

By: Harris

S.B. No. 303

A BILL TO BE ENTITLED

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AN ACT

relating to health care coverage for a child in a suit affecting the parent-child relationship.

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

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

(d) The court shall deduct the following items from resources to determine the net resources available for child support:

- (1) social security taxes;
- (2) federal income tax based on the tax rate for a single person claiming one personal exemption and the standard deduction;
- (3) state income tax;
- (4) union dues; and
- (5) expenses for the cost of health insurance or cash

medical support [coverage] for the obligor's child ordered by the court under Section 154.182.

(e) In calculating the amount of the deduction for health care coverage for a child under Subsection (d)(5), if the obligor has other minor dependents covered under the same health insurance plan, the court shall divide the total cost to the obligor for the insurance by the total number of minor dependents, including the

1 child, covered under the plan.

2 SECTION 2. Subsections (c), (d), and (e), Section 154.181,
3 Family Code, are amended to read as follows:

4 (c) In rendering temporary orders, the court shall, except
5 for good cause shown, order that any health insurance coverage in
6 effect for the child continue in effect pending the rendition of a
7 final order, except that the court may not require the continuation
8 of any health insurance that is not available to the parent at
9 reasonable cost. If there is no health insurance coverage in effect
10 for the child or if the insurance in effect is not available at a
11 reasonable cost [~~and the child is not receiving medical assistance~~
12 ~~under Chapter 32, Human Resources Code, or coverage under the state~~
13 ~~child health plan under Chapter 62, Health and Safety Code], the
14 court shall, except for good cause shown, order health care
15 coverage for the child as provided under Section 154.182.~~

16 (d) On [~~Except for good cause shown, on~~] rendering a final
17 order the court shall:

18 (1) make specific findings with respect to the manner
19 in which health care coverage is to be provided for the child, in
20 accordance with the priorities identified under Section 154.182;
21 and

22 (2) except for good cause shown or on agreement of the
23 parties, require the parent ordered to provide health care coverage
24 for the child as provided under Section 154.182 to produce evidence
25 to the court's satisfaction that the parent has applied for or
26 secured health insurance or has otherwise taken necessary action to
27 provide for health care coverage for the child, as ordered by the

1 court.

2 (e) In this section, "reasonable cost" means the cost of [~~a~~]
3 health insurance coverage for a child [~~premium~~] that does not
4 exceed nine [~~10~~] percent of the responsible parent's annual
5 resources, as described by Section 154.062(b) [~~net income in a~~
6 ~~month~~].

7 SECTION 3. The heading to Section 154.182, Family Code, is
8 amended to read as follows:

9 Sec. 154.182. HEALTH CARE COVERAGE FOR CHILD [~~INSURANCE~~].

10 SECTION 4. Section 154.182, Family Code, is amended by
11 amending Subsections (a) and (b) and adding Subsections (b-1),
12 (b-2), and (b-3) to read as follows:

13 (a) The court shall consider the cost and quality of health
14 insurance coverage available to the parties and shall give priority
15 to health insurance coverage available through the employment of
16 one of the parties if the coverage is available at a reasonable
17 cost.

18 (b) In determining the manner in which health care coverage
19 [~~insurance~~] for the child is to be ordered, the court shall render
20 its order in accordance with the following priorities, unless a
21 party shows good cause why a particular order would not be in the
22 best interest of the child:

23 (1) if health insurance is available for the child
24 through a parent's [~~the obligor's~~] employment or membership in a
25 union, trade association, or other organization at reasonable cost
26 to the parent [~~obligor~~], the court shall order that parent [~~the~~
27 ~~obligor~~] to include the child in the parent's [~~obligor's~~] health

1 insurance;

2 (2) if health insurance is not available for the child
3 under Subdivision (1) [~~through the obligor's employment~~] but is
4 available to a parent from another source and [~~for the child~~] at a
5 reasonable cost [~~through the obligee's employment or membership in~~
6 ~~a union, trade association, or other organization~~], the court may
7 order that parent [~~the obligee~~] to provide health insurance for the
8 child[, ~~and, in such event, shall order the obligor to pay~~
9 ~~additional child support to be withheld from earnings under Chapter~~
10 ~~158 to the obligee for the actual cost of the health insurance for~~
11 ~~the child~~]; or

12 (3) [~~if health insurance is not available for the~~
13 ~~child under Subdivision (1) or (2), the court shall order the~~
14 ~~obligor to provide health insurance for the child if the court finds~~
15 ~~that health insurance is available to the obligor for the child from~~
16 ~~another source and at reasonable cost,~~

