

SUBJECT: Allowing clerks to charge a fee for filing administrative writs of withholding

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 8 ayes — Goodman, E. Reyna, King, Menendez, Morrison, Naishtat, Nixon, Tillery

0 nays

1 absent — A. Reyna

WITNESSES: For — None

Against — None

On — Howard Baldwin, Office of the Attorney General

BACKGROUND: Title IV-D of the federal Social Security Act establishes guidelines for states for paternity and child support services. When an obligor is owes child or medical support, Family Code, Chapter 158, Subchapter F authorizes the Title IV-D agency, which in Texas is the Office of the Attorney General (OAG), to initiate and issue administrative writs of withholding to an employer to withhold the past-due amounts from the obligor’s income. This writ contains only the necessary information for the employer to comply with an order, as required by the OAG. This information includes the amount of current child and medical support, the amount of arrearage, and the amount to be withheld.

Within three business days after date of delivery of the writ, the Title IV-D agency must file a copy in the court of continuing jurisdiction over the support order. An administrative writ must be filed each time the obligor changes employment, so several writs may be filed in the same case. Currently, there is no fee charged for filing administrative writs.

DIGEST: CSHB 769 would amend the Family Code, sec.158.503 to authorize district clerks to charge a filing fee, not to exceed \$15, for administrative writs of withholding. Under Family Code, sec. 231.202, the Title IV-D agency would pay the filing fee.

CSHB 769 would take effect September 1, 2001, and would apply only to Title IV-D cases filed on or after that date.

SUPPORTERS SAY: Since Family Code, sec. 158 was added, district clerks have been overloaded with filing an increasing number of administrative writs of withholding. According to the fiscal note, the OAG estimates that 544,265 administrative writs of withholding will be filed in fiscal 2002, with this number increasing by 5 percent annually. The revenue raised by the filing fee could help the clerks defray the cost of hiring staff or investing in technology to deal with filing these writs.

The federal government would be solely responsible for paying the cost of these filing fees. The federal funds would pass-through the OAG's office to the counties and would cost the state nothing, according to the fiscal note.

OPPONENTS SAY: The problem is not the fee, but rather the burden of increased paperwork on district clerks of filing thousands of administrative writs of withholding. It might be more appropriate simply to eliminate the requirement that the OAG send the courts copies of the writs.

NOTES: According to the fiscal note, counties would receive federal funding for the filing fees of up to \$5.4 million in fiscal 2002 and \$6.5 million by fiscal 2006.

The bill as filed would have required a set fee of \$15. The substitute instead would require that the filing fee not exceed \$15.