

**House Bill 1674**  
Senate Amendments  
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HOUSE VERSION

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 services under Section 159.307.

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

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

(1) the circumstances of the child or a person affected by the

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SECTION 1. Same as House version.

SECTION 2. Same as House version.

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order have materially and substantially changed since the earlier of:

- (A) the date of the order's rendition; or
- (B) the date of the signing of a mediated or collaborative law settlement agreement on which the order is based; or
- (2) it has been three years since the order was rendered or last modified and the monthly amount of the child support award under the order differs by either 20 percent or \$100 from the amount that would be awarded in accordance with the child support guidelines.

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

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

(c) The movant may attach to the motion a [A] copy of a [the] payment record maintained by the state disbursement unit under Chapter 234 or a local registry that is current as of the date the motion is filed.

The movant may subsequently update that payment record at the hearing. If a payment record was attached to the motion as authorized by this subsection, the payment record, as updated if applicable, [attached to the motion is evidence of the facts asserted in the payment record and] is admissible to prove:

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

(c-1) A [show whether payments were made. The]

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- (2) the amount of any accrued interest;
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- (4) the cumulative arrearage as of the final date of the record.

(c-1) A [show whether payments were made. The]

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respondent may offer [~~controverting~~] evidence controverting the contents of a payment record under Subsection (c).

No equivalent provision.

No equivalent provision.

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

(1) "Account" means:

(A) any type of a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, [~~money market~~] mutual fund account, certificate of deposit, or any other instrument of deposit in which an individual has a beneficial ownership either in its entirety or on a shared or multiple party basis, including any accrued interest and dividends; and

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

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respondent may offer [~~controverting~~] evidence controverting the contents of a payment record under Subsection (c).

SECTION \_\_. Section 157.263, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In rendering a money judgment under this section, the court may not reduce or modify the amount of child support arrearages but, in confirming the amount of arrearages, may allow a counterclaim or offset as provided by this title. [FA1]

SECTION \_\_. Subsection (b-1), Section 157.263, Family Code, as added by this Act, applies to a motion for enforcement of child support that is pending before a trial court on or filed on or after the effective date of this Act. [FA1]

SECTION 5. Same as House version.

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

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

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

- (1) an account in a financial institution;
- (2) a retirement plan, including an individual retirement account; ~~[and]~~
- (3) the proceeds of an ~~[a life]~~ insurance policy, including the proceeds from a life insurance policy or annuity contract and the proceeds from the sale or assignment of life insurance or annuity benefits, a claim for compensation ~~[negligence or personal injury]~~, or a ~~[an insurance]~~ settlement or award for the claim for compensation, due to or owned by the obligor; and
- (4) property seized and subject to forfeiture under Chapter 59, Code of Criminal Procedure.

SECTION 7. Subchapter G, Chapter 157, Family Code, is amended by adding Section 157.3271 to read as follows:  
Sec. 157.3271. LEVY ON FINANCIAL INSTITUTION ACCOUNT OF DECEASED OBLIGOR. (a) Subject to Subsection (b), the Title IV-D agency may, not earlier than the

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SECTION 6. Same as House version.

SECTION 7. Same as House version.

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90th day after the date of death of an obligor in a Title IV-D case, deliver a notice of levy to a financial institution in which the obligor was the sole owner of an account, regardless of whether the Title IV-D agency has issued a child support lien notice regarding the account.

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

(c) The notice of levy must:

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

(2) direct the financial institution to pay to the Title IV-D agency, 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.

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

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

(2) 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 Section 157.323.

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

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

(2) the court of continuing jurisdiction.

(f) The notice of levy may be delivered to a financial institution as provided by Section 59.008, Finance Code, if the

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institution is subject to that law or may be delivered to the registered agent, the institution's main business office in this state, or another address provided by the institution under Section 231.307.

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

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

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

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

SECTION 9. The heading to Section 158.503, Family Code, is amended to read as follows:

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

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

SECTION 8. Same as House version.

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SECTION 10. Same as House version.

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

(b) The Title IV-D agency shall:

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

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

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

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

Sec. 231.015. INSURANCE REPORTING PROGRAM. (a) In consultation with the Texas Department of Insurance and representatives of the insurance industry in this state, including insurance trade associations, the Title IV-D agency by rule shall operate a program ~~[to improve the enforcement of child support, including the use of child support liens under Chapter 157. The program shall provide for procedures, including data matches,]~~ under which insurers ~~[insurance companies]~~ shall cooperate with the Title IV-D agency in identifying obligors who owe child support arrearages and ~~[or who]~~ are subject to liens for child support arrearages to intercept certain ~~[liability]~~ insurance settlements or awards for claims in satisfaction of the arrearage amounts.

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

No equivalent provision.

