

1-1 By: Jackson (Senate Sponsor - Harris) H.B. No. 1674  
1-2 (In the Senate - Received from the House March 31, 2011;  
1-3 April 7, 2011, read first time and referred to Committee on  
1-4 Jurisprudence; April 28, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 April 28, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1674 By: Harris

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to procedures for establishment, modification, and  
1-11 enforcement of child support obligations.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 154.187(c), Family Code, is amended to  
1-14 read as follows:

1-15 (c) An employer who has received an order or notice under  
1-16 this subchapter shall provide to the sender, by first class mail not  
1-17 later than the 40th [~~30th~~] day after the date the employer receives  
1-18 the order or notice, a statement that the child:

1-19 (1) has been enrolled in the employer's health  
1-20 insurance plan or is already enrolled in another health insurance  
1-21 plan in accordance with a previous child support or medical support  
1-22 order to which the employee is subject; or

1-23 (2) cannot be enrolled or cannot be enrolled  
1-24 permanently in the employer's health insurance plan and provide the  
1-25 reason why coverage or permanent coverage cannot be provided.

1-26 SECTION 2. Section 154.303(b), Family Code, is amended to  
1-27 read as follows:

1-28 (b) The parent, the child, if the child is 18 years of age or  
1-29 older, or other person may not transfer or assign the cause of  
1-30 action to any person, including a governmental or private entity or  
1-31 agency, except for an assignment made to the Title IV-D agency under  
1-32 Section 231.104 or in the provision of child support enforcement  
1-33 services under Section 159.307.

1-34 SECTION 3. Section 156.401, Family Code, is amended by  
1-35 amending Subsection (a) and adding Subsection (a-2) to read as  
1-36 follows:

1-37 (a) Except as provided by Subsection (a-1), (a-2), or (b),  
1-38 the court may modify an order that provides for the support of a  
1-39 child, including an order for health care coverage under Section  
1-40 154.182, if:

1-41 (1) the circumstances of the child or a person  
1-42 affected by the order have materially and substantially changed  
1-43 since the earlier of:

1-44 (A) the date of the order's rendition; or

1-45 (B) the date of the signing of a mediated or  
1-46 collaborative law settlement agreement on which the order is based;  
1-47 or

1-48 (2) it has been three years since the order was  
1-49 rendered or last modified and the monthly amount of the child  
1-50 support award under the order differs by either 20 percent or \$100  
1-51 from the amount that would be awarded in accordance with the child  
1-52 support guidelines.

1-53 (a-2) A court or administrative order for child support in a  
1-54 Title IV-D case may be modified as provided under Section  
1-55 233.013(c) to provide for medical support of a child.

1-56 SECTION 4. Section 157.162, Family Code, is amended by  
1-57 amending Subsection (c) and adding Subsection (c-1) to read as  
1-58 follows:

1-59 (c) The movant may attach to the motion a [A] copy of a [the]  
1-60 payment record. The movant may subsequently update that payment  
1-61 record at the hearing. If a payment record was attached to the  
1-62 motion as authorized by this subsection, the payment record, as  
1-63 updated if applicable, [attached to the motion is evidence of the

2-1 ~~facts asserted in the payment record and] is admissible to prove:~~  
2-2 (1) the dates and in what amounts payments were made;  
2-3 (2) the amount of any accrued interest;  
2-4 (3) the cumulative arrearage over time; and  
2-5 (4) the cumulative arrearage as of the final date of  
2-6 the record.

2-7 (c-1) A [show whether payments were made. The] respondent  
2-8 may offer [controverting] evidence controverting the contents of a  
2-9 payment record under Subsection (c).

