

BILL ANALYSIS

S.B. 66
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The goal of this bill is to ensure that children in the child support system are covered by health insurance. Federal law requires parents in the child support system to provide health coverage for their children. If no coverage is available through an employer or another source at a reasonable cost, a judge typically orders the non-custodial parent to pay "cash medical" support to the custodial parent to pay for health care. Unfortunately, this does not always lead to actual coverage.

S.B. 66 establishes an insurance pool for certain children in Title IV-D cases; authorizes the courts to ensure that eligible children have health coverage by ordering that the child be enrolled in the pool; and requires the obligor to pay premiums at a reasonable cost.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Office of the Attorney General as the Title IV-D agency in SECTION 2 (Section 154.1826(f), Family Code) of this bill.

ANALYSIS

SECTION 1. Amends Section 154.182(b), Family Code, as follows:

(b) Requires the court, in determining the manner in which health care coverage for the child is to be ordered, to render its order in accordance with the following priorities, unless a party shows cause why a particular order would not be in the best interest of the child:

(1) Requires the court, if health insurance is available for the child through a parent's employment or membership in a union, trade association, or other organization at reasonable cost to order that parent to include the child in the parent's health insurance;

(2) Authorizes the court, if health insurance is not available for the child under Subdivision (1) but is available to a parent at reasonable cost from another source, including the program under Section 154.1826, Family Code, to provide health insurance in Title IV-D cases, to order that parent to provide health insurance for the child; or

(3) Requires the court, if health insurance coverage is not available for the child under Subdivision (1) or (2), to order the obligor to pay the obligee, in addition to any amount ordered under the guidelines for child support, an amount not to exceed nine percent of the obligor's annual resources as described by Section 154.062(b), Family Code, as cash medical support for the child.

SECTION 2. Amends Subchapter D, Chapter 154, Family Code, by adding Sections 154.1826 and 154.1827, as follows:

Sec. 154.1826. HEALTH CARE PROGRAM FOR CERTAIN CHILDREN IN TITLE IV-D CASES. (a) Defines "health benefit plan issuer," "health care provider," "program," "reasonable cost," and "third-party administrator."

(b) Requires the Title IV-D agency (Office of the Attorney General) in consultation with the Texas Department of Insurance (TDI), the Health and Human Services Commission (HHSC), and representatives of the insurance industry in this state, to develop and implement a statewide program (program) to address the health care needs of children in Title IV-D cases for whom health insurance is not available to either parent at reasonable cost under Section 154.182 (b)(1), Family Code, or under Section 154.182(b)(2), Family Code, from a source other than the program.

(c) Authorizes the director of the Title IV-D agency (director) to establish an advisory committee to consult with the director regarding the implementation and operation of the program. Authorizes the director, if the director establishes an advisory committee, to appoint representatives of appropriate public and private entities, including state agencies concerned with health care management; members of the judiciary; members of the legislature; and representatives of the insurance industry to the advisory committee.

(d) Provides that the principal objective of the program is to provide basic health care services, including office visits with health care providers, hospitalization, and diagnostic and emergency services, to eligible children in Title IV-D cases at reasonable cost to the parents obligated by court order to provide medical support for the children.

(e) Authorizes the Title IV-D agency to use available private resources, including gifts and grants, in administering the program.

(f) Requires the Title IV-D agency to adopt rules as necessary to implement the program. Requires the Title IV-D agency to consult with TDI and HHSC in establishing policies and procedures for the administration of the program and in determining appropriate benefits to be provided under the program.

(g) Prohibits a health benefit plan issuer that participates in the program from denying health care coverage under the program to eligible children because of preexisting conditions or chronic illness. Provides that a child who is determined to be eligible for coverage under the program continues to be eligible until the termination of the parent's duty to pay child support as specified by Section 154.006, Family Code. Provides that enrollment of a child in the program does not preclude the subsequent enrollment of the child in another health care plan that becomes available to the child's parent at reasonable cost, including a health care plan available through the parent's employment or the state child health plan under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code.

(h) Requires the Title IV-D agency to contract with an independent third-party administrator to provide necessary administrative services for operation of the program.

(i) Provides that a person acting as a third-party administrator under Subsection (h) is not considered an administrator for purposes of Chapter 4151 (Third-Party Administrators), Insurance Code.

(j) Requires the Title IV-D agency to solicit applications for participation in the program from health benefit plan issuers that meet requirements specified by the agency. Requires each health benefit plan issuer that participates in the program to hold a certificate of authority issued by TDI.

(k) Requires the Title IV-D agency to promptly notify the courts of this state when the program has been implemented and is available to provide for the health care needs of children described by Subsection (b). Requires that the notification

specify a date beginning on which children are authorized to be enrolled in the program.

(l) Requires a court that orders health care coverage for a child in a Title IV-D case, on or after the date specified in the notification required by Subsection (k), to order that the child be enrolled in the program authorized by this section unless other health insurance is available for the child at reasonable cost, including the state child health plan under Chapter 62, Health and Safety Code.

(m) Authorizes the Title IV-D agency to enforce the payment of premium costs for the enrollment of a child in the program against the obligor by any means available for the enforcement of a child support obligation, including income withholding under Chapter 158, Family Code (Withholding From Earnings for Child Support).

(n) Provides that the program is not subject to any provision of the Insurance Code or other law that requires coverage or the offer of coverage of a health care service or benefit.

(o) Provides that any health information obtained by the program, or by a third-party administrator providing program services, that is subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) or Chapter 181 (Medical Records Privacy), Health and Safety Code, is confidential and not open to public inspection. Provides that any personally identifiable financial information or supporting documentation of a parent whose child is enrolled in the program that is obtained by the program, or by a third-party administrator providing program services, is confidential and not open to public inspection.

Sec. 154.1827. ADMINISTRATIVE ADJUSTMENT OF MEDICAL SUPPORT ORDER. (a) Authorizes the Title IV-D agency, in each Title IV-D case in which a medical support order requires that a child be enrolled in a health care program under Section 154.1826, Family Code, to administratively adjust the order as necessary on an annual basis to reflect changes in the amount of premium costs associated with the child's enrollment.

(b) Requires the Title IV-D agency to provide notice of administrative adjustment to the obligor and the clerk of the court that rendered the order.

SECTION 3. Effective date: September 1, 2009.

EFFECTIVE DATE

Section 1 takes effect September 1, 2009. Section 2 takes effect on passage if the act receives the necessary vote, or, if the act does not receive the necessary vote, Section 2 takes effect September 1, 2009.