

1-1 By: Dutton, Hodge, Chavez (Senate Sponsor - Harris) H.B. No. 1878
1-2 (In the Senate - Received from the House May 1, 2003;
1-3 May 6, 2003, read first time and referred to Committee on
1-4 Administration; May 13, 2003, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 13, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the establishment of paternity and the establishment
1-9 and enforcement of child support and medical support for a child.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 154.181(a), Family Code, is amended to
1-12 read as follows:

1-13 (a) ~~The [In a suit affecting the parent-child relationship~~
1-14 ~~or in a proceeding under Chapter 159, the] court shall render an~~
1-15 order for the medical support of the child as provided by this
1-16 section and Section 154.182 in:

1-17 (1) a proceeding in which periodic payments of child
1-18 support are ordered under this chapter or modified under Chapter
1-19 156;

1-20 (2) any other suit affecting the parent-child
1-21 relationship in which the court determines that medical support of
1-22 the child must be established, modified, or clarified; or

1-23 (3) a proceeding under Chapter 159.

1-24 SECTION 2. Section 154.182(b), Family Code, is amended to
1-25 read as follows:

1-26 (b) In determining the manner in which health insurance for
1-27 the child is to be ordered, the court shall render its order in
1-28 accordance with the following priorities, unless a party shows good
1-29 cause why a particular order would not be in the best interest of
1-30 the child:

1-31 (1) if health insurance is available for the child
1-32 through the obligor's employment or membership in a union, trade
1-33 association, or other organization at reasonable cost to the
1-34 obligor, the court shall order the obligor to include the child in
1-35 the obligor's health insurance;

1-36 (2) if health insurance is not available for the child
1-37 through the obligor's employment but is available for the child at a
1-38 reasonable cost through the obligee's employment or membership in a
1-39 union, trade association, or other organization, the court may
1-40 order the obligee to provide health insurance for the child, and, in
1-41 such event, shall order the obligor to pay additional child support
1-42 to be withheld from earnings under Chapter 158 to the obligee for
1-43 the actual cost of the health insurance for the child;

1-44 (3) if health insurance is not available for the child
1-45 under Subdivision (1) or (2), the court shall order the obligor to
1-46 provide health insurance for the child if the court finds that
1-47 health insurance is available to the obligor for the child from
1-48 another source and at reasonable cost;

1-49 (4) if neither parent has access to private health
1-50 insurance at a reasonable cost, the court shall order that the
1-51 custodial parent or, to the extent permitted by law, the
1-52 noncustodial parent immediately apply on behalf of the child for
1-53 participation in a medical assistance program under Chapter 32,
1-54 Human Resources Code, or the state child health plan under Chapter
1-55 62, Health and Safety Code, and that the obligor pay additional
1-56 child support, to be withheld from income under Chapter 158, to the
1-57 obligee for the actual cost of participation of the child in the
1-58 state child health plan [such program]; or

1-59 (5) if health coverage is not available for the child
1-60 under Subdivision (1), (2), (3), or (4), the court shall order the
1-61 obligor to pay the obligee, in addition to any amount ordered under
1-62 the guidelines for child support, a reasonable amount each month as
1-63 medical support for the child to be withheld from earnings under
1-64 Chapter 158.

2-1 SECTION 3. Section 154.188, Family Code, is amended to read
 2-2 as follows:

2-3 Sec. 154.188. FAILURE TO PROVIDE OR PAY FOR REQUIRED HEALTH
 2-4 INSURANCE. A parent ordered to provide health insurance or to pay
 2-5 the other parent additional child support for the cost of health
 2-6 insurance who fails to do so is liable for:

2-7 (1) necessary medical expenses of the child, without
 2-8 regard to whether the expenses would have been paid if health
 2-9 insurance had been provided; and

2-10 (2) the cost of health insurance premiums or
 2-11 contributions, if any, paid on behalf of the child.

2-12 SECTION 4. Section 157.263, Family Code, is amended by
 2-13 adding Subsection (c) to read as follows:

2-14 (c) If the amount of arrearages confirmed by the court
 2-15 reflects a credit to the obligor for support arrearages collected
 2-16 from a federal tax refund under 42 U.S.C. Section 664, as amended,
 2-17 and, subsequently, the amount of that credit is reduced because the
 2-18 refund was based on a joint return under which another person was
 2-19 entitled to a share of the refund under 42 U.S.C. Section 664, as
 2-20 amended, the court shall render a new cumulative judgment to
 2-21 include as arrearages an amount equal to the amount by which the
 2-22 credit was reduced.

