

## **BILL ANALYSIS**

S.B. 1048  
By: Uresti  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, medical insurance is the insurance required to be provided to a child subject to a child support order. Dental insurance is not provided unless specified by the court or the parties involved.

As proposed, S.B. 1048 would require that dental insurance be included with health insurance in the support order.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 60 (Section 1504.002, Insurance Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 54.06(e), Family Code, as follows:

(e) Requires the court to apply the child support guidelines under Subchapter C (Child Support Guidelines), Chapter 154 (Child Support), in an order requiring the payment of child support under this section. Requires the court to require in an order to pay child support under this section that health insurance and dental insurance, rather than health insurance, be provided for the child. Provides that Subchapter D (Medical Support for Child), Chapter 154, applies to an order requiring health insurance and dental insurance, rather than health insurance, for a child under this section.

SECTION 2. Amends Section 101.006, Family Code, to redefine "child support services."

SECTION 3. Amends Chapter 101, Family Code, by adding Sections 101.0094 and 101.0095, as follows:

Sec. 101.0094. DENTAL INSURANCE. Defines "dental insurance."

Sec. 101.0095. DENTAL SUPPORT. Defines "dental support."

SECTION 4. Amends Section 101.012, Family Code, to redefine "employer."

SECTION 5. Amends Section 101.024(b), Family Code, to provide that for purposes of establishing, determining the terms of, modifying, or enforcing an order, a reference in this title to a parent includes a person ordered to provide dental support for a child.

SECTION 6. Amends Section 101.034, Family Code, to redefine "Title IV-D case" to make a conforming change.

SECTION 7. Amends Section 153.611, Family Code, to make a conforming change.

SECTION 8. Amends Section 154.008, Family Code, as follows:

Sec. 154.008. New heading: PROVISION FOR MEDICAL SUPPORT AND DENTAL SUPPORT. Requires the court to order medical support and dental support, rather than

medical support, for the child as provided by Subchapters B (Computing Net Resources Available for Payment of Child Support) and D.

SECTION 9. Amends Section 154.015(c), Family Code, to provide that for purposes of this section, the court of continuing jurisdiction is required to determine the amount of the unpaid child support obligation for each child of the deceased obligor. Requires the court to consider all relevant factors in determining the amount of the unpaid child support obligation, including the present value of the total amount of dental insurance premiums payable for the benefit of the child from the month in which the obligor dies until the month in which the child turns 18 years of age, based on the cost of dental insurance for the child ordered to be paid on the date of the obligor's death.

SECTION 10. Amends Section 154.016(b), Family Code, to make conforming changes.

SECTION 11. Amends Section 154.062(d), Family Code, to require the court to deduct certain items from resources to determine the net resources available for child support, including expenses for the cost of dental insurance and cash dental support for the obligor's child ordered by the court under Sections 154.182 (Health Care Coverage for Child) and 154.1825. Makes nonsubstantive changes.

SECTION 12. Reenacts Section 154.062(e), Family Code, as added by Chapters 363 (S.B. 303) and 620 (H.B. 448), Acts of the 80th Legislature, Regular Session, 2007, and amends it to make conforming changes.

SECTION 13. Amends Section 154.064, Family Code, as follows:

Sec. 154.064. New heading: **MEDICAL SUPPORT AND DENTAL SUPPORT FOR CHILD PRESUMPTIVELY PROVIDED BY OBLIGOR.** Makes a conforming change.

SECTION 14. Amends the subchapter heading of Subchapter D, Chapter 154, Family Code, to read as follows:

**SUBCHAPTER D. MEDICAL SUPPORT AND DENTAL SUPPORT FOR CHILD**

SECTION 15. Amends Subchapter D, Chapter 154, Family Code, by adding Section 154.1815, as follows:

Sec. 154.1815. **DENTAL SUPPORT ORDER.** (a) Defines "reasonable cost."

