

BILL ANALYSIS

C.S.H.B. 4034
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that issues have been identified by the Office of the Attorney General (OAG) in current statutes relating to Title IV-D cases and associated services, practices, and procedures. To address some of these issues, the OAG, acting as the state's designated Title IV-D agency, has requested legislation to clarify current laws and to expedite current processes in Title IV-D cases. C.S.H.B. 4034 seeks to address these issues by ensuring that the statutes governing the Title IV-D program in Texas promote expedited procedures and provide clarity that reduces unnecessary delays in delivering child support services to Texas families.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4034 amends the Family Code to make adjustments to the processes for the collection, modification, and enforcement of child support and to certain procedures for child support cases and orders.

Proceeding by Remote Communication

C.S.H.B. 4034 makes statutory provisions authorizing witness testimony at trial in a district or statutory county court to be conducted by electronic means only if the witness is deposed before the commencement of the trial inapplicable to Family Code provisions authorizing the use of remote communication in a proceeding or judicial action in a suit affecting the parent-child relationship. This provision applies only to a proceeding commenced on or after the bill's effective date.

Powers and Duties of the Attorney General

C.S.H.B. 4034 establishes that, in the establishment of a child support order, the Title IV-D agency, which is the Office of the Attorney General (OAG) in Texas, is not subject to a mediation or arbitration clause or requirement in the order to which the OAG was not a party or liable for any costs associated with mediation or arbitration. The bill removes the specification from statutory provisions establishing that the OAG is not liable for any costs associated with mediation or arbitration in the enforcement or modification of a child support order that those

costs must arise from provisions in the order or another agreement of the party. The bill authorizes the OAG to cease child support enforcement services against an obligor for child support arrearages if the obligee is confined in a local, state, or federal jail or prison for an offense constituting an act of family violence committed against a child covered by the child support order.

Dismissal of Certain Claims

C.S.H.B. 4034 includes an attorney or a political subdivision with which the OAG has contracted under provisions relating to applicable Title IV-D services among the entities for which a court may dismiss a cause of action pertaining to the powers or duties of or services provided by the OAG asserted against the entity if the court determines that the asserted cause of action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from the entity for which immunity applies. This provision applies only to a suit filed on or after the bill's effective date. A suit filed before that date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

Administrative Adjustment of Support Obligations

C.S.H.B. 4034 replaces the requirement for the OAG, on verification by the OAG that a judgment or order has been rendered for the confinement of a child support obligor in a jail or prison for a period of at least 180 consecutive days, to administratively adjust the obligor's child support, medical support, and dental support order to amounts that are based on the application of applicable statutory child support guidelines with an authorization for the OAG to do so. The bill requires a notice of an administrative adjustment provided to the parties to the support order and filed with the applicable court to be in the form prescribed by the OAG and sent to the party's last known residence address, mailing address, or email address provided to the OAG, except that if no updated addresses have been provided to the OAG, the notice may be sent to the party's residence address, mailing address, or email address listed in the most recent order on file with the clerk of the court. The bill requires a court to consider due process requirements for notice and service of process to be met with regard to a party affected by an administrative adjustment of a support obligation if notice is provided to the party in compliance with these provisions. These provisions apply only to an administrative adjustment of a support obligation for which notice is filed by the OAG on or after the bill's effective date. An administrative adjustment of a support obligation for which notice is filed by the OAG before the bill's effective date is governed by the law in effect on the date the notice was provided, and the former law is continued in effect for that purpose.

C.S.H.B. 4034 replaces the requirement for the OAG, if a party to a support order that is administratively adjusted contests the adjustment by requesting review by the OAG, to provide an opportunity for review with the parties in person or by telephone, as appropriate, with a requirement for the OAG in such a scenario to provide an opportunity for review with the contesting party in person, by telephone, or by remote communication including teleconferencing, videoconferencing, or other similar technology, as determined appropriate by the OAG. The bill removes the requirement for the administrative adjustment to remain in effect until the OAG files a notice with the court withdrawing the adjustment or the court rendering an order regarding the adjustment if a party files a motion with the applicable court to contest the OAG's administrative adjustment. The bill instead establishes that a timely filed request for a hearing stays the administrative adjustment pending the hearing. The bill requires the court to hold the hearing not later than the 30th day after the date the request is filed and, at the hearing, review in a trial de novo only the OAG determinations that the obligor is confined due to failure to comply with a child support order or for an offense constituting an act of family violence committed against the obligee or covered child. The bill authorizes the OAG to file together with an administrative adjustment order an investigation report that includes any factual findings supporting the administrative adjustment order, including findings supporting the OAG's compliance with the requirement for a notice of adjustment to state that OAG complied with

statutory requirements regarding sending notice to the appropriate residence address, mailing address, or e-mail address. The investigation report must be in the form prescribed by the OAG and signed by an OAG agent. The bill establishes that unless a party contests the findings of the investigation report, the investigation report conclusively establishes the findings. The bill requires a filed administrative adjustment order to be in the form prescribed by the OAG and prohibits such an order from including, notwithstanding provisions relating to the contents of final order, the social security number, driver's license number, residence address, mailing address, home telephone number, name of employer, address of employment, or work telephone number of a party if the following are true:

- the court has previously made a finding that requiring a party to provide the applicable information to another party is likely to cause the child or a conservator harassment, abuse, serious harm, or injury, or to subject the child or a conservator to family violence, and ordered nondisclosure relating to the parties and the order has not been superseded; or
- the OAG indicates in a filed investigation report that the OAG excluded the information of a party from the administrative adjustment order based on a family violence indicator that the OAG placed on the case and recorded in the OAG's unified enforcement system.

