

BILL ANALYSIS

Senate Research Center

H.B. 2668
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Jurisprudence
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In 1996, the federal government ordered states to take over the job of managing child support payments in an effort to boost the number of parents paying child support. The disbursement unit in the Office of the Attorney General receives most of its funding from the federal government. Current law makes the attorney general responsible for collecting and disbursing child support payments directly to custodial parents.

H.B. 2668 redefines a local registry as a county agency or public entity that receives, maintains, and distributes child support payments in order to create more stability and ensure accountability. H.B. 2668 also allows a private entity to perform the duties and functions of a local registry only under a contract with a county commissioners court or a domestic relations office.

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 Section 101.018, Family Code, to redefine "local registry."

SECTION 2. Amends Section 154.241, Family Code, by adding Subsection (g), as follows:

(g) Authorizes a private entity, notwithstanding any other law, to perform the duties and functions of a local registry under this section either under a contract with a county commissioners court or domestic relations office executed under Section 204.002 or under an appointment by a court.

SECTION 3. Amends Section 204.001, Family Code, to provide that this chapter (Child Support Collection by Private Entity) applies to certain commissioners courts or domestic relations offices of a county.

SECTION 4. Amends Section 234.008, Family Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Creates an exception as provided by Subsection (d).

(d) Provides that the signature of an obligee on a final order in a suit affecting the parent-child relationship, or another order under this title, that designates an individual or entity for the purpose of receiving, disbursing, and monitoring child support payments constitutes written consent by the obligee to the distribution of the child support payments by the state disbursement unit to the designated individual or entity. Requires the state disbursement unit to distribute each child support payment to the designated individual or entity by the date required by Subsection (a). Requires the designated individual or entity to deduct any amount of the individual's or entity's authorized fee from the payment and promptly disburse the remainder of the amount to the title IV-D agency or obligee.

SECTION 5. Amends Section 396.001, Finance Code, by amending Subdivision (1) and adding Subdivisions (1-a), (4-a), (9), and (10) to define "certified foreign agency," "local registry," "state disbursement unit," and "Title IV-D agency." Makes a nonsubstantive change.

SECTION 6. Amends Section 396.052(a), Finance Code, to require the Texas Department of Banking (department) to set each fee for an applicant for a certificate of registration as a private child support enforcement agency in an amount that is reasonable and necessary to defray the cost of administering this chapter. Deletes existing text setting the fee at \$500.

SECTION 7. Amends Section 396.053, Finance Code, to authorize the department to charge each registered private child support enforcement agency an annual fee in an amount that is reasonable and necessary to defray the cost of administering and enforcing this chapter, rather than a fee not to exceed \$500 to cover the cost of enforcing this chapter.

SECTION 8. Amends Subchapter C, Finance Code, by adding Section 396.1011, as follows:

Sec. 396.1011. ELIGIBILITY FOR REGISTRATION. Defines "principal." Sets forth certain persons not eligible for a certificate of registration as a private child support enforcement agency.

SECTION 9. Amends Section 396.106(a), Finance Code, to require the department to issue a certificate of registration and mail the certificate to an eligible applicant upon the receipt of certain documents and fees.

SECTION 10. Amends Section 396.153, Finance Code, to make nonsubstantive changes.

SECTION 11. Amends Section 396.203, Finance Code, as follows:

(a) Makes a nonsubstantive change.

(b) Requires a contract between a registered agency and a certified foreign agency for the enforcement of child support for each client of the agency that is residing in this state to specify certain rights of the client.

(c) Requires a contract under this section for the collection of a child support obligation to specify a sum for collection, and specifies a cap on that sum.

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

(e) Provides that 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.

(f) Requires the contract to 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. Requires the client to notify the agency in writing of the client's intent to cancel under this subsection.

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

SECTION 12. Amends Subchapter E, Chapter 396, Finance Code, by adding Section 396.204, as follows:

Sec. 396.204. ANNUAL REPORT. Requires each registered agency, not later than September 1 of each year, to provide to the department a detailed report accounting for all child support collections made by the agency during the preceding calendar year. Sets forth the information the report is required to include.

SECTION 13. Amends Subchapter F, Chapter 396, Finance Code, by adding Sections 396.253 and 396.254, as follows:

Sec. 396.253. FEE OR OTHER CONSIDERATION RECEIVED BY AGENCY. (a) Sets a cap on the amount a registered agency or certified foreign agency may receive for child support enforcement.

(b) Prohibits a registered agency or certified foreign agency from receiving a fee or other consideration for a child support payment that is collected by or received solely through the efforts of a governmental entity or is collected by another registered agency or certified foreign agency.

(c) Provides that 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) Provides that a person who violates Subsection (a) or (b) commits a Class B misdemeanor.

Sec. 396.254. REDIRECTION OF CHILD SUPPORT PAYMENTS OR ARREARAGES PROHIBITED. Prohibits child support payments or arrearages collected or received by the Title IV-D agency, the state disbursement unit, or a local registry from being redirected to any private child support enforcement agency.

SECTION 14. Amends Section 396.301(a), Finance Code, to authorize the department to revoke the registration of a registered agency that violates a prohibition established by Section 396.1011.

SECTION 15. Amends Subchapter H, Chapter 396, Finance Code, by adding Section 396.354, as follows:

Sec. 396.354. VOIDABLE CONTRACT. (a) Provides that a contract that does not contain the information required by Section 396.203(c) or certain cancellation provisions is voidable at the option of the client. Entitles the client to recover any amount the registered agency or certified foreign agency received as compensation in connection with the contract.

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

SECTION 16. Makes application of Sections 396.203(b)(3) and (c)-(f), 396.253, and 396.254, Finance Code, as added by this Act, prospective.

SECTION 17. Effective date: upon passage or September 1, 2005.