(b) Requires the court, in a suit affecting the parent-child relationship or in a proceeding under Chapter 159 (Uniform Interstate Family Support Act), to render an order for the dental support of the child as provided by this section and Section 154.1825.

(c) Requires the court, before a hearing on temporary orders or a final order, if no hearing on temporary orders is held, to require the parties to the proceedings to disclose in a pleading or other document whether the child is covered by dental insurance and, if the child is covered, the identity of the insurer providing the coverage, the policy number, which parent is responsible for payment of any insurance premium for the coverage, whether the coverage is provided through a parent's employment, and the cost of the premium. Provides that if dental insurance is not in effect for the child, the parties disclose to the court whether either parent has access to dental insurance at a reasonable cost to that parent.

(d) Requires the court, except for good cause shown, in rendering temporary orders to order that any dental insurance coverage in effect for the child continue in effect pending the rendition of a final order, except that the court is prohibited from requiring the continuation of any dental insurance that is not available to the parent at a reasonable cost. Requires the court, if dental insurance coverage is not in effect for the child or if the insurance in effect is not available at a reasonable

cost, except for good cause shown, to order dental insurance coverage for the child as provided by Section 154.1825.

(e) Requires the court, on rendering a final order, to:

(1) make specific findings with respect to the manner in which dental insurance coverage is to be provided for the child, in accordance with the priorities identified under Section 154.1825; and

(2) except for good cause shown or on agreement of the parties, require the parent ordered to provide dental insurance coverage for the child as provided by Section 154.1825 to produce evidence to the court's satisfaction that the parent has applied for or secured dental insurance or has otherwise taken necessary action to provide for dental insurance coverage for the child, as ordered by the court.

SECTION 16. Amends Subchapter D, Chapter 154, Family Code, by adding Section 154.1825, as follows:

Sec. 154.1825. DENTAL CARE COVERAGE FOR CHILD. (a) Defines "reasonable cost."

(b) Requires the court to consider the cost and quality of dental insurance coverage available to the parties and requires the court to give priority to dental insurance coverage available through the employment of one of the parties if the coverage is available at a reasonable cost.

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

(1) if dental 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 the parent, the court is required to order that parent to include the child in the parent's dental insurance;

(2) if dental insurance is not available for the child under Subdivision (1) but is available to a parent from another source and at a reasonable cost, the court is authorized to order that parent to provide dental insurance for the child; or

(3) if dental insurance coverage is not available for the child under Subdivision (1) or (2), the court is required 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 three percent of the obligor's annual resources, as described by Section 154.062(b) (regarding the definition of resources), as cash dental support for the child.

(d) Requires the court, if the parent ordered to provide dental insurance under Subsection (c)(1) or (2) is the obligee, to order the obligor to pay the obligee, as additional child support, an amount equal to the actual cost of dental insurance for the child. Requires the court, in calculating the actual cost of dental insurance for the child, if the obligee has other minor dependents covered under the same dental insurance plan, to divide the total cost to the obligee for the insurance by the total number of minor dependents, including the child covered under the plan.

(e) Requires the court, if the court finds that neither parent has access to private dental insurance at a reasonable cost, to order the parent awarded the exclusive right to designate the child's primary residence or, to the extent permitted by law, the other parent to apply immediately on behalf of the child for participation in

any government medical assistance program or health plan that provides dental coverage. Requires the court, if the child participates in a government medical assistance program or health plan that provides dental coverage, to order cash dental support under Subsection (b)(3).

(f) Requires that an order requiring the payment of cash dental support under Subsection (b)(3) allow the obligor to discontinue payment of the cash dental support if dental insurance for the child becomes available to the obligor at a reasonable cost; and the obligor enrolls the child in the insurance plan; and provides the obligee and, in a Title IV-D case, the Title IV-D agency, the information required under Section 154.185.

