

By: West
(Lewis)

S.B. No. 355

Substitute the following for S.B. No. 355:

By: Farney

C.S.S.B. No. 355

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the powers and duties of the Title IV-D agency regarding
3 the establishment, collection, and enforcement of child support and
4 in connection with an application for a marriage license or
5 protective order; authorizing a surcharge.

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

7 SECTION 1. Section 2.009(c), Family Code, is amended to
8 read as follows:

9 (c) On the proper execution of the application, the clerk
10 shall:

11 (1) prepare the license;

12 (2) enter on the license the names of the licensees,
13 the date that the license is issued, and, if applicable, the name of
14 the person appointed to act as proxy for an absent applicant, if
15 any;

16 (3) record the time at which the license was issued;

17 (4) distribute to each applicant printed materials
18 about acquired immune deficiency syndrome (AIDS) and human
19 immunodeficiency virus (HIV) and note on the license that the
20 distribution was made; and

21 (5) inform [~~distribute to~~] each applicant:

22 (A) that a premarital education handbook
23 developed [~~provided~~] by the child support division of the office of
24 the attorney general under Section 2.014 is available on the child

1 support division's Internet website; or

2 (B) if the applicant does not have Internet
3 access, how the applicant may obtain a paper copy of the handbook
4 described by Paragraph (A).

5 SECTION 2. Sections 2.014(b) and (c), Family Code, are
6 amended to read as follows:

7 (b) Money in the trust fund is derived from depositing \$3 of
8 each marriage license fee as authorized under Section 118.018(c),
9 Local Government Code, and may be used only for:

10 (1) the development [~~and distribution~~] of a premarital
11 education handbook;

12 (2) grants to institutions of higher education having
13 academic departments that are capable of research on marriage and
14 divorce that will assist in determining programs, courses, and
15 policies to help strengthen families and assist children whose
16 parents are divorcing;

17 (3) support for counties to create or administer free
18 or low-cost premarital education courses;

19 (4) programs intended to reduce the amount of
20 delinquent child support; and

21 (5) other programs the attorney general determines
22 will assist families in this state.

23 (c) The premarital education handbook under Subsection
24 (b)(1) shall be made available [~~distributed~~] to each applicant for
25 a marriage license as provided by Section 2.009(c)(5) and shall
26 contain information on:

27 (1) conflict management;

- 1 (2) communication skills;
- 2 (3) children and parenting responsibilities; and
- 3 (4) financial responsibilities.

4 SECTION 3. Section 82.004, Family Code, is amended to read
5 as follows:

6 Sec. 82.004. CONTENTS OF APPLICATION. An application must
7 state:

8 (1) the name and county of residence of each
9 applicant;

10 (2) the name and county of residence of each
11 individual alleged to have committed family violence;

12 (3) the relationships between the applicants and the
13 individual alleged to have committed family violence; ~~and~~

14 (4) a request for one or more protective orders; and

15 (5) whether an applicant is receiving services from
16 the Title IV-D agency in connection with a child support case and,
17 if known, the agency case number for each open case.

18 SECTION 4. Section 85.042(a), Family Code, is amended to
19 read as follows:

20 (a) The clerk of the court issuing an original or modified
21 protective order under this subtitle shall send a copy of the order,
22 along with the information provided by the applicant or the
23 applicant's attorney that is required under Section 411.042(b)(6),
24 Government Code, to:

25 (1) the chief of police of the municipality in which
26 the person protected by the order resides, if the person resides in
27 a municipality;

1 (2) [~~, or to~~] the appropriate constable and the
2 sheriff of the county in which the person resides, if the person
3 does not reside in a municipality; and

4 (3) the Title IV-D agency, if the application for the
5 protective order indicates that the applicant is receiving services
6 from the Title IV-D agency.

7 SECTION 5. Section 156.401(a-2), Family Code, is amended to
8 read as follows:

9 (a-2) A court or administrative order for child support in a
10 Title IV-D case may be modified at any time, and without a showing
11 of material and substantial change in the circumstances of the
12 child or a person affected by the order, [as provided under Section
13 233.013(c)] to provide for medical support of the [a] child if the
14 order does not provide health care coverage as required under
15 Section 154.182.

16 SECTION 6. Section 158.106, Family Code, is amended to read
17 as follows:

18 Sec. 158.106. REQUIRED FORMS FOR INCOME WITHHOLDING. (a)
19 The Title IV-D agency shall prescribe forms as required by federal
20 law in a standard format entitled order or notice to withhold income
21 for child support under this chapter.

22 (b) The Title IV-D agency shall make the required
23 [~~appropriate~~] forms available to obligors, obligees, domestic
24 relations offices, friends of the court, clerks of the court, and
25 private attorneys.

26 (c) The Title IV-D agency may prescribe additional forms for
27 the efficient collection of child support from earnings and to

1 promote the administration of justice for all parties.

