

Amend **HB 2668** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____. Section 396.001, Finance Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (4-a), (9), and (10) to read as follows:

(1) "Certified foreign agency" means a foreign agency that, in lieu of registration, is issued a certificate to operate in this state under Subchapter D.

(1-a) "Child support enforcement" means an action, conduct, or practice in enforcing, or in soliciting for enforcement, a child support obligation, including the collection of an amount owed under a child support obligation.

(4-a) "Local registry" has the meaning assigned by Section 101.018, Family Code.

(9) "State disbursement unit" has the meaning assigned by Section 101.0302, Family Code.

(10) "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

SECTION ____. Section 396.052(a), Finance Code, is amended to read as follows:

(a) The department shall charge each applicant for a certificate of registration, or renewal of a certificate, a nonrefundable fee [~~of \$500~~] for each certificate. The department shall set each fee in an amount that is reasonable and necessary to defray the cost of administering this chapter.

SECTION ____. Section 396.053, Finance Code, is amended to read as follows:

Sec. 396.053. COST OF REGULATION. The department may charge each registered private child support enforcement agency an annual fee in an amount that is reasonable and necessary [~~not to exceed \$500~~] to defray [~~cover~~] the cost of administering and enforcing this chapter.

SECTION ____. Subchapter C, Finance Code, is amended by adding Section 396.1011 to read as follows:

Sec. 396.1011. ELIGIBILITY FOR REGISTRATION. (a) In this section, "principal" means a person who participates in the affairs

of the holder of a certificate of registration under this section or who exercises supervisory duties, including an owner, officer, director, partner, trustee, or agent of the registration holder.

(b) A person is not eligible for a certificate of registration under this chapter if, during the preceding 10 years:

(1) the person or principal of the person has been convicted of:

(A) a felony or a crime involving moral turpitude under the laws of this or another state or the United States;

(B) a crime under the laws of a foreign country that involves moral turpitude or would be a felony if committed in the United States; or

(C) an offense under a state or federal law relating to any state or federal monetary instrument reporting requirement; or

(2) the person or a principal of the person has been convicted of an offense under a state or federal law relating to:

(A) drugs, drug trafficking, or money laundering;
or

(B) a reporting requirement of the Bank Secrecy Act (12 U.S.C. Section 1951 et seq.).

(c) A person is not eligible for a certificate of registration under this chapter if at any time the person or a principal of the person has been convicted of:

(1) a felony under Chapter 34, Penal Code, or a similar provision involving the laundering of money that is the product of or proceeds from criminal activity under the laws of another state or the United States; or

(2) a felony violation of 31 U.S.C. Section 5313 or 5324 or a regulation adopted under those sections.

SECTION ____ . Section 396.106(a), Finance Code, is amended to read as follows:

(a) The department shall issue a certificate of registration and mail the certificate to an eligible ~~the~~ applicant on receipt of:

- (1) a completed application;
- (2) evidence of financial solvency;

(3) the surety bond or deposit of money required by Section 396.105; and

(4) the required registration fee.

SECTION____. Section 396.153, Finance Code, is amended to read as follows:

Sec. 396.153. NOTIFICATION OF UPDATED INFORMATION OR CHANGE IN STATUS OF OTHER AUTHORIZATION. Not later than the 30th day after the date on which the change occurs, a certified foreign [~~private child support enforcement~~] agency [~~that is issued a certificate to operate in this state under this subchapter~~] shall notify the department of any change in:

(1) the information provided in an application submitted under Section 396.152; or

(2) the status of the agency's authorization in the other state.

SECTION____. Section 393.203, Finance Code, is amended to read as follows:

Sec. 396.203. CONTRACT FOR SERVICES. (a) A registered agency and certified foreign agency [~~authorized to engage in business under this chapter~~] shall execute a written contract for the enforcement of child support for each client of the agency that is residing in this state.

(b) The contract required under this section must:

(1) be in writing, dated, and signed by both parties to the contract; [~~and~~]

(2) specify its terms in clear language; and

(3) specify that the client:

(A) may cancel the contract for any reason not later than the seventh day after the date the contract is executed;
and

(B) is entitled to receive a full refund of any money paid by the client to the agency not later than the 10th day after the cancellation date.