2-10 SECTION 5. Sections 157.311(1) and (4), Family Code, are  
2-11 amended to read as follows:

2-12 (1) "Account" means:  
2-13 (A) any type of a demand deposit account,  
2-14 checking or negotiable withdrawal order account, savings account,  
2-15 time deposit account, ~~[money market]~~ mutual fund account,  
2-16 certificate of deposit, or any other instrument of deposit in which  
2-17 an individual has a beneficial ownership either in its entirety or  
2-18 on a shared or multiple party basis, including any accrued interest  
2-19 and dividends; and

2-20 (B) an [a life] insurance policy, including a  
2-21 life insurance policy or annuity contract, in which an individual  
2-22 has a beneficial ownership or [liability insurance] against which  
2-23 an individual may file [has filed] a claim or counterclaim.

2-24 (4) "Financial institution" has the meaning assigned  
2-25 by 42 U.S.C. Section 669a(d)(1) and includes a depository  
2-26 institution, depository institution holding company as defined by  
2-27 12 U.S.C. Section 1813(w), credit union, benefit association,  
2-28 [liability or life] insurance company, [money market] mutual fund,  
2-29 and any similar entity authorized to do business in this state.

2-30 SECTION 6. Section 157.317(a), Family Code, is amended to  
2-31 read as follows:

2-32 (a) A child support lien attaches to all real and personal  
2-33 property not exempt under the Texas Constitution or other law,  
2-34 including:

2-35 (1) an account in a financial institution;  
2-36 (2) a retirement plan, including an individual  
2-37 retirement account; ~~and]~~

2-38 (3) the proceeds of an [a life] insurance policy,  
2-39 including the proceeds from a life insurance policy or annuity  
2-40 contract and the proceeds from the sale or assignment of life  
2-41 insurance or annuity benefits, a claim for compensation [negligence  
2-42 or personal injury], or a [an insurance] settlement or award for the  
2-43 claim for compensation, due to or owned by the obligor; and

2-44 (4) property seized and subject to forfeiture under  
2-45 Chapter 59, Code of Criminal Procedure.

2-46 SECTION 7. Subchapter G, Chapter 157, Family Code, is  
2-47 amended by adding Section 157.3271 to read as follows:

2-48 Sec. 157.3271. LEVY ON FINANCIAL INSTITUTION ACCOUNT OF  
2-49 DECEASED OBLIGOR. (a) Subject to Subsection (b), the Title IV-D  
2-50 agency may, not earlier than the 90th day after the date of death of  
2-51 an obligor in a Title IV-D case, deliver a notice of levy to a  
2-52 financial institution in which the obligor was the sole owner of an  
2-53 account, regardless of whether the Title IV-D agency has issued a  
2-54 child support lien notice regarding the account.

2-55 (b) The Title IV-D agency may not deliver a notice of levy  
2-56 under this section if probate proceedings relating to the obligor's  
2-57 estate have commenced.

2-58 (c) The notice of levy must:

2-59 (1) identify the amount of child support arrearages  
2-60 determined by the Title IV-D agency to be owing and unpaid by the  
2-61 obligor on the date of the obligor's death; and

2-62 (2) direct the financial institution to pay to the  
2-63 Title IV-D agency, not earlier than the 45th day or later than the  
2-64 60th day after the date of delivery of the notice, an amount from  
2-65 the assets of the obligor or from funds due to the obligor that are  
2-66 held or controlled by the institution, not to exceed the amount of  
2-67 the child support arrearages identified in the notice.

2-68 (d) Not later than the 35th day after the date of delivery of  
2-69 the notice, the financial institution must notify any other person