17 [~~(4) if neither parent has access to private health~~
18 ~~insurance at a reasonable cost, the court shall order that the~~
19 ~~custodial parent or, to the extent permitted by law, the~~
20 ~~noncustodial parent immediately apply on behalf of the child for~~
21 ~~participation in a medical assistance program under Chapter 32,~~
22 ~~Human Resources Code, or the state child health plan under Chapter~~
23 ~~62, Health and Safety Code, and that the obligor pay additional~~
24 ~~child support, to be withheld from income under Chapter 158, to the~~
25 ~~obligee for the actual cost of participation of the child in the~~
26 ~~state child health plan, or~~

27 [(5)] if health insurance coverage is not available

1 for the child under Subdivision (1) or ~~[7]~~ (2) ~~[7, (3), or (4)]~~, the
2 court shall order the obligor to pay the obligee, in addition to any
3 amount ordered under the guidelines for child support, an ~~a~~
4 ~~reasonable~~ amount, not to exceed nine percent of the obligor's
5 monthly resources, ~~[each month]~~ as cash medical support for the
6 child ~~[to be withheld from earnings under Chapter 158]~~.

7 (b-1) If the parent ordered to provide health insurance
8 under Subsection (b)(1) or (2) is the obligee, the court shall order
9 the obligor to pay the obligee, as additional child support, an
10 amount equal to the actual cost of health insurance for the child.
11 In calculating the actual cost of health insurance for the child, if
12 the obligee has other minor dependents covered under the same
13 health insurance plan, the court shall divide the total cost to the
14 obligee for the insurance by the total number of minor dependents,
15 including the child covered under the plan.

16 (b-2) If the court finds that neither parent has access to
17 private health insurance at a reasonable cost, the court shall
18 order the parent awarded the exclusive right to designate the
19 child's primary residence or, to the extent permitted by law, the
20 other parent to apply immediately on behalf of the child for
21 participation in a government medical assistance program or health
22 plan. If the child participates in a government medical assistance
23 program or health plan, the court shall order cash medical support
24 under Subsection (b)(3).

25 (b-3) An order requiring the payment of cash medical support
26 under Subsection (b)(3) must allow the obligor to discontinue
27 payment of the cash medical support if:

1 (1) health insurance for the child becomes available
2 to the obligor at a reasonable cost; and

3 (2) the obligor:

4 (A) enrolls the child in the insurance plan; and

5 (B) provides the obligee and, in a Title IV-D
6 case, the Title IV-D agency, the information required under Section
7 154.185.

8 SECTION 5. Section 154.183, Family Code, is amended to read
9 as follows:

10 Sec. 154.183. MEDICAL SUPPORT ~~[HEALTH INSURANCE]~~
11 ADDITIONAL SUPPORT DUTY OF OBLIGOR. (a) An amount that an obligor
12 is ordered ~~[required]~~ to pay as medical support ~~[for health~~
13 ~~insurance]~~ for the child under this chapter, including the costs of
14 health insurance coverage or cash medical support under Section
15 154.182:

16 (1) is in addition to the amount that the obligor is
17 required to pay for child support under the guidelines for child
18 support;

19 (2) is a child support obligation; and

20 (3) may be enforced by any means available for the
21 enforcement of ~~[as a]~~ child support, including withholding from
22 earnings under Chapter 158 ~~[obligation]~~.

23 (b) If the court finds and states in the child support order
24 that the obligee will maintain health insurance coverage for the
25 child at the obligee's expense, the court shall ~~[may]~~ increase the
26 amount of child support to be paid by the obligor in an amount not
27 exceeding the actual cost ~~[total expense]~~ to the obligee for

1 maintaining health insurance coverage, as provided under Section
2 154.182(b-1).

3 (c) As additional child support, the court shall allocate
4 between the parties, according to their circumstances, the
5 reasonable and necessary health care expenses of a child that are
6 not reimbursed by health insurance or are not otherwise covered by
7 the amount of cash medical support ordered under Section
8 154.182(b)(3).

9 SECTION 6. Subsection (a), Section 156.401, Family Code, is
10 amended to read as follows:

11 (a) Except as provided by Subsection (a-1) or (b), the court
12 may modify an order that provides for the support of a child,
13 including an order for health care coverage under Section 154.182,
14 if:

15 (1) the circumstances of the child or a person
16 affected by the order have materially and substantially changed
17 since the earlier of:

18 (A) the date of the order's rendition; or

19 (B) the date of the signing of a mediated or
20 collaborative law settlement agreement on which the order is based;
21 or

22 (2) it has been three years since the order was
23 rendered or last modified and the monthly amount of the child
24 support award under the order differs by either 20 percent or \$100
25 from the amount that would be awarded in accordance with the child
26 support guidelines.

27 SECTION 7. The change in law made by this Act applies to a

1 suit affecting the parent-child relationship pending in a trial
2 court on or filed on or after the effective date of this Act.

3 SECTION 8. This Act takes effect September 1, 2007.