

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 368
By: Harris
Jurisprudence
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Committee Report (Substituted)

DIGEST

Currently, the child support division of the Office of the Attorney General (division) is responsible for enforcing certain child support cases. After experiencing an extensive review process, suggestions were raised for the division regarding ways to update and create an efficient process for collecting and distributing child support payments. C.S.S.B. 368 creates statutory modifications to implement the child support enforcement provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, grants rulemaking authority, and creates civil and criminal penalties.

PURPOSE

As proposed, C.S.S.B. 368 creates statutory modifications to implement the child support enforcement provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, grants rulemaking authority, and creates civil and criminal penalties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Title IV-D agency and bureau of vital statistics in SECTION 31 (Section 160.215, Family Code), the Title IV-D agency in cooperation with the work group in SECTION 56 (Section 234.006, Family Code), the Texas Department of Health in SECTION 58 (Section 191.028(c), Health and Safety Code), and the Title IV-D agency in SECTION 45 (Section 231.108(f), Family Code), SECTION 46 (Section 231.115(b), Family Code), SECTION 56 (Sections 237.052(c), 237.103(c), and 237.108(b), Family Code), and SECTION 71 (Subsection (f)), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 101, Family Code, by amending Sections 101.021 and 101.024, and adding Sections 101.0021 and 101.0302, as follows:

Sec. 101.0021. BUREAU OF VITAL STATISTICS. Defines “bureau of vital statistics.”

Sec. 101.021. OBLIGEE. Redefines “obligee.”

Sec. 101.024. PARENT. Redefines “parent.”

Sec. 101.0302. STATE DISBURSEMENT UNIT. Defines “state disbursement unit.”

SECTION 2. Amends Sections 102.009(a) and (b), Family Code, to specify that a Title IV-D agency (agency), rather than the attorney general, is entitled to service of citation. Specifies the assignment of support rights and the rescission of a voluntary acknowledgment of paternity. Deletes text regarding support rights of the child. Makes conforming changes.

SECTION 3. Amends Section 105.002(b), Family Code, to prohibit a party from demanding a jury trial in a suit to determine parentage under Chapter 160, Family Code. Makes conforming changes.

SECTION 4. Amends Section 108.008, Family Code, to clarify that a court clerk prepares a report of determination of paternity, rather than a declaration. Deletes text regarding a deadline for forwarding a report. Makes conforming changes.

SECTION 5. Amends Section 151.002(a), Family Code, to delete text regarding a claim to fatherhood.

SECTION 6. Amends Section 154.001, Family Code, by adding Subsection (c), to authorize the receipt, holding, or disbursement of child support payments, under certain conditions.

SECTION 7. Amends Sections 154.004 and 154.006, Family Code, to clarify procedures for the order of child support payments regarding the state disbursement unit. Provides that provisions regarding conservatorship of, possession of, or access to a child terminates upon the marriage of the obligor and obligee to each other, under certain conditions.

SECTION 8. Amends Sections 154.242 and 154.243, Family Code, to limit an obligor's authority to follow a certain procedure for making payments if support payments are required to be made to the state disbursement unit. Authorizes the agency or the state disbursement unit to comply with a certain order by sending an affidavit regarding the payment record to a certain authority. Deletes text regarding electronic payment. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Sections 155.205(a) and (b), Family Code, to require the transferring court to order certain payments to be made to the agency or the state disbursement unit. Makes conforming and nonsubstantive changes.

SECTION 10. Amends Chapter 156E, Family Code, by adding Section 156.409, as follows:

Sec. 156.409. **CHANGE IN PHYSICAL POSSESSION.** Sets forth provisions to authorize the court to allow the person having possession of the child to administer the payments of child support, under certain conditions regarding the relinquishment of custody.

SECTION 11. Amends Section 157.005(b), Family Code, to provide that the court retains jurisdiction until all current child support, medical support, and child support arrears, including interest and any applicable fees and costs, have been paid. Deletes text regarding a motion for enforcement.

SECTION 12. Amends Section 157.102, Family Code, to require, rather than authorize, the forwarding of the capias.

SECTION 13. Amends Section 157.166(b), Family Code, by adding Subsection (c), to provide that if the order imposes incarceration or a fine for criminal contempt, an enforcement order must contain findings which identify the provisions of the order, and the date of each occasion wherein the respondent's failure to comply with the order constitute criminal contempt. Requires the order to state the specific conditions for release, if incarceration is imposed for civil contempt.

SECTION 14. Amends Section 157.167, Family Code, by adding Subsection (c), to authorize the enforcement of fees and costs by any available means, including contempt.

SECTION 15. Amends Section 157.269, Family Code, to provide that a court retains jurisdiction until all current support, medical support, and child support arrearages, including interest and any applicable fees and costs, have been paid. Deletes text regarding arrearages.

SECTION 16. Amends Section 157.317(a), Family Code, to specify that a child support lien attaches to property not exempt under a depository account in a financial institution, including a mutual fund money market account, or a retirement plan. Makes conforming changes.

SECTION 17. Amends Section 158.003(a), Family Code, to make a nonsubstantive change.

SECTION 18. Amends Sections 158.004 and 158.007, Family Code, to include the agency in matters of court jurisdiction involving arrearages issues.

SECTION 19. Amends Sections 158.102-158.105, Family Code, as follows:

Sec. 158.102. **TIME LIMITATIONS.** Authorizes the issuance of an order or writ for income withholding, until any applicable fees and costs have been paid. Deletes text regarding an obligor's disposable earnings.

Sec. 158.103. New heading: **CONTENTS OF ORDER OR WRIT OF WITHHOLDING.** Requires only certain information to be contained in a writ of withholding, and sets forth the

required information. Deletes text regarding the contents of an order of withholding.

Sec. 158.104. New heading: REQUEST FOR ISSUANCE OF ORDER OR JUDICIAL WRIT OF WITHHOLDING. Authorizes a request for issuance of a judicial writ of withholding to be filed with a domestic relations office or an attorney representing certain parties.

