

1-1 By: Harris S.B. No. 429
1-2 (In the Senate - Filed February 2, 2007; February 21, 2007,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 April 20, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 20, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 429 By: Harris

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

1-10 relating to a child support lien and notice of levy for the
1-11 enforcement of child support obligations.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 157.313, Family Code, is amended by
1-14 amending Subsections (a), (c), and (e) and adding Subsection (f) to
1-15 read as follows:

1-16 (a) Except as provided by Subsection (e), a child support
1-17 lien notice must contain:

1-18 (1) the name and address of the person to whom the
1-19 notice is being sent;

1-20 (2) the style, docket or cause number, and identity of
1-21 the tribunal of this or another state having continuing
1-22 jurisdiction of the child support action and, if the case is a Title
1-23 IV-D case, the case number;

1-24 (3) the full name, address, and, if known, the birth
1-25 date, driver's license number, social security number, and any
1-26 aliases of the obligor;

1-27 (4) the full name and, if known, social security
1-28 number of the obligee;

1-29 (5) the amount of the current or prospective child
1-30 support obligation, the frequency with which current or prospective
1-31 child support is ordered to be paid, and the amount of child support
1-32 arrearages owed by the obligor and the date of the signing of the
1-33 court order, administrative order, or writ that determined the
1-34 arrearages or the date and manner in which the arrearages were
1-35 determined;

1-36 (6) the rate of interest specified in the court order,
1-37 administrative order, or writ or, in the absence of a specified
1-38 interest rate, the rate provided for by law;

1-39 (7) the name and address of the person or agency
1-40 asserting the lien;

1-41 (8) the motor vehicle identification number as shown
1-42 on the obligor's title if the property is a motor vehicle;

1-43 (9) a statement that the lien attaches to all
1-44 nonexempt real and personal property of the obligor that is located
1-45 or recorded in the state, including any property specifically
1-46 identified in the notice and any property acquired after the date of
1-47 filing or delivering the notice;

1-48 (10) a statement that any ordered child support not
1-49 timely paid in the future constitutes a final judgment for the
1-50 amount due and owing, including interest, and accrues up to an
1-51 amount that may not exceed the lien amount; and

1-52 (11) a statement that the obligor is being provided a
1-53 copy of the lien notice and that the obligor may dispute the
1-54 arrearage amount by filing suit under Section 157.323.

1-55 (c) Except as provided by Subsection (e), the [The] lien
1-56 notice must be verified.

1-57 (e) A notice of a lien for child support under this section
1-58 may be in the form authorized by federal law or regulation. The
1-59 federal form of lien notice does not require verification when used
1-60 by the Title IV-D agency.

1-61 (f) The requirement under Subsections (a)(3) and (4) to
1-62 provide a social security number, if known, does not apply to a lien
1-63 notice for a lien on real property.

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

2-3 (a-1) A lien attaches to all property owned or acquired on
2-4 or after the date the lien notice or abstract of judgment is filed
2-5 with the county clerk of the county in which the property is
2-6 located, with the court clerk as to property or claims in
2-7 litigation, or, as to property of the obligor in the possession or
2-8 control of a third party, from the date the lien notice is delivered
2-9 to [filed with] that party.

2-10 SECTION 3. Subsection (a), Section 157.318, Family Code, is
2-11 amended to read as follows:

2-12 (a) A lien is effective until all current support and child
2-13 support arrearages, including interest, ~~and~~ any costs and
2-14 reasonable attorney's fees, and any Title IV-D service fees
2-15 authorized under Section 231.103 for which the obligor is
2-16 responsible, have been paid or the lien is otherwise released as
2-17 provided by this subchapter.

2-18 SECTION 4. Section 157.324, Family Code, is amended to read
2-19 as follows:

2-20 Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR
2-21 LIEN. A person who knowingly disposes of property subject to a
2-22 child support lien ~~or~~ who, after a foreclosure hearing, fails to
2-23 surrender on demand nonexempt personal property as directed by a
2-24 court ~~[or administrative order]~~ under this subchapter~~[, or who~~
2-25 ~~fails to comply with a notice of levy under this subchapter]~~ is
2-26 liable to the claimant in an amount equal to the value of the
2-27 property disposed of or not surrendered, not to exceed the amount of
2-28 the child support arrearages for which the lien[, notice of levy,]
2-29 or foreclosure judgment was issued.

2-30 SECTION 5. Section 157.327, Family Code, is amended by
2-31 amending Subsection (b) and adding Subsection (f) to read as
2-32 follows:

2-33 (b) The notice under this section must:

2-34 (1) identify the amount of child support arrearages
2-35 owing at the time the amount of arrearages was determined or, if the
2-36 amount is less, the amount of arrearages owing at the time the
2-37 notice is prepared and delivered to the financial institution; and

2-38 (2) direct the financial institution to pay to the
2-39 claimant, not earlier than the 15th day or later than the 21st day
2-40 after the date of delivery of the notice, an amount from the assets
2-41 of the obligor or from funds due to the obligor that are held or
2-42 controlled by the institution, not to exceed the amount of the child
2-43 support arrearages identified in the notice, unless:

2-44 (A) the institution is notified by the claimant
2-45 that the obligor has paid the arrearages or made arrangements
2-46 satisfactory to the claimant for the payment of the arrearages;

2-47 (B) the obligor or another person files a suit
2-48 under Section 157.323 requesting a hearing by the court; or

2-49 (C) if the claimant is the Title IV-D agency, the
2-50 obligor has requested an agency review under Section 157.328.

2-51 (f) A financial institution may deduct the fees and costs
2-52 identified in Subsection (c) from the obligor's assets before
2-53 paying the appropriate amount to the claimant.

2-54 SECTION 6. Section 157.330, Family Code, is amended to read
2-55 as follows:

2-56 Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF
2-57 LEVY. (a) A person who possesses or has a right to property that
2-58 is the subject of a notice of levy delivered to the person and who
2-59 refuses to surrender the property or right to property to the
2-60 claimant on demand is liable to the claimant in an amount equal to
2-61 the value of the property or right to property not surrendered, ~~but~~
2-62 ~~that does~~ not to exceed the amount of the child support arrearages
2-63 for which the notice of levy has been filed.

2-64 (b) A claimant may recover costs and reasonable attorney's
2-65 fees incurred in an action under this section.

2-66 SECTION 7. (a) Except as otherwise provided by this
2-67 section, the changes in law made by this Act apply to a child
2-68 support lien or levy in effect on the effective date of this Act or
2-69 filed on or after that date.

3-1 (b) Section 157.313, Family Code, as amended by this Act,
3-2 applies only to a child support lien notice filed or delivered on or
3-3 after the effective date of this Act. A child support lien notice
3-4 filed or delivered before that date is governed by the law in effect
3-5 on the date the notice was filed or delivered, and the former law is
3-6 continued in effect for that purpose.

3-7 (c) The changes in law made by this Act by the amendment of
3-8 Section 157.327, Family Code, apply only to a notice of levy
3-9 delivered to a financial institution on or after the effective date
3-10 of this Act. A notice of levy delivered to a financial institution
3-11 before the effective date of this Act is governed by the law in
3-12 effect on the date the notice was filed, and the former law is
3-13 continued in effect for that purpose.

3-14 SECTION 8. This Act takes effect immediately if it receives
3-15 a vote of two-thirds of all the members elected to each house, as
3-16 provided by Section 39, Article III, Texas Constitution. If this
3-17 Act does not receive the vote necessary for immediate effect, this
3-18 Act takes effect September 1, 2007.

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