

SUBJECT: Enforcement of child support and medical support for a child

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Dutton, Goodman, Baxter, Castro, Hodge, Morrison

0 nays

3 absent — Dunnam, J. Moreno, Reyna

WITNESSES: For — None

Against — None

On — Cynthia Bryant, Office of the Attorney General - Child Support; Robert Green, Texas Fathers Alliance; Mel Stanley

BACKGROUND: Family Code, ch. 154, governs the provision of medical support for a child as a part of a child support order. It provides that in any suit affecting the parent-child relationship or in a proceeding under the Uniform Interstate Family Support Act (ch. 159), the court must render an order for the medical support of the child. A parent ordered to provide health insurance who fails to do so is liable for the necessary medical expenses of the child and the cost of health insurance premiums or contributions paid on behalf of the child.

No specific section of the Family Code addresses withholdings from workers' compensation benefits of a person obliged to pay child support (an "obligor"). Instead, Family Code, Chapter 157, which addresses enforcement of child support orders, defines "account" as including a claim for workers' compensation, and "financial institution" as including a workers' compensation insurer. Furthermore, Family Code, sec. 157.317, which describes the property to which a child support lien attaches, includes an account in a financial institution, a claim for workers' compensation, or an insurance settlement or award for the claim, due to or owned by the obligor on or after the date the lien notice is filed with the county clerk.

Family Code, sec. 157.312, provides that a party may enforce a child support order by a lien, which can apply to the real and personal property of an obligor for all amounts of child support due, including interest, regardless of whether the amounts have been adjudicated or otherwise determined.

Family Code, ch. 232, allows for the suspension of an obligor's license for failure to pay child support. The court or Title IV-D agency may render an order vacating or staying an order suspending the license if the individual has paid all delinquent child support or established a satisfactory payment record, complied with the requirements of a reissued subpoena, or complied with the terms of any court order providing for the possession of or access to a child.

Family Code, ch. 233, governs the child support review process to establish or enforce support obligations. If the court finds that all parties have agreed to a child support review order, the court must sign the order. In a case where the parties do not agree to the child support review order, the court must hold a hearing on the confirmation of the order not later than the 30th day after the last party to be served filed a timely request for a court hearing. After the hearing on the confirmation of the child support review order, the court either must sign a confirmation order, sign an alternative order if the relief granted in the child support review order is inappropriate, or enter an order denying relief.

Family Code, sec. 160.204, governs the presumption of paternity when the parents are married. It provides that a presumption of paternity may be rebutted only by a proceeding to adjudicate parentage.

Health and Safety Code, sec. 192.005, provides that the items on a birth certificate relating to the child's father must be completed only if the child's mother was married to the father at the time of the child's conception, at the time of the child's birth, or after the child's birth, if paternity is established by order of the court, or if the father signed the birth certificate or consented in writing to be named as the father.

DIGEST:

Child support review process. CSHB 1878 would provide that if all parties signed an agreed child support order and filed it with the court, the court would have to sign the order not later than the third day after the filing of the order. It would require a party to make a timely request for a hearing before a

court would have to hold a hearing on the confirmation of a child support review order that was not agreed to by the parties. The court could not hold a hearing on the confirmation of such a child support review order if the timely request was not made. If the party who requested the hearing failed to appear, the court would have to sign a confirmation order.

Child support: medical expenses. CSHB 1878 would limit the circumstances when a court would have to render an order for the medical support of the child to:

- proceedings in which periodic payments of child support were ordered under Family Code, Chapter 154, or modified under Chapter 156;
- any other suit affecting the parent-child relationship in which the court determined that medical support of the child must be established, modified, or clarified; or
- a proceeding under Chapter 159.

The bill would require a parent who was ordered to pay the other parent additional child support for the cost of health insurance, in addition to a parent ordered to provide health insurance directly for the child, liable for necessary medical expenses of the child and the cost of health insurance premiums or contributions paid on behalf of the child.

Child support: workers' compensation. CSHB 1878 would add a section to address withholdings from a child support obligor's workers' compensation benefits. An insurance carrier that received an order or writ of withholding for workers' compensation benefits payable to an obligor would have to withhold a certain amount regardless of whether the benefits for lost income were paid as lump sum amounts or as periodic payments.

Other provisions. The bill would allow the court or Title IV-D agency to render an order vacating or staying an order suspending an individual's license if the court or agency determined that good cause existed for doing so.

The bill would add a way in which the parties could rebut a presumption of paternity. The presumed father could file a valid denial of paternity in conjunction with another person filing a valid acknowledgment of paternity. CSHB 1878 also would require that the items on a birth certificate relating to

the child's father be completed if the father executed a valid acknowledgment of paternity and filed it with the bureau of vital statistics.

This bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1878 would provide technical corrections and clarifications with respect to current code sections relating to administrative procedures used by the Child Support Division of the Office of the Attorney General, the establishment and enforcement of child support and medical support obligations, and the determination of parentage. Among other things, the bill would streamline the child support review process, making it more efficient to obtain court-ordered child support.

CSHB 1878 would clarify that the proper way to obtain child support payments from worker's compensation benefits for lost income would be through withholdings rather than a lien. There is confusion under current law about which method of enforcement is appropriate. This bill would take the logical step of treating worker's compensation like wages and withholding it, which is simpler than obtaining a lien. Concerns about the withholding of worker's compensation for medical expenses is misplaced because this bill only would address withholdings for lost income, and the law contains different provisions with regard to benefits for lost income versus actual injury. Worker's compensation benefits for medical expenses are paid directly to the health care provider and would not be subject to withholding under this bill.

CSHB 1878 in no way would change parents' ability to reach an agreement about health insurance. Under current law, if parents decide to enroll a child in a recipient's policy that is cheaper or better than that of the obligor, the court can order the other parent to pay additional child support, if necessary, to cover the cost of the insurance. Without taking away that parental right, CSHB 1878 simply would clarify that a parent ordered to pay additional child support for the cost of health insurance who failed to do so would be liable for the necessary medical expenses of the child.

**OPPONENTS
SAY:**

CSHB 1878 would be a step in the wrong direction because worker's compensation benefits for medical expenses should be exempted from child support withholdings. A workers' compensation beneficiary who is being

reimbursed for out-of-pocket medical expenses is entitled to, and dependent on, that money. It would be unfair to withhold it from the beneficiary.

CSHB 1878 would take parental discretion out of the decision about which parent should pay for medical insurance. Sometimes the recipient of child support has a better or less expensive medical insurance policy for the child, and parents should be permitted to reach an agreement about it.

NOTES:

The committee substitute, among other changes to the bill as filed, deleted a reference to the father signing a birth certificate or consenting in writing to be named as the father on the birth certificate, and required a final order in a suit adjudicating parentage to be available for public inspection.