

1-1 By: Harris S.B. No. 232
1-2 (In the Senate - Filed January 12, 2007; January 30, 2007,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 April 24, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 24, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 232 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the rendition and issuance of an administrative
1-11 qualified domestic relations order to enforce child support
1-12 obligations.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle D, Title 5, Family Code, is amended by
1-15 adding Chapter 237 to read as follows:

1-16 CHAPTER 237. ADMINISTRATIVE DOMESTIC RELATIONS ORDER

1-17 Sec. 237.001. RENDITION OF ADMINISTRATIVE DOMESTIC
1-18 RELATIONS ORDER. (a) The director of the Title IV-D agency or an
1-19 assistant attorney general designated by the director may render an
1-20 administrative domestic relations order to be delivered to a
1-21 retirement plan subject to the federal Employee Retirement Income
1-22 Security Act of 1974 (29 U.S.C. Section 1001 et seq.) or the law of
1-23 this state to enforce a child support obligation against an obligor
1-24 who has or will have vested retirement benefits under the plan.

1-25 (b) The Title IV-D agency may render an administrative
1-26 domestic relations order under this chapter until all current child
1-27 support and arrearages owed by the obligor, including money due for
1-28 medical support, have been paid.

1-29 (c) A domestic relations order under this chapter must:

1-30 (1) be signed by the director of the Title IV-D agency
1-31 or the director's designee; and

1-32 (2) include a statement that the assignment of
1-33 benefits under the order is effective on the date the order is
1-34 received by the retirement plan but that the retirement plan shall
1-35 delay any distribution to the alternate payee until the first
1-36 regularly scheduled distribution that occurs at least 30 days after
1-37 that date in order to permit the obligor an opportunity to contest
1-38 the order under Section 237.006.

1-39 Sec. 237.002. EFFECT OF DOMESTIC RELATIONS ORDER BY COURT.

1-40 (a) The Title IV-D agency may not render a domestic relations
1-41 order under this chapter for a suit affecting the parent-child
1-42 relationship in which:

1-43 (1) a judge or an associate judge of a court of
1-44 continuing jurisdiction renders a domestic relations order in the
1-45 suit with respect to a retirement plan in which a child support
1-46 obligor has or will have vested retirement benefits; and

1-47 (2) the court's order provides for the enforcement of
1-48 the obligor's child support obligation.

1-49 (b) A domestic relations order rendered by the Title IV-D
1-50 agency before the court's order remains in effect to the extent that
1-51 the provisions of the order under this chapter are not superseded by
1-52 the court's order.

1-53 (c) Notwithstanding Subsection (a), the Title IV-D agency
1-54 may render a domestic relations order reflecting that child support
1-55 arrearages have been paid in full.

1-56 Sec. 237.003. PLAN DISTRIBUTIONS AS TAXABLE INCOME. (a) A
1-57 domestic relations order rendered under this chapter must provide
1-58 that all plan distributions from tax-deferred benefits for the
1-59 payment of child support shall be reported by the plan as income of
1-60 the plan participant for federal income tax purposes.

1-61 (b) If a plan administrator refuses to accept the domestic
1-62 relations order as qualified because of the provision required by
1-63 Subsection (a), the Title IV-D agency may file a motion in the court

2-1 of continuing jurisdiction to have the payment credit for plan
 2-2 distributions for which the obligee incurs a tax liability reduced
 2-3 by the amount of the obligee's marginal tax rate. After notice and
 2-4 hearing under Chapter 157, the court shall grant the agency's
 2-5 motion on sufficient proof of the obligee's marginal tax rate.

2-6 Sec. 237.004. FILING ADMINISTRATIVE DOMESTIC RELATIONS
 2-7 ORDER. The Title IV-D agency shall file a copy of an administrative
 2-8 domestic relations order with the court of continuing jurisdiction
 2-9 not later than the third business day after the date the order is
 2-10 sent to the retirement plan.

2-11 Sec. 237.005. NOTICE OF ORDER. (a) Not later than the 12th
 2-12 business day after the date the administrative domestic relations
 2-13 order is sent to the retirement plan, the Title IV-D agency shall
 2-14 send to the obligor, the obligee, and any other party:

2-15 (1) notice that a domestic relations order has been
 2-16 rendered by the agency and transmitted to the retirement plan
 2-17 together with a statement of the procedures by which a party may
 2-18 contest the order with regard to the identity of the obligor or the
 2-19 existence or amount of a current child support obligation or
 2-20 arrearages; and

2-21 (2) a copy of the order.

2-22 (b) The notice required under this section may be delivered
 2-23 to a party by:

2-24 (1) personal delivery by a person designated by the
 2-25 Title IV-D agency; or

2-26 (2) service of citation as in civil cases generally.

2-27 Sec. 237.006. CONTEST OF ADMINISTRATIVE DOMESTIC RELATIONS
 2-28 ORDER. (a) A party who receives a notice under Section 237.005 may
 2-29 request a review by the Title IV-D agency to resolve any issue in
 2-30 dispute regarding the identity of the obligor or the existence or
 2-31 amount of a current child support obligation or arrearages.

