

By: Rodriguez

S.B. No. 1260

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. [~~COURT-ORDERED~~] MAINTENANCE ORDERED OR
APPROVED BY COURT

SECTION 2. The heading to Section 8.059, Family Code, is amended to read as follows:

Sec. 8.059. ENFORCEMENT OF MAINTENANCE ORDER; LIMITED
ENFORCEMENT OF MAINTENANCE AGREEMENT.

SECTION 3. Section 8.059(a), Family Code, is amended to read as follows:

(a) The court may enforce by contempt against the obligor the court's maintenance order or an agreement for the payment of maintenance under the terms of this chapter voluntarily entered into between the parties and approved by the court, except that the [~~The~~] court may not enforce payment of [~~by contempt any provision of an agreed order for~~] maintenance for a period longer than or in an amount of periodic support greater than [~~of maintenance~~] the court could have ordered under this chapter.

SECTION 4. Section 8.101(b), Family Code, is amended to

1 read as follows:

2 (b) This subchapter applies ~~[does not apply]~~ to contractual
3 alimony or spousal maintenance, including an agreement for the
4 payment of maintenance under the terms of this chapter voluntarily
5 entered into between the parties and approved by the court, subject
6 to the limits on the court's authority to enforce the agreement
7 under Section 8.059(a) ~~[regardless of whether the alimony or~~
8 ~~maintenance is taxable, unless:~~

9 ~~[(1) the contract specifically permits income~~
10 ~~withholding; or~~

11 ~~[(2) the alimony or maintenance payments are not~~
12 ~~timely made under the terms of the contract].~~

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.