

By: Harris

S.B. No. 429

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to a child support lien and notice of levy for the enforcement of child support obligations.

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

SECTION 1. Section 157.313, Family Code, is amended by amending Subsections (a), (c), and (e) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsection (e), a child support lien notice must contain:

(1) the name and address of the person to whom the notice is being sent;

(2) the style, docket or cause number, and identity of the tribunal of this or another state having continuing jurisdiction of the child support action and, if the case is a Title IV-D case, the case number;

(3) the full name, address, and, if known, the birth date, driver's license number, social security number, and any aliases of the obligor;

(4) the full name and, if known, social security number of the obligee;

(5) the amount of the current or prospective child support obligation, the frequency with which current or prospective child support is ordered to be paid, and the amount of child support arrearages owed by the obligor and the date of the signing of the

1 court order, administrative order, or writ that determined the
2 arrearages or the date and manner in which the arrearages were
3 determined;

4 (6) the rate of interest specified in the court order,
5 administrative order, or writ or, in the absence of a specified
6 interest rate, the rate provided for by law;

7 (7) the name and address of the person or agency
8 asserting the lien;

9 (8) the motor vehicle identification number as shown
10 on the obligor's title if the property is a motor vehicle;

11 (9) a statement that the lien attaches to all
12 nonexempt real and personal property of the obligor that is located
13 or recorded in the state, including any property specifically
14 identified in the notice and any property acquired after the date of
15 filing or delivering the notice;

16 (10) a statement that any ordered child support not
17 timely paid in the future constitutes a final judgment for the
18 amount due and owing, including interest, and accrues up to an
19 amount that may not exceed the lien amount; and

20 (11) a statement that the obligor is being provided a
21 copy of the lien notice and that the obligor may dispute the
22 arrearage amount by filing suit under Section 157.323.

23 (c) Except as provided by Subsection (e), the [The] lien
24 notice must be verified.

25 (e) A notice of a lien for child support under this section
26 may be in the form authorized by federal law or regulation. The
27 federal form of lien notice does not require verification when used

1 by the Title IV-D agency.

2 (f) The requirement under Subsections (a)(3) and (4) to
3 provide a social security number, if known, does not apply to a lien
4 notice for a lien on real property.

5 SECTION 2. Subsection (a-1), Section 157.317, Family Code,
6 is amended to read as follows:

7 (a-1) A lien attaches to all property owned or acquired on
8 or after the date the lien notice or abstract of judgment is filed
9 with the county clerk of the county in which the property is
10 located, with the court clerk as to property or claims in
11 litigation, or, as to property of the obligor in the possession or
12 control of a third party, from the date the lien notice is delivered
13 to [filed with] that party.

14 SECTION 3. Subsection (a), Section 157.318, Family Code, is
15 amended to read as follows:

16 (a) A lien is effective until all current support and child
17 support arrearages, including interest, ~~and~~ any costs and
18 reasonable attorney's fees, and any Title IV-D service fees
19 authorized under Section 231.103 for which the obligor is
20 responsible, have been paid or the lien is otherwise released as
21 provided by this subchapter.

22 SECTION 4. Section 157.324, Family Code, is amended to read
23 as follows:

24 Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR
25 LIEN. A person who knowingly disposes of property subject to a
26 child support lien or ~~or~~ who, after a foreclosure hearing, fails to
27 surrender on demand nonexempt personal property as directed by a

1 court [~~or administrative order~~] under this subchapter[~~, or who~~
2 ~~fails to comply with a notice of levy under this subchapter~~] is
3 liable to the claimant in an amount equal to the value of the
4 property disposed of or not surrendered, not to exceed the amount of
5 the child support arrearages for which the lien[~~, notice of levy,~~]
6 or foreclosure judgment was issued.

7 SECTION 5. Section 157.327, Family Code, is amended by
8 amending Subsection (b) and adding Subsection (f) to read as
9 follows:

10 (b) The notice under this section must:

11 (1) identify the amount of child support arrearages
12 owing at the time the amount of arrearages was determined or, if the
13 amount is less, the amount of arrearages owing at the time the
14 notice is prepared and delivered to the financial institution; and

15 (2) direct the financial institution to pay to the
16 claimant, not earlier than the 15th day or later than the 21st day
17 after the date of delivery of the notice, an amount from the assets
18 of the obligor or from funds due to the obligor that are held or
19 controlled by the institution, not to exceed the amount of the child
20 support arrearages identified in the notice, unless:

21 (A) the institution is notified by the claimant
22 that the obligor has paid the arrearages or made arrangements
23 satisfactory to the claimant for the payment of the arrearages;

24 (B) the obligor or another person files a suit
25 under Section 157.323 requesting a hearing by the court; or

26 (C) if the claimant is the Title IV-D agency, the
27 obligor has requested an agency review under Section 157.328.

1 (f) A financial institution may deduct the fees and costs
2 identified in Subsection (c) from the obligor's assets before
3 paying the appropriate amount to the claimant.

4 SECTION 6. Section 157.330, Family Code, is amended to read
5 as follows:

6 Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF
7 LEVY. (a) A person who possesses or has a right to property that
8 is the subject of a notice of levy delivered to the person and who
9 refuses to surrender the property or right to property to the
10 claimant on demand is liable to the claimant in an amount equal to
11 the value of the property or right to property not surrendered, ~~[but~~
12 ~~that does]~~ not to exceed the amount of the child support arrearages
13 for which the notice of levy has been filed.

14 (b) A claimant may recover costs and reasonable attorney's
15 fees incurred in an action under this section.

16 SECTION 7. (a) Except as otherwise provided by this
17 section, the changes in law made by this Act apply to a child
18 support lien or levy in effect on the effective date of this Act or
19 filed on or after that date.

20 (b) Section 157.313, Family Code, as amended by this Act,
21 applies only to a child support lien notice filed or delivered on or
22 after the effective date of this Act. A child support lien notice
23 filed or delivered before that date is governed by the law in effect
24 on the date the notice was filed or delivered, and the former law is
25 continued in effect for that purpose.

26 (c) The changes in law made by this Act by the amendment of
27 Section 157.327, Family Code, apply only to a notice of levy

1 delivered to a financial institution on or after the effective date
2 of this Act. A notice of levy delivered to a financial institution
3 before the effective date of this Act is governed by the law in
4 effect on the date the notice was filed, and the former law is
5 continued in effect for that purpose.

6 SECTION 8. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2007.