

BILL ANALYSIS

Senate Research Center
79R877 JMM-D

H.B. 248
By: Goodman (Harris)
Jurisprudence
5/9/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law a court can enter a Qualified Domestic Relations Order (QDRO) in two situations: either when a QDRO has never been entered or when an entered QDRO has been rejected by the plan administrator.

There has been some confusion as to the court's authority to enter an amended QDRO when the original has been accepted by the plan administrator but contains an error, or has been interpreted by the plan administrator in a manner that is inconsistent with the terms of the divorce decree. Some courts have ruled that a subsequently signed QDRO has the effect of changing the terms of the decree contractually, even though the parties and the attorneys did not have that intent.

H.B. 248 clarifies that a court may amend a QDRO even when the original QDRO has been accepted by the plan administrator, and that a QDRO is intended to effectuate the terms of the decree, not modify them.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 9, Family Code, by adding Section 9.1045, as follows:

Sec. 9.1045. AMENDMENT OF QUALIFIED DOMESTIC RELATIONS ORDER. (a) Provides that a court that renders a qualified domestic relations order retains continuing, exclusive jurisdiction to amend the order to correct the order or clarify the terms of the order to effectuate the division of property ordered by the court.

(b) Requires an amended domestic relations order under this section to be submitted to the plan administrator or other person acting in an equivalent capacity to determine whether the amended order satisfies the requirements of a qualified domestic relations order. Provides that Section 9.104 (Defective Prior Domestic Relations Order) applies to a domestic relations order amended under this section.

SECTION 2. Provides that this Act applies to a qualified domestic relations order issued before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2005.