

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 617
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Jurisprudence
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Committee Report (Substituted)

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.

C.S.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.

(c) Requires the court of continuing jurisdiction, for the purposes of this section, to determine the amount of the unpaid support obligation for each child of the deceased obligor. Requires the court in determining the amount of the unpaid child support obligation to consider certain relevant factors. Sets forth certain relevant factors.

(d) Requires the court, if, after considering all relevant factors, the court finds that the child support obligation has been satisfied, to render an order terminating the child support obligation. Requires the court, if the court finds that the child support obligation is not satisfied, to render a judgment in favor of the obligee, for the benefit of the child, in the amount of the unpaid child support obligation determined under Subsection (c). Requires the order to designate the obligee as constructive trustee, for the benefit of the child, of any money received in satisfaction of the judgment.

(e) Provides that the obligee has a claim, on behalf of the child, against the deceased obligor's estate for the unpaid child support obligation determined under

Subsection (c). Authorizes the obligee to present the claim in the manner provided by the Texas Probate Code.

(f) Requires the obligee, if money paid to the obligee for the benefit of the child exceeds the amount of the unpaid child support obligation remaining at the time of the obligor's death, to hold the excess amount as constructive trustee for the benefit of the deceased obligor's estate until the obligee delivers the excess amount to the legal representative of the deceased obligor's estate.

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, including a decreasing term life insurance policy, that will establish an insurance-funded trust or an annuity payable to the obligee for the benefit of the child that will satisfy the support obligation under the child support order in the event of the obligor's death.

(b) Requires the court, in determining the nature and extent of the obligation to provide for the support of the child in the event of the death of the obligor, to consider all relevant factors. Sets forth the relevant factors to be considered by the court.

(c) Authorizes the court, on its own motion or on a motion of the obligee, to require an obligor ordered to provide proof satisfactory to the court verifying compliance with the order rendered under this section.

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.