

By: Jackson

H.B. No. 1674

A BILL TO BE ENTITLED

AN ACT

relating to procedures for establishment, modification, and enforcement of child support obligations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 154.187(c), Family Code, is amended to read as follows:

(c) An employer who has received an order or notice under this subchapter shall provide to the sender, by first class mail not later than the 40th [~~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 is already enrolled in another health insurance plan in accordance with a previous child support or medical 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 and provide the reason why coverage or permanent coverage cannot be provided.

SECTION 2. Section 154.303(b), Family Code, is amended to read as follows:

(b) The parent, the child, if the child is 18 years of age or older, or other person may not transfer or assign the cause of action to any person, including a governmental or private entity or agency, except for an assignment made to the Title IV-D agency under Section 231.104 or in the provision of child support enforcement

1 services under Section 159.307.

2 SECTION 3. Section 156.401, Family Code, is amended by
3 amending Subsection (a) and adding Subsection (a-2) to read as
4 follows:

5 (a) Except as provided by Subsection (a-1), (a-2), or (b),
6 the court may modify an order that provides for the support of a
7 child, including an order for health care coverage under Section
8 154.182, if:

9 (1) the circumstances of the child or a person
10 affected by the order have materially and substantially changed
11 since the earlier of:

12 (A) the date of the order's rendition; or

13 (B) the date of the signing of a mediated or
14 collaborative law settlement agreement on which the order is based;
15 or

16 (2) it has been three years since the order was
17 rendered or last modified and the monthly amount of the child
18 support award under the order differs by either 20 percent or \$100
19 from the amount that would be awarded in accordance with the child
20 support guidelines.

21 (a-2) A court or administrative order for child support in a
22 Title IV-D case may be modified as provided under Section
23 233.013(c) to provide for medical support of a child.

24 SECTION 4. Section 157.162, Family Code, is amended by
25 amending Subsection (c) and adding Subsection (c-1) to read as
26 follows:

27 (c) The movant may attach to the motion a [A] copy of a [the]

1 payment record maintained by the state disbursement unit under
2 Chapter 234 or a local registry that is current as of the date the
3 motion is filed. The movant may subsequently update that payment
4 record at the hearing. If a payment record was attached to the
5 motion as authorized by this subsection, the payment record, as
6 updated if applicable, [attached to the motion is evidence of the
7 facts asserted in the payment record and] is admissible to prove:

- 8 (1) the dates and in what amounts payments were made;
9 (2) the amount of any accrued interest;
10 (3) the cumulative arrearage over time; and
11 (4) the cumulative arrearage as of the final date of
12 the record.

13 (c-1) A [show whether payments were made. The] respondent
14 may offer [controverting] evidence controverting the contents of a
15 payment record under Subsection (c).

16 SECTION 5. Sections 157.311(1) and (4), Family Code, are
17 amended to read as follows:

- 18 (1) "Account" means:
19 (A) any type of a demand deposit account,
20 checking or negotiable withdrawal order account, savings account,
21 time deposit account, [~~money market~~] mutual fund account,
22 certificate of deposit, or any other instrument of deposit in which
23 an individual has a beneficial ownership either in its entirety or
24 on a shared or multiple party basis, including any accrued interest
25 and dividends; and

26 (B) an [a life] insurance policy, including a
27 life insurance policy or annuity contract, in which an individual

1 has a beneficial ownership or [~~liability insurance~~] against which
2 an individual may file [~~has filed~~] a claim or counterclaim.

3 (4) "Financial institution" has the meaning assigned
4 by 42 U.S.C. Section 669a(d)(1) and includes a depository
5 institution, depository institution holding company as defined by
6 12 U.S.C. Section 1813(w), credit union, benefit association,
7 [~~liability or life~~] insurance company, [~~money market~~] mutual fund,
8 and any similar entity authorized to do business in this state.

