

BILL ANALYSIS

Senate Research Center
80R1825 JMM-F

S.B. 429
By: Harris
Jurisprudence
4/12/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As a condition for receiving federal funding for both the child support enforcement and welfare programs, the state must comply with certain federal requirements. One of these requirements is that the state have statutorily prescribed procedures by which a lien arises by operation of law for any unpaid support owed by a child support obligor. In addition, the state must have expedited procedures under which the state's child support agency, in particular, may attach and seize the assets of an obligor held in a financial institution in payment of support arrearages. Subchapter G (Child Support Lien), Chapter 157, Family Code, satisfies these requirements, but has certain language that is unclear and erroneous.

As proposed, S.B. 429 makes certain clarifying and technical corrections to the existing statutes providing for the child support lien and levy process. The bill also authorizes financial institutions to deduct fees and costs owed to the institution from the obligor's assets before paying the appropriate amount to a claimant for child support arrearages, and authorizes a claimant to recover the costs and reasonable attorney's fees incurred in pursuing action against a person who refuses to surrender property of an obligor subject to lien or levy.

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 Sections 157.313(a), (c), and (e), Family Code, as follows:

- (a) Requires a mandatory statement on a child support lien notice (notice) which provides that a child support lien is attached to all nonexempt real and personal property of the obligor located or recorded in this state to also list any property acquired after filing or delivering the notice.
- (c) Requires a notice to be verified, except as provided by Subsection (e).
- (e) Provides that a notice used by the Title IV-D agency does not require verification.

SECTION 2. Amends Section 157.317(a-1), Family Code, to provide that a lien attaches to all property owned or acquired on or after the date the lien notice or abstract of judgment is filed with the county clerk of the county in which the property is located. Makes a nonsubstantive change.

SECTION 3. Amends Section 157.324, Family Code, to delete existing text providing that the failure of a person to surrender property when directed by an administrative order or the failure of a person to comply with a notice of levy under this subchapter cause liability of that person to the claimant. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 157.327, Family Code, by amending Subsection (b) and adding Subsection (f), as follows:

- (b) Requires a notice under this section (regarding the execution and levy on the financial assets of an obligor) to contain the amount of delinquent child support owed at

the time the notice is prepared and delivered to a financial institution if the amount owed is currently less than it was when originally determined, rather than that originally determined amount.

(f) Authorizes a financial institution to deduct fees and costs identified in Subsection (c) from an obligor's assets before paying the appropriate amount to a claimant.

SECTION 5. Amends Section 157.330, Family Code, as follows:

Sec. 157.330. New heading: FAILURE TO COMPLY WITH NOTICE OF LIEN OR LEVY. (a) Creates this subsection from existing text. Applies liability to a claimant from a notice of lien, in addition to a notice of levy, to a person described under this section. Makes conforming and nonsubstantive changes.

(b) Authorizes a claimant to recover costs and reasonable attorney's fees incurred in an action under this section.

SECTION 6. Makes application of this Act to a child support lien or levy prospective. Makes application of Sections 157.313 and 157.327, Family Code, as amended by this Act, prospective.

SECTION 7. Effective date: upon passage or September 1, 2007.