2 (d) The forms prescribed by the Title IV-D agency under this
3 section shall ~~[may]~~ be used:

4 (1) for an order or judicial writ of income
5 withholding under this chapter; and

6 (2) to request voluntary withholding under Section
7 158.011.

8 SECTION 7. Section 158.203, Family Code, is amended by
9 amending Subsection (d) and adding Subsections (e) and (f) to read
10 as follows:

11 (d) In a case in which an obligor's income is subject to
12 withholding, the employer shall remit the payment of child support
13 directly to ~~[a local registry, the Title IV-D agency, or to]~~ the
14 state disbursement unit.

15 (e) The state disbursement unit may impose on an employer
16 described by Subsection (b) a payment processing surcharge in an
17 amount of not more than \$25 for each remittance made on behalf of an
18 employee that is not made by electronic funds transfer or
19 electronic data exchange. The payment processing surcharge under
20 this subsection may not be charged against the employee or taken
21 from amounts withheld from the employee's wages.

22 (f) The state disbursement unit shall:

23 (1) notify an employer described by Subsection (b) who
24 fails to remit withheld income by electronic funds transfer or
25 electronic data exchange that the employer is subject to a payment
26 processing surcharge under Subsection (e); and

27 (2) inform the employer of the amount of the surcharge

1 owed and the manner in which the surcharge is required to be paid to
2 the unit.

3 SECTION 8. Section 201.101(e), Family Code, is amended to
4 read as follows:

5 (e) If a county has entered into a contract with the Title
6 IV-D agency under Section 231.0011, enforcement services may be
7 directly provided in cases identified under the contract by county
8 personnel as provided under Section 231.0011(d), including judges
9 and associate judges of the courts of the county.

10 SECTION 9. Section 231.002, Family Code, is amended by
11 adding Subsection (j) to read as follows:

12 (j) In the enforcement or modification of a child support
13 order, the Title IV-D agency is not:

14 (1) subject to a mediation or arbitration clause or
15 requirement in the order to which the Title IV-D agency was not a
16 party; or

17 (2) liable for any costs associated with mediation or
18 arbitration arising from provisions in the order or another
19 agreement of the parties.

20 SECTION 10. Section 231.204, Family Code, is amended to
21 read as follows:

22 Sec. 231.204. PROHIBITED FEES IN TITLE IV-D CASES. Except
23 as provided by this subchapter, an appellate court, a clerk of an
24 appellate court, a district or county clerk, sheriff, constable, or
25 other government officer or employee may not charge the Title IV-D
26 agency or a private attorney or political subdivision that has
27 entered into a contract to provide Title IV-D services any fees or

1 other amounts otherwise imposed by law for services rendered in, or
2 in connection with, a Title IV-D case, including:

3 (1) a fee payable to a district clerk for:

4 (A) performing services related to the estates of
5 deceased persons or minors;

6 (B) certifying copies; or

7 (C) comparing copies to originals;

8 (2) a court reporter fee, except as provided by
9 Section 231.209;

10 (3) a judicial fund fee;

11 (4) a fee for a child support registry, enforcement
12 office, or domestic relations office;

13 (5) a fee for alternative dispute resolution services;

14 [~~and~~]

15 (6) a filing fee or other costs payable to a clerk of
16 an appellate court; and

17 (7) a statewide electronic filing system fund fee.

18 SECTION 11. Section 232.0135(a), Family Code, is amended to
19 read as follows:

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

26 SECTION 12. Sections 233.013(a) and (b), Family Code, are
27 amended to read as follows:

1 (a) The Title IV-D agency may use any information obtained
2 by the agency from the parties or any other source and shall apply
3 the child support guidelines provided by this code to determine the
4 appropriate amount of child support. In determining the
5 appropriate amount of child support, the agency may consider
6 evidence of the factors a court is required to consider under
7 Section 154.123(b), and, if the agency deviates from the guidelines
8 in determining the amount of monthly child support, with or without
9 the agreement of the parties, the child support review order must
10 include the findings required to be made by a court under Section
11 154.130(b).

12 (b) If it has been three years since a child support order
13 was rendered or last modified and the amount of the child support
14 award under the order differs by either 20 percent or \$100 from the
15 amount that would be awarded under the child support guidelines,
16 the Title IV-D agency may [~~shall~~] file an appropriate child support
17 review order, including an order that has the effect of modifying an
18 existing court or administrative order for child support without
19 the necessity of filing a motion to modify.

20 SECTION 13. Section 233.019, Family Code, is amended by
21 adding Subsection (e) to read as follows:

22 (e) If a party timely files a motion for a new trial for
23 reconsideration of an agreed review order and the court grants the
24 motion, the agreed review order filed with the clerk constitutes a
25 sufficient pleading by the Title IV-D agency for relief on any issue
26 addressed in the order.

