

BILL ANALYSIS

Senate Research Center
86R19666 JSC-F

C.S.S.B. 1676
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State Affairs
4/2/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Child Support Division of the Office of the Attorney General is the office Title IV-D agency for Texas. Title IV-D requires states to manage a public child support program. The division is required to collect court-ordered spousal support when child support is also ordered. When spousal support is not ordered paid through the State Disbursement Unit, then there is no reliable record of what amounts have or have not been paid. Inaccurate accounting for spousal support payments negatively affects the proper application and distribution of child support payments and often results in inaccurate arrears balances. This can have an adverse impact on an obligor's credit rating and can trigger the initiation of administrative and judicial enforcement remedies against the obligor. So, S.B. 1676 requires that a court order spousal maintenance to be paid through State Disbursement Unit when the court is also ordering a child support obligation payable to the same obligee.

Texas law currently states that release from incarceration is a material and substantial change of circumstances for purposes of modifying child support if support was abated, reduced, or suspended during the period of the obligor's incarceration. This bill clarifies that incarceration of an obligor for a period in excess of 180 days is also a material and substantial change of circumstances for purposes of modifying a support obligation.

In enforcement actions, private attorneys and courts sometimes combine the total arrears accruing for multiple arrearage obligations (e.g., child support, medical support, and dental support) into one combined cumulative judgment. This creates distribution problems in Title IV-D cases because child support arrears and medical support arrears are often subject to various state assignments for Temporary Assistance for Needy Families and Medicaid benefits received by the obligee. S.B. 1676 requires courts to render separate cumulative judgments for child support, medical support, and dental support arrears when rendering a temporary or final order in an enforcement action.

Finally, the bill creates separate statutory authority in Title 5, Family Code, to ensure qualified domestic relations orders can continue to be utilized for the collection of child support, makes an adjustment to the time frame for contesting the registration and enforcement of an out-of-state support order, clarifies payments payable through the State Disbursement Unit, addresses the reporting of workers' compensation judgments, and requires a sworn statement concerning any delinquency in child support during the process of disclaiming an interest in property. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1676 amends current law relating to suits affecting the parent-child relationship and the enforcement of child support.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 8, Family Code, by adding Section 8.062, as follows:

Sec. 8.062. PLACE OF PAYMENT. Requires the court, if an obligor is ordered to pay an obligee maintenance under this chapter (Maintenance) and child support under Chapter 154 (Child Support), to order the payment of maintenance to the state disbursement unit as provided by Chapter 234 (State Case Registry, Disbursement Unit, and Directory of New Hires).

SECTION 2. Amends Section 156.401, Family Code, by adding Subsection (c-1) to provide that incarceration of a child support obligor in a local, state, or federal jail or prison for a period exceeding 180 days is a material and substantial change of circumstances for the purposes of this section.

SECTION 3. Amends Section 157.005(b), Family Code, as follows:

(b) Provides that a court retains jurisdiction to confirm the total amount of child support, medical support, and dental support arrearages and render cumulative money judgments for past-due child support, medical support, and dental support, as provided by Section 157.263 (Confirmation of Arrearages), if a motion for enforcement requesting a money judgment, rather than a cumulative money judgment, is filed not later than the 10th anniversary after a certain date. Makes nonsubstantive changes.

SECTION 4. Amends Section 157.263, Family Code, by amending Subsections (a), (b), and (b-1) and adding Subsections (b-2) and (b-3), as follows:

(a) Requires the court, if a motion for enforcement of child support requests a money judgment for arrearages, to confirm the amount of arrearages and render cumulative money judgments, rather than one cumulative money judgment, as follows:

(1) a cumulative money judgment for the amount of child support owed under Subsection (b);

(2) a cumulative money judgment for the amount of medical support owed under Subsection (b-1); and

(3) a cumulative money judgment for the amount of dental support owed under Subsection (b-2).

(b) Provides that a cumulative money judgment for the amount of child support owed includes:

(1) makes no changes to this subdivision;

(2) the balance owed on previously confirmed child support arrearages or lump sum or retroactive child support judgments;

(3) interest on the child support arrearages; and

(4) a statement that it is a cumulative judgment for the amount of child support owed.

