

BILL ANALYSIS

Senate Research Center
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H.B. 2524
By: Cook et al. (Johnson)
Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Family Code authorizes the award of attorney's fees and court costs in some, but not all, litigation under the Family Code. There are numerous provisions where no provisions are made for attorney's fees, court costs, and expenses. There are also occurrences in the Family Code where there is no authority to award fees, court costs, expenses, or both. These inconsistencies are likely the result of numerous additions to amendments to the Family Code over time. Additionally, attorney's fees must be reasonable and necessary. The statutory authority does not contain this requirement. The Family Code uses the term "reasonable" without the modifying phrase "and necessary."

H.B. 2524 seeks to clarify when the court may award attorney's fees, court costs, expenses, or both, provisions have been added allowing the court to award attorney's fees, court costs, and/or expenses in any action under the Family Code, except in Juvenile Code, which remains unchanged. In some places, the words "and necessary" were inserted after the word reasonable, "court" was inserted before the word costs, and "expense" was added in many places. The award of reasonable and necessary attorney's fees, court costs, expenses, or both are at the discretion of the court, except in certain matters under Chapter 157, relating to enforcement, where they are mandatory. H.B. 2524 would amend language so it reads consistently as "reasonable and necessary attorney's fees, court costs, and expenses" throughout the Family Code.

H.B. 2524 amends current law relating to the recovery of fees, court costs, and expenses in family law proceedings.

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 6.502(a), Family Code, as follows:

(a) Authorizes a court, while a suit for dissolution of a marriage is pending 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 injunction for the preservation of the property and protection of the parties as deemed necessary and equitable and including certain orders directed to one or both parties, including ordering payment of reasonable and necessary attorney's fees, court costs, and expenses. Makes nonsubstantive changes.

SECTION 2. Amends the heading to Section 6.708, Family Code, to read as follows:

Sec. 6.708. ATTORNEY'S FEES, COURT COSTS, AND EXPENSES.

SECTION 3. Amends Section 6.708(c), Family Code, as follows:

(c) Authorizes the court, in a suit for dissolution of marriage, to award reasonable and necessary attorney's fees, court costs, and expenses. Provides that the court is authorized

to order the fees, costs, expenses, and any postjudgment interest to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt. Makes nonsubstantive changes.

SECTION 4. Amends Section 6.709(a), Family Code, as follows:

(a) Authorizes the trial court, in a suit for dissolution of a marriage, on the motion of a party or on the court's own motion, after notice and hearing, to render a temporary order as considered equitable and necessary for the preservation of the property and for the protection of the parties during an appeal, including certain orders directed toward one or both parties, including requiring the payment of reasonable and necessary attorney's fees, court costs, and expenses.

SECTION 5. Amends Section 8.0591(b), Family Code, as follows:

(b) Requires the court, if the court finds that an obligee failed to return overpaid maintenance under Subsection (a) (relating to requiring an obligee to return to the obligor any maintenance payment that exceeds the amount of maintenance ordered or approved by the court), to order the obligee to pay the obligor's reasonable and necessary attorney's fees, court costs, and expenses in addition to the amount of the overpaid maintenance. Authorizes the court, for good cause shown, to waive the requirement that the obligee pay attorney's fees, court costs, and expenses if the court states in its order the reasons supporting that finding. Makes nonsubstantive changes.

SECTION 6. Amend Subchapter B, Chapter 8, Family Code, by adding Section 8.063, as follows:

Sec. 8.063. ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Authorizes the court, in certain proceedings under Subchapter B (Spousal Maintenance), to award reasonable and necessary attorney's fees, court costs, and expenses incurred by a party to the divorce or annulment. Authorizes the court to order the fees, costs, expenses, and any postjudgment interest to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 7. Amends Section 8.206, Family Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that an employer who receives, but does not comply with, an order or writ of withholding is liable to:

(1)-(2) makes no changes to these subdivisions; and

(3) the obligee or obligor for reasonable and necessary attorney's fees, court costs, and expenses incurred in recovering an amount described by Subdivision (1) (relating to providing that an employer who does not comply with an order is liable to the obligee for any amount of spousal maintenance not paid) or (2) (relating to providing that an employer who does not comply with an order is liable to the obligor for any amount withheld).

Makes nonsubstantive changes to this subsection.

(d) Authorizes the court to order the fees, costs, expenses, and any postjudgment interest under Subsection (b)(3) to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 8. Amends Section 8.208(c), Family Code, as follows:

(c) Authorizes the court to order the fees, costs, expenses, and any postjudgment interest to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Section 8.357, Family Code, as follows:

Sec. 8.357. New heading: ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Makes conforming changes to this section.