9 SECTION 6. Section 157.317(a), Family Code, is amended to
10 read as follows:

11 (a) A child support lien attaches to all real and personal
12 property not exempt under the Texas Constitution or other law,
13 including:

14 (1) an account in a financial institution;

15 (2) a retirement plan, including an individual
16 retirement account; [~~and~~]

17 (3) the proceeds of an [~~a life~~] insurance policy,
18 including the proceeds from a life insurance policy or annuity
19 contract and the proceeds from the sale or assignment of life
20 insurance or annuity benefits, a claim for compensation [~~negligence~~
21 ~~or personal injury~~], or a [~~an insurance~~] settlement or award for the
22 claim for compensation, due to or owned by the obligor; and

23 (4) property seized and subject to forfeiture under
24 Chapter 59, Code of Criminal Procedure.

25 SECTION 7. Subchapter G, Chapter 157, Family Code, is
26 amended by adding Section 157.3271 to read as follows:

27 Sec. 157.3271. LEVY ON FINANCIAL INSTITUTION ACCOUNT OF

1 DECEASED OBLIGOR. (a) Subject to Subsection (b), the Title IV-D
2 agency may, not earlier than the 90th day after the date of death of
3 an obligor in a Title IV-D case, deliver a notice of levy to a
4 financial institution in which the obligor was the sole owner of an
5 account, regardless of whether the Title IV-D agency has issued a
6 child support lien notice regarding the account.

7 (b) The Title IV-D agency may not deliver a notice of levy
8 under this section if probate proceedings relating to the obligor's
9 estate have commenced.

10 (c) The notice of levy must:

11 (1) identify the amount of child support arrearages
12 determined by the Title IV-D agency to be owing and unpaid by the
13 obligor on the date of the obligor's death; and

14 (2) direct the financial institution to pay to the
15 Title IV-D agency, not earlier than the 45th day or later than the
16 60th day after the date of delivery of the notice, an amount from
17 the assets of the obligor or from funds due to the obligor that are
18 held or controlled by the institution, not to exceed the amount of
19 the child support arrearages identified in the notice.

20 (d) Not later than the 35th day after the date of delivery of
21 the notice, the financial institution must notify any other person
22 asserting a claim against the account that:

23 (1) the account has been levied on for child support
24 arrearages in the amount shown on the notice of levy; and

25 (2) the person may contest the levy by filing suit and
26 requesting a court hearing in the same manner that a person may
27 challenge a child support lien under Section 157.323.

1 (e) A person who contests a levy under this section, as
2 authorized by Subsection (d)(2), may bring the suit in:

3 (1) the district court of the county in which the
4 property is located or in which the obligor resided; or

5 (2) the court of continuing jurisdiction.

6 (f) The notice of levy may be delivered to a financial
7 institution as provided by Section 59.008, Finance Code, if the
8 institution is subject to that law or may be delivered to the
9 registered agent, the institution's main business office in this
10 state, or another address provided by the institution under Section
11 231.307.

12 (g) A financial institution may deduct its fees and costs,
13 including any costs for complying with this section, from the
14 deceased obligor's assets before paying the appropriate amount to
15 the Title IV-D agency.

16 SECTION 8. Sections 158.203(b) and (b-1), Family Code, are
17 amended to read as follows:

18 (b) An employer with 50 [~~250~~] or more employees shall remit
19 a payment required under this section by electronic funds transfer
20 or electronic data interchange not later than the second business
21 day after the pay date.

22 (b-1) An employer with fewer than 50 [~~250~~] employees may
23 remit a payment required under this section by electronic funds
24 transfer or electronic data interchange. A payment remitted by the
25 employer electronically must be remitted not later than the date
26 specified by Subsection (b).

27 SECTION 9. The heading to Section 158.503, Family Code, is

1 amended to read as follows:

2 Sec. 158.503. DELIVERY OF ADMINISTRATIVE WRIT TO EMPLOYER;
3 FILING WITH COURT OR MAINTAINING RECORD.

4 SECTION 10. Section 158.503, Family Code, is amended by
5 amending Subsections (a) and (b) and adding Subsection (b-1) to
6 read as follows:

7 (a) An administrative writ of withholding issued under this
8 subchapter may be delivered to an [~~obligor, obligee, and~~] employer
9 by mail or by electronic transmission.

