

By: Thompson of Harris

H.B. No. 867

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the issuance of a qualified domestic relations order  
3 for the payment of spousal maintenance and child support  
4 obligations.

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

6 SECTION 1. Sections 8.057(b) and (c), Family Code, are  
7 amended to read as follows:

8 (b) Notice of a motion to modify maintenance or to establish  
9 or modify a maintenance qualified domestic relations order under  
10 Subchapter H and the response to the motion, if any, are governed by  
11 the Texas Rules of Civil Procedure applicable to the filing of an  
12 original lawsuit. Notice must be given by service of citation, and  
13 a response must be in the form of an answer due on or before 10 a.m.  
14 of the first Monday after 20 days after the date of service. A court  
15 shall set a hearing on the motion in the manner provided by Rule  
16 245, Texas Rules of Civil Procedure.

17 (c) After a hearing, the court may modify an original or  
18 modified order or portion of a decree providing for maintenance or a  
19 maintenance qualified domestic relations order under Subchapter H  
20 on a proper showing of a material and substantial change in  
21 circumstances, including circumstances reflected in the factors  
22 specified in Section 8.052, relating to either party or to a child  
23 of the marriage described by Section 8.051(2)(C), if applicable.  
24 The court shall apply the modification only to payment accruing

1 after the filing of the motion to modify.

2 SECTION 2. Section 8.059(b), Family Code, is amended to  
3 read as follows:

4 (b) On the suit to enforce by an obligee, the court may  
5 render judgment against a defaulting party for the amount of  
6 arrearages after notice by service of citation, answer, if any, and  
7 a hearing finding that the defaulting party has failed or refused to  
8 comply with the terms of the order. The judgment may be enforced by  
9 any means available for the enforcement of judgment for debts,  
10 including by an order or writ of withholding and a maintenance  
11 qualified domestic relations order under Subchapter H.

12 SECTION 3. Chapter 8, Family Code, is amended by adding  
13 Subchapter H to read as follows:

14 SUBCHAPTER H. MAINTENANCE QUALIFIED DOMESTIC RELATIONS ORDER

15 Sec. 8.351. JURISDICTION FOR QUALIFIED DOMESTIC RELATIONS  
16 ORDER. (a) The court that rendered an order for the payment of  
17 maintenance, or the court that obtains jurisdiction to enforce a  
18 maintenance order, has continuing jurisdiction to render  
19 enforceable qualified domestic relations orders or similar orders  
20 permitting payment of pension, retirement plan, or other employee  
21 benefits to an alternate payee or other lawful payee to satisfy  
22 amounts due under the maintenance order. A maintenance order  
23 includes a temporary or final order for maintenance and arrears and  
24 interest with respect to that order.

25 (b) Unless prohibited by federal law, a suit seeking a  
26 qualified domestic relations order or similar order under this  
27 subchapter applies to a pension, retirement plan, or other employee

1 benefit, regardless of whether the pension, retirement plan, or  
2 other employee benefit:

3 (1) is private, state, or federal;

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

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

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

10 (5) is the subject of an agreement under Chapter 4.

11 (c) A court described by Subsection (a) retains  
12 jurisdiction to render a qualified domestic relations order or  
13 similar order under this subchapter until all maintenance due under  
14 the maintenance order, including arrearages and interest, has been  
15 paid.

16 Sec. 8.352. PROCEDURE. (a) A party to a maintenance order  
17 may petition the court for a qualified domestic relations order or  
18 similar order in an original suit or in an action for enforcement of  
19 the maintenance order under this chapter.

20 (b) Each party whose rights may be affected by the petition  
21 is entitled to receive notice.

22 Sec. 8.353. TEMPORARY ORDERS. (a) While a suit for a  
23 qualified domestic relations order or similar order is pending or  
24 during an appeal of an enforcement order, and on the motion of a  
25 party or on the court's own motion after notice and hearing, the  
26 court may render an appropriate order, including the granting of a  
27 temporary restraining order and temporary injunction, for the

1 preservation of the pension, retirement plan, or other employee  
2 benefits and protection of the parties as the court considers  
3 necessary.

4 (b) An order under this section is not subject to  
5 interlocutory appeal.

6 Sec. 8.354. DEFECTIVE PRIOR DOMESTIC RELATIONS ORDER. If a  
7 plan administrator or other person acting in an equivalent capacity  
8 determines that a domestic relations order does not satisfy the  
9 requirements of a qualified domestic relations order or similar  
10 order, the court retains continuing jurisdiction over the parties  
11 to the extent necessary to render a qualified domestic relations  
12 order.

13 Sec. 8.355. AMENDMENT OF QUALIFIED DOMESTIC RELATIONS  
14 ORDER. (a) A court that renders a qualified domestic relations  
15 order or similar order retains continuing jurisdiction:

16 (1) to amend the order to correct the order, clarify  
17 the terms of the order, or add language to the order to provide for  
18 the collection of maintenance;

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

22 (3) to vacate or terminate the order.

23 (b) An amended domestic relations order or similar order  
24 under this section must be submitted to the plan administrator or  
25 other person acting in an equivalent capacity to determine whether  
26 the amended order satisfies the requirements of a qualified  
27 domestic relations order or similar order. Section 8.354 applies

1 to an order amended under this section.

