

BILL ANALYSIS

H.B. 248
By: Goodman
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law a court can enter a Qualified Domestic Relations Order, ("QDRO") under two conditions: (1) when a QDRO has never been entered or (2) 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.

House Bill 248 seeks to make clear 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

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.

ANALYSIS

- SECTION 1.** Amends Subchapter B, Chapter 9, of the Family Code by adding Section 9.1045 which would give the courts the ability to modify a qualified domestic relations order in order to clarify the terms of the order. An amended domestic relations order under this section must be submitted to the plan administrator or other person active in an equivalent capacity.
- SECTION 2.** The change in law made by this Act applies to a qualified domestic relations order issued before, on, or after the effective date of this Act.
- SECTION 3.** This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005.