2-23 SECTION 5. Sections 157.311(1) and (4), Family Code, are
 2-24 amended to read as follows:

2-25 (1) "Account" means:

2-26 (A) any type of a demand deposit account,
 2-27 checking or negotiable withdrawal order account, savings account,
 2-28 time deposit account, money market mutual fund account, certificate
 2-29 of deposit, or any other instrument of deposit in which an
 2-30 individual has a beneficial ownership either in its entirety or on a
 2-31 shared or multiple party basis, including any accrued interest and
 2-32 dividends; and

2-33 (B) a life insurance policy in which an
 2-34 individual has a beneficial ownership or liability insurance
 2-35 against which an individual has filed a claim or counterclaim [~~7~~
 2-36 ~~including for workers' compensation~~].

2-37 (4) "Financial institution" has the meaning assigned
 2-38 by 42 U.S.C. Section 669a(d)(1) and includes a depository
 2-39 institution, credit union, benefit association, liability or life
 2-40 insurance company, [~~workers' compensation insurer,~~] money market
 2-41 mutual fund, and any similar entity authorized to do business in
 2-42 this state.

2-43 SECTION 6. Section 157.312, Family Code, is amended by
 2-44 adding Subsection (g) to read as follows:

2-45 (g) A child support lien under this subchapter may not be
 2-46 directed to an employer to attach to the disposable earnings of an
 2-47 obligor paid by the employer.

2-48 SECTION 7. Section 157.3145, Family Code, is amended to
 2-49 read as follows:

2-50 Sec. 157.3145. SERVICE ON FINANCIAL INSTITUTION. (a)
 2-51 Service of a child support lien notice on a financial institution
 2-52 relating to property held by the institution in the name of, or in
 2-53 behalf of, an obligor is governed by Section 59.008, Finance Code,
 2-54 if the institution is subject to that law, or may be delivered to
 2-55 the registered agent, the institution's main business office in
 2-56 this state, or another address provided by the institution under
 2-57 Section 231.307.

2-58 (b) A financial institution doing business in this state
 2-59 shall comply with the notice of lien and levy under this section
 2-60 regardless of whether the institution's corporate headquarters is
 2-61 located in this state.

2-62 SECTION 8. Section 157.317, Family Code, is amended by
 2-63 amending Subsection (a) and adding Subsection (a-1) to read as
 2-64 follows:

2-65 (a) A child support lien attaches to all real and personal
 2-66 property not exempt under the Texas Constitution or other law,
 2-67 including:

2-68 (1) an account in a financial institution;

2-69 (2) [~~7~~] a retirement plan, including an individual

3-1 retirement account; and

3-2 (3) ~~[7]~~ the proceeds of a life insurance policy, a
3-3 claim for negligence or ~~[7]~~ personal injury, ~~[or workers'~~
3-4 ~~compensation,~~] or an insurance settlement or award for the claim,
3-5 due to or owned by the obligor.

3-6 (a-1) A lien attaches on or after the date the lien notice or
3-7 abstract of judgment is filed with the county clerk of the county in
3-8 which the property is located, with the court clerk as to property
3-9 or claims in litigation, or, as to property of the obligor in the
3-10 possession or control of a third party, from the date the lien
3-11 notice is filed with that party.

3-12 SECTION 9. Subchapter C, Chapter 158, Family Code, is
3-13 amended by adding Section 158.213 to read as follows:

3-14 Sec. 158.213. WITHHOLDING FROM WORKERS' COMPENSATION
3-15 BENEFITS. (a) An insurance carrier that receives an order or writ
3-16 of withholding under Section 158.206 for workers' compensation
3-17 benefits payable to an obligor shall withhold an amount not to
3-18 exceed the maximum amount allowed to be withheld from income under
3-19 Section 158.009 regardless of whether the benefits payable to the
3-20 obligor for lost income are paid as lump sum amounts or as periodic
3-21 payments.

3-22 (b) An insurance carrier subject to this section shall send
3-23 the amount withheld for child support to the place of payment
3-24 designated in the order or writ of withholding.

3-25 SECTION 10. Section 160.204(b), Family Code, is amended to
3-26 read as follows:

3-27 (b) A presumption of paternity established under this
3-28 section may be rebutted only by:

3-29 (1) an adjudication under Subchapter G; or
3-30 (2) the filing of a valid denial of paternity by a
3-31 presumed father in conjunction with the filing by another person of
3-32 a valid acknowledgment of paternity as provided by Section 160.305.

