

AN ACT

relating to attorney's fees and costs in a proceeding to enforce an order for the possession of or access to a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 157.167, Family Code, as amended by Chapters 477 and 1262, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

Sec. 157.167. RESPONDENT TO PAY ATTORNEY'S FEES AND COSTS.

(a) If the court finds that the respondent has failed to make child support payments, the court shall order the respondent to pay the movant's reasonable attorney's fees and all court costs in addition to the arrearages. Fees and costs ordered under this subsection may be enforced by any means available for the enforcement of child support, including contempt.

(b) If the court finds that the respondent has failed to comply with the terms of an order providing for the possession of or access to a child, the court shall order the respondent to pay the movant's reasonable attorney's fees and all court costs in addition to any other remedy. If the court finds that the enforcement of the order with which the respondent failed to comply was necessary to ensure the child's physical or emotional health or welfare, the fees and costs ordered under this subsection may be enforced by any means available for the enforcement of child support, including contempt, but not including income withholding.

1 (c) Except as provided by Subsection (d), for good cause  
2 shown, the court may waive the requirement that the respondent pay  
3 attorney's fees and costs if the court states the reasons  
4 supporting that finding.

5 (d) If the court finds that the respondent is in contempt of  
6 court for failure or refusal to pay child support and that the  
7 respondent owes \$20,000 or more in child support arrearages, the  
8 court may not waive the requirement that the respondent pay  
9 attorney's fees and costs unless the court also finds that the  
10 respondent:

11 (1) is involuntarily unemployed or is disabled; and

12 (2) lacks the financial resources to pay the  
13 attorney's fees and costs.

14 ~~[(c) Fees and costs ordered under Subsection (a) may be~~  
15 ~~enforced by any means available for the enforcement of child~~  
16 ~~support, including contempt.]~~

17 SECTION 2. The changes in law made by this Act apply only to  
18 an enforcement order rendered on or after the effective date of this  
19 Act. An enforcement order rendered before that date is governed by  
20 the law in effect on the date the order was rendered, and the former  
21 law is continued in effect for that purpose.

22 SECTION 3. To the extent of any conflict, this Act prevails  
23 over another Act of the 79th Legislature, Regular Session, 2005,  
24 relating to nonsubstantive additions to and corrections in enacted  
25 codes.

26 SECTION 4. This Act takes effect September 1, 2005.

H.B. No. 1174

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1174 was passed by the House on April 21, 2005, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 1174 was passed by the Senate on May 17, 2005, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor