

BILL ANALYSIS

Senate Research Center
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S.B. 617
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law terminates the child support order immediately upon the death of the obligor. The obligor's estate is liable for arrearages and associated interest but not the prospective support obligation. However, the financial needs of families do not cease to exist with the death of the non-custodial parent.

As proposed, S.B. 617 amends current statute to provide that child support orders do not terminate on the death of a parent ordered to pay child support. In addition, S.B. 617 allows judges the latitude to order non-custodial parents to purchase and provide proof of a decreasing term life insurance policy or another type of insurance policy, to cover the prospective support obligation. If the life insurance policy is not in effect at the time of death, the prospective support obligation is immediately accelerated to become a debt of the obligor's estate upon the obligor's death.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 154.006(a), Family Code, by deleting existing text providing that a child support order terminates on the death of a parent ordered to pay child support (support).

SECTION 2. Amends Subchapter A, Chapter 154, Family Code, by adding Sections 154.015 and 154.016, as follows:

Sec. 154.015. ACCELERATION OF UNPAID CHILD SUPPORT OBLIGATION. (a) Defines "estate."

(b) Provides that if the child support obligor (obligor) dies before the support obligation terminates, the remaining unpaid balance of the support obligation becomes payable on the date the obligor dies, unless a life insurance policy meeting the requirements of Section 154.016 is in effect on the date the obligor dies.

(c) Requires the unpaid support obligation to be calculated, for the purpose of this section only, by multiplying the amount of the monthly support obligation owed to each child on the date the obligor dies by the number of months from the date the obligor dies until the child's 18th birthday.

(d) Authorizes a child to present a claim, in the manner provided by the Texas Probate Code, against the obligor's estate for the unpaid support obligation determined under Subsection (c).

Sec. 154.016. PROVISION OF SUPPORT IN THE EVENT OF DEATH OF PARENT.

(a) Authorizes the court to order an obligor to maintain a life insurance policy that will pay a death benefit or annuity to the child who is the subject of the child support order. Authorizes the policy to be a decreasing term life insurance policy or other type of insurance policy.

(b) Requires the amount of the death benefit or annuity paid under the life insurance policy to be equal to or greater than the remaining unpaid balance of the support obligation.

(c) Authorizes the court to require an obligor ordered to maintain a life insurance policy to produce evidence to the court's satisfaction that the obligor has obtained the insurance policy and that the insurance policy remains in effect.

SECTION 3. Amends Section 322, Texas Probate Code, as follows:

Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATES OF DECEDENT. Prioritizes claims for unpaid support obligation under Section 154.015, Family Code, as a Class 4 priority in the order of claims against an estate of a decedent.

SECTION 4. (a) Provides that, except as provided by Subsection (b) of this section, the changes in law made by the amendment of Section 154.006(a) and the addition of Section 154.016, Family Code, apply to an order for child support issued before, on, or after the effective date of this Act.

(b) Makes application of the changes in law made in this Act by the addition of Section 154.015, Family code, and the amendment of Section 322, Texas Probate Code, prospective.

SECTION 5. Effective date: September 1, 2007.