3-1 asserting a claim against the account that:  
3-2 (1) the account has been levied on for child support  
3-3 arrearages in the amount shown on the notice of levy; and  
3-4 (2) the person may contest the levy by filing suit and  
3-5 requesting a court hearing in the same manner that a person may  
3-6 challenge a child support lien under Section 157.323.  
3-7 (e) A person who contests a levy under this section, as  
3-8 authorized by Subsection (d)(2), may bring the suit in:  
3-9 (1) the district court of the county in which the  
3-10 property is located or in which the obligor resided; or  
3-11 (2) the court of continuing jurisdiction.  
3-12 (f) The notice of levy may be delivered to a financial  
3-13 institution as provided by Section 59.008, Finance Code, if the  
3-14 institution is subject to that law or may be delivered to the  
3-15 registered agent, the institution's main business office in this  
3-16 state, or another address provided by the institution under Section  
3-17 231.307.  
3-18 (g) A financial institution may deduct its fees and costs,  
3-19 including any costs for complying with this section, from the  
3-20 deceased obligor's assets before paying the appropriate amount to  
3-21 the Title IV-D agency.  
3-22 SECTION 8. Sections 158.203(b) and (b-1), Family Code, are  
3-23 amended to read as follows:  
3-24 (b) An employer with 50 [~~250~~] or more employees shall remit  
3-25 a payment required under this section by electronic funds transfer  
3-26 or electronic data interchange not later than the second business  
3-27 day after the pay date.  
3-28 (b-1) An employer with fewer than 50 [~~250~~] employees may  
3-29 remit a payment required under this section by electronic funds  
3-30 transfer or electronic data interchange. A payment remitted by the  
3-31 employer electronically must be remitted not later than the date  
3-32 specified by Subsection (b).  
3-33 SECTION 9. The heading to Section 158.503, Family Code, is  
3-34 amended to read as follows:  
3-35 Sec. 158.503. DELIVERY OF ADMINISTRATIVE WRIT TO EMPLOYER;  
3-36 FILING WITH COURT OR MAINTAINING RECORD.  
3-37 SECTION 10. Section 158.503, Family Code, is amended by  
3-38 amending Subsections (a) and (b) and adding Subsection (b-1) to  
3-39 read as follows:  
3-40 (a) An administrative writ of withholding issued under this  
3-41 subchapter may be delivered to an [~~obligor, obligee, and~~] employer  
3-42 by mail or by electronic transmission.  
3-43 (b) The Title IV-D agency shall:  
3-44 (1) not [~~Not~~] later than the third business day after  
3-45 the date of delivery of the administrative writ of withholding to an  
3-46 employer, [~~the Title IV-D agency shall~~] file a copy of the writ,  
3-47 together with a signed certificate of service, in the court of  
3-48 continuing jurisdiction; or  
3-49 (2) maintain a record of the writ until all support  
3-50 obligations of the obligor have been satisfied or income  
3-51 withholding has been terminated as provided by this chapter.  
3-52 (b-1) The certificate of service required under Subsection  
3-53 (b)(1) may be signed electronically. [~~This subsection does not~~  
3-54 apply to the enforcement under Section 158.501(c) of a support  
3-55 order rendered by a tribunal of another state.]  
3-56 SECTION 11. Section 231.015, Family Code, is amended to  
3-57 read as follows:  
3-58 Sec. 231.015. INSURANCE REPORTING PROGRAM. (a) In  
3-59 consultation with the Texas Department of Insurance and  
3-60 representatives of the insurance industry in this state, including  
3-61 insurance trade associations, the Title IV-D agency by rule shall  
3-62 operate a program [~~to improve the enforcement of child support,~~  
3-63 ~~including the use of child support liens under Chapter 157. The~~  
3-64 ~~program shall provide for procedures, including data matches,~~  
3-65 under which insurers [~~insurance companies~~] shall cooperate with the  
3-66 Title IV-D agency in identifying obligors who owe child support  
3-67 arrearages and [~~or who~~] are subject to liens for child support  
3-68 arrearages to intercept certain [~~liability~~] insurance settlements  
3-69 or awards for claims in satisfaction of the arrearage amounts.

4-1 (b) An insurer [~~insurance company~~] that provides  
4-2 information or responds to a notice of child support lien or levy  
4-3 under Subchapter G, Chapter 157, or acts in good faith to comply  
4-4 with procedures established by the Title IV-D agency under this  
4-5 section is not liable for those acts under any law to any person.