Sec. 158.105. New heading: ISSUANCE AND DELIVERY OF ORDER OR JUDICIAL WRIT OF WITHHOLDING. Authorizes electronic transmission as a means to deliver an order or judicial writ of withholding. Deletes text regarding a clerk's responsibility. Makes conforming changes.

SECTION 20. Amends Section 158.106(a), Family Code, to require the agency to prescribe forms as authorized by federal law in a standard format entitled order or notice to withhold income for child support. Deletes text regarding orders, notices, and writs.

SECTION 21. Amends Section 158.203, Family Code, by amending Subsection (b) and adding Subsections (c) and (d), to require an employer to transmit certain payments by electronic transfer by a certain deadline. Requires the employer to include the name of the county or the county's federal information processing standard code with each payment transmission. Sets forth provisions for an obligor's income which is subject to withholding. Makes conforming changes.

SECTION 22. Amends Section 158.210, Family Code, to set forth specific circumstances which subject an employer to a maximum \$200 fine.

SECTION 23. Amends Chapter 158C, by amending Section 158.211, and adding Section 158.212, as follows:

Sec. 158.211. NOTICE OF TERMINATION OF EMPLOYMENT AND OF NEW EMPLOYMENT. Requires an obligor to notify the court or the agency if employment is terminated. Authorizes failure to inform an employer of the order or writ of withholding to be punishable as contempt.

Sec. 158.212. IMPROPER PAYMENT. Sets forth required procedures for remedying an incorrectly remitted payment.

SECTION 24. Amends Section 158.312(b), Family Code, to prohibit the filing of a request for issuance prior to the 11th day after the date of receipt of the notice of application for judicial writ of withholding by the obligor.

SECTION 25. Amends Sections 158.501 and 158.502, Family Code, as follows:

Sec. 158.501. New heading: ISSUANCE OF ADMINISTRATIVE WRIT OF WITHHOLDING BY TITLE IV-D AGENCY. Provides that the agency is the only entity authorized to issue an administrative writ under this subchapter. Makes a conforming change.

Sec. 158.502. WHEN ADMINISTRATIVE WRIT OF WITHHOLDING MAY BE ISSUED. Authorizes a writ to be based on an obligation in multiple support orders. Authorizes the agency to issue an administrative writ directing or modifying arrearage withholdings. Authorizes the agency to issue an administrative writ of withholding as a reissuance of an existing order. Exempts the administrative writ under this subsection from the contest provisions of Sections 158.505(a)(2) and 158.506, Family Code.

SECTION 26. Amends Sections 158.503(a) and (b), Family Code, to authorize the delivery of an administrative writ of withholding to an obligor and an obligee, and authorizes the electronic signing of the certificate. Makes a conforming change.

SECTION 27. Amends Section 158.504(b), Family Code, to provide that an administrative writ of withholding may contain only the information necessary for the employer to comply with the existing support, rather than withholding, order.

SECTION 28. Amends Section 158.505(a), Family Code, to delete text regarding the original writ.

SECTION 29. Amends Section 158.506(a), Family Code, to authorize an obligor who receives notice under Section 158.505, rather than 158.503, Family Code, to take certain action.

SECTION 30. Amends Sections 160.001 and 160.004, Family Code, to set forth conditions under which this chapter governs a suit affecting the parent-child relationship. Authorizes the court to render certain orders if a man executes a statement of paternity under Subchapter C, Family Code.

SECTION 31. Amends Chapter 160C, Family Code, as follows:

SUBCHAPTER C. New heading: ACKNOWLEDGMENT OR DENIAL OF PATERNITY

Sec. 160.201. New heading: VOLUNTARY ACKNOWLEDGMENT OF PATERNITY. Authorizes a mother and a man claiming to be the father of a child to execute an acknowledgment to establish the man's paternity. Deletes text regarding a statement of paternity, an order adjudicating the child's father, and a suit for paternity termination.

Sec. 160.202. New heading: EXECUTION OF ACKNOWLEDGMENT OF PATERNITY. Sets forth requirements for an acknowledgment of paternity. Requires a certain procedure if the mother declares a presumed father of the child. Deletes text regarding specifics of a statement of paternity.

Sec. 160.203. New heading: FILING ACKNOWLEDGMENT OF PATERNITY. Requires an acknowledgment of paternity to be filed with the bureau of vital statistics. Prohibits the bureau of vital statistics from charging a filing fee. Deletes text regarding a statement of paternity.

Sec. 160.204. New heading: SIGNING OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY. Authorizes the mother's and putative father's signature to be on separate documents for an acknowledgment or denial of paternity document (fatherhood document). Authorizes the signing of a fatherhood document prior to the child's birth. Authorizes an adult or a minor to sign a fatherhood document. Deletes text regarding disputed paternity.

Sec. 160.205. New heading: EFFECT OF ACKNOWLEDGMENT OF PATERNITY. Sets forth the legal status of a fatherhood document upon filing it with the bureau of vital statistics. Sets forth provisions regarding the void of the fatherhood document through false denial of a presumed father. Deletes text regarding a deadline for a statement.

Sec. 160.206. SUIT TO RESCIND ACKNOWLEDGMENT OR DENIAL. Authorizes a fatherhood document signer to file a suit to rescind the fatherhood document. Sets forth deadlines for the petition to rescind or deny the fatherhood document. Sets forth a condition requiring the court to order the bureau of vital statistics to remove the father's name from the child's birth record. Sets forth a condition requiring a hearing to determine parentage.

Sec. 160.207. SUIT TO CONTEST ACKNOWLEDGMENT OR DENIAL. Authorizes a certain person to contest a fatherhood document and sets forth guidelines for the suit which establishes contest to a fatherhood document. Provides that the burden of proof lies with the party challenging the fatherhood document. Requires a suit to contest the fatherhood document to be conducted in a certain manner. Sets forth a deadline for bringing a suit to contest the fatherhood document.

Sec. 160.208. PROCEDURE FOR SUIT TO RESCIND OR CONTEST. Requires each fatherhood document signer to be made a party to a suit to rescind, contest, or deny the fatherhood document. Prohibits the court from suspending the legal responsibility of child support while a suit is pending. Sets forth provisions for amendments to the birth record subsequent to a determination of paternity or nonpaternity.

Sec. 160.209. COURT RATIFICATION BARRED. Prohibits a court from ratifying an unrescinded fatherhood document.

Sec. 160.210. FULL FAITH AND CREDIT. Sets forth provisions for official acceptance of a fatherhood document signed in another state.

Sec. 160.211. **VALIDATION OF EARLIER STATEMENT.** Provides that a fatherhood statement signed before September 1, 1999 is valid and binding.

Sec. 160.212. **FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY.** Requires the bureau of vital statistics to prescribe forms for complying fatherhood documents. Sets forth requirements for the forms. Requires the fatherhood document to inform the putative father that the mother's consent to the fatherhood document will result in certain actions. Requires the form for denial of paternity to inform the signer of certain actions resulting from consent of the mother.

Sec. 160.213. **VALIDITY OF FORMS.** Provides that the validity of fatherhood documents is not affected by bureau of vital statistics modifications, under certain conditions.

Sec. 160.214. **RELEASE OF INFORMATION.** Requires the bureau of vital statistics to release certain information to the agency and any other person authorized by law.

Sec. 160.215. **ADOPTION OF RULES.** Authorizes the agency and the bureau of vital statistics to adopt rules to implement this subchapter.

Sec. 160.216. **MEMORANDUM OF UNDERSTANDING.** Requires the agency and the bureau of vital statistics to adopt a memorandum of understanding regarding paternity information, and requires these entities to renew or modify the memorandum as necessary.

SECTION 32. Amends Section 160.251(d), Family Code, to exempt a man from registering with the paternity registry if he has filed a fatherhood document under Subchapter C.

SECTION 33. Amends Chapter 160D, Family Code, by adding Section 160.2545, as follows:

Sec. 160.2545. **INFORMATION REGARDING REGISTRY, BIRTH RECORDS, AND ACKNOWLEDGMENTS OF PATERNITY FILED WITH BUREAU OF VITAL STATISTICS.** Requires the bureau of vital statistics to search certain documents on receipt of a request for a certificate under Section 160.260, Family Code, and requires the bureau to provide the search results to the requestor.

SECTION 34. Amends Section 161.105(b), Family Code, to require the affidavit to contain certain information including an acknowledgment of paternity.

SECTION 35. Amends Section 201.102(b), Family Code, to delete text regarding issues that apply to a master appointed under this subchapter.

SECTION 36. Amends Section 201.104, Family Code, as follows:

Sec. 201.104. New heading: **POWERS AND DUTIES OF MASTER.** Authorizes a master to render and sign any order that is not a final order on the merits of the case. Authorizes a master to recommend to the referring court any order after a trial on the merits.

SECTION 37. Amends Chapter 201B, Family Code, by adding Sections 201.1041 and 201.1042, as follows:

Sec. 201.1041. **JUDICIAL ACTION ON MASTER'S REPORT.** Sets forth conditions requiring a recommendation of the master to become an order of the referring court by operation of law without ratification by the referring court. Sets forth provisions for a master's report to become an order recommending enforcement by contempt or immediate incarceration. Establishes the authority of a master's decision during an appeal of the master's report to the referring court.

Sec. 201.1042. **APPEAL TO REFERRING COURT.** Expands the application of Section 201.015, Family Code, to include an appeal of the master's recommendations. Requires the party appealing the master's recommendations to file with certain entities. Prohibits the repeal of a pretrial or temporary order rendered and signed by a master. Sets forth deadlines for an appeal filer. Requires the referring court to determine whether the respondent should be released on bond or whether appearance in court can be otherwise assured. Sets forth provisions for the release of

the respondent on bail. Requires the court to give the respondent notice of the hearing in open court, if the respondent is released without posting bond or security. Sets forth provisions for a respondent whose appearance in court cannot be assured by the referring court.

SECTION 38. Amends Chapter 201B, Family Code, by adding Section 201.1065, as follows:

Sec. 201.1065. SUPERVISION OF MASTERS. Requires certain entities to report a plan to improve masters' efficiency and participation in the child support enforcement program. Sets forth requirements of the plan. Requires the office of court administration to assist the presiding judges in monitoring the masters' compliance with certain job standards, laws, and policies.

SECTION 39. Amends Section 201.107(b), Family Code, to authorize reimbursement for entities appointed under this subchapter, rather than section.

SECTION 40. Amends Section 201.111, Family Code, as follows:

Sec. 201.111. New heading: TIME TO ACT ON MASTER'S REPORT THAT INCLUDES FINDING OF CONTEMPT. Requires the referring court to take certain actions not later than the 30th day after the filing of a master's report recommending a finding of contempt.

SECTION 41. Amends Section 203.007(a), Family Code, to make a conforming change.

SECTION 42. Amends Section 231.0011, Family Code, to specify the involvement of the agency, rather than the attorney general regarding the development of a statewide integrated system for child support and medical support enforcement. Deletes text regarding the attorney general. Makes conforming changes.

SECTION 43. Amends Chapter 231A, Family Code, by amending Sections 231.002 and 231.005, and adding Sections 231.011-231.014, as follows:

Sec. 231.002. POWERS AND DUTIES. Makes conforming and nonsubstantive changes.

Sec. 231.005. BIENNIAL REPORT REQUIRED. Requires the Title IV-D agency (agency), designated as the Office of the Attorney General, to report to the legislature biennially on certain enforcement tools and the impact of using private contractors. Makes conforming changes.

Sec. 231.011. INTERAGENCY WORK GROUP. Requires the agency to convene a standing work group (group) to develop and maintain an interagency partnership strategy, and requires the agency's director to lead the group. Sets forth requirements for the group's composition, and requirements for agencies to appoint representatives. Requires a Health and Human Services Commission (HHS) representative's presence in the group when addressing an issue under HHS's authority. Sets forth requirements for the interagency partnership strategy. Requires agency representatives in the group to identify child support services provided by that agency. Sets forth requirements for the state auditor and the State Council on Competitive Government regarding their responsibility to assist agencies and the group.