SECTION 10. Amends Section 9.014, Family Code, as follows:

Sec. 9.014. New heading: ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Authorizes the court to order the attorney's fees, court costs, and expenses to be paid directly to the attorney, who is authorized to enforce the order, rather than enforce the order for fees, in the attorney's own name by any means available for the enforcement of a judgment for debt. Makes conforming changes.

SECTION 11. Amends Section 9.106, Family Code, as follows:

Sec. 9.106. New heading: ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Makes conforming changes to this section.

SECTION 12. Amends Section 9.205, Family Code, as follows:

Sec. 9.205. New heading: ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Makes conforming changes to this section.

SECTION 13. Amends Section 41.002, Family Code, as follows:

Sec. 41.002. LIMIT OF DAMAGES. Provides that recovery for damages caused by wilful and malicious conduct is limited to actual damages, not to exceed \$25,000 per occurrence, plus reasonable and necessary attorney's fees, court costs, and expenses, rather than court costs and reasonable attorney's fees. Makes a nonsubstantive change.

SECTION 14. Amends Section 41.0025(a), Family Code, to make conforming changes.

SECTION 15. Amends Section 42.006(a), Family Code, to authorize damages to include certain damages, including reasonably and necessary attorney's fees, court costs, and expenses incurred, rather than the actual costs and expenses incurred including attorney's fees, in certain circumstances.

SECTION 16. Amends Section 42.009, Family Code, to make conforming changes.

SECTION 17. Amends the heading to Section 81.005, Family Code, to read as follows:

Sec. 81.005. ATTORNEY'S FEES, COURT COSTS, AND EXPENSES.

SECTION 18. Amends Section 81.005(a), Family Code, to make conforming changes.

SECTION 19. Amends Section 105.001(a), Family Code, to authorize the court, in a suit, to make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child, including an order for payment of reasonable and necessary attorney's fees, court costs, and expenses.

SECTION 20. Amends Section 106.002, Family Code, as follows:

Sec. 106.002. New heading: ATTORNEY'S FEES, COURT COSTS, AND EXPENSES.
(a) Authorizes the court, in a suit or motion under Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship) and in a habeas corpus proceeding,

to render judgment for reasonable and necessary attorney's fees, court costs, and expenses and order the judgment and postjudgment interest to be paid directly to an attorney.

(b) Makes a conforming change to this subsection.

SECTION 21. Amends Section 107.023, Family Code, as follows:

Sec. 107.023. New heading: FEES, COURT COSTS, AND EXPENSES IN SUITS OTHER THAN SUITS BY GOVERNMENTAL ENTITY. (a) Provides that, in a suit other than a suit filed by a governmental entity requesting termination of the parent-child relationship or appointment of the entity as conservator of the child, in addition to the attorney's fees that are authorized to be awarded under Chapter 106 (Costs and Attorney's Fees), certain persons are entitled to reasonable and necessary fees, court costs, and expenses in an amount set by the court and ordered to be paid by one or more parties to the suit.

(b) Requires the court to take certain actions, including determine the fees, costs, and expenses of an amicus attorney, an attorney ad litem, or a guardian ad litem by reference to the reasonable and customary fees for similar services in the county of jurisdiction.

(c) Makes a nonsubstantive change to this subsection.

(d) Makes a conforming change to this subsection.

SECTION 22. Amends Section 109.001(a), Family Code, to make a conforming change.

SECTION 23. Amends Section 152.208(c), Family Code, to make conforming changes.

SECTION 24. Amends the heading to Section 152.312, Family Code, as follows:

Sec. 152.312. New heading: FEES, COURT COSTS, AND EXPENSES.

SECTION 25. Amends Section 152.312(a), Family Code, to make conforming changes.

SECTION 26. Amends Section 154.012(b), Family Code, to make conforming changes.

SECTION 27. Amends Section 156.005, Family Code, to make conforming changes.

SECTION 28. Amends Section 157.110(c), Family Code, to make conforming changes.

SECTION 29. Amends Section 157.162(b), Family Code, to make conforming changes.

SECTION 30. Amends Section 157.167, Family Code, as follows:

Sec. 157.167. New heading: RESPONDENT TO PAY ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Makes conforming changes to this section.

SECTION 31. Amends Section 157.211, Family Code, as follows:

Sec. 157.211. CONDITIONS OF COMMUNITY SUPERVISION. (a) Creates this subsection from existing text and makes conforming changes.

(b) Authorizes the court to order the fees, costs, expenses, and any postjudgment interest under Subsection (a)(5) (relating to authorizing the terms and conditions of community supervision include the requirement that the respondent pay reasonable and necessary attorney's fees, court costs, and expenses) to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 32. Amends Section 157.268, Family Code, to make conforming changes.

SECTION 33. Amends Section 157.318(a), Family Code, as follows:

(a) Provides that a lien is effective until all current support and support arrearages, including reasonable and necessary attorney's fees, court costs, expenses, postjudgment interest, and any Title IV-D services fees, rather than 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 34. Amends Section 157.322(a), Family Code, to make conforming changes.

