

BILL ANALYSIS

S.B. 120
By: Uresti
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, children subject to child support orders only receive dental support if ordered by the court or specified by the parties involved. The purpose of S.B. 120 is to provide for mandatory dental support for children subject to child support orders if it can be obtained at a reasonable cost. S.B. 120 defines "reasonable cost" as the cost of dental insurance premiums that do not exceed 1.5 percent of the obligor's annual resources.

S.B. 120 amends current law relating to requiring dental support for a child subject to a child support order.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of insurance is modified in SECTION 59 (Section 1504.002, Insurance Code) of this bill.

ANALYSIS

SECTION 1. Amends Section 54.06(e), Family Code, to require a court to also require in an order to pay child support under this section that health insurance and dental insurance be provided for the child. Provides that Subchapter D (Medical Support for Child), Chapter 154 (Child Support), applies to an order requiring health insurance and dental 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 the purposes of establishing, determining the terms of, modifying, or enforcing an order, a reference to a parent in this title includes a person ordered to pay child support under Section 154.001(a-1) (relating to ordering financially able persons whose parental rights have been terminated to pay child support) or to provide medical support or dental support for a child.

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

SECTION 7. Amends Section 153.611, Family Code, to provide that, notwithstanding any other provision of this subchapter, this subchapter does not apply to a proceeding in a Title IV-D case relating to the determination of parentage or establishment, modification, or enforcement of a child support, medical support, or dental support obligation.

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 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 include the present value of the total amount of health insurance and 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 health insurance and dental insurance for the child ordered to be paid on the date of the obligor's death, among relevant factors required to be considered by a court in determining the amount of the unpaid child support obligation for each child of the deceased obligor.

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

SECTION 11. Amends Sections 154.062(d) and (e), Family Code, as follows:

(d) Requires the court to deduct certain items from resources to determine the net resources available for child services, including expenses for the cost of health insurance, dental insurance, or cash medical support for the obligor's child ordered by the court under Sections 154.182 (Health Care Coverage for Child) and 154.1825, rather than expenses for the cost of health insurance or cash medical support for the obligor's child ordered by the court under Section 154.182.

(e) Requires the court, in calculating the amount of the deduction for health care or dental coverage for a child under Subsection (d)(5), if the obligor has other minor dependants covered under the same health or dental insurance plan, to divide the total cost to the obligor for the insurance by the total number of minor dependants, including the child, covered under the plan.

SECTION 12. 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 13. Amends the heading to Subchapter D, Chapter 154, Family Code, to read as follows:

SUBCHAPTER D. MEDICAL SUPPORT AND DENTAL SUPPORT FOR CHILD

SECTION 14. Amends Subchapter D, Chapter 154, Family Code, by adding Section 154.1815, as follows:

Sec. 154.1815. DENTAL SUPPORT ORDER. (a) Defines "reasonable cost" in this section.

(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. Requires the parties, if dental

insurance is not in effect for the child, to disclose to the court whether either parent has access to dental insurance at a reasonable cost to the obligor.

(d) Requires the court, in rendering temporary orders, except for good cause shown, 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 may not require the continuation of any dental insurance that is not available to the parent at a reasonable cost to the obligor. 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 to the obligor, 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 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, except for good cause shown or on agreement of the parties, to require the parent ordered to provide 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 15. Amends Subchapter D, Chapter 154, Family Code, by adding Section 154.1825, as follows:

Sec. 154.1825. DENTAL CARE COVERAGE FOR CHILD. (a) Defines "accessibility" and "reasonable cost" in this section.

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

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

(2) authorizes the court, 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, to order that parent to provide dental insurance for the child.

(d) Requires the court, if the parent ordered to provide dental insurance under Subsection (c)(1) (relating to dental insurance available through a parent's employment or membership in a union) or (2) (relating to dental insurance available from another source) 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, but not to exceed a reasonable cost to the obligor. Requires the court, in calculating the actual cost of dental insurance for the child, if the obligee has other minor dependants covered under the same dental insurance plan, to divide the total cost to the obligee for the insurance by the total number of minor dependants, 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 the obligor, 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 a government medical assistance program or health plan that provides dental coverage.

SECTION 16. Amends Section 154.183, Family Code, 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 medical support or dental support for the child under this chapter, including the costs of health insurance coverage or cash medical support under Section 154.182 and the costs of dental insurance under Section 154.1825 is in addition to the amount that the obligor is required to pay for child support under the guidelines for child support, is a child support obligation; and may be enforced by any means available for the enforcement of child support, including withholding from earnings under Chapter 158 (Withholding from Earnings for Child Support).

