

BILL ANALYSIS

C.S.S.B. 952
By: Seliger
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, when a case goes before a judge for divorce proceedings, state law requires the presiding judge granting the divorce establish which party will be the conservator of any children. The non-possessory party is required to provide child support. The judge establishes this amount by taking the net wages of the non-possessory party and uses a schedule as established by law.

In addition to child support, the judge is required to order the obligor to also provide and pay the entire cost of health insurance for the children. The judge first looks to see if the obligor has health insurance through his or her employer, and if so, orders the obligor to carry the children on that policy. If not, the judge next looks to see if the obligee has access to health coverage through his or her employer, and then to the open market. The judge may not require the obligor to pay coverage if the cost amounts to more than 10 percent of the obligor's net resources (as calculated after paying child support). Typically, if the judge cannot find coverage within this cost limit, and thus cannot order the obligor to do anything, and the child or children qualifies for Medicaid or CHIP coverage, the obligor can legally be required to repay the obligee for the out-of-pocket costs of coverage.

C.S.S.B.952 allows Texas judges to order the obligor to pay an additional amount, of up to 10 percent of their available net resources, to the state to allow for recovery of the cost of the Medicaid or CHIP coverage if a child/children qualify for Medicaid/CHIP coverage and coverage cannot be found on the open market, except if a child was enrolled in the state child health plan described by Subsection (b)(4)(B) on the date a court rendered a final decree of dissolution of a marriage between the obligor and obligee. C.S.S.B.952 also requires the judge presiding over the divorce proceeding to deduct the amount the obligor has paid to the obligee to reimburse out-of-pocket costs.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1, Section 154.182(e) of the Family Code and in SECTION 2.

ANALYSIS

SECTION 1. Amends Section 154.182, Family Code, by amending Subsection (b) and adding Subsection (d) and (e), as follows:

(b) Requires the court, in determining the manner in which health insurance for the child is to be ordered, to render its order in accordance with certain priorities, unless a party shows good cause why a particular order would not be in the best interest of the child. Adds to the list of priorities the provision that, if neither parent has access to private insurance at a reasonable cost, the court may order the obligor to pay an additional amount that when added to any amount required to be paid by the obligor under Paragraph (A) does not exceed 10 percent of the obligor's net monthly income for reimbursement of state expenditures in providing coverage for the child under a medical assistance program or the state child health plan.

(d) Prohibits the court from ordering an obligor to pay an additional amount under that subsection if the child was enrolled in the state child health plan described by Subsection (b)(4)(B) on the date a court rendered a final decree of dissolution of a marriage between the obligor and obligee, notwithstanding Subsection (b)(4)(B).

(e) Grants the Commissioner of the Health and Human Services Commission rulemaking authority and requires the executive commissioner to establish procedures for the collection by the commission of any amount owed by a child support obligor under Subsection (b)(4)(B).

SECTION 2.

(a) Requires that the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 154.182(e), Family Code, as added by this Act.

(b) Requires that the Health and Human Services Commission submit a report to the Legislature no later than December 31, 2006, regarding the implementation of the procedures established under Section 154.182(e), Family Code, as added by this Act.

SECTION 3.

Application of this Act is prospective.

SECTION 4.

This Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B.952 modifies the original H.B.952 by realigning some of the provisions of Section 154.182(b)(4)(B) to make them consistent with other provisions of the section and to eliminate duplicative language. It also adds Subsection (e) to require the Commissioner of the Health and Human Services Commission to adopt rules not later than December 31, 2006 to establish procedures for the collection of the additional amounts of child support provided by this Act.