(b-1) Provides that a cumulative money judgment for the amount of medical support owed includes unpaid medical support not previously confirmed, the balance owed on previously confirmed medical support arrearages or lump sum or retroactive medical support judgments, interest on the medical support arrearages, and a statement that it is a cumulative judgment for the amount of medical support owed.

(b-2) Provides that a cumulative money judgment for the amount of dental support owed includes unpaid dental support not previously confirmed, the balance owed on previously confirmed dental support arrearages or lump sum or retroactive dental support judgments,

interest on the dental support arrearages, and a statement that it is a cumulative judgment for the amount of dental support owed.

(b-3) Creates this subsection from existing text. Prohibits the court, in rendering a money judgment under this section, from reducing or modifying the amount of child support, medical support, or dental support arrearages but authorizes the court, in confirming the amount of arrearages, to allow a counterclaim or offset as provided by this title (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship).

SECTION 5. Amends Chapter 157, Family Code, by adding Subchapter J, as follows:

SUBCHAPTER J. CHILD SUPPORT QUALIFIED DOMESTIC RELATIONS ORDER

Sec. 157.501. JURISDICTION FOR QUALIFIED DOMESTIC RELATIONS ORDER.

(a) Provides that the court that rendered an order for the payment of child support, or the court that obtains jurisdiction to enforce a child support order under Chapter 159 (Uniform Interstate Family Support Act), has continuing jurisdiction to render enforceable qualified domestic relations orders or similar orders permitting payment of pension, retirement plan, or other employee benefits to an alternate payee or other lawful payee to satisfy support amounts due under the child support order. Provides that a child support order includes a temporary or final order for child support, medical support, or dental support and arrears and interest with respect to that order.

(b) Provides that, unless prohibited by federal law, a suit seeking a qualified domestic relations order or similar order under this subchapter applies to a pension, retirement plan, or other employee benefit, regardless of whether the pension, retirement plan, or other employee benefit:

(1) is private, state, or federal;

(2) is subject to another qualified domestic relations order or similar order;

(3) is property that is the subject of a pending proceeding for dissolution of a marriage;

(4) is property disposed of in a previous decree for dissolution of a marriage; or

(5) is the subject of an agreement under Chapter 4 (Premarital and Marital Property Agreements).

(c) Provides that a court described by Subsection (a) retains jurisdiction to render a qualified domestic relations order or similar order under this subchapter until all support due under the child support order, including arrearages and interest, has been paid.

Sec. 157.502. PROCEDURE. (a) Authorizes a party to a child support order, or the Title IV-D agency in a Title IV-D case, to petition the court for a qualified domestic relations order or similar order in an original suit or in an action for child support enforcement under this chapter (Enforcement).

(b) Entitles each party whose rights may be affected by the petition to receive notice under Subchapter B (Procedure).

Sec. 157.503. TEMPORARY ORDERS. (a) Authorizes the court, while a suit for a qualified domestic relations order or similar order is pending or during an appeal of an enforcement order, and on the motion of a party or on the court's own motion after notice and hearing, to render an appropriate order, including the granting of a temporary restraining order and temporary injunction, for the preservation of the pension, retirement

plan, or other employee benefits and protection of the parties as the court considers necessary.

(b) Provides that an order under this section is not subject to interlocutory appeal.

Sec. 157.504. DEFECTIVE PRIOR DOMESTIC RELATIONS ORDER. Provides that, if a plan administrator or other person acting in an equivalent capacity determines that a domestic relations order does not satisfy the requirements of a qualified domestic relations order or similar order, the court retains continuing jurisdiction over the parties to the extent necessary to render a qualified domestic relations order.

Sec. 157.505. AMENDMENT OF QUALIFIED DOMESTIC RELATIONS ORDER. (a) Provides that a court that renders a qualified domestic relations order or similar order retains continuing jurisdiction:

(1) to amend the order to correct the order, clarify the terms of the order, or add language to the order to provide for the collection of child support;

(2) to convert the amount or frequency of payments under the order to a formula that is in compliance with the terms of the pension, retirement plan, or employee benefit plan; or

(3) to vacate or terminate the order.

(b) Requires an amended domestic relations order or similar order under this section to be submitted to the plan administrator or other person acting in an equivalent capacity to determine whether the amended order satisfies the requirements of a qualified domestic relations order or similar order. Provides that Section 157.504 applies to an order amended under this section.

