

BILL ANALYSIS

Senate Research Center

S.B. 869
By: West
Jurisprudence
6/1/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 869 amends current law relating to suits affecting the parent-child relationship, including the payment and enforcement of support ordered in a suit affecting the parent-child relationship.

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 Section 122.201, Estates Code, as follows:

Sec. 122.201. New heading: ASSIGNMENT; WHEN ASSIGNMENT BARRED OR LIMITED. (a) Creates an exception under Subsection (b).

(b) Provides that an assignment of property or an interest in property under Subsection (a) (relating to authorizing a person who is entitled to receive property or an interest in property from a decedent under a will, by inheritance, or as a beneficiary under a life insurance contract, and does not disclaim the property, to assign the property or interest in property to any person) by a child support obligor is barred to the extent the assigned property or interest in property could be applied to satisfy a support obligation of the obligor that has been:

(1) administratively determined as evidence by a certified child support payment record produced by the Title IV-D agency in a Title IV-D case; or

(2) confirmed and reduced to judgment as provided by Section 157.263 (Confirmation of Arrearages), Family Code.

(c) Defines "Title IV-D agency" and "Title IV-D case."

SECTION 2. Amends Section 102.0091(b), Family Code, to authorize the party executing the waiver to sign the waiver using a digitized signature, rather than prohibiting the party executing the waiver from signing the waiver using a digitized signature.

SECTION 3. Amends Sections 105.006(a), (e), and (f), Family Code, as follows:

(a) Requires that a final order, other than in a proceeding under Chapter 161 (Termination of the Parent-Child Relationship) or 162 (Adoption), contain:

(1) makes no changes to this subdivision;

(2) certain information, including each party's e-mail address, except as provided by Subsection (c) (relating to authorizing a court to order information not be disclosed to another party or render any other order the court considers necessary if a court finds that requiring a party to provide the information is likely to cause

the child or a conservator harassment, abuse, serious harm, injury, or family violence).

(e) Makes a conforming change to this subsection.

(f) Authorizes the court, except for an action in which contempt is sought, in any subsequent child support enforcement action, to consider due process requirements for notice and service of process to be met with respect to that party on delivery or written notice to the most recent residence address, e-mail address, or address of employment filed by that party with the court and the state case registry on a showing that diligent effort has been made to determine the location of the party.

SECTION 4. Amends Section 105.007(a), Family Code, to make a conforming change.

SECTION 5. Amends Section 154.132, Family Code, as follows:

Sec. 154.132. APPLICATION OF GUIDELINES TO CHILDREN OF CERTAIN DISABLED OBLIGORS. (a) Requires the court to apply the guidelines for an obligor who has a disability and who is required to pay support for a child who receives periodic benefits as a result of the obligor's disability by determining the amount of child support that would be ordered under the child support guidelines and subtracting from that total the amount of benefits or the value of the benefits paid to or for the child as a result of the obligor's disability in applying the child support guidelines.

(b) Requires that the credit for a lump-sum payment be applied as provided by Section 157.009 (Credit for Payment of Disability Benefits) if a child for whom the obligor owes child support receives the lump-sum payment as a result of the obligor's disability and that payment is made to the obligee as the representative payee of the child.

SECTION 6. Amends Section 157.005(b), Family Code, as follows:

(b) Provides that the 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, if a motion requesting a money judgment, rather than a motion for enforcement requesting a money judgment, is filed not later than the 10th anniversary after certain dates.

SECTION 7. Amends Section 157.009, Family Code, as follows:

Sec. 157.009. CREDIT FOR PAYMENT OF DISABILITY BENEFITS. Provides that the credit under this section is equal to the amount of the lump-sum payment and is required to be applied only to any child support arrearage and interest owed by the obligor on behalf of that child at the time the payment is made. Prohibits the credit under this section from being used to reduce the amount of a periodic child support obligation ordered under Chapter 154 (Child Support) that has not yet accrued.

SECTION 8. Amends Sections 157.263(a) and (b-3), Family Code, as follows:

(a) Requires the court, if a motion requests a money judgment, rather than a motion for enforcement of child support requests a money judgment, for child support, medical support, or dental support arrearages, to confirm the amount of arrearages and render certain cumulative money judgments.

(b-3) Prohibits the court, in rendering a money judgment under Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship) that includes child support, medical support, or dental support arrearages, rather than a judgment under this section, from reducing or modifying the amount of arrearages, rather than the amount of child support, medical support, or dental support arrearages, but in confirming the

amount of arrearages, authorizes the court to allow a counterclaim or offset as provided by this title.

SECTION 9. Amends Section 157.318(a), Family Code, as follows:

(a) Provides that a lien, rather than a lien subject to Subsection (d) (relating to providing for an effective 10-year period of a lien and authorizing the renewal for subsequent 10-year periods), is effective until all current support and child support arrearages, including interest, any costs and reasonable attorney's fees, and any Title IV-D service fees authorized under Section 231.103 (Application and Service Fees) for which the obligor is responsible, have been paid or the lien is otherwise released as provided by Subchapter G (Child Support Lien).

SECTION 10. Amends Section 160.604(c), Family Code, as follows:

(c) Provides that the court, if the court lacks jurisdiction over one individual:

(1) is not precluded from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction; and

(2) is prohibited from delaying the adjudication described by Subdivision (1) solely due to lack of jurisdiction.

Makes nonsubstantive changes.

SECTION 11. Repealer: Section 157.318(d) (relating to providing for an effective 10-year period of a lien and authorizing the renewal for subsequent 10-year periods), Family Code.

SECTION 12. Provides that the change in law made by this Act to Section 102.0091(b), Family Code, applies to a waiver of citation executed in a suit affecting the parent-child relationship on or after the effective date of this Act, regardless of whether the suit was filed before, on, or after that date.

SECTION 13. Makes application of the changes in law made by this Act to Sections 105.006 and 105.007(a), Family Code, prospective.

SECTION 14. Makes application of the changes in law made by this Act to Sections 154.132 and 157.009, Family Code, prospective.

SECTION 15. Makes application of the changes in law made by this Act to Sections 157.005(b) and 157.263, Family Code, prospective.

SECTION 16. (a) Provides that subject to Subsection (b) of this section, the change in law made by this Act to Section 157.318(a), Family Code, applies to a child support lien on real property regardless of whether the lien notice was filed before, on, or after the effective date of this Act.

(b) Authorizes a lien for which the 10th anniversary of the date on which the last lien notice was filed with the county clerk occurred before the effective date of this Act to be renewed on or after the effective date of this Act in the same manner and with the same effect on priority over other liens as provided by Section 157.318(d), Family Code, as that section existed immediately before the effective date of this Act. Provides that once the lien is renewed in accordance with this subsection, the lien continues in effect in accordance with Section 157.318, Family Code, as amended by this Act.

SECTION 17. Provides the change in law made by this Act to Section 160.604(c), Family Code, applies to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or that is filed on or after that date.

SECTION 18. Effective date: September 1, 2023.