

SUBJECT: Higher priority claim on a decedent's estate for delinquent child support

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Goodman, Isett, P. King, Morrison, A. Reyna, E. Reyna

0 nays

3 absent — Pickett, Naishtat, Truitt

WITNESSES: For — Lynda Benson, Association for Children for Enforcement of Support of Texas

Against — None

BACKGROUND: Probate Code, sec. 322 prioritizes the order of claims against a decedent's estate as follows:

- ! Class 1 - funeral expenses and expenses of last illness up to \$15,000;
- ! Class 2 - expenses of administration and management of the estate;
- ! Class 3 - secured claims including tax liens payable out of the proceeds from the sale of property subject to the lien;
- ! Class 4 - claims for taxes, penalties, and interest due under federal, state, and local tax codes;
- ! Class 5 - claims for the cost of confinement in the Texas Department of Criminal Justice;
- ! Class 6 - claims for repayment of medical assistance paid by the state under Chapter 32 of the Human Resources Code; and
- ! Class 7 - all other claims.

Class 7 now includes claims for delinquent child support.

DIGEST: HB 1348 would raise the priority of claims for delinquent child support from Class 7 to Class 5 and would renumber existing Classes 5 through 7 as Classes 6 through 8.

HB 1348 would take effect September 1, 1999, and would apply only to the

estate of a decedent who dies on or after that date.

**SUPPORTERS
SAY:**

Because of the low priority given to delinquent child-support claims under current law, children often are left with only a fraction of even a large estate. HB 1348 would raise the priority of claims for delinquent child support as high as practicable. In particular, the bill would move these claims above other claims in Class 7 with which child-support claims now compete, including unsecured debt and funeral or medical expenses greater than \$15,000, which would be a concern for most large estates.

The state now recovers only negligible amounts from estates for the costs of confinement in prison and repayment of medical assistance, both of which receive higher priority than delinquent child-support claims under current law.

**OPPONENTS
SAY:**

Even though the state recovers only a small amount from estates for the costs of confinement in prison or repayment of medical assistance, HB 1348 would make the amount recovered even smaller.

**OTHER
OPPONENTS
SAY:**

While any plan to raise the priority of delinquent child-support claims is laudable, HB 1348 would not raise the priority high enough. Children should come first, or at least before most other debts.

NOTES:

A similar bill in the Senate, SB 547 by Harris, would raise the priority of claims for delinquent child-support payments from Class 7 to Class 4, placing these claims ahead of tax claims other than tax liens. On March 17, the Senate Jurisprudence Committee reported SB 547 favorably and recommended it for the Local and Uncontested Calendar.