

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1152
By: Harris
Jurisprudence
5/2/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As a condition for receiving federal funds for child support enforcement programs and cash assistance programs, states must establish and operate a child support enforcement program that complies with certain requirements of federal law. One of the mandated procedures is the assertion of liens for child support against a support obligor's personal and real property for past-due child support. Section 157.316(b), Family Code, provides that a lien for child support that attaches to a motor vehicle must be perfected in a manner that requires the surrender of the vehicle title to the court or Title IV-D agency and the issuance by the Texas Department of Transportation (TxDOT) of a subsequent title that discloses the attachment of the child support lien.

C.S.S.B. 1152 enables the Title IV-D agency to perfect and record a child support lien asserted by the agency by delivering to TxDOT a child support lien notice containing necessary information about the obligor, the amount of arrearages owed, and, with respect to the motor vehicle, the identification number of the vehicle. On receiving the lien notice, a copy of which is also sent to the obligor, TxDOT will issue a new certificate of title for the vehicle that discloses on its face the fact that the vehicle is subject to a child support lien asserted by the Title IV-D agency. The child support lien, however, does not supersede any prior lien, including one for security interest or a vendor's lien, on the motor vehicle. On payment of the full amount of child support due, the Title IV-D agency will provide the obligor or the obligor's attorney with a notice of discharge in the manner prescribed by the Transportation Code. The opportunity for the Title IV-D agency to perfect and record a lien for child support in the manner proposed by this bill would greatly enhance the agency's ability to use the child support lien as an enforcement tool with respect to a motor vehicle owned by a delinquent obligor.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Transportation and the Title IV-D agency in SECTION 4 (Section 501.1135, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 157.316, Family Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the court that rendered the order of child support, unless the lien is asserted by the Title IV-D agency (agency) as described by Subsection (c), rather than requiring the court or the agency, to include in the order attaching a lien to a motor vehicle for satisfaction of child support obligations the requirement that the obligor surrender to the court evidence of the legal ownership of the vehicle. Makes conforming and nonsubstantive changes.

(c) Authorizes an agency to perfect a lien asserted by the agency against a motor vehicle under this subchapter in the manner provided by Section 501.1135, Transportation Code.

SECTION 2. Amends Section 157.322, Family Code, to require an agency, if the agency asserted a child support lien against a motor vehicle, to deliver to the obligor or the obligor's attorney a discharge of the lien under Section 501.115 (Discharge of Lien), Transportation Code. Makes a conforming change.

SECTION 3. Amends Section 501.113(a), Transportation Code, to create an exception, as provided by Section 501.1135, to the provision that recordation of a lien under this chapter is considered to occur when the county assessor-collector is presented with an application for a certificate of title that discloses the lien with tender of the filing fee or accepts the application.

SECTION 4. Amends Subchapter F, Chapter 501, Transportation Code, by adding Section 501.1135, as follows:

Sec. 501.1135. PERFECTION AND RECORDATION OF CHILD SUPPORT LIEN.

(a) Defines "obligor" and "Title IV-D agency."

(b) Authorizes the Title IV-D agency to perfect a child support lien asserted by the agency on a motor vehicle registered in this state by delivering to the Texas Department of Transportation (TxDOT) a copy of the child support lien notice issued by the agency under Subchapter G (Child Support Lien), Chapter 157, Family Code. Requires the child support lien notice to contain certain information.

(c) Requires TxDOT, upon receipt of the copy of the child support lien notice, if TxDOT finds a record of a certificate of title issued in the name of the obligor, to process the lien and issue a new certificate of title that discloses on its face the fact that the vehicle is subject to a child support lien.

(d) Provides that a lien perfected under this section does not affect the validity or priority of a conveyance of an interest in the motor vehicle, a lien of a holder of a security interest in the motor vehicle, or a vendor's lien on the motor vehicle established before the date the child support lien was perfected on the certificate of title.

(e) Provides that a certificate of title issued under this section is exempt from the fee imposed under Section 501.138 (Collection and Disposition of Fees).

(f) Requires TxDOT and the agency by rule to adopt procedures for the implementation of this section.

SECTION 5. Requires TxDOT and the agency to adopt rules as required by Section 501.1135(f), Transportation Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 6. Effective date: September 1, 2005.