Sec. 231.012. COUNTY ADVISORY WORK GROUP. Requires the agency's director to establish a county advisory work group (advisory group) to assist in modifying child support programs that affect counties. Sets forth the required composition of the advisory group. Requires the agency's director to consult with certain entities prior to appointing advisory group members. Requires the agency's director to determine the composition and leadership of the advisory group. Sets forth required actions of the advisory group. Prohibits a work group member, or the member's designee from receiving compensation, but entitles the individual to reimbursement for certain expenses. Provides that the work group is not an advisory committee as defined by Section 2110.001, Government Code. Exempts the work group from being subject to regulations of Chapter 2110, Government Code.

Sec. 231.013. INFORMATION RESOURCES STEERING COMMITTEE. Sets forth required actions of an information resources steering committee appointed by the agency. Requires the steering committee to include a senior management executive representing each significant function of the agency, and authorizes the steering committee to include other certain persons. Requires the agency director to appoint steering committee members subsequent to

consultation with the Department of Information Resources.

Sec. 231.014. PERSONNEL. Requires the agency director to provide information regarding employment requirements, responsibilities, and standards of conduct, to certain entities.

SECTION 44. Amends Section 231.106(b), Family Code, to prohibit the clerk from taking certain actions regarding support payments.

SECTION 45. Amends Section 231.108, Family Code, by adding Subsection (f), to authorize the agency, by rule, to provide for the release of information to persons for purposes not prohibited by federal law.

SECTION 46. Amends Chapter 231B, Family Code, by amending Sections 231.112, 231.115 and 231.117, and adding Sections 231.117-231.120, as follows:

Sec. 231.112. INFORMATION ON PATERNITY ESTABLISHMENT. Makes a conforming change.

Sec. 231.115. NONCOOPERATION BY RECIPIENT OF PUBLIC ASSISTANCE. Requires the agency to identify certain actions, adopt rules governing noncompliance, and take certain actions to impose sanctions.

Sec. 231.117. UNEMPLOYED NONCUSTODIAL PARENTS. Redesignated from existing Section 231.115. Authorizes a court or the agency to issue an order requiring the parent to take certain actions towards the payment of overdue support.

Sec. 231.118. SERVICE OF CITATION. Authorizes the agency to contract with private process servers to serve certain required documents. Provides that a document server under this section is authorized to serve documents without a written court order authorizing the service. Sets forth provisions for the issuance and return of the process.

Sec. 231.119. OMBUDSMAN PROGRAM. Requires the agency to establish an ombudsman program to process and track complaints against the agency. Sets forth requirements for the agency director. Requires the agency to develop and implement a uniform ombudsman process, and sets forth requirements for that process. Requires each ombudsman to oversee complaint filing and resolution. Requires the agency to maintain a file on each complaint and sets forth requirements for the file. Requires the agency to notify the complainant and other entities of the status of the complaint, and creates an exception. Requires the agency to provide the complainant and other entities with a copy of the agency's complaint policies.

Sec. 231.120. TOLL-FREE TELEPHONE NUMBER FOR EMPLOYERS. Requires the agency to maintain a toll-free number for employers responsible for withholding child support, and requires the agency to inform employers about the existence of the toll-free number.

SECTION 47. Amends Section 231.204, Family Code, to prohibit an appellate court or a clerk of an appellate court from charging certain entities with certain fees.

SECTION 48. Amends Section 231.301, Family Code, to require a certain parent locator service to be used for child support and paternity establishment. Authorizes certain persons to receive information under this section.

SECTION 49. Amends Section 231.305, Family Code, to require the agency and the Texas Department of Human Services (TDHS) to do the following: quickly forward information regarding child support collection to the agency, develop training programs to enhance information collection, develop a deadline to respond to a complying and a noncompliance sanction request, develop certain performance measures, and to prescribe a forwarding information deadline and determine what constitutes complete information. Requires the agency and TDHS to review and renew the memorandum by January 1 of each even-numbered year, rather than semiannually, and as necessary.

SECTION 50. Amends Section 232.004(b), Family Code, to provide that a petition can be filed with certain entities besides the agency. Provides that the tribunal in which the petition is filed obtains jurisdiction over the matter.

SECTION 51. Amends Section 233.001(b), Family Code, to delete text regarding information in the registry required by 42 U.S.C. Section 654a(e) concerning the parent's case. Makes conforming and nonsubstantive changes.

SECTION 52. Amends Section 233.005, Family Code, to authorize the initiation of an administrative action by a notice of proposed child support review under Section 233.0095, Family Code.

SECTION 53. Amends Chapter 233, Family Code, by adding Section 233.0095, as follows:

Sec. 233.0095. NOTICE OF PROPOSED CHILD SUPPORT REVIEW ORDER IN CASES OF ACKNOWLEDGED PATERNITY. Authorizes the agency to serve a father who signs a fatherhood document, with a notice of proposed child support review order. Sets forth requirements of the proposed child support review order. Authorizes the agency to schedule a negotiation conference without a request from a party. Requires the agency to schedule a negotiation conference on the timely request of a party. Authorizes the agency to conduct a negotiation conference through certain formats, and adjourn the conference to permit mediation of certain unresolved issues.

SECTION 54. Amends Section 233.019(c), Family Code, to make a conforming change.

SECTION 55. Amends Section 233.020(b), Family Code, to make a conforming change.

SECTION 56. Amends Chapter 234A, Family Code, by amending Sections 234.001-234.003, and adding Sections 234.006-234.008, as follows:

Sec. 234.001. New heading: ESTABLISHMENT AND OPERATION OF STATE CASE REGISTRY AND STATE DISBURSEMENT UNIT. Creates requirements for the state case registry and the state disbursement unit. Deletes text regarding support payments and official child support records. Makes conforming and nonsubstantive changes.

Sec. 234.002. INTEGRATED SYSTEM FOR CHILD SUPPORT AND MEDICAL SUPPORT ENFORCEMENT. Makes a conforming change.

Sec. 234.003. WORK GROUP; COOPERATION REQUIRED. Requires the work group to meet at least quarterly. Provides for the expiration of this section December 31, 2000. Makes conforming and nonsubstantive changes.

