

By: Thompson of Harris

H.B. No. 389

Substitute the following for H.B. No. 389:

By: Hernandez Luna

C.S.H.B. No. 389

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of spousal maintenance agreements and property distribution agreements incident to divorce or annulment.

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

SECTION 1. The heading to Subchapter B, Chapter 8, Family Code, is amended to read as follows:

SUBCHAPTER B. SPOUSAL [~~COURT-ORDERED~~] MAINTENANCE

SECTION 2. The heading to Section 8.051, Family Code, is amended to read as follows:

Sec. 8.051. ELIGIBILITY FOR MAINTENANCE [~~, COURT ORDER~~].

SECTION 3. Section 8.059, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The court may enforce by contempt against the obligor:

(1) the court's maintenance order; or

(2) an agreement for periodic payments [~~the payment~~]

of spousal maintenance under the terms of this chapter voluntarily entered into between the parties and approved by the court.

(a-1) The court may not enforce by contempt any provision of an agreed order for maintenance that exceeds the amount of periodic support the court could have ordered under this chapter or for any period of maintenance beyond the period of maintenance the court could have ordered under this chapter.

SECTION 4. Section 8.101, Family Code, is amended by adding

1 Subsections (a-1) and (a-2) to read as follows:

2 (a-1) The court may order that income be withheld from the
3 disposable earnings of the obligor in a proceeding in which there is
4 an agreement for periodic payments of spousal maintenance under the
5 terms of this chapter voluntarily entered into between the parties
6 and approved by the court.

7 (a-2) The court may not order that income be withheld from
8 the disposable earnings of the obligor to the extent that any
9 provision of an agreed order for maintenance exceeds the amount of
10 periodic support the court could have ordered under this chapter or
11 for any period of maintenance beyond the period of maintenance the
12 court could have ordered under this chapter.

13 SECTION 5. Section 9.001(a), Family Code, is amended to
14 read as follows:

15 (a) A party affected by a decree of divorce or annulment
16 providing for a division of property as provided by Chapter 7,
17 including a division of property and any contractual provisions
18 under the terms of an agreement incident to divorce or annulment
19 under Section 7.006 that was approved by the court, may request
20 enforcement of that decree by filing a suit to enforce as provided
21 by this chapter in the court that rendered the decree.

22 SECTION 6. Section 9.002, Family Code, is amended to read as
23 follows:

24 Sec. 9.002. CONTINUING AUTHORITY TO ENFORCE DECREE. The
25 court that rendered the decree of divorce or annulment retains the
26 power to enforce the property division as provided by Chapter 7,
27 including a property division and any contractual provisions under

1 the terms of an agreement incident to divorce or annulment under
2 Section 7.006 that was approved by the court.

3 SECTION 7. Sections 9.006(a) and (b), Family Code, are
4 amended to read as follows:

5 (a) Except as provided by this subchapter and by the Texas
6 Rules of Civil Procedure, the court may render further orders to
7 enforce the division of property made or approved in the decree of
8 divorce or annulment to assist in the implementation of or to
9 clarify the prior order.

10 (b) The court may specify more precisely the manner of
11 effecting the property division previously made or approved if the
12 substantive division of property is not altered or changed.

13 SECTION 8. Section 9.009, Family Code, is amended to read as
14 follows:

15 Sec. 9.009. DELIVERY OF PROPERTY. To enforce the division
16 of property made or approved in a decree of divorce or annulment,
17 the court may make an order to deliver the specific existing
18 property awarded, without regard to whether the property is of
19 especial value, including an award of an existing sum of money or
20 its equivalent.

21 SECTION 9. (a) The changes in law made by this Act to
22 Chapter 8, Family Code, apply to an order for maintenance or a
23 maintenance agreement under Subchapter B, Chapter 8, Family Code,
24 regardless of whether the order was rendered or the agreement was
25 approved before, on, or after the effective date of this Act.

26 (b) The changes in law made by this Act to Chapter 9, Family
27 Code, apply to the enforcement of a property division and any

1 contractual provisions under the terms of an agreement incident to
2 divorce or annulment under Section 7.006, Family Code, that was
3 approved by the court regardless of whether the agreement was
4 approved or the decree of divorce or annulment was rendered before,
5 on, or after the effective date of this Act.

6 SECTION 10. This Act takes effect September 1, 2013.