2 Sec. 8.356. LIBERAL CONSTRUCTION. The court shall  
3 liberally construe this subchapter to effect payment of pension,  
4 retirement plan, or other employee benefits for the satisfaction of  
5 the obligor's maintenance obligation.

6 Sec. 8.357. ATTORNEY'S FEES AND COSTS. (a) In a proceeding  
7 under this subchapter, the court may order the obligor to pay  
8 reasonable attorney's fees incurred by a party to obtain the order,  
9 all court costs, and all fees charged by a plan administrator for  
10 the qualified domestic relations order or similar order.

11 (b) Fees and costs ordered under this section may be  
12 enforced by any means available for the enforcement of a judgment  
13 for debt.

14 Sec. 8.358. DIRECT PAYMENT. Payments under a qualified  
15 domestic relations order under this subchapter may be made by  
16 direct payment or other method ordered by the court.

17 SECTION 4. Section 154.003, Family Code, is amended to read  
18 as follows:

19 Sec. 154.003. MANNER OF PAYMENT. The court may order that  
20 child support be paid by:

- 21 (1) periodic payments;  
22 (2) a lump-sum payment;  
23 (3) an annuity purchase;  
24 (4) the setting aside of property to be administered  
25 for the support of the child as specified in the order; [~~or~~]

26 (5) pension, retirement, or other employee benefits in  
27 accordance with an enforceable qualified domestic relations order

1 or similar order under Subchapter J, Chapter 157; or

2 (6) any combination of periodic payments, lump-sum  
3 payments, annuity purchases, or setting aside of property.

4 SECTION 5. Chapter 157, Family Code, is amended by adding  
5 Subchapter J to read as follows:

6 SUBCHAPTER J. CHILD SUPPORT QUALIFIED DOMESTIC RELATIONS ORDER

7 Sec. 157.501. JURISDICTION FOR QUALIFIED DOMESTIC  
8 RELATIONS ORDER. (a) The court that rendered an order for the  
9 payment of child support, or the court that obtains jurisdiction to  
10 enforce a child support order under Chapter 159, has continuing  
11 jurisdiction to render enforceable qualified domestic relations  
12 orders or similar orders permitting payment of pension, retirement  
13 plan, or other employee benefits to an alternate payee or other  
14 lawful payee to satisfy support amounts due under the child support  
15 order. A child support order includes a temporary or final order for  
16 child support, medical support, or dental support and arrears and  
17 interest with respect to that order.

18 (b) Unless prohibited by federal law, a suit seeking a  
19 qualified domestic relations order or similar order under this  
20 subchapter applies to a pension, retirement plan, or other employee  
21 benefit, regardless of whether the pension, retirement plan, or  
22 other employee benefit:

23 (1) is private, state, or federal;

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

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

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

3           (5) is the subject of an agreement under Chapter 4.

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

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

14           (b) Each party whose rights may be affected by the petition  
15 is entitled to receive notice under Subchapter B.

16           Sec. 157.503. TEMPORARY ORDERS. (a) While a suit for a  
17 qualified domestic relations order or similar order is pending or  
18 during an appeal of an enforcement order, and on the motion of a  
19 party or on the court's own motion after notice and hearing, the  
20 court may render an appropriate order, including the granting of a  
21 temporary restraining order and temporary injunction, for the  
22 preservation of the pension, retirement plan, or other employee  
23 benefits and protection of the parties as the court considers  
24 necessary.

25           (b) An order under this section is not subject to  
26 interlocutory appeal.

27           Sec. 157.504. DEFECTIVE PRIOR DOMESTIC RELATIONS ORDER. If

1 a plan administrator or other person acting in an equivalent  
2 capacity determines that a domestic relations order does not  
3 satisfy the requirements of a qualified domestic relations order or  
4 similar order, the court retains continuing jurisdiction over the  
5 parties to the extent necessary to render a qualified domestic  
6 relations order.

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

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

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

16 (3) to vacate or terminate the order.

17 (b) An amended domestic relations order or similar order  
18 under this section must be submitted to the plan administrator or  
19 other person acting in an equivalent capacity to determine whether  
20 the amended order satisfies the requirements of a qualified  
21 domestic relations order or similar order. Section 157.504 applies  
22 to an order amended under this section.

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

27 Sec. 157.507. ATTORNEY'S FEES AND COSTS. (a) In a



1 proceeding under this subchapter, the court may order the obligor  
2 to pay reasonable attorney's fees incurred by a party to obtain the  
3 order, all court costs, and all fees charged by a plan administrator  
4 for the qualified domestic relations order or similar order.

5 (b) Fees and costs ordered under this section may be  
6 enforced by any means available for the enforcement of child  
7 support, including contempt.

8 SECTION 6. (a) The changes in law made by this Act to  
9 Chapters 8, 154, and 157, Family Code, apply to an order for  
10 maintenance under Chapter 8, Family Code, or for child support  
11 under Chapter 154, Family Code, as applicable, regardless of  
12 whether the order was rendered before, on, or after the effective  
13 date of this Act.

14 (b) The enactment of this Act does not constitute a material  
15 and substantial change of circumstances sufficient to warrant  
16 modification of a court order or portion of a decree that provides  
17 for maintenance or child support rendered before the effective date  
18 of this Act.

19 SECTION 7. This Act takes effect September 1, 2021.