10 (b) The Title IV-D agency shall:

11 (1) not [~~Not~~] later than the third business day after
12 the date of delivery of the administrative writ of withholding to an
13 employer, [~~the Title IV-D agency shall~~] file a copy of the writ,
14 together with a signed certificate of service, in the court of
15 continuing jurisdiction; or

16 (2) maintain a record of the writ until all support
17 obligations of the obligor have been satisfied or income
18 withholding has been terminated as provided by this chapter.

19 **(b-1)** The certificate of service required under Subsection
20 (b)(1) may be signed electronically. [~~This subsection does not~~
21 ~~apply to the enforcement under Section 158.501(c) of a support~~
22 ~~order rendered by a tribunal of another state.~~]

23 SECTION 11. Section 231.015, Family Code, is amended to
24 read as follows:

25 Sec. 231.015. INSURANCE REPORTING PROGRAM. (a) In
26 consultation with the Texas Department of Insurance and
27 representatives of the insurance industry in this state, including

1 insurance trade associations, the Title IV-D agency by rule shall
2 operate a program [~~to improve the enforcement of child support,~~
3 ~~including the use of child support liens under Chapter 157. The~~
4 ~~program shall provide for procedures, including data matches,~~]
5 under which insurers [~~insurance companies~~] shall cooperate with the
6 Title IV-D agency in identifying obligors who owe child support
7 arrearages and [~~or who~~] are subject to liens for child support
8 arrearages to intercept certain [~~liability~~] insurance settlements
9 or awards for claims in satisfaction of the arrearage amounts.

10 (b) An insurer [~~insurance company~~] that provides
11 information or responds to a notice of child support lien or levy
12 under Subchapter G, Chapter 157, or acts in good faith to comply
13 with procedures established by the Title IV-D agency under this
14 section is not liable for those acts under any law to any person.

15 SECTION 12. Section 231.307, Family Code, is amended by
16 amending Subsection (d) and adding Subsection (g) to read as
17 follows:

18 (d) A financial institution providing information or
19 responding to a notice of child support lien or levy provided under
20 Subchapter G, Chapter 157, or otherwise acting in good faith to
21 comply with the Title IV-D agency's procedures under this section
22 may not be liable under any federal or state law for any damages
23 that arise from those acts.

24 (g) This section does not apply to an insurer subject to the
25 reporting requirements under Section 231.015.

26 SECTION 13. The heading to Section 232.0135, Family Code,
27 is amended to read as follows:

1 Sec. 232.0135. DENIAL OF LICENSE ISSUANCE OR RENEWAL.

2 SECTION 14. Sections 232.0135(a), (b), (c), and (d), Family
3 Code, are amended to read as follows:

4 (a) A child support agency, as defined by Section 101.004,
5 may provide notice to a licensing authority concerning an obligor
6 who has failed to pay child support for six months or more that
7 requests the authority to refuse to accept an application for
8 issuance of a license to the obligor or renewal of an existing [~~the~~
9 license of the obligor.

10 (b) A licensing authority that receives the information
11 described by Subsection (a) shall refuse to accept an application
12 for issuance of a license to the obligor or renewal of an existing
13 [~~the~~] license of the obligor until the authority is notified by the
14 child support agency that the obligor has:

15 (1) paid all child support arrearages;

16 (2) established with the agency a satisfactory
17 repayment schedule or is in compliance with a court order for
18 payment of the arrearages;

19 (3) been granted an exemption from this subsection as
20 part of a court-supervised plan to improve the obligor's earnings
21 and child support payments; or

22 (4) successfully contested the denial of issuance or
23 renewal of license under Subsection (d).

24 (c) On providing a licensing authority with the notice
25 described by Subsection (a), the child support agency shall send a
26 copy to the obligor by first class mail and inform the obligor of
27 the steps the obligor must take to permit the authority to accept

1 the obligor's application for license issuance or renewal.