(b) Requires the court, if the court finds and states in the child support order that the obligee will maintain health insurance coverage, dental insurance coverage, or both, for the child at the obligee's expense, 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) (relating to additional child support) and 154.1825(d).

(c) Requires the court, as additional child support, to allocate between parties, according to their circumstances the reasonable and necessary health care expenses, including vision and dental expenses, of the child that are not reimbursed by health or dental insurance or are not otherwise covered by the amount of cash medical support ordered under Section 154.182; and amounts paid by either party as deductibles or copayments in obtaining health care or dental care services for the child covered under a health insurance or dental insurance policy.

SECTION 17. Amends Sections 154.184(a) and (b), Family Code, as follows:

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

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

SECTION 18. 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 information not later than the 30th day after the date the notice of rendition of the order is received, certain information relating to the parent, the parent's employer, and with regard to health insurance, and with regard to

dental insurance, whether the employer is self-insured or has dental insurance available; proof that dental insurance has been provided for the child; if the employer has dental insurance available, the name of the dental insurance carrier, the number of the policy, a copy of the policy and schedule of benefits, a dental insurance membership card, claims forms, and any other information necessary to submit a claim; and if the employer is self-insured, a copy of the schedule of benefits, a membership card, claims forms, and any other information necessary to submit a claim. Makes nonsubstantive changes.

(b) Requires the court to also order a parent providing health insurance or dental insurance to furnish the obligor, obligee, or child support agency with additional information regarding the health insurance coverage or dental insurance coverage not later than the 15th day after the date the information is received by the parent.

SECTION 19. 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 20. Amends Section 154.186(a), Family Code, to authorize the obligor, obligee, or a child support agency of this state or another state to send to the employer a copy of the order requiring an employee to provide health insurance coverage or dental insurance coverage for a child or to include notice of the medical support order or dental support order in an order or write of withholding sent to the employer in accordance with Chapter 158.

SECTION 21. Amends Sections 154.187(a)-(e) and (g), Family Code, as follows:

(a) Provides that an order or notice under this subchapter to an employer directing that health insurance coverage or dental insurance coverage be provided to a child of an employee or member is binding on a current or subsequent employer on receipt without regard to the date the order was rendered. Requires the employer, if the employee or member is eligible for dependent health coverage or dental coverage for the child, employer to immediately enroll the child in a health insurance plan or dental insurance plan regardless of whether the employee is enrolled in the plan. Requires the employer, if dependent coverage is not available to the employee or member through the employer's health insurance plan or dental insurance plan or enrollment cannot be made permanent or if the employer is not responsible or otherwise liable for providing such coverage, to provide notice to the sender in accordance with Subsection (c).

(b) Requires the employer, if additional premiums are incurred as a result of adding the child to the health insurance plan or the dental insurance plan, to deduct the health insurance premium or the dental insurance premium from the earnings of the employee in accordance with Chapter 158 and apply the amount withheld to payment of the insurance premium.

(c) Requires an employer who has received an order or notice under this subchapter to provide to the sender, by first class mail not later than the 30th day after the date the employer receives the order or notice, a statement that the child:

(1) has been enrolled in the employer's health insurance plan or dental insurance plan, or is already enrolled in another health insurance plan or dental insurance plan in accordance with a previous child support, medical support, or dental support order to which the employee is subject; or

(2) cannot be enrolled or cannot be enrolled permanently in the employer's health insurance plan or dental insurance plan and provide the reason why coverage or permanent coverage cannot be provided.

(d) Makes a conforming change.

(e) Requires the employer, on request, to release to the sender information concerning the available health insurance coverage or dental insurance coverage, including the name of the health insurance carrier or dental insurance carrier, the policy number, a copy of the policy and schedule of benefits, a health insurance or dental insurance membership card, and claim forms.

(g) Requires that an employer who fails to enroll a child, fails to withhold or remit premiums or cash medical support, or discriminates in hiring or employment on the basis of a medical support order or notice or a dental support order or notice under this subchapter be subject to the penalties and fines in Subchapter C (Rights and Duties of Employer), Chapter 158.

SECTION 22. 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**. Provides that a parent ordered to provide health insurance or dental insurance or to pay the other parent additional child support for the cost of health insurance or dental insurance who fails to do so is liable for necessary medical expenses or dental expenses of the child, without regard to whether the expenses would have been paid if health insurance or dental insurance had been provided, and the cost of health insurance premiums, dental insurance premiums, or contributions, if any, paid on behalf of the child.