(c) A contract under this section for the collection of a child support obligation must specify a sum certain for collection, which may not exceed:

(1) the amount of the child support obligation owed on the

date the contract is executed, subject to Subsection (d); or

(2) the monthly amount of the obligor's child support payment multiplied by 36.

(d) If the parties are unable to determine the amount of the arrearage on the date the contract is executed, the agency shall, not later than the 30th day after the contract's execution date, send to the client an addendum to the contract that contains the arrearage amount and the sum certain for collection. If the agency does not send the addendum within the deadline prescribed by this subsection, the contract is voidable at the option of the client until the date the client receives the addendum.

(e) A contract for the collection of a child support obligation terminates on the date the agency collects the sum certain specified in the contract or any addendum to the contract as provided by Subsection (c).

(f) The contract required under this section must also contain a provision that allows the client the option to cancel the contract if the total amount of child support payments collected from the obligor in any consecutive 12-month period beginning 18 months after the date the contract is executed does not equal the amount of at least one of the obligor's ordered monthly child support payments. The client must notify the agency in writing of the client's intent to cancel under this subsection.

(g) An attempted waiver of the requirements of Subsections (c)-(e) or the cancellation provisions prescribed by this section is void.

SECTION __. Subchapter E, Chapter 396, Finance Code, is amended by adding Section 396.204 to read as follows:

Sec. 396.204. ANNUAL REPORT. Not later than September 1 of each year, each registered agency shall provide to the department a detailed report accounting for all child support collections made by the agency during the preceding calendar year. The report, at a minimum, must contain a statement of the amount of child support collected on behalf of, and disbursed to, each client, including:

(1) the date on which the amount of child support was collected; and

(2) the date on which each amount of child support due

the client by the obligor was paid to the client.

SECTION __. Subchapter F, Chapter 396, Finance Code, is amended by adding Sections 396.253 and 396.254 to read as follows:

Sec. 396.253. FEE OR OTHER CONSIDERATION RECEIVED BY AGENCY.

(a) For child support enforcement, a registered agency or certified foreign agency may not receive a fee or other consideration that exceeds 20 percent of the total amount of the child support obligation collected by the agency from the obligor.

(b) A registered agency or certified foreign agency may not receive a fee or other consideration for any child support payment that:

(1) is collected or received solely through the efforts of the Title IV-D agency, the state disbursement unit, a local registry, or another state or local governmental entity or agency;
or

(2) is collected by another registered agency or certified foreign agency.

(c) Subsection (b) does not preclude a registered agency or certified foreign agency from receiving a fee or other consideration for any increase in a child support payment that results directly from the efforts of the agency, regardless of whether the payment was initially collected or received through the efforts of the Title IV-D agency, the state disbursement unit, a local registry, or another public or private entity or agency.

(d) A person who violates Subsection (a) or (b) commits an offense. An offense under this section is a Class B misdemeanor.

Sec. 396.254. REDIRECTION OF CHILD SUPPORT PAYMENTS OR ARREARAGES PROHIBITED. No child support payment or arrearage collected or received by the Title IV-D agency, the state disbursement unit, or a local registry may be redirected to any private child support enforcement agency.

SECTION __. Section 396.301(a), Finance Code, is amended to read as follows:

(a) After notice and hearing, the department may revoke the registration of a registered agency that:

(1) fails to comply with this chapter or a rule adopted under this chapter;

(2) does not pay a fee or other charge imposed by the department under this chapter; ~~and~~

(3) fails to maintain and produce at the request of the department records attesting to the financial solvency of the registered agency or other business records concerning client accounts; or

(4) violates a prohibition established by Section 396.1011.

SECTION __. Subchapter H, Chapter 396, Finance Code, is amended by adding Section 396.354 to read as follows:

Sec. 396.354. VOIDABLE CONTRACT. (a) A contract that does not contain the information required by Section 396.203(c) or cancellation provisions prescribed by Section 396.203(b)(3), (e), or (f) is voidable at the option of the client. The client is entitled to recover any amount the registered agency or certified foreign agency received as compensation in connection with the contract.

(b) A person who prevails in an action to enforce the person's rights under this section is entitled to recover court costs and reasonable attorney's fees.

SECTION __. Sections 396.203(b)(3) and (c)-(f), 396.253, and 396.354, Finance Code, as added by this Act, apply only to a contract that is entered into on or after the effective date of this Act.