4-6 SECTION 12. Section 231.307, Family Code, is amended by  
4-7 amending Subsection (d) and adding Subsection (g) to read as  
4-8 follows:

4-9 (d) A financial institution providing information or  
4-10 responding to a notice of child support lien or levy provided under  
4-11 Subchapter G, Chapter 157, or otherwise acting in good faith to  
4-12 comply with the Title IV-D agency's procedures under this section  
4-13 may not be liable under any federal or state law for any damages  
4-14 that arise from those acts.

4-15 (g) This section does not apply to an insurer subject to the  
4-16 reporting requirements under Section 231.015.

4-17 SECTION 13. The heading to Section 232.0135, Family Code,  
4-18 is amended to read as follows:

4-19 Sec. 232.0135. DENIAL OF LICENSE ISSUANCE OR RENEWAL.

4-20 SECTION 14. Sections 232.0135(a), (b), (c), and (d), Family  
4-21 Code, are amended to read as follows:

4-22 (a) A child support agency, as defined by Section 101.004,  
4-23 may provide notice to a licensing authority concerning an obligor  
4-24 who has failed to pay child support for six months or more that  
4-25 requests the authority to refuse to accept an application for  
4-26 issuance of a license to the obligor or renewal of an existing [~~the~~]  
4-27 license of the obligor.

4-28 (b) A licensing authority that receives the information  
4-29 described by Subsection (a) shall refuse to accept an application  
4-30 for issuance of a license to the obligor or renewal of an existing  
4-31 [~~the~~] license of the obligor until the authority is notified by the  
4-32 child support agency that the obligor has:

- 4-33 (1) paid all child support arrearages;
- 4-34 (2) established with the agency a satisfactory  
4-35 repayment schedule or is in compliance with a court order for  
4-36 payment of the arrearages;
- 4-37 (3) been granted an exemption from this subsection as  
4-38 part of a court-supervised plan to improve the obligor's earnings  
4-39 and child support payments; or
- 4-40 (4) successfully contested the denial of issuance or  
4-41 renewal of license under Subsection (d).

4-42 (c) On providing a licensing authority with the notice  
4-43 described by Subsection (a), the child support agency shall send a  
4-44 copy to the obligor by first class mail and inform the obligor of  
4-45 the steps the obligor must take to permit the authority to accept  
4-46 the obligor's application for license issuance or renewal.

4-47 (d) An obligor receiving notice under Subsection (c) may  
4-48 request a review by the child support agency to resolve any issue in  
4-49 dispute regarding the identity of the obligor or the existence or  
4-50 amount of child support arrearages. The agency shall promptly  
4-51 provide an opportunity for a review, either by telephone or in  
4-52 person, as appropriate to the circumstances. After the review, if  
4-53 appropriate, the agency may notify the licensing authority that it  
4-54 may accept the obligor's application for issuance or renewal of  
4-55 license. If the agency and the obligor fail to resolve any issue in  
4-56 dispute, the obligor, not later than the 30th day after the date of  
4-57 receiving notice of the agency's determination from the review, may  
4-58 file a motion with the court to direct the agency to withdraw the  
4-59 notice under Subsection (a) and request a hearing on the motion.  
4-60 The obligor's application for license issuance or renewal may not  
4-61 be accepted by the licensing authority until the court rules on the  
4-62 motion. If, after a review by the agency or a hearing by the court,  
4-63 the agency withdraws the notice under Subsection (a), the agency  
4-64 shall reimburse the obligor the amount of any fee charged the  
4-65 obligor under Section 232.014.

4-66 SECTION 15. Section 232.014(a), Family Code, is amended to  
4-67 read as follows:

4-68 (a) A licensing authority may charge a fee to an individual  
4-69 who is the subject of an order suspending license or of an action of

5-1 a child support agency under Section 232.0135 to deny issuance or  
5-2 renewal of license in an amount sufficient to recover the  
5-3 administrative costs incurred by the authority under this chapter.

