amended to
10 read as follows:

11 (c) The Title IV-D agency may enter into agreements or
12 contracts with federal, state, or other public or private agencies
13 or individuals for the purpose of carrying out the agency's
14 responsibilities under federal or state law [~~this chapter~~]. The
15 agreements or contracts between the agency and other state agencies
16 or political subdivisions of this or another [~~the~~] state, including
17 a consortia of multiple states, and agreements or contracts with
18 vendors for the delivery of program services are not subject to
19 Chapter 771 or 783, Government Code.

20 SECTION 13. Section 231.007(h), Family Code, is amended to
21 read as follows:

22 (h) The amount of weekly workers' compensation benefits
23 that may be withheld or assigned under this section may not exceed
24 [~~the percentage of the person's benefits that would apply if the~~
25 ~~benefits equalled the person's monthly net resources as provided by~~
26 ~~Chapter 154, except that in no event may more than~~] 50 percent of
27 the person's weekly compensation benefits [~~be withheld or~~

1 ~~assigned~~]. The comptroller or a state agency may rely on a
2 representation by the Title IV-D agency that a withholding or
3 assignment under this section would not violate this subsection.

4 SECTION 14. Section 231.104(b), Family Code, is amended to
5 read as follows:

6 (b) An application for child support services is an
7 assignment of support rights [~~, to the extent permitted by federal~~
8 ~~law,~~] to enable the Title IV-D agency to establish and enforce child
9 support and medical support obligations, but an assignment is not a
10 condition of eligibility for services.

11 SECTION 15. Section 232.013(a), Family Code, is amended to
12 read as follows:

13 (a) The court or Title IV-D agency may render an order
14 vacating or staying an order suspending an individual's license if
15 [~~the individual has~~]:

16 (1) the individual has:

17 (A) paid all delinquent child support or has
18 established a satisfactory payment record;

19 (B) [~~(2)~~] complied with the requirements of a
20 reissued subpoena; or

21 (C) [~~(3)~~] complied with the terms of any court
22 order providing for the possession of or access to a child; or

23 (2) the court or Title IV-D agency determines that
24 good cause exists for vacating or staying the order.

25 SECTION 16. Section 233.018(a), Family Code, is amended to
26 read as follows:

27 (a) If a negotiation conference results in an agreement of

1 the parties, each party must sign the child support review order and
2 the order must contain as to each party:

3 (1) a waiver by the party of the right to service of
4 process and a court hearing [~~and the making of a record on the~~
5 ~~petition for confirmation~~];

6 (2) the mailing address of the party; and

7 (3) the following statement printed on the order in
8 boldfaced type, in capital letters, or underlined:

9 "I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THIS CHILD
10 SUPPORT REVIEW ORDER. I UNDERSTAND THAT IF I SIGN THIS ORDER, IT
11 WILL BE CONFIRMED BY THE COURT WITHOUT FURTHER NOTICE TO ME. I KNOW
12 THAT I HAVE A RIGHT TO REQUEST THAT A COURT RECONSIDER THE ORDER BY
13 FILING A MOTION FOR A NEW TRIAL AT ANY TIME BEFORE THE 30TH DAY AFTER
14 THE DATE OF THE CONFIRMATION OF THE ORDER BY THE COURT. I KNOW THAT
15 IF I DO NOT OBEY THE TERMS OF THIS ORDER I MAY BE HELD IN CONTEMPT OF
16 COURT."

17 SECTION 17. Section 233.024(a), Family Code, is amended to
18 read as follows:

19 (a) On the filing of an agreed child support review order
20 signed by all parties, together with [~~If the court finds that all~~
21 ~~parties have appropriately agreed to a child support review order~~
22 ~~and that there is~~] waiver of service, the court shall sign the order
23 not later than the third day after the filing of the order. The
24 court may sign the order before filing the order, but the signed
25 order shall immediately be filed.

26 SECTION 18. Section 233.026, Family Code, is amended to
27 read as follows:

1 Sec. 233.026. TIME FOR COURT HEARING. (a) When a timely
2 request for a court hearing has been filed as provided by Section
3 233.023, the [A] court shall hold a hearing on the confirmation of a
4 child support review order that has not been agreed to by the
5 parties not later than the 30th day after the date the [~~last party~~
6 ~~to be served files a timely~~] request was filed [~~for a court~~
7 hearing].

8 (b) A court may not hold a hearing on the confirmation of a
9 nonagreed child support review order if a party does not timely
10 request a hearing as provided by Section 233.023.

11 (c) If the court resets the time of the hearing, the reset
12 hearing shall be held not later than the 30th day after the date set
13 for the initial hearing.

14 SECTION 19. Section 233.027, Family Code, is amended by
15 adding Subsection (c) to read as follows:

16 (c) If the party who requested the hearing fails to appear
17 at the hearing, the court shall sign a confirmation order and enter
18 the order as an order of the court.

19 SECTION 20. Section 192.005(a), Health and Safety Code, is
20 amended to read as follows:

21 (a) The items on a birth certificate relating to the child's
22 father shall be completed only if:

- 23 (1) the child's mother was married to the father:
- 24 (A) at the time of the child's conception;
- 25 (B) at the time of the child's birth; or
- 26 (C) after the child's birth and the father signed
27 the birth certificate or consented in writing, on a form prescribed

1 by the department, to be named as the father on the child's birth
2 certificate;

3 (2) paternity is established by order of a court of
4 competent jurisdiction; or

5 (3) a valid acknowledgment of paternity executed by
6 the father has been filed with the bureau of vital statistics as
7 provided by Subchapter D, Chapter 160, Family Code [~~the father~~
8 ~~signed the birth certificate or consented in writing, on a form~~
9 ~~prescribed by the department, to be named as the father of the child~~
10 ~~on the child's birth certificate~~].

11 SECTION 21. Section 408.203(b), Labor Code, is amended to
12 read as follows:

13 (b) A benefit that is subject to a lien or claim for payment
14 of court-ordered child support shall be paid as required by[+

15 [~~(1)~~] an order or writ of withholding [~~income~~] under
16 Section 157.451 [~~Subchapter A, Chapter 158~~], Family Code[~~, or~~

17 [~~(2) a writ of income withholding under Subchapter D,~~
18 ~~Chapter 158, Family Code~~].

19 SECTION 22. Section 192.005(b), Health and Safety Code, is
20 repealed.

21 SECTION 23. (a) This Act takes effect September 1, 2003.

22 (b) The change in law made by this Act relating to a court
23 order establishing paternity or the obligation to pay child support
24 applies only to a suit affecting the parent-child relationship
25 filed on or after the effective date of this Act. A suit affecting
26 the parent-child relationship filed before the effective date of
27 this Act is governed by the law in effect on the date the suit was

1 filed, and the former law is continued in effect for that purpose.

2 (c) The change in law made by this Act relating to the
3 modification or enforcement of a child support order rendered
4 before the effective date of this Act applies only to a proceeding
5 for modification or enforcement that is commenced on or after the
6 effective date of this Act. A proceeding for modification or
7 enforcement that is commenced before the effective date of this Act
8 is governed by the law in effect on the date the proceeding was
9 commenced, and the former law is continued in effect for that
10 purpose.