Sec. 234.006. EFFECTIVE DATE AND PROCEDURES. Requires the agency, in cooperation with the work group, to adopt rules establishing definitions, dates, procedures, and operations of the state case registry and the state disbursement unit.

Sec. 234.007. NOTICE OF PLACE OF PAYMENT. Requires the agency to notify the courts of the establishment of the disbursement unit, and requires certain orders of the court subsequent to notification. Requires the agency to issue a notice of place of payment informing the obligor, obligee, and employer, that income withheld for child support is to be paid to the state disbursement unit. Requires the filing of the notice with certain entities. Sets forth requirements for the notice required by Subsection (b). Requires the clerk of the court to appropriately file the notice upon its receipt.

Sec. 234.008. DISTRIBUTION AND RETURN OF PAYMENTS. Requires the state disbursement unit to distribute the payment to the agency or the obligee by a certain deadline. Sets forth provisions for return and remittance of payment regarding failure to process child support payments or insufficient information.

SECTION 57. Amends Title 5D, Family Code, by adding Chapter 237, as follows:

CHAPTER 237. REGISTRATION OF PRIVATE CHILD SUPPORT COLLECTION ENTITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 237.001. DEFINITIONS. Defines "child support investigator," "collection entity," and

“registered location.”

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 237.051. TITLE IV-D AGENCY. Places responsibility for the registration of collection entities with the agency. Requires the agency to enforce this chapter and its rules.

Sec. 237.052. FEES. Requires the agency to require payment of nonrefundable application and renewal fees, and creates deadlines for these fees. Requires the agency, by rule, to adopt fees required by this section.

Sec. 237.053. DEPOSIT OF FEES; ACCOUNT. Establishes the child support registration account as an account in the general revenue fund. Sets forth appropriation and depositing requirements for fees received under this chapter.

SUBCHAPTER C. REGISTRATION

Sec. 237.101. REGISTRATION REQUIRED. Prohibits a child support collection entity from taking certain actions without registering with the agency.

Sec. 237.102. APPLICATION REQUIREMENTS. Requires an applicant to file an application on an agency prescribed form, and sets forth information for the form. Requires the chief executive officer of the collection entity to complete a notarized statement that the application is accurate and truthful in all respects.

Sec. 237.103. CRIMINAL BACKGROUND CHECK. Requires an applicant to submit certain information to the agency, within certain deadlines. Requires the agency to review Texas Department of Public Safety information and to take appropriate action. Requires the agency, by rule, to specify criminal convictions resulting in certain penalties against a certificate of registration.

Sec. 237.104. SURETY BOND. Requires an application for registration to be accompanied by an agency approved surety bond. Sets forth requirements for the surety bond. Requires the surety bond to be in favor of certain entities.

Sec. 237.105. ISSUANCE OF REGISTRATION. Requires the agency to issue a certificate of registration by mail, upon receiving certain items. Requires the agency to take certain actions in the case of a single application being made for multiple registered locations. Authorizes the agency to refuse to issue a certificate of registration, under certain conditions.

Sec. 237.106. DUTY TO UPDATE APPLICATION INFORMATION. Requires the certificate holder to amend the application by a certain deadline, if application information changes.

Sec. 237.107. CERTIFICATE NONTRANSFERABLE. Provides that a certificate of registration issued under this chapter is not transferable.

Sec. 237.108. TERM; RENEWAL. Provides for the expiration of a certificate of registration upon the second anniversary of its issuance. Authorizes the renewal of a certificate by agency rules.

Sec. 237.109. DUTY TO DISPLAY CERTIFICATE. Requires a certificate holder to display the certificate in a conspicuous place at each registered location.

SUBCHAPTER D. SURETY BOND

Sec. 237.151. CANCELLATION OF SURETY BOND. Requires a surety on the bond to provide written notice of the cancellation to the agency by a certain deadline. Requires the agency to suspend the certificate holder's registration if the registration is canceled by the certificate holder.

Sec. 237.152. CLAIM AGAINST BOND. Authorizes a suit to be filed against the collection entity and the surety. Authorizes the commencement of a suit by a private attorney or by the

agency for a person making a claim. Sets forth matters for which a surety is liable. Prohibits the aggregate liability of a surety for a collection entity's violation from exceeding the amount of the surety bond.

Sec. 237.153. TERM OF SURETY BOND. Requires the maintenance of a surety bond until a certain deadline.

SUBCHAPTER E. CONTRACT FOR CHILD SUPPORT COLLECTION SERVICES

Sec. 237.201. FORM AND TERMS OF CONTRACT. Requires a certain format for a contract for the collection of child support by a collection entity. Sets forth the required statements for the contract.

Sec. 237.202. ISSUANCE OF CONTRACT AND OTHER DOCUMENTS. Requires a collection entity to provide a certain entity, within a certain deadline, a copy of the completed contract and any other document the collection entity requires the person to sign.

Sec. 237.203. MAXIMUM FEE PERMITTED. Authorizes a reasonable fee for the collection of delinquent child support, as specified in the contract with the client. Sets forth provisions for the reasonable limits of the fee. Voids a contract for child support collection that fails to comply with this section.

Sec. 237.204. BREACH OF CONTRACT. Creates a violation of this chapter for the breach of an obligation arising from the contract by a collection entity.

Sec. 237.205. REQUIREMENT TO MAINTAIN COPY OF CONTRACT. Requires the maintenance of certain documents until a certain deadline by a collection entity.

Sec. 237.206. CONTRACT OF UNREGISTERED COLLECTION ENTITY VOID. Voids a contract for the collection of child support entered into by an unregistered collection agency.

SUBCHAPTER F. DISCIPLINARY ACTIONS

Sec. 237.251. SUSPENSION OF CERTIFICATE. Authorizes the agency to suspend the certificate of a temporarily ceased collection entity which intends to resume operation before the registration expiration. Authorizes the agency to suspend, rather than deny, an application, under certain conditions. Requires a suspended collection entity to suspend its operations, and to complete certain actions. Requires the agency to revoke a certificate of an entity which fails to comply with this chapter or rules prior to the expiration of suspension.

