

By: Harris

S.B. No. 429

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. Sections 157.313(a), (c), and (e), Family Code,
6 are amended to read as follows:

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

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

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

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

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

20 (5) the amount of the current or prospective child
21 support obligation, the frequency with which current or prospective
22 child support is ordered to be paid, and the amount of child support
23 arrearages owed by the obligor and the date of the signing of the
24 court order, administrative order, or writ that determined the

1 arrearages or the date and manner in which the arrearages were
2 determined;

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

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

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

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

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

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

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

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

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

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

10 SECTION 3. Section 157.324, Family Code, is amended to read
11 as follows:

12 Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR
13 LIEN. A person who knowingly disposes of property subject to a
14 child support lien or [~~]~~ who, after a foreclosure hearing, fails to
15 surrender on demand nonexempt personal property as directed by a
16 court [~~or administrative order~~] under this subchapter [~~, or who~~
17 ~~fails to comply with a notice of levy under this subchapter~~] is
18 liable to the claimant in an amount equal to the arrearages for
19 which the lien [~~, notice of levy,~~] or foreclosure judgment was
20 issued.

21 SECTION 4. Section 157.327, Family Code, is amended by
22 amending Subsection (b) and adding Subsection (f) to read as
23 follows:

24 (b) The notice under this section must:

25 (1) identify the amount of child support arrearages
26 owing at the time the amount of arrearages was determined or, if the
27 amount is less, the amount of arrearages owing at the time the

1 notice is prepared and delivered to the financial institution; and

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

8 (A) the institution is notified by the claimant
9 that the obligor has paid the arrearages or made arrangements
10 satisfactory to the claimant for the payment of the arrearages;

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

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

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

18 SECTION 5. Section 157.330, Family Code, is amended to read
19 as follows:

20 Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LIEN OR LEVY.

21 (a) A person who possesses or has a right to property that is the
22 subject of a notice of lien or levy delivered to the person and who
23 refuses to surrender the property or right to property to the
24 claimant on demand is liable to the claimant in an amount equal to
25 the value of the property or right to property not surrendered, ~~but~~
26 ~~that does~~ not to exceed the amount of the child support arrearages
27 for which the notice of lien or levy has been filed.

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

3 SECTION 6. (a) Except as otherwise provided by this
4 section, the changes in law made by this Act apply to a child
5 support lien or levy in effect on the effective date of this Act or
6 filed on or after that date.

7 (b) Section 157.313, Family Code, as amended by this Act,
8 applies only to a child support lien notice filed or delivered on or
9 after the effective date of this Act. A child support lien notice
10 filed or delivered before that date is governed by the law in effect
11 on the date the notice was filed or delivered, and the former law is
12 continued in effect for that purpose.

13 (c) The changes in law made by this Act by the amendment of
14 Section 157.327, Family Code, apply only to a notice of levy
15 delivered to a financial institution on or after the effective date
16 of this Act. A notice of levy delivered to a financial institution
17 before the effective date of this Act is governed by the law in
18 effect on the date the notice was filed, and the former law is
19 continued in effect for that purpose.

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