

By: Dutton

H.B. No. 1174

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to attorney's fees and costs in a proceeding to enforce an  
3 order for the possession of or access to a child.

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

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

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

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

15 (b) If the court finds that the respondent has failed to  
16 comply with the terms of an order providing for the possession of or  
17 access to a child, the court shall order the respondent to pay the  
18 movant's reasonable attorney's fees and all court costs in addition  
19 to any other remedy. If the court finds that the enforcement of the  
20 order with which the respondent failed to comply was necessary to  
21 ensure the child's physical or emotional health or welfare, the  
22 fees and costs ordered under this subsection may be enforced by any  
23 means available for the enforcement of child support, including  
24 contempt.

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. Section 158.0051, Family Code, is amended by  
18 amending Subsection (a) and adding Subsection (d) to read as  
19 follows:

20 (a) In addition to an order for income to be withheld for  
21 child support, including child support and child support  
22 arrearages, the court may render an order that income be withheld  
23 from the disposable earnings of:

24 (1) the obligor, to be applied towards the  
25 satisfaction of any ordered attorney's fees and costs resulting  
26 from an action to enforce child support under this title; or

27 (2) except as provided by Subsection (d), a parent

1 ordered to pay attorney's fees and costs under Section 157.167(b),  
2 to be applied toward the satisfaction of that order.

3 (d) The court may order that income be withheld as provided  
4 by Subsection (a)(2) only to satisfy an order for attorney's fees  
5 and costs under Section 157.167(b) in which the court made the  
6 finding necessary to enforce the order by any means available for  
7 the enforcement of child support.

8 SECTION 3. The changes in law made by this Act apply only to  
9 an enforcement order rendered on or after the effective date of this  
10 Act. An enforcement order rendered before that date is governed by  
11 the law in effect on the date the order was rendered, and the former  
12 law is continued in effect for that purpose.

13 SECTION 4. To the extent of any conflict, this Act prevails  
14 over another Act of the 79th Legislature, Regular Session, 2005,  
15 relating to nonsubstantive additions to and corrections in enacted  
16 codes.

17 SECTION 5. This Act takes effect September 1, 2005.