Sec. 237.252. DENIAL OR REVOCATION OF CERTIFICATE; APPEAL. Authorizes the agency to deny or revoke the certificate of a noncomplying collection entity. Requires the agency to notify a certain entity regarding denial, revocation, and right to appeal. Requires a person wishing to appeal to take certain actions. Provides that Chapter 2001, Government Code, governs the procedures for a contested case hearing. Requires an appeal to be heard by the State Office of Administrative Hearings (SOAH). Authorizes a person who has appealed to the SOAH to file a suit within a certain deadline. Provides that the standard of review for the suit shall be by substantial evidence. Requires the maintenance of hearing records until a certain deadline. Sets forth provisions for accessing a copy of the hearing transcript. Prohibits a person from operating as a collecting entity during the appeal of a certificate denial or revocation. Prohibits a person from applying for a certificate prior to a certain deadline regarding revocation.

Sec. 237.253. EMERGENCY SUSPENSION AND CLOSURE OF COLLECTION ENTITY. Sets forth provisions for the immediate closure and emergency suspension of a collection entity, and provides that Chapter 2001, Government Code, governs such action and an appeal resulting from such action.

Sec. 237.254. NOTICE OF REVOCATION OR SUSPENSION. Sets forth required notification procedures for the revocation or suspension of a collection entity's certificate, and requires that collection entity to take certain actions. Sets forth procedures for a person who operates a certain collection entity to apply for a new certificate.

SUBCHAPTER G. REMEDIES AND PROHIBITED PRACTICES

Sec. 237.301. CIVIL PENALTY; INJUNCTION. Authorizes the agency to file a suit for a civil penalty and injunctive relief regarding violations of registration requirements. Requires the attorney general, at the agency's request, to file a suit for a civil penalty and injunctive relief.

Sec. 237.302. FRAUDULENT OR DECEPTIVE CONDUCT. Prohibits a collection entity from engaging in certain actions.

Sec. 237.303. ADVERTISING WITHOUT REGISTRATION. Prohibits a collection entity from advertising its services without having a required certificate.

Sec. 237.304. CAUSING WAIVER PROHIBITED. Prohibits a collection entity from attempting to cause a person to waive a right under this chapter.

Sec. 237.305. AMOUNT OF CIVIL PENALTY; GROUNDS. Subjects a person to a minimum \$100, maximum \$500 civil penalty for each day of a violation. Sets forth actions constituting a violation. Authorizes a civil penalty to be assessed in addition to criminal penalties and injunctive relief.

Sec. 237.306. CRIMINAL PENALTIES. Creates an offense for a person who operates a collection entity without a required certificate. Creates an offense for a person who violates Section 237.303, Family Code. Provides that an offense under this chapter is a Class B misdemeanor.

Sec. 237.307. CIVIL LIABILITY. Entitles a person injured by a violation of this chapter to receive certain monies. Authorizes a prevailing party under this section to be awarded punitive damages.

Sec. 237.308. DECEPTIVE TRADE PRACTICE. Provides that a violation of this chapter is a deceptive trade practice under Chapter 17E, Business and Commerce Code.

SECTION 58. Amends Section 191.028, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), to provide that subject to rules adopted by the Texas Department of Health, a correcting certificate may correct birth record errors within a certain time frame. Authorizes certain entities to issue the corrected certificate without completing certain actions. Makes a conforming change.

SECTION 59. Amends Section 192.002(c), Health and Safety Code, to require the mother's and father's social security number to be made available to the federal Social Security Administration. Deletes text regarding signatures and enforcement. Makes conforming and nonsubstantive changes.

SECTION 60. Amends Sections 192.003(e) and (g), Health and Safety Code, to require a certain person to provide an opportunity for the child's mother and putative, rather than biological, father to sign a fatherhood document as provided by Chapter 160C, Family Code, and to provide oral information to the parents. Deletes text regarding the birth certificate and signed consent forms. Makes conforming and nonsubstantive changes.

SECTION 61. Amends 192.005, Health and Safety Code, to require the completion of items on a birth certificate if the father and mother signed an acknowledgment of paternity form, rather than the birth certificate, under Chapter 160C, Family Code. Requires the state registrar to issue a supplementary birth certificate, under certain conditions. Deletes text regarding paternity. Makes conforming and nonsubstantive changes.

SECTION 62. Amends Section 192.0051, Health and Safety Code, as follows:

Sec. 192.0051. New heading: REPORT OF DETERMINATION OF PATERNITY. Requires a clerk to take certain action on completion of the report, rather than by the 10th day of each month. Makes conforming and nonsubstantive changes.

SECTION 63. Amends Section 192.006(a), Health and Safety Code, to authorize the issuance of a supplementary birth certificate if the child's parents get married after it is born, if the child's parentage is

determined by a fatherhood document, if the parent-child relationship is terminated, if the child is adopted, or if the child's parentage is determined by the agency or a court. Makes conforming changes.

SECTION 64. Amends Sections 193.001(b) and (c), Health and Safety Code, to require the recording of the social security number on certain documents regarding the death. Makes conforming changes.

SECTION 65. Amends Section 31.0032(a), Human Resources Code, to require the Department of Protective and Regulatory Services to immediately take certain actions, except as provided by Section 231.115, Family Code, after an investigation by the agency. Makes conforming changes.

SECTION 66. Amends Sections 31.0033(a) and (c), Human Resources Code, to prohibit the imposition of sanctions on a showing of good cause for noncompliance. Includes the agency in certain powers and responsibilities.

SECTION 67. Amends Section 411.127, Government Code, as follows:

Sec. 411.127. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT AND APPLICANTS FOR REGISTRATION OF A PRIVATE CHILD SUPPORT COLLECTION ENTITY. Entitles the agency, rather than the attorney general, to obtain certain information from the Federal Bureau of Investigation identification division, or another law enforcement agency, regarding a potential agency staff member. Entitles the agency to obtain information relating to an applicant for registration under Chapter 237, Family Code, from certain entities. Prohibits the agency from requesting information before the filing of a certain application. Defines "Title IV-D agency." Makes conforming and nonsubstantive changes.