Sec. 157.506. LIBERAL CONSTRUCTION. Requires the court to liberally construe this subchapter to effect payment of pension, retirement plan, or other employee benefits for the satisfaction of the obligor's child support obligation.

Sec. 157.507. ATTORNEY'S FEES AND COSTS. (a) Authorizes the court, in a proceeding under this subchapter, to order the obligor to pay reasonable attorney's fees incurred by a party to obtain the order, all court costs, and all fees charged by a plan administrator for the qualified domestic relations order or similar order.

(b) Authorizes fees and costs order under this section to be enforced by any means available for the enforcement of child support, including contempt.

SECTION 6. Amends Section 159.605(b), Family Code, to require that a notice inform the nonregistering party of certain information, including that a hearing to contest the validity or enforcement of the registered order is required to be requested within 30 days, rather than 20 days, after notice unless the registered order is under Section 159.707 (Contest of Registered Convention Support Order).

SECTION 7. Amends Sections 234.007(a), Family Code, to require that a court that orders a party to pay child support under a temporary or final order, rather than that orders income to be withheld for child support, to order that all child support payments, rather than all income ordered withheld for child support, be paid to the state disbursement unit, including any child support that the court orders an employer to withhold from the income of the obligor.

SECTION 8. Amends Section 506.001(a), Labor Code, as follows:

(a) Requires the state or a political subdivision of the state, except as provided by Section 506.003, in a workers' compensation case in which a claimant is awarded a judgment against the state or political subdivision under Chapter 501 (Workers' Compensation Insurance Coverage For State Employees, Including Employees Under the Direction or

Control of the Board of Regents of Texas Tech University), 502 (Workers' Compensation Insurance Coverage For Employees of The Texas A&M University System and Employees of Institutions of The Texas A&M University System), 503 (Workers' Compensation Insurance Coverage For Employees of The University of Texas System and Employees of Institutions of The University of Texas System), 504 (Workers' Compensation Insurance Coverage For Employees of Political Subdivisions), or 505 (Workers' Compensation Insurance Coverage For Employees of Texas Department of Transportation), to comply with the judgment not later than the 30th day after the judgment is entered.

SECTION 9. Amends Chapter 506, Labor Code, by adding Section 506.003, as follows:

Sec. 506.003. CHILD SUPPORT INQUIRY. (a) Requires the state or a political subdivision of the state, before the payment of a judgment against the state or political subdivision under Chapter 501, 502, 503, 504, or 505, to comply with the insurance reporting requirements of Section 231.015 (Insurance Reporting Program), Family Code, and the child support lien provisions of Subchapter G (Child Support Lien), Chapter 157, Family Code.

(b) Provides that any delay in complying with the judgment due to compliance with this section does not subject the state or political subdivision to an award of a penalty or attorney's fees under Section 506.001(b) (relating to certain awards to the claimant if the state or political subdivision of the state fails or refuses to comply with a judgment of a workers' compensation case).

SECTION 10. Amends Section 240.009, Property Code, by adding Subsection (e) to require a disclaimer of an interest in property made by an individual to contain a sworn statement regarding whether the disclaimant is a child support obligor whose disclaimer is barred under Section 240.151(g) (relating to a disclaimer by a child support obligor being barred in certain circumstances).

SECTION 11. (a) Makes application of Section 8.062, Family Code, as added by this Act, prospective.

(b) Authorizes an obligor subject to a maintenance order rendered before the effective date of this Act, notwithstanding Subsection (a) of this section, to choose to remit maintenance payments to the state disbursement unit as provided by Chapter 234, Family Code, and requires the state disbursement unit to accept those payments.

SECTION 12. Makes application of Section 156.401, Family Code, as amended by this Act, prospective.

SECTION 13. Makes application of Section 157.263, Family Code, as amended by this Act, prospective.

SECTION 14. Makes application of Section 159.605, Family Code, as amended by this Act, prospective.

SECTION 15. Makes application of Section 506.001, Labor Code, as amended by this Act, and Section 506.003, Labor Code, as added by this Act, prospective.

SECTION 16. Makes application of Section 240.009, Property Code, as amended by this Act, prospective.

SECTION 17. Effective date: September 1, 2019.