5-4 SECTION 16. Section 233.012, Family Code, is amended to  
5-5 read as follows:

5-6 Sec. 233.012. INFORMATION REQUIRED TO BE PROVIDED AT  
5-7 NEGOTIATION CONFERENCE. At the beginning of the negotiation  
5-8 conference, the child support review officer shall review with the  
5-9 parties participating in the conference information provided in the  
5-10 notice of child support review and inform the parties that:

5-11 (1) the purpose of the negotiation conference is to  
5-12 provide an opportunity to reach an agreement on a child support  
5-13 order;

5-14 (2) if the parties reach an agreement, the review  
5-15 officer will prepare an agreed review order to be effective  
5-16 immediately on being confirmed by the court, as provided by Section  
5-17 233.024;

5-18 (3) a party does not have to sign a review order  
5-19 prepared by the child support review officer but that the Title IV-D  
5-20 agency may file a review order without the agreement of the parties;

5-21 (4) the parties may sign a waiver of the right to  
5-22 service of process;

5-23 (5) a party may file a request for a court hearing on a  
5-24 nonagreed order not later than ~~[at any time before]~~ the 20th day  
5-25 after the date a copy of the petition for confirmation of the order  
5-26 is delivered to the party ~~[filed]~~; and

5-27 (6) a party may file a motion for a new trial not later  
5-28 than ~~[at any time before]~~ the 30th day after an order is confirmed  
5-29 by the court.

5-30 SECTION 17. Section 233.013, Family Code, is amended by  
5-31 adding Subsection (c) to read as follows:

5-32 (c) Notwithstanding Subsection (b), the Title IV-D agency  
5-33 may, at any time and without a showing of material and substantial  
5-34 change in the circumstances of the parties, file a child support  
5-35 review order that has the effect of modifying an existing order for  
5-36 child support to provide medical support for a child if the existing  
5-37 order does not provide health care coverage for the child as  
5-38 required under Section 154.182.

5-39 SECTION 18. Section 1108.101, Insurance Code, is amended to  
5-40 read as follows:

5-41 Sec. 1108.101. ASSIGNMENT GENERALLY. (a) This chapter  
5-42 does not prevent an insured, owner, or annuitant from assigning, in  
5-43 accordance with the terms of the policy or contract:

5-44 (1) any benefits to be provided under an insurance  
5-45 policy or annuity contract to which this chapter applies; or

5-46 (2) any other rights under the policy or contract.

5-47 (b) A benefit or right described by Subsection (a) assigned  
5-48 by an insured, owner, or annuitant after a child support lien notice  
5-49 has been filed against the insured, owner, or annuitant by the Title  
5-50 IV-D agency continues to be subject to the child support lien after  
5-51 the date of assignment. The lien continues to secure payment of all  
5-52 child support arrearages owed by the insured, owner, or annuitant  
5-53 under the underlying child support order, including arrearages that  
5-54 accrue after the date of assignment.

5-55 SECTION 19. Section 411.1271, Government Code, is amended  
5-56 by adding Subsection (b-1) and amending Subsection (c) to read as  
5-57 follows:

5-58 (b-1) The office of the attorney general is entitled to  
5-59 obtain from the Department of Public Safety, the Federal Bureau of  
5-60 Investigation identification division, or another law enforcement  
5-61 agency criminal history record information maintained by the  
5-62 department or agency that relates to a person who owes child support  
5-63 in a Title IV-D case, as defined by Section 101.034, Family Code,  
5-64 for the purposes of locating that person and establishing,  
5-65 modifying, or enforcing a child support obligation against that  
5-66 person.

5-67 (c) Criminal history record information obtained by the  
5-68 office of the attorney general under this section [~~Subsection (a)~~  
5-69 ~~or (b)~~] may not be released or disclosed to any person except on

6-1 court order or with the consent of the person who is the subject of  
6-2 the criminal history record information.

6-3 SECTION 20. Section 34.04(a), Tax Code, is amended to read  
6-4 as follows:

6-5 (a) A person, including a taxing unit and the Title IV-D  
6-6 agency, may file a petition in the court that ordered the seizure or  
6-7 sale setting forth a claim to the excess proceeds. The petition  
6-8 must be filed before the second anniversary of the date of the sale  
6-9 of the property. The petition is not required to be filed as an  
6-10 original suit separate from the underlying suit for seizure of the  
6-11 property or foreclosure of a tax lien on the property but may be  
6-12 filed under the cause number of the underlying suit.

