

BILL ANALYSIS

H.B. 867
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Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that qualified domestic relations orders (QDROs) may be issued under federal law for the payment of child support or spousal support obligations through the retrieval of funds from an obligor's retirement account. There have been calls to update state law to align more closely with federal law pertaining to such orders. H.B. 867 seeks to do so by providing for the issuance of QDROs permitting the payment of pension, retirement plan, or other employee benefits to satisfy amounts due under a spousal maintenance order or child support order.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 867 amends the Family Code to provide for the issuance of qualified domestic relations orders (QDROs) for the payment of spousal maintenance and child support obligations by setting out provisions that do the following:

- establish certain courts' continuing jurisdiction to render enforceable QDROs or similar orders permitting payment of pension, retirement plan, or other employee benefits to an alternate payee or other lawful payee to satisfy amounts due under a maintenance order or child support order;
- establish that such a court retains jurisdiction to render a QDRO or similar order until all maintenance or child support, medical support, or dental support due, including arrearages and interest, has been paid;
- establish that, unless prohibited by federal law, a suit seeking such a QDRO or similar order applies to a pension, retirement plan, or other employee benefit, regardless of whether the pension, retirement plan, or other employee benefit meets specified criteria;
- authorize a party to a maintenance order or a party to a child support order, or the attorney general's office in a Title IV-D case, to petition the court for a QDRO or similar order in an original suit or in an action for enforcement of the maintenance or child support order, as applicable, and entitle each party whose rights may be affected by the petition to receive certain notice;
- provide for the rendering of temporary orders, including the granting of a temporary restraining order and temporary injunction, to preserve the pension, retirement plan, or other employee benefits and protect the parties while a suit for a QDRO or similar order is pending or during an appeal of an enforcement order;
- except any such temporary orders from interlocutory appeal;

- establish a court's continuing jurisdiction if a plan administrator or other person acting in an equivalent capacity determines that a domestic relations order does not satisfy the requirements of a QDRO or similar order;
- provide for a court's continuing jurisdiction to amend the QDRO or similar order for specified purposes and for the submission of such an amended order to the plan administrator or other appropriate person for compliance review;
- provide for the liberal construction of these bill provisions to effect payment of pension, retirement plan, or other employee benefits for the satisfaction of the obligor's maintenance or child support obligation; and
- provide for the payment by the obligor and enforcement of reasonable attorney's fees incurred by a party to obtain the order, all court costs, and all fees charged by a plan administrator for the QDRO or similar order.

H.B. 867 authorizes payments under a maintenance QDRO to be made by direct payment or other method ordered by the court.

H.B. 867 clarifies that, for purposes of the bill's provisions, a maintenance order includes a temporary or final order for maintenance and a child support order includes a temporary or final order for child support, medical support, or dental support. Both types of orders include arrears and interest with respect to the order. Fees and costs ordered under the bill's provisions may be enforced by any means available for the enforcement of child support, including contempt. The bill applies to an order for maintenance or for child support, as applicable, regardless of whether the order was rendered before, on, or after the bill's effective date. The bill provides that the enactment of its provisions does not constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for maintenance or child support rendered before the bill's effective date.

EFFECTIVE DATE

September 1, 2021.