SECTION 35. Amends Section 157.323, Family Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Requires the court, if arrearages are owed by the obligor, to:

(1) render judgment against the obligor for the amount due, plus reasonable and necessary attorney's fees, court costs, and expenses, rather than costs and reasonable attorney's fees;

(2) order any official authorized to levy execution to satisfy reasonable and necessary attorney's fees, court costs, expenses, and the lien, rather than satisfy the lien, costs, and attorney's fees, by selling any property on which a lien is established under this subchapter; or

(3) makes no changes to this subdivision.

(e) Authorizes the court to order the fees, costs, expenses, and any postjudgment interest under Subsection (c)(1) or (2) to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 36. Amends Section 157.330(b), Family Code, to make conforming changes.

SECTION 37. Amends Section 157.507, Family Code, as follows:

Sec. 157.507. New heading: ATTORNEY'S FEES, COURT COSTS, AND EXPENSES. Makes conforming changes to this section.

SECTION 38. Amends the heading to Section 158.0051, Family Code, to read as follows:

Sec. 158.0051. ORDER FOR WITHHOLDING FOR ATTORNEY'S FEES, COURT COSTS, AND EXPENSES.

SECTION 39. Amends Sections 158.0051(a) and (c), Family Code, to make conforming changes.

SECTION 40. Amends Section 158.102, Family Code, to make conforming changes.

SECTION 41. Amends Section 158.206, Family Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Makes conforming changes to this subsection.

(d) Authorizes the court to order the fees, costs, and expenses under Subsection (b)(3) (relating to providing that an employer who does not comply with an order or writ of withholding is liable for reasonable and necessary attorney's fees, court costs, and expenses) and any postjudgment interest under Subsection (b)(2)(B) (relating to

providing that an employer who does not comply with an order or writ of withholding is liable to the obligor for an amount equal to the interest that accrues on the amount withheld and not paid) to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 42. Amends Section 158.209(c), Family Code, to make conforming changes.

SECTION 43. Amends Section 159.305, Family Code, by amending Subsection (b) and adding Subsection (g), as follows:

(b) Authorizes a responding tribunal of this state, to the extent not prohibited by law, to do one or more of certain actions, including award reasonable and necessary attorney's fees, court costs, expenses, and other fees, rather than award reasonable attorney's fees and other costs.

(g) Authorizes the court to order the fees, costs, expenses, and any postjudgment interest under Subsection (b)(11) (relating to authorizing a responding tribunal to award reasonable and necessary attorney's fees, court costs, expenses, and other fees) to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 44. Amends the heading to Section 159.313, Family Code, to read as follows:

Sec. 159.313. FEES, COSTS, AND EXPENSES.

SECTION 45. Amends Sections 159.313(b) and (c), Family Code, as follows:

(b) Makes conforming and nonsubstantive changes to this subsection.

(c) Makes conforming changes to this subsection.

SECTION 46. Amends the heading to Section 160.636, Family Code, to read as follows:

Sec. 160.636. ORDER ADJUDICATING PARENTAGE; FEES, COSTS, AND EXPENSES.

SECTION 47. Amends Section 160.636(c), Family Code, to make conforming changes.

SECTION 48. Amends Section 160.762(d), Family Code, to make conforming changes.

SECTION 49. Amends Section 231.006(f), Family Code, to make conforming changes.

SECTION 50. Amends Section 231.211, Family Code, as follows:

Sec. 231.211. New heading: AWARD OF ATTORNEY'S FEES, COURT COSTS, AND EXPENSES AGAINST NONPREVAILING PARTY IN TITLE IV-D CASE. (a) Deletes existing text prohibiting the fees and costs from exceeding reasonable and necessary costs as determined by the court. Makes conforming changes.

(b) Makes conforming changes to this subsection.

SECTION 51. Amends Section 231.303(c), Family Code, to make conforming changes.

SECTION 52. Amends Section 261.107(d), Family Code, to make conforming changes.

SECTION 53. Amends Sections 261.108(b) and (c), Family Code, to make conforming changes.

SECTION 54. Amends Section 261.110, Family Code, by amending Subsection (d) and adding Subsection (n), as follows:

(d) Makes conforming and nonsubstantive changes to this subsection.

(n) Authorizes the court to order the fees, costs, expenses, and any postjudgment interest under Subsection (d)(3) (relating to authorizing a plaintiff to recover reasonable and necessary attorney's fees, court costs, and expenses) to be paid directly to the attorney, who is authorized to enforce the order in the attorney's own name by any means available for the enforcement of a judgment for debt.

SECTION 55. Amends Section 264.852(d), Family Code, to make conforming changes.

SECTION 56. Makes application of this Act prospective.

SECTION 57. Effective date: September 1, 2025.