

Amend SB 865 (house committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 157.311(1), Family Code, is amended to read as follows:

(1) "Account" means:

(A) any type of a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, money market mutual fund account, certificate of deposit, or any other instrument of deposit in which an individual, as a signatory or not, has a beneficial ownership interest either in its entirety or on a shared or multiple party basis, including any accrued interest and dividends, and in which:

(i) the obligor has a community or separate property interest; or

(ii) funds are held for the obligor's benefit or placed at the direction of the obligor, regardless of whether the funds are held in the name of a nominal owner other than the obligor; and

(B) a life insurance policy in which an individual has a beneficial ownership or liability insurance against which an individual has filed a claim or counterclaim.

SECTION _____. Section 157.313, Family Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to the information required under Subsection (a), a child support lien notice sent to a financial institution that applies to assets of a specified third party or nominal owner must contain the social security number, tax identification number, or account number of the third party or nominal owner.

SECTION _____. Section 157.314, Family Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If a child support lien notice is delivered to a financial institution with respect to an account of the obligor, the institution shall immediately:

(1) provide the claimant with the last known address

of the obligor and disclose to the claimant the amount in the account at the time of receipt of the notice; and

(2) notify any other person having an ownership interest in the account that the account has been frozen in an amount not to exceed the amount of the child support arrearage identified in the notice.

(e) On request, until the lien is satisfied, a financial institution to which a child support lien notice has been delivered shall provide the claimant with a statement showing all deposits and withdrawals involving the obligor's account that occurred from the date and time of receipt of the child support lien notice to the date of receipt of the request for information.

SECTION 4. Section 157.327, Family Code, is amended by amending Subsections (b), (c), and (f) and adding Subsections (b-1), (g), (g-1), (h), and (i) to read as follows:

(b) The notice under this section must:

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

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor at the time the levy is paid that are held or controlled by the institution or that should have been frozen by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

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

(B) the obligor or another person claiming an ownership interest in the account files, not later than the 10th day after the date of delivery of the notice required by Section 157.328, a suit under Section 157.323 or a motion under Subsection (g) requesting a hearing by the court; or

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

(b-1) A notice of levy delivered to a financial institution that applies to assets or funds of a specified third party or nominal owner must include the social security number, tax identification number, or account number of the third party or nominal owner.

(c) A financial institution that receives a notice of levy under this section may not close an account in which the obligor has a beneficial ~~[an]~~ ownership interest, permit a withdrawal from any account the obligor owns, in whole or in part, or pay funds to the obligor or a nominal owner so that any amount remaining in the account is less than the amount of the arrearages identified in the notice, plus any fees due to the institution and any costs of the levy identified by the claimant.

(f) A financial institution may collect any fees and costs identified in Subsection (c) from the obligor but may not, except as otherwise provided by this subsection, deduct those ~~[the]~~ fees and costs ~~[identified in Subsection (c)]~~ from the obligor's assets before paying the appropriate amount to the claimant. A financial institution may deduct the following fees before paying the appropriate amount to the claimant:

(1) a reasonable processing fee; and

(2) a fee associated with early withdrawal of funds from a certificate of deposit or other interest-bearing account before the applicable maturity date.

(g) If a timely motion is filed and Subsection (g-1) is complied with by a person claiming an ownership interest in the account, other than the obligor, the court, after giving notice to all interested parties, shall hold a hearing to determine the extent, if any, to which the account contains assets of the obligor that are subject to a lien or levy under this subchapter. After the hearing:

(1) if the court determines that the account contains any of the obligor's assets that are subject to levy, the court shall specify the amount in the account subject to levy and order that amount to be applied against child support arrearages owed by the obligor; or

(2) if the court determines that the account does not

contain any of the obligor's assets that are subject to a lien or levy, the court shall order the release of the child support lien or levy.

(g-1) Not later than the 15th day after the date that a motion is filed, a person claiming an ownership interest in the account shall provide to the claimant copies of account statements and all deposits and withdrawals for the previous six months on the account being contested. The timely production of documents under this subsection shifts the burden of proof to the claimant to prove the extent of the ownership interest of the obligor.

(h) A financial institution that surrenders assets in compliance with a court order under Subsection (g)(1) is not liable to the obligor, the account holder, or any other person for the assets surrendered.

(i) This subsection applies if a financial institution receives a notice of levy under this section with regard to an account for which the obligor is not included on the title or listed as a signatory. If a person claiming ownership in the account, other than the obligor, successfully establishes in a suit under Section 157.323 or a hearing under Subsection (g) that the obligor did not have any ownership interest in the account, the person may recover costs and reasonable attorney's fees incurred against the claimant.

SECTION _____. The changes in law made by this Act to Sections 157.311 and 157.313, Family Code, apply only to a child support lien notice filed on or after the effective date of this Act. A child support lien notice filed before the effective date of this Act is governed by the law in effect on the date the lien notice was filed, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Sections 157.314 and 157.327(f), Family Code, apply only to a financial institution that receives a lien notice or notice of levy under those sections on or after the effective date of this Act. A financial institution that receives a lien notice or notice of levy under those sections before the effective date of this Act is governed by the law in effect on the date the lien notice or notice

of levy is received, and the former law is continued in effect for that purpose.

SECTION _____. Sections 157.327(b-1), (g), (g-1), (h), and (i), Family Code, as added by this Act, apply only to a notice of levy delivered on or after the effective date of this Act. A notice of levy delivered before the effective date of this Act is governed by the law in effect on the date the notice of levy is delivered, and the former law is continued in effect for that purpose.

(2) In SECTION 25 of the bill, strike added Section 34.001(c), Civil Practice and Remedies Code (page 16, lines 8 and 9), and substitute the following:

(c) This section does not apply to a child support judgment or any other child support collection remedy authorized by the Family Code.

(3) Strike SECTION 39 of the bill (page 19, lines 6-9) and substitute the following appropriately numbered section:

SECTION _____. The changes in law made by this Act to Section 34.001, Civil Practice and Remedies Code, apply to each child support judgment or collection remedy, regardless of the date on which the judgment is rendered or the remedy is sought.