2 (d) An obligor receiving notice under Subsection (c) may
3 request a review by the child support agency to resolve any issue in
4 dispute regarding the identity of the obligor or the existence or
5 amount of child support arrearages. The agency shall promptly
6 provide an opportunity for a review, either by telephone or in
7 person, as appropriate to the circumstances. After the review, if
8 appropriate, the agency may notify the licensing authority that it
9 may accept the obligor's application for issuance or renewal of
10 license. If the agency and the obligor fail to resolve any issue in
11 dispute, the obligor, not later than the 30th day after the date of
12 receiving notice of the agency's determination from the review, may
13 file a motion with the court to direct the agency to withdraw the
14 notice under Subsection (a) and request a hearing on the motion.
15 The obligor's application for license issuance or renewal may not
16 be accepted by the licensing authority until the court rules on the
17 motion. If, after a review by the agency or a hearing by the court,
18 the agency withdraws the notice under Subsection (a), the agency
19 shall reimburse the obligor the amount of any fee charged the
20 obligor under Section 232.014.

21 SECTION 15. Section 232.014(a), Family Code, is amended to
22 read as follows:

23 (a) A licensing authority may charge a fee to an individual
24 who is the subject of an order suspending license or of an action of
25 a child support agency under Section 232.0135 to deny issuance or
26 renewal of license in an amount sufficient to recover the
27 administrative costs incurred by the authority under this chapter.

1 SECTION 16. Section 233.012, Family Code, is amended to
2 read as follows:

3 Sec. 233.012. INFORMATION REQUIRED TO BE PROVIDED AT
4 NEGOTIATION CONFERENCE. At the beginning of the negotiation
5 conference, the child support review officer shall review with the
6 parties participating in the conference information provided in the
7 notice of child support review and inform the parties that:

8 (1) the purpose of the negotiation conference is to
9 provide an opportunity to reach an agreement on a child support
10 order;

11 (2) if the parties reach an agreement, the review
12 officer will prepare an agreed review order to be effective
13 immediately on being confirmed by the court, as provided by Section
14 233.024;

15 (3) a party does not have to sign a review order
16 prepared by the child support review officer but that the Title IV-D
17 agency may file a review order without the agreement of the parties;

18 (4) the parties may sign a waiver of the right to
19 service of process;

20 (5) a party may file a request for a court hearing on a
21 nonagreed order not later than [~~at any time before~~] the 20th day
22 after the date a copy of the petition for confirmation of the order
23 is delivered to the party [~~filed~~]; and

24 (6) a party may file a motion for a new trial not later
25 than [~~at any time before~~] the 30th day after an order is confirmed
26 by the court.

27 SECTION 17. Section 233.013, Family Code, is amended by

1 adding Subsection (c) to read as follows:

2 (c) Notwithstanding Subsection (b), the Title IV-D agency
3 may, at any time and without a showing of material and substantial
4 change in the circumstances of the parties, file a child support
5 review order that has the effect of modifying an existing order for
6 child support to provide medical support for a child if the existing
7 order does not provide health care coverage for the child as
8 required under Section 154.182.

9 SECTION 18. Section 1108.101, Insurance Code, is amended to
10 read as follows:

11 Sec. 1108.101. ASSIGNMENT GENERALLY. (a) This chapter
12 does not prevent an insured, owner, or annuitant from assigning, in
13 accordance with the terms of the policy or contract:

14 (1) any benefits to be provided under an insurance
15 policy or annuity contract to which this chapter applies; or

16 (2) any other rights under the policy or contract.

17 (b) A benefit or right described by Subsection (a) assigned
18 by an insured, owner, or annuitant after a child support lien notice
19 has been filed against the insured, owner, or annuitant by the Title
20 IV-D agency continues to be subject to the child support lien after
21 the date of assignment. The lien continues to secure payment of all
22 child support arrearages owed by the insured, owner, or annuitant
23 under the underlying child support order, including arrearages that
24 accrue after the date of assignment.

25 SECTION 19. Section 411.1271, Government Code, is amended
26 by adding Subsection (b-1) and amending Subsection (c) to read as
27 follows:

1 (b-1) The office of the attorney general is entitled to
2 obtain from the Department of Public Safety, the Federal Bureau of
3 Investigation identification division, or another law enforcement
4 agency criminal history record information maintained by the
5 department or agency that relates to a person who owes child support
6 in a Title IV-D case, as defined by Section 101.034, Family Code,
7 for the purposes of locating that person and establishing,
8 modifying, or enforcing a child support obligation against that
9 person.