2-32 (b) The Title IV-D agency shall promptly provide an
 2-33 opportunity for a review either by a telephone conference or in
 2-34 person as appropriate to the circumstances. If the agency receives
 2-35 a request for review under this section not later than the 15th day
 2-36 after the date the agency sent notice under Section 237.005 to the
 2-37 party requesting the review, and the agency is not able to complete
 2-38 the review within 24 days after the date the agency sent the order
 2-39 to the retirement plan, the agency shall render a temporary order
 2-40 directing the plan to delay distribution to the alternate payee
 2-41 until receiving further order from the agency.

2-42 (c) After a review under this section, the Title IV-D agency
 2-43 may render a new administrative domestic relations order that
 2-44 modifies or terminates the previous order.

2-45 (d) If a review under this section fails to resolve any
 2-46 issue in dispute, the party may file with the court a motion under
 2-47 Chapter 157 to withdraw or modify the administrative domestic
 2-48 relations order or to replace the order with an alternative payment
 2-49 arrangement. In determining whether to withdraw, modify, or
 2-50 replace the agency's order, the court may consider the subsistence
 2-51 needs of the obligor and the obligor's family against the right of
 2-52 the obligee to have child support arrearages paid as quickly as
 2-53 possible.

2-54 SECTION 2. Subsection (a), Section 9.101, Family Code, is
 2-55 amended to read as follows:

2-56 (a) Notwithstanding any other provision of this chapter,
 2-57 the court that rendered a final decree of divorce or annulment or
 2-58 another final order dividing property under this title retains
 2-59 continuing, exclusive jurisdiction to render an enforceable
 2-60 qualified domestic relations order or similar order permitting
 2-61 payment of pension, retirement plan, or other employee benefits
 2-62 divisible under the law of this state or of the United States to an
 2-63 alternate payee or other lawful payee, except that a court with
 2-64 jurisdiction under Title 5 may render an enforceable qualified
 2-65 domestic relations order to enforce support for a child.

2-66 SECTION 3. Subsection (e), Section 201.104, Family Code, is
 2-67 amended to read as follows:

2-68 (e) Notwithstanding Subsection (d) and subject to Section
 2-69 201.1042(g), an associate judge may hear and render an order on:

3-1 (1) a suit to modify or clarify an existing child
3-2 support order;

3-3 (2) a motion to enforce a child support order,
3-4 including a motion for the rendition of a qualified domestic
3-5 relations order for child support, or revoke a respondent's
3-6 community supervision and suspension of commitment; or

3-7 (3) a respondent's compliance with the conditions
3-8 provided in the associate judge's report for suspension of the
3-9 respondent's commitment.

3-10 SECTION 4. Subsection (e), Section 231.002, Family Code, is
3-11 amended to read as follows:

3-12 (e) The Title IV-D agency may take the following
3-13 administrative actions with respect to the location of a parent,
3-14 the determination of parentage, and the establishment,
3-15 modification, and enforcement of child support and medical support
3-16 orders required by 42 U.S.C. Section 666(c), without obtaining an
3-17 order from any other judicial or administrative tribunal:

3-18 (1) issue an administrative subpoena, as provided by
3-19 Section 231.303, to obtain financial or other information;

3-20 (2) order genetic testing for parentage
3-21 determination, as provided by Chapter 233;

3-22 (3) order income withholding, as provided by Chapter
3-23 233, and issue an administrative writ of withholding, as provided
3-24 by Chapter 158; ~~and~~

3-25 (4) take any action with respect to execution,
3-26 collection, and release of a judgment or lien for child support
3-27 necessary to satisfy the judgment or lien, as provided by Chapter
3-28 157; and

3-29 (5) render an administrative domestic relations order
3-30 under Chapter 237.

3-31 SECTION 5. Subsection (b), Section 804.003, Government
3-32 Code, is amended to read as follows:

3-33 (b) Except as provided in Subsection (d), the
3-34 administrative head of a public retirement system to which this
3-35 chapter applies and to which a domestic relations order is
3-36 submitted or his designee has exclusive authority to determine
3-37 whether a domestic relations order, or an administrative domestic
3-38 relations order rendered by the Title IV-D agency under Chapter
3-39 237, Family Code, is a qualified domestic relations order. A
3-40 determination by the administrative head or his designee under this
3-41 section may be appealed only to the board of trustees of the public
3-42 retirement system. An appeal to the board of trustees of a
3-43 statewide retirement system is a contested case under Chapter 2001.
3-44 However, the board of a statewide retirement system by rule may
3-45 waive the requirement of an appeal to the board. On appeal of a
3-46 decision made by the board of trustees or by the administrative head
3-47 if there is no appeal to the board under this section, the standard
3-48 of review is by substantial evidence.

3-49 SECTION 6. This Act takes effect September 1, 2007.

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