

BILL ANALYSIS

Senate Research Center

S.B. 303
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Jurisprudence
6/25/2007
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes a court, in handling a suit to determine child support in which health care coverage is not available to either parent at what the state defines as "reasonable cost," to require that the child be enrolled in Medicaid or the state children's health insurance plan, and that the parent who is not enrolling the child make payments in addition to child support for the child's health insurance. As a condition for receiving federal funds for certain child support enforcement programs and welfare programs, states must comply with various mandates under Title IV-D of the Social Security Act. The federal Deficit Reduction Act of 2005 amended certain sections of Title IV-D, including requirements with respect to state laws for medical support.

S.B. 303 amends the medical support provisions in the Family Code to ensure that Texas law complies with federal regulations under the federal Deficit Reduction Act, thus maintaining federal funding to state child support enforcement programs and welfare programs. This bill also redefines "reasonable cost" to include all of a responsible parent's income for purposes of calculating child support payments.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.062, Family Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Includes expenses for the cost of health insurance or cash medical support, rather than coverage, ordered by the court under Section 154.182, Family Code, to items that the court is required to deduct from resources to determine net resources available for child support.

(e) Requires the court, in calculating the amount of the deduction for health care coverage for a child under this section, to divide the total cost to the obligor for the health insurance by the total number of the obligor's minor dependents covered under the same insurance plan, including the child, if the obligor has other minor dependents covered under the same insurance plan.

SECTION 2. Amends Sections 154.181(c), (d), and (e), Family Code, as follows:

(c) Deletes existing text relating to a child who is not receiving assistance under Chapter 32 (Medical Assistance Program), Human Resources Code or medical coverage under the state child health plan under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code.

(d) Requires a court, on rendering a final order, rather than except for good cause shown, to make specific findings with respect to the manner in which health care coverage is to be provided for the child, in accordance with the priorities identified under Section 154.182 (Health Insurance), Family Code, and except for good cause shown or on agreement of the parties, to require the parent ordered to provide health care coverage

for the child to produce certain evidence that the parent has applied for or secured health insurance or has taken otherwise taken necessary action to provide health care coverage for the child, as ordered.

(e) Redefines "reasonable cost."

SECTION 3. Amends the heading to Section 154.182, Family Code, to read as follows:

Sec. 154.182. HEALTH CARE COVERAGE FOR CHILD.

SECTION 4. Amends Section 154.182, Family Code, by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (b-3), as follows:

(a) Requires the court to consider the cost and quality of health insurance available to the parties and to give priority to health care coverage available through the employment of one of the parties if the coverage is available at a reasonable cost.

(b) Makes conforming changes. Requires the court to render its order in determining the manner in which health care coverage for the child is to be ordered in accordance with the following priorities:

(1) Requires the court to order a parent, rather than an obligor, who has employment or membership in a union, trade association, or other organization that provides access to health insurance, to include the child in the parent's health insurance. Makes conforming changes.

(2) Authorizes the court to order a parent to provide health insurance for a child if health insurance is available through a source other than the parent's employment and at a reasonable cost if the health insurance provided by the parent's employment is not available as stated in Subdivision (1).

(3) Deletes existing text relating to certain health insurance coverage. Redesignates existing Subdivision (5) as Subdivision (3), requiring the court to order the obligor to pay the obligee, in addition to any amount ordered under the guidelines of child support, an amount not to exceed nine percent of the obligor's monthly resources as cash medical support for the child if health insurance coverage is not otherwise available for the child under this subsection.

(4) Deletes existing text requiring the court to order the custodial parent, or the noncustodial parent to the extent permitted by law, to immediately apply on behalf of the child for the medical assistance program or the state child health plan, and for the obligor to pay additional child support to with funds withheld from the obligor's income to the obligee for the actual cost of participation of the child in the chosen health plan, in the case that neither parent has access to private health insurance at a reasonable cost.

(b-1) Requires the court to order the obligor to pay the obligee, if the parent ordered to provide health insurance under this section is the obligee, as additional child support an amount equal to the actual cost of the health insurance for the child. Requires the court to divide the total costs to the obligee for the insurance by the total number of the obligee's minor dependents, if any, covered under the same health insurance plan, in calculating the actual cost of health insurance for the child.

(b-2) Requires the court to order the parent awarded the exclusive right to designate the child's primary residence, or the other parent to the extent permitted by law, to apply immediately on behalf of the child for participation in a government medical assistance or health plan (government health plan) if the court finds that neither parent has access to private health insurance at a reasonable cost. Requires the court to order cash medical support under this section if the child participates in a government medical assistance program or health plan.

(b-3) Requires an order mandating cash medical support from under Subsection (b)(3) to allow the obligor to discontinue payment of cash medical support if health insurance for the child becomes available to the obligor at a reasonable cost and if the obligor enrolls the child under that plan, and provides to the obligee, and the Title IV-D agency, if necessary, certain information.

SECTION 5. Amends Section 154.183, Family Code, as follows:

Sec. 154.183. New heading: MEDICAL SUPPORT ADDITIONAL SUPPORT DUTY OF OBLIGOR. (a) Authorizes an amount that an obligor is ordered to pay as medical support for the child under this chapter, instead of for health insurance, including the costs of health insurance coverage or cash medical support under Section 154.182, Family Code, to be enforced by any means available for the enforcement of child support, including withholding from earnings as specified within Family Code. Deletes existing text referring to requirements and obligations in this subsection.

(b) Requires, rather than authorizes, the court to increase the amount of child support to be paid by the obligor in an amount not exceeding the actual cost, rather than total expense, to the obligee for maintaining health insurance coverage as provided when the obligee is ordered to provide health insurance for the child under the provisions set forth under Section 154.182(b-1), Family Code, as added by this Act.

(c) Requires the court to allocate reasonable and necessary health care expenses of a child that are not reimbursed by health insurance or are not otherwise covered by the amount of cash medical support ordered as provided under Section 154.182(b)(3), Family Code, as amended by this Act, based on circumstances of the involved parties.

SECTION 6. Amends Section 156.401(a), Family Code, to include an order for health care coverage based on provisions under 154.182, Family Code, as amended by this Act, as an order that the court is authorized to modify.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2007.