6-13 SECTION 21. Article 59.06(a), Code of Criminal Procedure,  
6-14 is amended to read as follows:

6-15 (a) Except as provided by Subsection (k), all forfeited  
6-16 property shall be administered by the attorney representing the  
6-17 state, acting as the agent of the state, in accordance with accepted  
6-18 accounting practices and with the provisions of any local agreement  
6-19 entered into between the attorney representing the state and law  
6-20 enforcement agencies. If a local agreement has not been executed,  
6-21 the property shall be sold on the 75th day after the date of the  
6-22 final judgment of forfeiture at public auction under the direction  
6-23 of the county sheriff, after notice of public auction as provided by  
6-24 law for other sheriff's sales. The proceeds of the sale shall be  
6-25 distributed as follows:

6-26 (1) to any interest holder to the extent of the  
6-27 interest holder's nonforfeitable interest; ~~and~~

6-28 (2) after any distributions under Subdivision (1), if  
6-29 the Title IV-D agency has filed a child support lien in the  
6-30 forfeiture proceeding, to the Title IV-D agency in an amount not to  
6-31 exceed the amount of child support arrearages identified in the  
6-32 lien; and

6-33 (3) the balance, if any, after the deduction of court  
6-34 costs to which a district court clerk is entitled under Article  
6-35 59.05(f) and, after that deduction, the deduction of storage and  
6-36 disposal costs, to be deposited not later than the 30th day after  
6-37 the date of the sale in the state treasury to the credit of the  
6-38 general revenue fund.

6-39 SECTION 22. Section 233.017(c), Family Code, is repealed.

6-40 SECTION 23. Section 154.187(c), Family Code, as amended by  
6-41 this Act, applies to an order or notice received by an employer on  
6-42 or after the effective date of this Act. An order or notice  
6-43 received by an employer before the effective date of this Act is  
6-44 governed by the law in effect on the date the order or notice was  
6-45 received, and the former law is continued in effect for that  
6-46 purpose.

6-47 SECTION 24. Sections 156.401(a-2) and 233.013(c), Family  
6-48 Code, as added by this Act, apply to each child support order,  
6-49 regardless of whether the order was rendered before, during, or  
6-50 after the effective date of this Act.

6-51 SECTION 25. Section 157.162, Family Code, as amended by  
6-52 this Act, applies to a motion for child support enforcement filed on  
6-53 or after the effective date of this Act. A motion filed before the  
6-54 effective date of this Act is governed by the law in effect on the  
6-55 date the motion was filed, and the former law is continued in effect  
6-56 for that purpose.

6-57 SECTION 26. Section 158.203, Family Code, as amended by  
6-58 this Act, applies to child support payments withheld by an employer  
6-59 on or after the effective date of this Act.

6-60 SECTION 27. Section 158.503, Family Code, as amended by  
6-61 this Act, applies to an administrative writ of withholding issued  
6-62 on or after the effective date of this Act.

6-63 SECTION 28. Section 1108.101(b), Insurance Code, as added  
6-64 by this Act, applies to an assignment made on or after the effective  
6-65 date of this Act. An assignment made before the effective date of  
6-66 this Act is governed by the law in effect on the date the assignment  
6-67 was made, and the former law is continued in effect for that  
6-68 purpose.

6-69 SECTION 29. Article 59.06(a), Code of Criminal Procedure,

7-1 as amended by this Act, applies to a sale of forfeited property that  
7-2 occurs on or after the effective date of this Act. A sale that  
7-3 occurs before the effective date of this Act is governed by the law  
7-4 in effect on the date the property was sold, and the former law is  
7-5 continued in effect for that purpose.

7-6 SECTION 30. This Act takes effect September 1, 2011.

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