3-33 SECTION 11. Section 160.633, Family Code, is amended to
3-34 read as follows:

3-35 Sec. 160.633. HEARINGS; INSPECTION OF RECORDS. (a) A [On
3-36 the request of a party and for good cause shown, the court may order
3-37 a] proceeding under this subchapter is open ~~[closed]~~ to the public
3-38 as in other civil cases.

3-39 (b) Papers [A final order in a proceeding under this
3-40 subchapter is available for public inspection. Other papers] and
3-41 records in a proceeding under this subchapter are available for
3-42 public inspection [only with the consent of the parties or on order
3-43 of the court for good cause].

3-44 SECTION 12. Section 231.002(c), Family Code, is amended to
3-45 read as follows:

3-46 (c) The Title IV-D agency may enter into agreements or
3-47 contracts with federal, state, or other public or private agencies
3-48 or individuals for the purpose of carrying out the agency's
3-49 responsibilities under federal or state law [this chapter]. The
3-50 agreements or contracts between the agency and other state agencies
3-51 or political subdivisions of this or another [the] state, including
3-52 a consortia of multiple states, and agreements or contracts with
3-53 vendors for the delivery of program services are not subject to
3-54 Chapter 771 or 783, Government Code.

3-55 SECTION 13. Section 231.007(h), Family Code, is amended to
3-56 read as follows:

3-57 (h) The amount of weekly workers' compensation benefits
3-58 that may be withheld or assigned under this section may not exceed
3-59 [the percentage of the person's benefits that would apply if the
3-60 benefits equalled the person's monthly net resources as provided by
3-61 Chapter 154, except that in no event may more than] 50 percent of
3-62 the person's weekly compensation benefits [be withheld or
3-63 assigned]. The comptroller or a state agency may rely on a
3-64 representation by the Title IV-D agency that a withholding or
3-65 assignment under this section would not violate this subsection.

3-66 SECTION 14. Section 231.104(b), Family Code, is amended to
3-67 read as follows:

3-68 (b) An application for child support services is an
3-69 assignment of support rights[~~, to the extent permitted by federal~~

4-1 ~~law,~~] to enable the Title IV-D agency to establish and enforce child
 4-2 support and medical support obligations, but an assignment is not a
 4-3 condition of eligibility for services.

4-4 SECTION 15. Section 231.108, Family Code, is amended by
 4-5 adding Subsection (g) to read as follows:

4-6 (g) The final order in a suit adjudicating parentage is
 4-7 available for public inspection as provided by Section 160.633.

4-8 SECTION 16. Section 232.013(a), Family Code, is amended to
 4-9 read as follows:

4-10 (a) The court or Title IV-D agency may render an order
 4-11 vacating or staying an order suspending an individual's license if
 4-12 ~~[the individual has]:~~

4-13 (1) the individual has:

4-14 (A) paid all delinquent child support or has
 4-15 established a satisfactory payment record;

4-16 (B) ~~[(2)]~~ complied with the requirements of a
 4-17 reissued subpoena; or

4-18 (C) ~~[(3)]~~ complied with the terms of any court
 4-19 order providing for the possession of or access to a child; or

4-20 (2) the court or Title IV-D agency determines that
 4-21 good cause exists for vacating or staying the order.

4-22 SECTION 17. Section 233.018(a), Family Code, is amended to
 4-23 read as follows:

4-24 (a) If a negotiation conference results in an agreement of
 4-25 the parties, each party must sign the child support review order and
 4-26 the order must contain as to each party:

4-27 (1) a waiver by the party of the right to service of
 4-28 process and a court hearing ~~[and the making of a record on the~~
 4-29 ~~petition for confirmation];~~

4-30 (2) the mailing address of the party; and

4-31 (3) the following statement printed on the order in
 4-32 boldfaced type, in capital letters, or underlined:

4-33 "I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THIS CHILD
 4-34 SUPPORT REVIEW ORDER. I UNDERSTAND THAT IF I SIGN THIS ORDER, IT
 4-35 WILL BE CONFIRMED BY THE COURT WITHOUT FURTHER NOTICE TO ME. I KNOW
 4-36 THAT I HAVE A RIGHT TO REQUEST THAT A COURT RECONSIDER THE ORDER BY
 4-37 FILING A MOTION FOR A NEW TRIAL AT ANY TIME BEFORE THE 30TH DAY AFTER
 4-38 THE DATE OF THE CONFIRMATION OF THE ORDER BY THE COURT. I KNOW THAT
 4-39 IF I DO NOT OBEY THE TERMS OF THIS ORDER I MAY BE HELD IN CONTEMPT OF
 4-40 COURT."