SECTION 17. Reenacts Section 154.183, Family Code, as amended by Chapters 363 (S.B. 303) and 620 (H.B. 448), Acts of the 80th Legislature, Regular Session, 2007, and amends it as follows:

Sec. 154.183. New heading: **MEDICAL AND DENTAL SUPPORT ADDITIONAL SUPPORT DUTY OF OBLIGOR.** (a) Provides that an amount that an obligor is ordered to pay as dental support for the child under this chapter, including the costs of dental insurance or cash dental support under Section 154.1825, is in addition to other certain requirements and obligations regarding child support.

(b) Requires the court to increase the amount of child support to be paid by the obligor in an amount not exceeding the actual cost to the obligee for maintaining the coverage, as provided under Sections 154.182(b-1) and 154.1825(d), if the court finds and states in the child support order that the obligee will maintain health insurance coverage, dental insurance coverage, or both. Deletes existing text requiring the court, in calculating the total expense to the obligee for maintaining health insurance for the child under this subsection, if the obligee has other minor dependents covered under the same health insurance plan, to divide the total expense to the obligee for the insurance by the total number of minor dependents, including the child, covered under the plan. Makes conforming changes.

(c) Requires the court to allocate between the parties, according to their circumstances, as additional child support, the reasonable and necessary dental expenses of a child that are not reimbursed by dental insurance or are not otherwise covered by the amount of cash dental support ordered under Section 154.1825(b)(3).

SECTION 18. Amends Sections 154.184(a) and (b), Family Code, as follows:

(a) Requires that receipt of a dental support order requiring that dental insurance be provided for a child be considered a change in the family circumstances of the employee or member, for dental insurance purposes, equivalent to the birth or adoption of a child.

(b) Requires the employer to automatically enroll the child for the first 31 days after the receipt of the order or notice of the dental support order under Section 154.186 on the same terms and conditions as apply to any other dependent child if the employee or member is eligible for dependent dental coverage.

SECTION 19. Amends Section 154.185, Family Code, as follows:

Sec. 154.185. **PARENT TO FURNISH INFORMATION.** (a) Requires the court to order a parent providing health insurance or dental insurance to furnish to either the obligee, obligor, or child support agency certain information not later than the 30th day after the date the notice of rendition of the order is received, including certain information with regard to health insurance, and certain information with regard to dental insurance.

(b) Makes conforming changes.

SECTION 20. Amends the heading to Section 154.186, Family Code, to read as follows:

Sec. 154.186. NOTICE TO EMPLOYER CONCERNING MEDICAL SUPPORT OR DENTAL SUPPORT.

SECTION 21. Amends Section 154.186(a), Family Code, to make conforming changes.

SECTION 22. Amends Sections 154.187(a)-(e) and (g), Family Code, to make conforming changes.

SECTION 23. Amends Section 154.188, Family Code, as follows:

Sec. 154.188. New heading: FAILURE TO PROVIDE OR PAY FOR REQUIRED HEALTH INSURANCE OR DENTAL INSURANCE. Makes conforming changes.

SECTION 24. Amends Section 154.189, Family Code, to make conforming changes.

SECTION 25. Amends Section 154.190, Family Code, to make conforming changes.

SECTION 26. Amends Section 154.191, Family Code, to make conforming changes.

SECTION 27. Amends Section 154.192, Family Code, as follows:

Sec. 154.192. CANCELLATION OR ELIMINATION OF INSURANCE COVERAGE FOR CHILD. Prohibits the employer from canceling or eliminating dental coverage of a child enrolled under this subchapter until the employer is provided satisfactory written evidence that the court order or administrative order requiring the coverage is no longer in effect; or the child is enrolled in comparable insurance coverage, rather than comparable health insurance coverage, or will be enrolled in comparable coverage that will take effect not later than the effective date of the cancellation or elimination of the employer's coverage. Makes a conforming and a nonsubstantive change.

SECTION 28. Amends Section 154.193(a), Family Code, to make a conforming change.

SECTION 29. Amends Section 156.401(a), Family Code, to authorize the court to modify an order that provides for the support of a child, including an order for dental care coverage under Section 154.1825, except as provided by Subsection (a-1) or (b), if certain circumstances have changed for the child or a person affected by the order, or if certain circumstances have occurred that affect the monthly amount of the child support award.