The bill authorizes the clerk of the court, on the filing of an administrative adjustment order, to collect the fees authorized in a Title IV-D case. These provisions apply only to an administrative adjustment of a support obligation for which notice is filed by the OAG on or after the bill's effective date. An adjustment for which notice is filed by the OAG before that date is governed by the law in effect on the date the notice was provided, and the former law is continued in effect for that purpose.

Assignment of Right to Support

C.S.H.B. 4034 includes a child support payment record produced by the OAG filed in a suit affecting the parent-child relationship among the evidence of the assignment of support rights to the OAG that is admissible as evidence of the truth of the assignment of support rights and does not require further authentication or verification. This provision applies only to the admissibility of evidence in a proceeding commenced on or after the bill's effective date. The admissibility of evidence in a proceeding that commences before that date is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

Attorneys Representing the State

C.S.H.B. 4034 authorizes an attorney employed to provide Title IV-D services, without notice to the parties, to represent the OAG at a court proceeding in a suit affecting the parent-child relationship. This provision applies only to a proceeding commenced on or after the bill's effective date.

Service of Citation

C.S.H.B. 4034 requires a court to consider due process requirements for notice and service of process to be met with respect to a party if the following applies:

- a pleading filed in a suit affecting the parent-child relationship requests a finding that requiring a party to provide applicable information to another party is likely to cause the child or a conservator harassment, abuse, serious harm, or injury, or to subject the child or a conservator to family violence; or
- the court has previously made such a finding and ordered nondisclosure relating to the party and the order has not been superseded.

The bill establishes that this requirement, and the prohibition against a return of the process in the suit form including the address served under those same conditions apply notwithstanding any other law or rule. These provisions apply only to notice provided or a citation served on or after the bill's effective date. Notice provided or a citation served before that date is governed

by the law in effect on the date the notice was provided or citation was served, as applicable, and the former law is continued in effect for that purpose.

Availability of Brochures

C.S.H.B. 4034 specifies that the statutory requirement for all Title IV-D brochures published by the OAG to be made available to the public at courthouses where family law cases are heard is applicable on the request of the clerk of a district clerk and in the county in which that district court is located. The bill additionally requires all such brochures be published on the OAG's website not later than December 1, 2025.

Information to Assist in Location of Persons or Property

C.S.H.B. 4034 authorizes the OAG, after conducting an investigation and assessment of a party's financial resources in a child support action, to prepare and submit to the court an investigation report indicating the OAG's findings regarding the party's average monthly gross income based on information obtained by the OAG. The bill requires the OAG investigation report to be signed by the agent who prepared the report. The bill establishes that the investigation report is admissible as evidence of the truth of the information contained in the record and does not require further authentication or verification. The bill authorizes a respondent to offer evidence controverting income information contained in an investigation report submitted under these provisions.

Notice

C.S.H.B. 4034 authorizes, as an alternative to mailing a copy of the notice to the respondent, a notice of the filing of a petition to suspend a license for the nonpayment of child support, if the party has been ordered to provide the court and registry with the party's current email address, to be served by electronically mailing a copy of the notice to the respondent, together with a copy of the petition, to the last known email address of the respondent on file with the court and the state case registry. This provision applies only to notice provided on or after the bill's effective date. Notice provided before that date is governed by the law in effect on the date the notice was provided, and the former law is continued in effect for that purpose.

C.S.H.B. 4034 replaces the requirement that a notice of child support review issued by the OAG inform a recipient that the recipient may refuse to participate or cease participation in the child support review process but that the refusal by the recipient to participate will not prevent the completion of the process or the filing of a child support review order with a requirement instead that such a notice inform a recipient that if the recipient refuses to participate or ceases participation in the review process, that the recipient's lack of participation will not prevent those actions. This provision applies only to notice provided on or after the bill's effective date. Notice provided before that date is governed by the law in effect on the date the notice was provided, and the former law is continued in effect for that purpose.

C.S.H.B. 4034 includes email to an address provided by a party to the court or the OAG in the methods under which a notice in an administrative action under statutory provisions relating to the child support review process is authorized to be delivered. This provision applies only to notice provided on or after the bill's effective date. Notice provided before that date is governed by the law in effect on the date the notice was provided, and the former law is continued in effect for that purpose.

Issuance and Enforcement of Child Support Order

C.S.H.B. 4034 establishes that the OAG's authority to issue and enforce a child support review order containing a judgment, in addition to a determination of arrearages as under current law, is not subject to the time limitation prescribed by statutory provisions relating to the enforcement

of child support on the court's jurisdiction to confirm the amount of and render cumulative money judgments for arrearages. This provision applies to a child support review order regardless of whether the order was rendered before, on, or after the bill's effective date.

Release of Information From State Case Registry

C.S.H.B. 4034, with regard to the requirement for the state case registry to provide specified information to authorized parties on request, specifies that the applicable request is made under statutory provisions relating to the OAG parent locator services. This provision applies to information requested on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4034 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While the introduced authorized a court to consider due process requirements for notice and service of a process to be met with regard to a party affected by an administrative adjustment of a child support obligation during an obligor's incarceration if notice was provided to the party in compliance with the bill's provisions, the substitute requires the court to do so.

Likewise, while the introduced authorized a court to consider due process requirements for notice and service of process under provisions relating to service of citation to be met with respect to a party if certain conditions are met, the substitute requires the court to do so. Whereas the introduced established that this provision, and the prohibition against a return of the process in the suit form including the address served under those same conditions apply notwithstanding any other law, the substitute specifies that the provisions apply notwithstanding any other law or rule.

The substitute omits a provision present in the introduced establishing that the bill's provisions authorizing the OAG to cease certain child support enforcement services relating to confined obligees applies to a child support review order regardless of whether the order was rendered before, on, or after the bill's effective date.