

1-1 By: Dutton (Senate Sponsor - Wentworth) H.B. No. 1174
1-2 (In the Senate - Received from the House April 22, 2005;
1-3 April 25, 2005, read first time and referred to Committee on
1-4 Jurisprudence; May 5, 2005, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 5, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to attorney's fees and costs in a proceeding to enforce an
1-9 order for the possession of or access to a child.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 157.167, Family Code, as amended by
1-12 Chapters 477 and 1262, Acts of the 78th Legislature, Regular
1-13 Session, 2003, is reenacted and amended to read as follows:

1-14 Sec. 157.167. RESPONDENT TO PAY ATTORNEY'S FEES AND COSTS.

1-15 (a) If the court finds that the respondent has failed to make child
1-16 support payments, the court shall order the respondent to pay the
1-17 movant's reasonable attorney's fees and all court costs in addition
1-18 to the arrearages. Fees and costs ordered under this subsection may
1-19 be enforced by any means available for the enforcement of child
1-20 support, including contempt.

1-21 (b) If the court finds that the respondent has failed to
1-22 comply with the terms of an order providing for the possession of or
1-23 access to a child, the court shall order the respondent to pay the
1-24 movant's reasonable attorney's fees and all court costs in addition
1-25 to any other remedy. If the court finds that the enforcement of the
1-26 order with which the respondent failed to comply was necessary to
1-27 ensure the child's physical or emotional health or welfare, the
1-28 fees and costs ordered under this subsection may be enforced by any
1-29 means available for the enforcement of child support, including
1-30 contempt, but not including income withholding.

1-31 (c) Except as provided by Subsection (d), for good cause
1-32 shown, the court may waive the requirement that the respondent pay
1-33 attorney's fees and costs if the court states the reasons
1-34 supporting that finding.

1-35 (d) If the court finds that the respondent is in contempt of
1-36 court for failure or refusal to pay child support and that the
1-37 respondent owes \$20,000 or more in child support arrearages, the
1-38 court may not waive the requirement that the respondent pay
1-39 attorney's fees and costs unless the court also finds that the
1-40 respondent:

1-41 (1) is involuntarily unemployed or is disabled; and

1-42 (2) lacks the financial resources to pay the
1-43 attorney's fees and costs.

1-44 [~~(c) Fees and costs ordered under Subsection (a) may be~~
1-45 ~~enforced by any means available for the enforcement of child~~
1-46 ~~support, including contempt.]~~

1-47 SECTION 2. The changes in law made by this Act apply only to
1-48 an enforcement order rendered on or after the effective date of this
1-49 Act. An enforcement order rendered before that date is governed by
1-50 the law in effect on the date the order was rendered, and the former
1-51 law is continued in effect for that purpose.

1-52 SECTION 3. To the extent of any conflict, this Act prevails
1-53 over another Act of the 79th Legislature, Regular Session, 2005,
1-54 relating to nonsubstantive additions to and corrections in enacted
1-55 codes.

1-56 SECTION 4. This Act takes effect September 1, 2005.

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