

## **BILL ANALYSIS**

H.B. 2408  
By: Bonnen  
Juvenile Justice & Family Issues  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law provides for the establishment and enforcement of child support obligations in suits affecting the parent-child relationship. Among the provisions are procedures for the clerk of the court to issue and deliver certified orders or judicial writs of withholding to the obligor's employer. Currently under Section 158.105 of the Family Code, it is unclear as to whether a court clerk has the authority to issue an order or judicial writ of withholding to an employer via electronic transmission, as one subsection requires them to "issue and mail" a certified copy while the following subsection allows the order to be mailed or delivered by "electronic transmission."

House Bill 2408 clarifies statute to allow the court clerk to deliver a certified order or judicial writ of withholding to an employer via fax or email confirmed by proof of receipt, and maintains current law methods of first class mail, certified or registered mail, or service of citation.

### **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 Section 158.105 of the Family Code to allow the clerk of the court to deliver a certified copy of an order or judicial writ of withholding not later than the fourth working day after the date the order is signed or the request is filed. An order of judicial writ of withholding shall be delivered an obligor's employer by first class mail or, if requested, by certified or registered mail, return receipt requested, by electronic transmission, including electronic mail or facsimile transmission or by service of citation to the person authorized to receive service of process for the employer in civil cases or a person designated by the employer, by written notice to the clerk, to receive orders or writs of withholding. The clerk may deliver an order or judicial writ of withholding by electronic mail if the employer is equipped to receive documents transmitted in that manner. If the order or writ is sent via email, the clerk must request an acknowledgement of receipt from the employer. If the order or writ is sent via facsimile transmission, the clerk must possess a delivery confirmation report.

**SECTION 2.** Section 158.105, Family Code, as amended by this Act, applies only to an order or judicial writ of withholding delivered to an employer on or after the effective date of this Act. An order or judicial writ of withholding delivered before the effective date of this Act is governed by the law in effect on the date the order or writ was delivered, and the former law is continued in effect for that purpose.

**SECTION 3.** This Act takes effect September 1, 2005.

### **EFFECTIVE DATE**

September 1, 2005

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