SECTION 68. (a) Requires the attorney general to redesign and improve the child support enforcement program.

(b) Sets forth provisions regarding the attorney general's involvement with child support enforcement. Limits the subjects the Sunset Advisory Commission is authorized to review.

(c) Requires the Sunset Advisory Commission to analyze certain actions of the attorney general.

(d) Creates a deadline for the attorney general to report improved performance regarding the child support enforcement program. Requires the attorney general's child support enforcement division to collect and report on certain information.

(e) Provides that the attorney general's involvement in child support enforcement matters is not abolished under Chapter 325, Government Code (Texas Sunset Act).

(f) Sets forth the attorney general's required duties in child support enforcement related matters.

(g) Requires the Sunset Advisory Commission to report required findings to the 77th Legislature, Regular Session, 2001.

SECTION 69. (a) Requires the attorney general's child support enforcement division (division) to investigate revenue sources for the child support program. Sets forth required guidelines for the investigation. Sets forth requirements of the cost-benefit analysis.

(b) Requires the division to report its findings to the Sunset Advisory Commission, and other authorities by October 15, 2000.

SECTION 70. Repealers: Section 158.505(c), Family Code (regarding a writ of withholding).
Section 160.002(c), Family Code (regarding authorization to bring a suit to establish paternity at any time).

SECTION 71. (a) Effective date: September 1, 1999, except as provided by Subsection (g).

(b) Requires the interagency work group to develop the partnership strategy required by Section 231.011, Family Code, by January 1, 2000.

- (c) Requires the county advisory work group to complete the state-county support improvement plan by January 1, 2000.
- (d) Requires the agency and the Texas Department of Human Services to update the memorandum of understanding by January 1, 2000.
- (e) Makes application of this Act prospective to January 1, 2001.
- (f) Requires the agency to adopt rules by May 1, 2000.
- (g) Provides that the effective date for Section 237.101 and Subchapter G, Chapter 237, Family Code, is January 1, 2001.
- (h) Makes application of this Act prospective, in certain situations.

SECTION 72. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Relating clause.

Amends the relating clause to provide that this Act relates to the implementation of the child support enforcement provisions of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and to establish that this Act provides civil and criminal penalties. Makes nonsubstantive changes.

SECTION 1.

Amends Chapter 101, Family Code, by amending Sections 101.021 and 101.024, and adding Sections 101.0021 and 101.0302, to add text regarding the bureau of vital statistics, an obligee, a parent, and a state disbursement unit.

SECTION 2.

Amends Sections 102.009(a) and (b), Family Code, to add text regarding the agency and a fatherhood document.

SECTION 3.

Amends Section 105.002(b), Family Code, to create a prohibition.

SECTION 4.

Amends Section 108.008, Family Code, to clarify text regarding filing information after determination of paternity.

SECTION 5.

Amends Section 151.002(a), Family Code, to delete text regarding a claim to fatherhood.

SECTION 6.

Amends Section 154.001, Family Code, by adding Subsection (c), to add text regarding child support payments.

SECTION 7.

Amends Sections 154.004 and 154.006, Family Code, to clarify text regarding the place of payment and termination of duty of support.

SECTION 8.

Amends Sections 154.242 and 154.243, Family Code, to clarify text regarding payment or transfer of child support payments by electronic funds transfer and production of child support payment record.

SECTION 9.

Amends Sections 155.205(a) and (b), Family Code, to clarify text regarding the agency.

SECTION 10.

Amends Chapter 156E, Family Code, by adding Section 156.409, regarding change in physical possession.

SECTION 11.

Amends Section 157.005(b), Family Code, to clarify text regarding child support arrears.

SECTION 12.

Amends Section 157.102, Family Code, to require, rather than authorize, the forwarding of the capias.

SECTION 13.

Amends Section 157.166, Family Code, by amending Subsection (b) and adding Subsection (c), to clarify text regarding a respondent's's failure and punishment.

SECTION 14.

Amends Section 157.167, Family Code, by adding Subsection (c), to add text regarding fees and costs.

SECTION 15.

Amends Section 157.269, Family Code, to add text regarding retention of jurisdiction.

SECTION 16.

Amends Section 157.317(a), Family Code, to add text regarding child support money.

SECTION 17.

Amends Section 158.003(a), Family Code, to make a nonsubstantive change.

SECTION 18.

Amends Sections 158.004 and 158.007, Family Code, to add text regarding the agency.

SECTION 19.

Amends Sections 158.102-158.105, Family Code, to clarify text regarding time limitations, contents of order or writ of withholding, request for issuance of order or judicial writ of withholding, and issuance and delivery of order or judicial writ of withholding.

SECTION 20.

Amends Section 158.106(a), Family Code, to clarify text regarding an agency responsibility.

SECTION 21.

Amends Section 158.203(b), Family Code, and adds Subsections (c) and (d), to add text regarding payments.

SECTION 22.

Amends Section 158.210(a), Family Code, to set forth specific circumstances which subject an employer to a maximum \$200 fine.

SECTION 23.

Amends Chapter 158C, by amending Section 158.211, and adding Section 158.212, regarding notice of termination of employment and of new employment, and improper payment.

SECTION 24.

Amends Section 158.312(b), Family Code, to add text regarding a judicial writ.

SECTION 25.

Amends Sections 158.501 and 158.502, Family Code, to clarify text regarding issuance of administrative writ of withholding by the agency, and when the administrative writ of withholding may be issued.

SECTION 26.

Amends Sections 158.503(a) and (b), Family Code, to add text regarding an obligor, obligee, and electronic signatures.

SECTION 27.

Amends Section 158.504(b), Family Code, to clarify text regarding support orders.

SECTION 28.

Amends Section 158.505(a), Family Code, to delete text regarding the original writ.

SECTION 29.

Amends Section 158.506(a), Family Code, to authorize an obligor who receives notice under Section 158.505, rather than 158.503, Family Code, to take certain action.

SECTION 30.

Redesignated from existing SECTION 1. Amends Sections 160.001 and 160.004, Family Code, to add text regarding applicability, and to delete text regarding the birth certificate.

SECTION 31.