SECTION 30. Amends Section 157.269, Family Code, to make a conforming change.

SECTION 31. Amends Sections 158.206(a) and (b), Family Code, to make conforming changes.

SECTION 32. Amends Section 158.302, Family Code, to make a conforming change.

SECTION 33. Amends Section 158.309(c), Family Code, to make a conforming change.

SECTION 34. Amends Section 158.312(a), Family Code, to make a conforming change.

SECTION 35. Amends Section 158.314, Family Code, to make a conforming change.

SECTION 36. Amends Section 158.502(a), Family Code, to make a conforming change.

SECTION 37. Amends Section 158.504(b), Family Code, to make conforming changes.

SECTION 38. Amends Section 158.507, Family Code, to make a conforming and a nonsubstantive change.

SECTION 39. Amends Section 159.502(c), to make conforming changes.

SECTION 40. Amends the heading to Section 231.0011, Family Code, to read as follows:

Sec. 231.0011. DEVELOPMENT OF STATEWIDE INTEGRATED SYSTEM FOR CHILD SUPPORT, MEDICAL SUPPORT, AND DENTAL SUPPORT ENFORCEMENT.

SECTION 41. Amends Sections 231.0011(a) and (g), Family Code, to make conforming and nonsubstantive changes.

SECTION 42. Amends Section 231.002(e), Family Code, to make a conforming change.

SECTION 43. Amends Section 231.101(a), Family Code, to make conforming changes.

SECTION 44. Amends Section 231.104(b), Family Code, to make conforming changes.

SECTION 45. Amends Section 231.123(a), Family Code, to make conforming changes.

SECTION 46. Amends Section 231.301(a), Family Code, to make conforming changes.

SECTION 47. Amends Section 231.306, Family Code, as follows:

Sec. 231.306. New heading: MAXIMIZING MEDICAL SUPPORT AND DENTAL SUPPORT ESTABLISHMENT AND COLLECTION BY THE TITLE IV-D AGENCY.

(a) Provides that on the installation of an automated child support enforcement system, the Title IV-D agency is strongly encouraged to maximize the collection of dental support and establish cash dental support orders for children eligible for medical assistance under the state Medicaid program for whom private insurance coverage is not available.

(b) Redefines "medical support" and defines "dental support".

SECTION 48. Amends Section 233.001(a), Family Code, to make conforming changes.

SECTION 49. Amends Section 233.009(b), Family Code, to make conforming changes.

SECTION 50. Amends Section 233.0095(b), Family Code, to make conforming changes.

SECTION 51. Amends Section 233.017(a), Family Code, to make a conforming change.

SECTION 52. Amends Section 234.002, Family Code, as follows:

Sec. 234.002. New heading: INTEGRATED SYSTEM FOR CHILD SUPPORT, MEDICAL SUPPORT, AND DENTAL SUPPORT ENFORCEMENT. Makes conforming and nonsubstantive changes.

SECTION 53. Amends Section 71.035(a), Family Code, to make conforming changes.

SECTION 54. Amends Section 402.085, Labor Code, as follows:

Sec. 402.085. EXCEPTIONS TO CONFIDENTIALITY. (a) Requires the division of workers' compensation of the Texas Department of Insurance (division) to release information on a claim to certain individuals, including the attorney general or another entity that provides child support services under Part D, Title IV, Social Security Act (42 U.S.C. Section 651 et seq.), relating to establishing, modifying, or enforcing a child support, medical support, or dental support obligation.

(b) Authorizes the division to release information on a claim to a governmental agency, political subdivision, or regulatory body to use in certain circumstances, including assessing financial resources in an action, including an administrative

action, to establish, modify, or enforce a child support, medical support, or dental support obligation.

