

## **BILL ANALYSIS**

H.B. 1674  
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Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

H.B. 1674 amends current law relating to establishment, modification, collection and enforcement of child support obligations. This bill is an omnibus bill relating to child support and amends multiple sections of the Family Code to clarify and outline the duties and authority of the Title IV-D agency and to clarify, conform, and remove outdated language in the Family Code.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1674 amends the Family Code, in a provision relating to a statement pertaining to health insurance coverage status for an employee's child that an employer is required to provide to the sender of an order or notice to the employer directing that health care insurance coverage be provided to the child, to extend the deadline to provide the statement to the sender of the order or notice from the 30th day after to the 40th day after the date an employer receives the order or notice. The bill clarifies that a cause of action in a suit for support of a minor or adult disabled child may be assigned only to the attorney general as the Title IV-D agency under provisions of law relating to assignment of the right to support or to the duties of a support enforcement agency. The bill authorizes a court or administrative order for child support in a child support case to be modified to provide for medical support of a child and makes a corresponding conforming change.

H.B. 1674 authorizes the movant in a motion for enforcement in a suit affecting the parent-child relationship to attach to the motion a copy of a payment record maintained by the state disbursement unit or by a local registry that is current as of the date the motion is filed. The bill authorizes the movant to subsequently update that payment record at the enforcement hearing. The bill establishes that if such a payment record was attached to the motion, the payment record, as updated if applicable, is admissible to prove the dates and in what amounts payments were made, the amount of any accrued interest, the cumulative arrearage over time, and the cumulative arrearage as of the final date of the record. The bill removes a related provision establishing that a copy of the payment record attached to the motion is evidence of the facts asserted in the payment record.

H.B. 1674, in a provision of law relating to the real and personal property not exempt from the Texas Constitution or other law that attaches to a child support lien, to include in the proceeds of an insurance policy the proceeds from a life insurance policy or annuity contract and the proceeds from the sale or assignment of life insurance or annuity benefits due to or owned by the obligor. The bill, in this same provision, includes a claim for compensation instead of a claim for negligence or personal injury due to or owned by the obligor and includes a settlement or award for the claim for compensation instead of an insurance settlement or award for the claim

among the real and personal property to which a child support lien attaches. The bill adds property seized and subject to forfeiture under provisions of law relating to the disposition of forfeited property to the real and personal property to which a child support lien attaches.

H.B. 1674 authorizes the attorney general, not earlier than the 90th day after the date of death of an obligor in a child support case, to deliver a notice of levy to a financial institution in which the obligor was the sole owner of an account, regardless of whether the attorney general has issued a child support lien notice regarding the account. The bill prohibits the attorney general from delivering such a notice of levy if probate proceedings relating to the obligor's estate have commenced. The bill requires the notice of levy to identify the amount of child support arrearages determined by the attorney general to be owing and unpaid by the obligor on the date of the obligor's death and to direct the financial institution to pay to the attorney general, not earlier than the 45th day or later than the 60th day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor that are held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice. The bill requires the financial institution, not later than the 35th day after the date of delivery of the notice, to notify any other person asserting a claim against the account that the account has been levied on for child support arrearages in the amount shown on the notice of levy and that the person may contest the levy by filing suit and requesting a court hearing in the same manner that a person may challenge a child support lien under provisions of law relating to the foreclosure of a child support lien or suit to determine arrearages. The bill authorizes a person who contests such a levy to bring the suit in the district court of the county in which the property is located or in which the obligor resided or in the court of continuing jurisdiction. The bill authorizes the notice of levy to be delivered to a financial institution, as provided by provisions of law relating to claims against customers of financial institutions, if the institution is subject to that law or to be delivered to the registered agent, the institution's main business office in Texas, or another address provided by the institution. The bill authorizes a financial institution to deduct its fees and costs, including any costs for complying with these provisions, from the deceased obligor's assets before paying the appropriate amount to the attorney general.

H.B. 1674 decreases from 250 to 50 the minimum number of employees of an employer above which the employer is required to remit a payment of withheld earnings for child support by electronic funds transfer or electronic data interchange. The bill decreases from 250 to 50 the maximum number of employees of an employer below which the employer is authorized to remit the payment by electronic funds transfer or electronic data interchange. The bill removes an obligor and an obligee from the persons to whom an administrative writ of withholding from earnings for child support issued by the attorney general is authorized to be delivered. The bill provides an alternative to the requirement that the attorney general file a copy of the writ, together with a signed certificate of service, in the court of continuing jurisdiction by authorizing the attorney general to maintain a record of the writ until all support obligations of the obligor have been satisfied or income withholding has been terminated. The bill removes a provision establishing that the provision of law requiring the attorney general to file a copy of the writ, together with a signed certificate of service, does not apply to the enforcement of a support order rendered by a tribunal of another state.