10 (c) Criminal history record information obtained by the
11 office of the attorney general under this section [~~Subsection (a)~~
12 ~~or (b)~~] may not be released or disclosed to any person except on
13 court order or with the consent of the person who is the subject of
14 the criminal history record information.

15 SECTION 20. Section 34.04(a), Tax Code, is amended to read
16 as follows:

17 (a) A person, including a taxing unit and the Title IV-D
18 agency, may file a petition in the court that ordered the seizure or
19 sale setting forth a claim to the excess proceeds. The petition
20 must be filed before the second anniversary of the date of the sale
21 of the property. The petition is not required to be filed as an
22 original suit separate from the underlying suit for seizure of the
23 property or foreclosure of a tax lien on the property but may be
24 filed under the cause number of the underlying suit.

25 SECTION 21. Article 59.06(a), Code of Criminal Procedure,
26 is amended to read as follows:

27 (a) Except as provided by Subsection (k), all forfeited

1 property shall be administered by the attorney representing the
2 state, acting as the agent of the state, in accordance with accepted
3 accounting practices and with the provisions of any local agreement
4 entered into between the attorney representing the state and law
5 enforcement agencies. If a local agreement has not been executed,
6 the property shall be sold on the 75th day after the date of the
7 final judgment of forfeiture at public auction under the direction
8 of the county sheriff, after notice of public auction as provided by
9 law for other sheriff's sales. The proceeds of the sale shall be
10 distributed as follows:

11 (1) to any interest holder to the extent of the
12 interest holder's nonforfeitable interest; ~~and~~

13 (2) after any distributions under Subdivision (1), if
14 the Title IV-D agency has filed a child support lien in the
15 forfeiture proceeding, to the Title IV-D agency in an amount not to
16 exceed the amount of child support arrearages identified in the
17 lien; and

18 (3) the balance, if any, after the deduction of court
19 costs to which a district court clerk is entitled under Article
20 59.05(f) and, after that deduction, the deduction of storage and
21 disposal costs, to be deposited not later than the 30th day after
22 the date of the sale in the state treasury to the credit of the
23 general revenue fund.

24 SECTION 22. Section 233.017(c), Family Code, is repealed.

25 SECTION 23. Section 154.187(c), Family Code, as amended by
26 this Act, applies to an order or notice received by an employer on
27 or after the effective date of this Act. An order or notice

1 received by an employer before the effective date of this Act is
2 governed by the law in effect on the date the order or notice was
3 received, and the former law is continued in effect for that
4 purpose.

5 SECTION 24. Sections 156.401(a-2) and 233.013(c), Family
6 Code, as added by this Act, apply to each child support order,
7 regardless of whether the order was rendered before, during, or
8 after the effective date of this Act.

9 SECTION 25. Section 157.162, Family Code, as amended by
10 this Act, applies to a motion for child support enforcement filed on
11 or after the effective date of this Act. A motion filed before the
12 effective date of this Act is governed by the law in effect on the
13 date the motion was filed, and the former law is continued in effect
14 for that purpose.

15 SECTION 26. Section 158.203, Family Code, as amended by
16 this Act, applies to child support payments withheld by an employer
17 on or after the effective date of this Act.

18 SECTION 27. Section 158.503, Family Code, as amended by
19 this Act, applies to an administrative writ of withholding issued
20 on or after the effective date of this Act.

21 SECTION 28. Section 1108.101(b), Insurance Code, as added
22 by this Act, applies to an assignment made on or after the effective
23 date of this Act. An assignment made before the effective date of
24 this Act is governed by the law in effect on the date the assignment
25 was made, and the former law is continued in effect for that
26 purpose.

27 SECTION 29. Article 59.06(a), Code of Criminal Procedure,

1 as amended by this Act, applies to a sale of forfeited property that
2 occurs on or after the effective date of this Act. A sale that
3 occurs before the effective date of this Act is governed by the law
4 in effect on the date the property was sold, and the former law is
5 continued in effect for that purpose.

6 SECTION 30. This Act takes effect September 1, 2011.