SECTION 23. Amends Section 154.189, Family Code, to make conforming changes.

SECTION 24. Amends Section 154.190, Family Code, to make conforming changes.

SECTION 25. Amends Section 154.191, Family Code, as follows:

Sec. 154.191. **REMEDY NOT EXCLUSIVE**. (a) Provides that this subchapter does not limit the rights of the obligor, obligee, local domestic relations office, or Title IV-D agency to enforce, modify, or clarify the medical support order or dental support order.

(b) Provides that this subchapter does not limit a court's authority to render or modify a medical support order or dental support order to provide for payment of uninsured health expenses, health care costs, health insurance premiums, uninsured dental expenses, dental costs, or dental insurance premiums in a manner consistent with this subchapter.

SECTION 26. Amends Section 154.192, Family Code, to make conforming and nonsubstantive changes.

SECTION 27. Amends the heading to Section 154.193, Family Code, to read as follows:

Sec. 154.193. **MEDICAL SUPPORT ORDER OR DENTAL SUPPORT ORDER NOT QUALIFIED**.

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

SECTION 29. Amends Section 156.401(a), Family Code, to make a conforming change.

SECTION 30. Amends Section 157.269, Family Code, to make conforming and nonsubstantive changes.

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 conforming and nonsubstantive changes.

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

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

SECTION 39. Amends Section 159.502(c), Family Code, 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 changes.

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

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 require that the parent locator service conducted by the Title IV-D agency be used to obtain information for child support establishment and enforcement purposes regarding the identity, social security number, location, employer and employment benefits, income, and assets or debts of any individual under an obligation to pay child support, medical support, or dental support or to whom a support obligation is owed or the establishment of paternity.

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) Makes conforming changes.

(b) Defines "dental support" in this section. Makes nonsubstantive changes.

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 and nonsubstantive changes.

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

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

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 changes.

SECTION 53. Amends Section 71.035(a), Government Code, to require the Texas Judicial Council, in addition to gathering judicial statistics and other pertinent information from the several state judges and other court officials of the state, to implement a monthly tracking system to ensure accountability for counties and courts which participate in the statewide integrated system for child support, medical support, and dental support enforcement established under Section 231.0011 (Development of Statewide Integrated System for Child Support and Medical Support Enforcement), Family Code.

SECTION 54. Amends Section 1201.053(b), Insurance Code, to authorize that an individual accident and health insurance policy, on application of an adult member of a family, at the time of original issuance or by subsequent amendment, 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) (relating to the grandchild of the insured or group member), 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 55. Amends Section 1201.062(a), Insurance Code, to make a conforming change.

SECTION 56. Amends Section 1201.063, Insurance Code, to make a conforming change.

SECTION 57. Amends the heading to Chapter 1504, Insurance Code, to read as follows:

CHAPTER 1504. MEDICAL AND DENTAL CHILD SUPPORT

SECTION 58. Amends Section 1504.001(4), Insurance Code, to define "benefit plan issuer," rather than "health benefit plan issuer," in this chapter.

SECTION 59. Amends Section 1504.002(b), Insurance Code, to require the commissioner of insurance to adopt rules that define "comparable health or dental coverage" in a certain manner.

SECTION 60. Amends Section 1504.003, Insurance Code, to make a conforming change.

SECTION 61. Amends the heading to Subchapter B, Chapter 1504, Insurance Code, to read as follows:

SUBCHAPTER B. DUTIES OF BENEFIT PLAN ISSUER

SECTION 62. Amends Section 1504.051, Insurance Code, to make conforming changes.

SECTION 63. 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)-(d) Makes conforming changes.

SECTION 64. Amends Section 1504.053, Insurance Code, to make conforming changes.

SECTION 65. Amends Section 1504.054, Insurance Code, to make conforming changes.

SECTION 66. Amends Section 1504.055, Insurance Code, as follows:

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

(b) Requires a benefit plan issuer to provide to a state agency that provides medical assistance, including medical assistance for dental services, to the child or to a child support agency that enforces medical or dental support on behalf of a

child the information necessary to obtain reimbursement of medical or dental services provided to or paid on behalf of the child.

SECTION 67. Amends Section 1504.101, Insurance Code, to make conforming changes.

SECTION 68. 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 69. Amends Section 402.085, Labor Code, to make 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.

EFFECTIVE DATE

September 1, 2011.