

BILL ANALYSIS

C.S.H.B. 1238
By: Paxton
Judiciary
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In cases where child support is owed and is not being received, an obligee generally has two options. One is to rely on the attorney general's office, which faces challenges to timely enforcement, and the other is to hire an attorney.

Unsatisfied with these options, some judges have appointed an individual "guardian ad litem". These appointees are charged with receiving, disbursing and monitoring child support payments. In jurisdictions adopting this approach, child support compliance has risen dramatically. While 18-28% compliance is normal, it has jumped to 76-88% where a guardian ad litem has been appointed.

No law precludes states from disbursing child support payments in this manner, but the OAG, acting as the Title IV-D agency, has taken the position that specific statutory authority is required to allow the state disbursement unit to direct payments based on a court order.

The intent of the bill is to clarify that a divorce decree or other order providing a "guardian ad litem" for child support will serve as an adequate request from the obligee and will permit the OAG/SDU to direct payments to such person without jeopardizing its status as the disbursing unit in the implementation of its federal mandates.

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

This bill amends Section 234.008 of the Family Code by adding a new section (d) which directs the state disbursement unit to make net child support payments to an individual or entity appointed by a court to oversee child support payments. It also authorizes such a payee to deduct its own fee before re-disbursing the payment.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute contains more precise language in its amendment of Section 234.008, Family Code, by specifying that a final order, signed by the obligee, designating an agent to receive child support constitutes effective consent. The substitute also deletes reference to the deduction of fees required by Section 234.008(c).