SECTION 55. Amends Section 1201.053(b), Insurance Code, to authorize that on the application of an adult member of a family, an individual accident and insurance policy, at the time of original issuance or by subsequent amendment, to insure two or more eligible members of the adult's family, including a spouse, unmarried children younger than 25 years of age, including a grandchild of the adult as described by Section 1201.062(a)(1) (regarding the requirement that an individual or group accident and health insurance policy provide coverage for each grandchild of the insured or group member if the grandchild meets certain requirements), a child the adult is required to insure under a medical support order or dental support order, if the policy provides dental coverage, issued under Chapter 154, Family Code, or enforceable by a court in this state, and any other individual dependent on the adult.

SECTION 56. Amends Section 1201.062(a), Insurance Code, to make a conforming change.

SECTION 57. Amends Section 1201.063, Insurance Code, to make a conforming change.

SECTION 58. Amends the heading to Chapter 1504, Insurance Code, to read as follows:

#### CHAPTER 1504. MEDICAL AND DENTAL CHILD SUPPORT

SECTION 59. Amends Section 1504.001(4), Insurance Code, to define "benefit plan issuer" rather than "health benefit plan issuer."

SECTION 60. Amends Section 1504.002(b), Insurance Code, to require the commissioner to adopt rules that define "comparable health or dental coverage," rather than "comparable health coverage," in a manner that is consistent with federal law, and complies with the requirements necessary to maintain federal Medicaid funding.

SECTION 61. Amends Section 1504.003, Insurance Code, as follows:

Sec. 1504.003. VIOLATION OF CHAPTER: RELIEF AVAILABLE TO INJURED PERSON. Provides that a benefit plan issuer, rather than a health benefit plan issuer, that violates this chapter is subject to the same penalties, and an injured person has the same rights and remedies, as those provided by Subchapter D (Private Action for Damages), Chapter 541 (Unfair Methods of Competition and Unfair or Deceptive Acts or Practices).

SECTION 62. Amends the heading to Subchapter B, Chapter 1504, Insurance Code, to read as follows:

#### SUBCHAPTER B. DUTIES OF BENEFIT PLAN ISSUER

SECTION 63. Amends Section 1504.051, Insurance Code, to make conforming changes.

SECTION 64. Amends Section 1504.052, Insurance Code, as follows:

Sec. 1504.052. New heading: CHILD RESIDING OUTSIDE SERVICE AREA; COMPARABLE HEALTH OR DENTAL COVERAGE REQUIRED. (a) Makes conforming changes.

(b)-(d) Makes conforming changes.

SECTION 65. Amends Section 1504.053, Insurance Code, to make conforming changes.

SECTION 66. Amends Section 1504.054, Insurance Code, to make conforming changes.

SECTION 67. Amends Section 1504.055, Insurance Code, as follows:

Sec. 1504.055. PROCEDURE FOR CLAIMS. (a) Makes conforming changes.

(b) Requires a benefit plan issuer, rather than a health benefit plan issuer, to provide to a state agency that provides medical assistance, including medical assistance for dental services, to the child or to provide to a child support agency that enforces medical or dental support on behalf of a child the information necessary to obtain reimbursement of dental services provided to or paid on behalf of the child.

SECTION 68. Amends Section 1504.101, Insurance Code, to make conforming changes.

SECTION 69. Amends Section 1504.102, Insurance Code, as follows:

Sec. 1504.102. New heading: ASSIGNMENT OF MEDICAL OR DENTAL SUPPORT RIGHTS: DIFFERENT REQUIREMENTS PROHIBITED. Makes conforming changes.

SECTION 70. (a) Makes application of this Act prospective.

(b) Provides that the change in law made by this Act does not by itself constitute a material and substantial change of circumstances under Section 156.401 (Grounds for Modification of Child Support), Family Code, sufficient to warrant modification of a court order or a portion of a decree that provides for the support of a child rendered before the effective date of this Act.

SECTION 71. Effective date: September 1, 2009.

**EFFECTIVE DATE**

September 1, 2009.