H.B. 1674 changes references to insurance company to references to insurer in provisions of law relating to the insurance reporting program operated by the attorney general. The bill makes changes to the guidelines for the program by removing a stated purpose of improving the enforcement of child support, including the use of child support liens, and removing the requirement that the program provide for procedures, including data matches, under which insurers cooperate with the attorney general in identifying certain obligors who owe child support arrearages. The bill requires instead that insurers cooperate with the attorney general under the program, rather than under the procedures, in identifying those obligors and expands the insurance settlements that are to be intercepted for claims in satisfaction of arrearage amounts from certain liability insurance settlements to certain insurance settlements.

H.B. 1674 exempts a financial institution responding to a notice of levy provided under provisions of law relating to child support liens, in addition to performing other acts, from liability under any federal or state law for any damages that arise from those acts. The bill makes provisions relating to provisions of law relating to financial institution data matches to identify an account of an obligor owing past-due child support inapplicable to an insurer subject to the reporting requirements under the insurance reporting program operated by the attorney general.

H.B. 1674, in provisions relating to a child support agency's authority to provide notice to a licensing authority concerning an obligor who has failed to pay child support for six months or more requesting the authority to refuse to accept an application of renewal of an obligor's license, adds to the request the issuance of a license to such an obligor in addition to the renewal. The bill requires a licensing authority that receives the notice to refuse to accept an application for issuance of a license to the obligor as well as for a renewal of an existing license. The bill adds the action of a child support agency to deny issuance of a license to the orders or actions for which a licensing authority is authorized to charge a fee to an individual who is the subject of the order or action. The bill makes conforming changes regarding the attorney general's authority to deny the issuance of a license.

H.B. 1674 changes the date upon which the deadline for a party to file a request for a court hearing on a nonagreed child support order is based from the date a petition for confirmation of the order is filed to the date a copy of the petition for confirmation of the order is delivered to the party. The bill changes the deadline for a party to file a request for a court hearing on a nonagreed child support from any time before the 20th day after the date a petition for confirmation of the order is filed to not later than the 20th day after the date a copy of the petition for confirmation of the order is delivered to the party. The bill extends the deadline by which a party may file a motion for a new trial from any time before the 30th day after a child support order is confirmed by the court to not later than the 30th day after a child support order is confirmed by the court.

H.B. 1674 authorizes the attorney general to, at any time and without a showing of material and substantial change in the circumstances of the parties, file a child support review order that has the effect of modifying an existing order for child support to provide medical support for a child if the existing order does not provide health care coverage for the child as required under state law.

H.B. 1674 amends the Insurance Code to establish that a benefit or right, meaning any benefits or rights to be provided under an insurance policy or annuity contract to which provisions of law relating to life insurance benefits exempt from seizure apply, assigned by an insured, owner, or annuitant after a child support lien notice has been filed against the insured, owner, or annuitant by the attorney general continues to be subject to the child support lien after the date of assignment and that the lien continues to secure payment of all child support arrearages owed by the insured, owner, or annuitant under the underlying child support order, including arrearages that accrue after the date of assignment.

H.B. 1674 amends the Government Code to entitle the office of the attorney general to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who owes child support in a child support case for the purposes of locating that person and establishing, modifying, or enforcing a child support obligation against that person. The bill prohibits criminal history record information obtained by the attorney general under these provisions from being released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

H.B. 1674 amends the Tax Code to include the attorney general among the persons who are

authorized to file a petition setting forth a claim to excess proceeds in the court that ordered the seizure of a person's real property to recover the delinquent property taxes under a tax warrant or the sale of a person's real property ordered sold pursuant to foreclosure of a tax lien.

H.B. 1674 amends the Code of Criminal Procedure to require the proceeds of a sale of forfeited contraband by public auction, if a local agreement between the attorney representing the state and law enforcement agencies has not been executed within the required time period, to be distributed to the attorney general in an amount not to exceed the amount of child support arrearages identified in a child support lien if the attorney general has filed a child support lien in the forfeiture proceeding and after any distributions to any interest holder to the extent of the interest holder's nonforfeitable interest.

H.B. 1674 redefines "account" and "financial institution" in Family Code provisions relating to a child support lien and makes conforming and nonsubstantive changes.

H.B. 1674 repeals Section 233.017(c), Family Code, relating to a child support review order that establishes or modifies previously ordered support.

**EFFECTIVE DATE**

September 1, 2011.