4-41 SECTION 18. Section 233.024(a), Family Code, is amended to
 4-42 read as follows:

4-43 (a) On the filing of an agreed child support review order
 4-44 signed by all parties, together with ~~[If the court finds that all~~
 4-45 ~~parties have appropriately agreed to a child support review order~~
 4-46 ~~and that there is]~~ waiver of service, the court shall sign the order
 4-47 not later than the third day after the filing of the order. The
 4-48 court may sign the order before filing the order, but the signed
 4-49 order shall immediately be filed.

4-50 SECTION 19. Section 233.026, Family Code, is amended to
 4-51 read as follows:

4-52 Sec. 233.026. TIME FOR COURT HEARING. (a) When a timely
 4-53 request for a court hearing has been filed as provided by Section
 4-54 233.023, the [A] court shall hold a hearing on the confirmation of a
 4-55 child support review order that has not been agreed to by the
 4-56 parties not later than the 30th day after the date the ~~[last party~~
 4-57 ~~to be served files a timely]~~ request was filed ~~[for a court~~
 4-58 ~~hearing].~~

4-59 (b) A court may not hold a hearing on the confirmation of a
 4-60 nonagreed child support review order if a party does not timely
 4-61 request a hearing as provided by Section 233.023.

4-62 (c) If the court resets the time of the hearing, the reset
 4-63 hearing shall be held not later than the 30th day after the date set
 4-64 for the initial hearing.

4-65 SECTION 20. Section 233.027, Family Code, is amended by
 4-66 adding Subsection (c) to read as follows:

4-67 (c) If the party who requested the hearing fails to appear
 4-68 at the hearing, the court shall sign a confirmation order and enter
 4-69 the order as an order of the court.

5-1 SECTION 21. Section 192.005(a), Health and Safety Code, is
5-2 amended to read as follows:

5-3 (a) The items on a birth certificate relating to the child's
5-4 father shall be completed only if:

5-5 (1) the child's mother was married to the father:

5-6 (A) at the time of the child's conception;

5-7 (B) at the time of the child's birth; or

5-8 (C) after the child's birth;

5-9 (2) paternity is established by order of a court of
5-10 competent jurisdiction; or

5-11 (3) a valid acknowledgment of paternity executed by
5-12 the father has been filed with the bureau of vital statistics as
5-13 provided by Subchapter D, Chapter 160, Family Code [~~the father~~
5-14 ~~signed the birth certificate or consented in writing, on a form~~
5-15 ~~prescribed by the department, to be named as the father of the child~~
5-16 ~~on the child's birth certificate].~~

5-17 SECTION 22. Section 408.203(b), Labor Code, is amended to
5-18 read as follows:

5-19 (b) A benefit that is subject to a lien or claim for payment
5-20 of court-ordered child support shall be paid as required by[+]

5-21 [~~(1)~~] an order or writ of income withholding [income]
5-22 under [Subchapter A,] Chapter 158, Family Code [~~+ or~~

5-23 [~~(2)~~] a writ of income withholding under Subchapter D,
5-24 Chapter 158, Family Code].

5-25 SECTION 23. Section 192.005(b), Health and Safety Code, is
5-26 repealed.

5-27 SECTION 24. (a) This Act takes effect September 1, 2003.

5-28 (b) The change in law made by this Act relating to a court
5-29 order establishing paternity or the obligation to pay child support
5-30 applies only to a suit affecting the parent-child relationship
5-31 filed on or after the effective date of this Act. A suit affecting
5-32 the parent-child relationship filed before the effective date of
5-33 this Act is governed by the law in effect on the date the suit was
5-34 filed, and the former law is continued in effect for that purpose.

5-35 (c) The change in law made by this Act relating to the
5-36 modification or enforcement of a child support order rendered
5-37 before the effective date of this Act applies only to a proceeding
5-38 for modification or enforcement that is commenced on or after the
5-39 effective date of this Act. A proceeding for modification or
5-40 enforcement that is commenced before the effective date of this Act
5-41 is governed by the law in effect on the date the proceeding was
5-42 commenced, and the former law is continued in effect for that
5-43 purpose.

5-44 (d) The change in law made by this Act to Section 160.633,
5-45 Family Code, applies to a suit affecting the parent-child
5-46 relationship filed before, on, or after the effective date of this
5-47 Act. A court order rendered before the effective date of this Act
5-48 providing for the sealing of records in a proceeding is governed by
5-49 the law in effect on the date the court order was rendered, and the
5-50 former law is continued in effect for that purpose.

5-51 * * * * *