27 SECTION 14. The heading to Section 233.027, Family Code, is

1 amended to read as follows:

2 Sec. 233.027. NONAGREED ORDER AFTER HEARING[~~; EFFECT OF~~
3 ~~CONFIRMATION ORDER~~].

4 SECTION 15. Sections 233.027(a) and (c), Family Code, are
5 amended to read as follows:

6 (a) After the hearing on the confirmation of a nonagreed
7 child support review order, the court shall:

8 (1) if the court finds that the nonagreed order should
9 be confirmed, immediately sign the nonagreed [~~a confirmation~~] order
10 and enter the order as a final [~~an~~] order of the court;

11 (2) if the court finds that the relief granted in the
12 nonagreed child support review order is inappropriate, sign an
13 appropriate order at the conclusion of the hearing or as soon after
14 the conclusion of the hearing as is practical and enter the order as
15 an order of the court; or

16 (3) if the court finds that all relief should be
17 denied, enter an order that denies relief and includes specific
18 findings explaining the reasons that relief is denied.

19 (c) If the party who requested the hearing fails to appear
20 at the hearing, the court shall sign the nonagreed [~~a confirmation~~]
21 order and enter the order as an order of the court.

22 SECTION 16. Sections 234.007(a), (b), and (c), Family Code,
23 are amended to read as follows:

24 (a) A [~~The Title IV-D agency shall notify the courts that~~
25 ~~the state disbursement unit has been established. After receiving~~
26 ~~notice of the establishment of the state disbursement unit, a~~]
27 court that orders income to be withheld for child support shall

1 order that all income ordered withheld for child support shall be
2 paid to the state disbursement unit.

3 (b) In order to redirect payments [~~from a local registry~~] to
4 the state disbursement unit [~~after the date of the establishment of~~
5 ~~the state disbursement unit~~], the Title IV-D agency shall issue a
6 notice of place of payment informing the obligor, obligee, and
7 employer that income withheld for child support is to be paid to the
8 state disbursement unit and may not be remitted to a local registry,
9 the obligee, or any other person or agency. If withheld support has
10 been paid to a local registry, the Title IV-D agency shall send the
11 notice to the registry to redirect any payments to the state
12 disbursement unit.

13 (c) A copy of the notice under Subsection (b) shall be filed
14 with the court of continuing jurisdiction [~~and with the local child~~
15 ~~support registry~~].

16 SECTION 17. Section 234.101, Family Code, is amended by
17 adding Subdivision (3) to read as follows:

18 (3) "Newly hired employee" means an employee who:
19 (A) has not been previously employed by the
20 employer; or
21 (B) was previously employed by the employer but
22 has been separated from that employment for at least 60 consecutive
23 days.

24 SECTION 18. Section 233.027(b), Family Code, is repealed.

25 SECTION 19. (a) The changes in law made by this Act to
26 Sections 2.009 and 2.014, Family Code, apply only to an application
27 for a marriage license submitted on or after the effective date of

1 this Act. An application for a marriage license submitted before
2 the effective date of this Act is governed by the law in effect on
3 the date the application was submitted, and the former law is
4 continued in effect for that purpose.

5 (b) The changes in law made by this Act to Sections 82.004
6 and 85.042, Family Code, apply only to an application for a
7 protective order filed on or after the effective date of this Act.
8 An application for a protective order filed before the effective
9 date of this Act is governed by the law in effect on the date the
10 application was filed, and the former law is continued in effect for
11 that purpose.

12 (c) The changes in law made by this Act to Section 158.203,
13 Family Code, apply only to a child support withholding remitted by
14 an employer on or after the effective date of this Act. A child
15 support withholding remitted by an employer before the effective
16 date of this Act is governed by the law in effect on the date the
17 withholding was remitted, and the former law is continued in effect
18 for that purpose.

19 (d) The changes in law made by this Act to Section 233.013,
20 Family Code, apply only to a child support review order filed on or
21 after the effective date of this Act. A child support review order
22 filed before the effective date of this Act is governed by the law
23 in effect on the date the order was filed, and the former law is
24 continued in effect for that purpose.

25 (e) The change in law made by this Act to Section 233.019,
26 Family Code, applies only to a motion for a new trial filed on or
27 after the effective date of this Act. A motion for a new trial filed

1 before the effective date of this Act is governed by the law in
2 effect on the date the motion was filed, and the former law is
3 continued in effect for that purpose.

4 (f) The change in law made by this Act to Section 233.027,
5 Family Code, applies to a child support review order that is pending
6 before a trial court on or filed on or after the effective date of
7 this Act.

8 SECTION 20. The change in law made by this Act to Section
9 231.204, Family Code, takes effect only if H.B. 2302, S.B. 1146, or
10 substantially similar legislation authorizing a statewide
11 electronic filing system fund fee is enacted by the 83rd
12 Legislature, Regular Session, 2013, and becomes law. If
13 legislation described by this section is not enacted or does not
14 become law, the amendment to Section 231.204, Family Code, made by
15 this Act has no effect.

16 SECTION 21. This Act takes effect September 1, 2013.