

- SUBJECT:** Modifying certain child support enforcement requirements
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 7 ayes — Dutton, Murr, Bowers, Calanni, Dean, Lopez, Talarico
- 0 nays
- 2 absent — Cyrier, Shine
- SENATE VOTE:** On final passage, April 10 — 30-0
- WITNESSES:** *On House companion bill, HB 2264:*
For — Charla Bradshaw, Texas Family Law Foundation; (*Registered, but did not testify:* Aimee Bertrand, Harris County Domestic Relations Office; Amy Bresnen, Steve Bresnen, and Roxie Cluck, Texas Family Law Foundation)
- Against — (*Registered, but did not testify:* Jeffrey Morgan)
- On — Taran Champagne, Americans for Parental Equality; Joshua Jaros, Montgomery County United for Shared Parenting; (*Registered, but did not testify:* Joel Rogers, Office of the Attorney General)
- BACKGROUND:** Family Code ch. 8 governs maintenance payments, which are awards in lawsuits for the dissolution of marriages that include periodic payments from the future income of one spouse for the support of the other spouse.
- Ch. 234 governs the state disbursement unit, which receives, maintains, and furnishes records of child support payments, forwards child support payments, and performs certain other tasks.
- Sec. 156.401 governs the grounds for modification of child support orders, and ch. 157 governs the enforcement of these orders.
- Ch. 231 governs the state's Title IV-D program, which enforces the

payment of child support. The Office of the Attorney General is the state's Title IV-D agency.

Sec. 159.605 requires the registering tribunal of Texas to notify non-registering parties when a foreign support order or support order or income-withholding order issued in another state is registered. The notice must inform non-registering parties that hearings to contest the validity of enforcement of the orders must be requested within 20 days of the notice.

Some have called for clarifications and updates to various portions of current law pertaining to lawsuits involving parent-child relationships and child support.

DIGEST:

SB 1676 would modify various laws pertaining to parent-child relationship lawsuits and the enforcement of child support.

Maintenance. SB 1676 would require courts to order obligors who were ordered to pay maintenance and child support to pay maintenance to the state disbursement unit.

Modifying child support orders. The bill would establish that incarceration of child support obligors in local, state, or federal jails or prisons for longer than 180 days constituted material and substantial changes of circumstances for the purposes of modifying child support orders.

Child, medical, and dental support. SB 1676 would specify that courts retained jurisdiction to confirm the total amounts of child, medical, and dental support arrearages and render cumulative money judgments for past-due support if motions for enforcement were filed by the 10th anniversary of the date a child became an adult or on which child support obligations terminated.

Courts would be required to render separate cumulative money judgments for child, medical, and dental support.

Cumulative money judgments for medical or dental support owed would include:

- unpaid medical or dental support not previously confirmed;
- the balance owed on previously confirmed medical or dental support arrearages or lump sum or retroactive medical or dental support judgments;
- the interest on medical or dental support arrearages; and
- statements that they were cumulative judgments for the amount of medical or dental support owed.

Qualified domestic relations orders. SB 1676 would establish that courts that rendered orders for the payment of child support, or courts that obtained jurisdiction to enforce child support orders under the Uniform Interstate Family Support Act, had continuing jurisdiction to render enforceable qualified domestic relations orders or similar orders permitting the payment of pensions, retirement plans, or other employee benefits to alternate payees or other lawful payees to satisfy child support orders. These courts would retain jurisdiction to render qualified domestic relations orders or similar orders until all support, including arrearages and interest, was paid.

Child support orders would include temporary or final orders for child support, medical support, or dental support and arrears and interest.

Unless prohibited by federal law, qualified domestic relations orders or similar orders would apply to all pensions, retirement plans, and other employee benefits regardless of whether they were:

- private, state, or federal;
- subject to other qualified domestic relations orders or similar orders;
- properties that were the subject of pending proceedings for dissolutions of marriages;
- properties disposed of in previous decrees for dissolution of marriages; or

- the subject of premarital and marital property agreements.

Procedure. Parties to child support orders or Title IV-D agencies in Title IV-D cases could petition courts for qualified domestic relations orders or similar orders in original suits or in actions for child support enforcement.

Parties whose rights could be affected by the petition would be entitled to receive notice required under current law.

Temporary orders. While suits for qualified domestic relations orders or similar orders were pending or during appeals of enforcement orders, and on the motion of parties or on courts' own motions, courts could grant temporary restraining orders and temporary injunctions for the preservation of pensions, retirement plans, or other employee benefits and the protection of the parties, as the court considered necessary.

Temporary orders would not be subject to interlocutory appeal.

Continuing jurisdiction. If plan administrators or other individuals acting in equivalent capacities determined that a domestic relations order did not satisfy certain necessary requirements, courts would retain continuing jurisdiction over parties to the extent necessary to render a qualified domestic relations order.

Additionally, courts that rendered qualified domestic relations orders or similar orders would retain continuing jurisdiction to:

- amend the orders to correct them, clarify their terms, or add language to them to provide for the collection of child support;
- convert the amount or frequency of payments under the orders to formulas that were in compliance with the terms of pensions, retirement plans, or employee benefit plants; or
- vacate or terminate the orders.

Amended domestic relations orders or similar orders would have to be submitted to plan administrators or other individuals acting in equivalent

capacities to determine whether they satisfied certain requirements.

Other provisions. Courts would be required to liberally construe the bill's language about these qualified domestic relations orders to effect payment of pensions, retirement plans, or other employee benefits for the satisfaction of child support obligations.

In proceedings involving qualified domestic relations orders, courts could order obligors to pay reasonable attorney's fees incurred by parties to obtain the orders, all court costs, and all fees charged by plan administrators. Fees and costs could be enforced by any means available for the enforcement of child support, including contempt.

Other provisions. SB 1676 would require registering tribunals in Texas, upon the registration of foreign support orders or orders issued in other states, to notify non-registering parties that hearings to contest the validity or enforcement of these orders would have to be requested within 30 days of the notice, rather than 20 days.

The bill also would require courts that ordered parties to pay child support under temporary or final orders to order all child support payments to be paid to the state disbursement unit, including any child support that the court ordered employers to withhold from the income of obligors.

SB 1676 would specify that the state and political subdivisions would have to comply with certain child support lien provisions before paying judgments relating to workers' compensation insurance coverage for employees. Any delays in complying with judgments due to compliance with these requirements would not subject the state or political subdivisions to awards of penalties or attorney's fees.

The bill would require individuals, when making disclaimers of interest in properties, to include sworn statements with the disclaimers regarding whether they were child support obligors.

The bill would apply only to maintenance orders rendered, suits for

modification of child support orders filed, cumulative money judgements rendered, support orders or income-withholding orders issued by courts of other sates and registered in this state, judgments in workers' compensation cases awarded, and property disclaimers made on or after the bill's effective date.

Obligors subject to maintenance orders rendered before the effective date could choose to remit maintenance payments to the state disbursement unit, and the state disbursement unit would have to accept these payments

The bill would take effect September 1, 2019.