Amends Chapter 160C, Family Code, to create a new heading and to clarify and add new text regarding voluntary acknowledgment of paternity, execution of acknowledgment, filing acknowledgment of paternity, signing of acknowledgment or denial of paternity, effect of acknowledgment of paternity, suit to rescind acknowledgment or denial, suit to contest acknowledgment or denial, procedure for suit to rescind or contest, barring of court ratification, full faith and credit, validation of earlier statement, forms for acknowledgment and denial of paternity, validity of forms, release of information, adoption of rule, and memorandum of understanding.

SECTION 32.

Amends Section 160.251(d), Family Code, to add text regarding the fatherhood document.

SECTION 33.

Amends Chapter 160D, Family Code, by adding Section 160.2545, to add text regarding information relating to registry, birth records, and fatherhood documents filed with the bureau of vital statistics.

SECTION 34.

Amends Section 161.105(b), Family Code, to add text regarding acknowledgment.

SECTION 35.

Amends Section 201.102(b), Family Code, to delete text regarding issues that apply to a master appointed under this subchapter.

SECTION 36.

Amends Section 201.104, Family Code, to create a new heading and add text regarding the powers and duties of a master.

SECTION 37.

Amends Chapter 201B, Family Code, by adding Sections 201.1041 and 201.1042, to add text regarding judicial action on a master's report and an appeal to a referring court.

SECTION 38.

Amends Chapter 201B, Family Code, by adding Section 201.1065, to add text regarding supervision of master.

SECTION 39.

Amends Section 201.107(b), Family Code, to clarify text regarding the subchapter.

SECTION 40.

Amends Section 201.111, Family Code, to create a new heading and add text regarding contempt.

SECTION 41.

Amends Section 203.007(a), Family Code, to make a conforming change.

SECTION 42.

Amends Section 231.0011, Family Code, to clarify text regarding development of a statewide integrated system for child support and medical support enforcement.

SECTION 43.

Redesignated from existing SECTION 2.

Amends Section 231.002, Family Code, to make nonsubstantive changes.

Amends Section 231.005, Family Code, to clarify text regarding a county advisory work group.

SECTION 44.

Amends Section 231.106(b), Family Code, to add text regarding a prohibition against the clerk.

SECTION 45.

Amends Section 231.108, Family Code, by adding Subsection (f), regarding rulemaking authority.

SECTION 46.

Amends Chapter 231B, Family Code, by amending Sections 231.112, 231.115 and 231.117, and adding Sections 231.117-231.120, to clarify and add text regarding information on paternity establishment, noncooperation by recipient of public assistance, unemployed custodial parent, service of citation, ombudsman program, and a toll-free number for employers.

SECTION 47.

Amends Section 231.204, Family Code, to clarify text regarding certain courts.

SECTION 48.

Amends Section 231.301, Family Code, to add text regarding agency locator services.

SECTION 49.

Redesignated from existing SECTION 4. Amends Sections 231.305(a)(5)-(8), Family Code, to add and clarify text regarding the memorandum of understanding on child support for children receiving public assistance.

SECTION 50.

Amends Section 232.004(b), Family Code, to clarify text regarding jurisdiction.

SECTION 51.

Amends Section 233.001(b), Family Code, to clarify text regarding federal law.

SECTION 52.

Redesignated from existing SECTION 5.

SECTION 53.

Redesignated from existing SECTION 6. Amends Section 233.0095, Family Code, to make conforming changes.

SECTION 54.

Amends Section 233.019(c), Family Code, to make a conforming change.

SECTION 55.

Amends Section 233.020(b), Family Code, to make a conforming change.

SECTION 56.

Amends Chapter 234A, Family Code, by amending Sections 234.001-234.003, and adding Sections 234.006-234.008, to clarify and add text regarding establishment and operation of state case registry and state disbursement unit, integrated system for child support and medical support enforcement, work group, required cooperation, effective date and procedures, notice of place of payment, and distribution and return of payments.

SECTION 57.

Amends Title 5D, Family Code, by adding Chapter 237, to add text regarding registration of private child support collection entities, definitions, administrative provisions, fees, application and registration requirements, criminal background check, surety bond, duty to update application

information, certificate specifics, surety bond specifics, contract for child support collection services specifics, disciplinary action specifics, and remedies and prohibited practices specifics.

SECTION 58.

Amends Section 191.028, Health and Safety Code, by amending Subsection (a) and adding Subsection (c), to add text regarding birth certificate corrections.

SECTION 59.

Amends Section 192.002(c), Health and Safety Code, to clarify text regarding social security numbers.

SECTION 60.

Amends Sections 192.003(e) and (g), Health and Safety Code, to clarify text regarding paternity information.

SECTION 61.

Amends 192.005, Health and Safety Code, to clarify text regarding the record of paternity.

SECTION 62.

Amends Section 192.0051, Health and Safety Code, to create a new heading and clarify text regarding report of determination of paternity.

SECTION 63.

Amends Section 192.006(a), Health and Safety Code, to clarify text regarding a supplementary birth certificate.

SECTION 64.

Amends Sections 193.001(b) and (c), Health and Safety Code, to clarify text regarding social security numbers.

SECTION 65.

Amends Section 31.0032(a), Human Resources Code, to clarify text regarding a Department of Protective and Regulatory Services investigation.

SECTION 66.

Amends Sections 31.0033(a) and (c), Human Resources Code, to add text regarding sanctions and the agency.

SECTION 67.

Amends Section 411.127, Government Code, to create a new heading to clarify and add text regarding access to criminal history record information of applicants for employment and applicants for registration of a private child support collection entity.

SECTION 68.

Redesignated from existing SECTION 7.

SECTION 69.

Redesignated from existing SECTION 8.

SECTION 70.

Repealers: Section 158.505(c), Family Code (regarding a writ of withholding).
 Section 160.002(c), Family Code (regarding authorization to bring a suit to
 establish paternity at any time).

SECTION 71.

Redesignated from existing SECTION 9. Adds text regarding rulemaking and conforming and
nonsubstantive changes.

SECTION 72.

Redesignated from existing SECTION 10.