

BILL ANALYSIS

C.S.H.B. 847
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Though a court is currently authorized to hold a child support obligor in contempt if the obligor fails to pay the amount of support ordered by a court, an obligor may not be held in contempt for nonpayment if the obligor appears at the hearing and shows proof that the obligor has become current in paying child support. There are concerns that this allows many obligors to repeatedly fall behind with payments, only to pay the child support just before a hearing. While a court has the authority to award a petitioner attorney's fees and costs in such situations, the parties note that the court is left with no other recourse and an obligee may be forced to repeatedly seek enforcement of child support through the courts. C.S.H.B. 847 seeks to prevent certain child support obligors from manipulating the court system by giving a court broader authority to enforce certain orders in a suit affecting the parent-child relationship.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 847 amends the Family Code to establish that a finding that the respondent to a motion for enforcement of an order in a suit affecting the parent-child relationship is not in contempt does not preclude the court from awarding the petitioner court costs and reasonable attorney's fees, in addition to ordering any other enforcement remedy, including rendering a money judgment, posting a bond or other security, or withholding income.

C.S.H.B. 847 repeals a provision relating to prohibiting a court from finding such a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing for the motion with satisfactory evidence that the respondent is current in the payment of court-ordered child support. The bill repeals a provision relating to authorizing the court to award the petitioner court costs and reasonable attorney's fees if the court finds that the respondent was not current in the payment of court-ordered child support on the date the motion for enforcement was filed and the respondent made the payments after the respondent was served notice of the motion or otherwise discovered that the motion had been filed.

C.S.H.B. 847 repeals Sections 157.162(d) and (e), Family Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 847 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences

between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Sections 157.162(d) and (e), Family Code, are repealed.

SECTION 2. The repeal by this Act of Sections 157.162(d) and (e), Family Code, applies to a hearing to enforce an order in a suit affecting the parent-child relationship that commences on or after the effective date of this Act. A hearing that commences before the effective date of this Act is governed by the law in effect on the date the hearing commenced, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 157.162(b), Family Code, is amended to read as follows:

(b) A finding that the respondent is not in contempt does not preclude the court from awarding the petitioner court costs and reasonable attorney's fees or ordering any other enforcement remedy, including rendering a money judgment, posting a bond or other security, or withholding income.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.