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SECTION \_\_. Subchapter B, Chapter 231, Family Code, is amended by adding Section 231.124 to read as follows:

Sec. 231.124. CHILD SUPPORT ARREARAGES PAYMENT INCENTIVE PROGRAM. (a) The Title IV-D agency may establish and administer a payment incentive program to promote payment by obligors who are delinquent in satisfying child support arrearages assigned to the Title IV-D agency under Section 231.104(a).

(b) A program established under this section must provide to a participating obligor a credit for every dollar amount paid by the obligor on interest and arrearages balances during each month of the obligor's voluntary enrollment in the program. In establishing a program under this section, the Title IV-D agency by rule must prescribe:

- (1) criteria for a child support obligor's initial eligibility to participate in the program;
- (2) the conditions for a child support obligor's continued participation in the program;
- (3) procedures for enrollment in the program; and
- (4) the terms of the financial incentives to be offered under the program.

(c) The Title IV-D agency shall provide eligible obligors with notice of the program and enrollment instructions. [FA1]

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

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

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

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

Sec. 232.0135. DENIAL OF LICENSE ISSUANCE OR RENEWAL.

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

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

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

(1) paid all child support arrearages;

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SECTION 12. Same as House version.

SECTION 13. Same as House version.

SECTION 14. Same as House version.

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

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

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

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

(d) An obligor receiving notice under Subsection (c) may request a review by the child support agency to resolve any issue in dispute regarding the identity of the obligor or the existence or amount of child support arrearages. The agency shall promptly provide an opportunity for a review, either by telephone or in person, as appropriate to the circumstances. After the review, if appropriate, the agency may notify the licensing authority that it may accept the obligor's application for issuance or renewal of license. If the agency and the obligor fail to resolve any issue in dispute, the obligor, not later than the 30th day after the date of receiving notice of the agency's determination from the review, may file a motion with the court to direct the agency to withdraw the notice under Subsection (a) and request a hearing on the motion. The obligor's application for license issuance or renewal may not be accepted by the licensing authority until the court rules on the motion. If, after a review by the agency or a hearing by the court, the agency withdraws the notice under Subsection (a), the agency shall reimburse the obligor the amount of any

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fee charged the obligor under Section 232.014.

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

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

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

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

- (1) the purpose of the negotiation conference is to provide an opportunity to reach an agreement on a child support order;
- (2) if the parties reach an agreement, the review officer will prepare an agreed review order to be effective immediately on being confirmed by the court, as provided by Section 233.024;
- (3) a party does not have to sign a review order prepared by the child support review officer but that the Title IV-D agency may file a review order without the agreement of the parties;
- (4) the parties may sign a waiver of the right to service of process;
- (5) a party may file a request for a court hearing on a nonagreed order not later than ~~[at any time before]~~ the 20th

SECTION 15. Same as House version.

SECTION 16. Same as House version.

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day after the date a copy of the petition for confirmation of the order is delivered to the party ~~[filed]~~; and

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

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

(c) Notwithstanding Subsection (b), the Title IV-D agency may, 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 Section 154.182.

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

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

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

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

(b) A benefit or right described by Subsection (a) assigned by an insured, owner, or annuitant after a child support lien notice has been filed against the insured, owner, or annuitant by the Title IV-D agency continues to be subject to the child support lien after the date of assignment. The lien continues to secure payment of all child support arrearages owed by the

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insured, owner, or annuitant under the underlying child support order, including arrearages that accrue after the date of assignment.

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

(b-1) The office of the attorney general is entitled 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 Title IV-D case, as defined by Section 101.034, Family Code, for the purposes of locating that person and establishing, modifying, or enforcing a child support obligation against that person.

(c) Criminal history record information obtained by the office of the attorney general under this section [~~Subsection (a) or (b)~~] may not be 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.

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

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

SECTION 19. Same as House version.

SECTION 20. Same as House version.

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property but may be filed under the cause number of the underlying suit.

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

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

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

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

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

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No equivalent provision.

SECTION \_\_. Section 157.262, Family Code, is repealed.  
[FA1]

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

SECTION 22. Same as House version.

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

SECTION 23. Same as House version.

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

SECTION 24. Same as House version.

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

SECTION 25. Same as House version.

SECTION 26. Section 158.203, Family Code, as amended by

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this Act, applies to child support payments withheld by an employer on or after the effective date of this Act.

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

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

SECTION 29. Article 59.06(a), Code of Criminal Procedure, as amended by this Act, applies to a sale of forfeited property that occurs on or after the effective date of this Act. A sale that occurs before the effective date of this Act is governed by the law in effect on the date the property was sold, and the former law is continued in effect for that purpose.

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

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SECTION 27. Same as House version.

SECTION 28. Same as House version.

SECTION 29. Same as House version.

SECTION 30. Same as House version.

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