

SUBJECT: Child and medical support enforcement, fraud database

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Goodman, Cook, Brady, De La Garza, Naishtat and Van de Putte
0 nays
3 absent — H. Cuellar, Puente, Williamson

WITNESSES: (*On original version*)

For — None

Against — Brent Sandbak, Texas Fathers

On — Charles Childress, Office of the Attorney General, Child Support Division; Cynthia Alexander, Comptroller of Public Accounts

BACKGROUND: The federal Social Security Act Title IV-D provides federal funding for states that participate in child support enforcement programs. The Texas Attorney General's Office (AG), the state's designated Title IV-D agency, established and monitored 35,000 new support orders last year.

All Texas counties are required to establish local registries, usually at the district clerk level, to receive and disburse child support payments and maintain official records of those payments. Larger counties such as Harris, Tarrant, Travis and Bexar have established domestic relations offices that collect and disburse funds and may enforce support orders.

DIGEST: CSHB 2664 proposes a statewide unified child support and medical support enforcement system, new provisions on medical support and a new Insurance Code chapter and proposes an expanded cross-agency database to prevent fraud. Major provisions of the bill include:

Statewide integrated system. The AG would be required to work with the Texas Judicial Council, the Office of Court Administration, the federal office of Child Support Enforcement, state, county and local officials to develop and implement a statewide unified child support and medical

support registry system for enforcement of child support and medical support orders.

The statewide system would unify child support registry functions; record and track all child support orders entered in the state; establish an automated enforcement process to monitor delinquencies, billing and other enforcement techniques; incorporate existing enforcement resources into the system; and ensure accountability for state, county and local officials, private contractors, the judiciary and other participants.

The AG would be required to convene a workgroup to develop a timetable for implementation of a unified registry system and report to the governor, comptroller and Legislature by September 1, 1996, and annually thereafter.

As of January 15, 1996, the AG could enter into contracts with counties that meet certain technical system requirements that comply with federal law for provision of Title IV-D services to the county. In contracting counties, all new cases in which support orders were entered would be classified as Title IV-D cases. An obligee under a child support order could refuse the enforcement services unless required to accept them by other law. Counties and other providers of child support services would be required, as a condition of participation in the unified system, to enter into a contract with the AG and to comply with Title IV-D requirements.

The AG would be responsible for identifying federal requirements and applying for necessary federal waivers and providing technical system requirements and other information concerning participation in the system to counties and other providers by January 15, 1996. Counties would be required to notify the AG of resources and options for participation by May 1, 1996.

Counties that participate in the unified enforcement system would be required to monitor all child support registry cases and upon delinquency could provide enforcement services.

The Texas Judicial Council would be required to implement a monthly tracking system to gather information on child and medical support, using information reported each month by district and county clerks.

The AG could phase in the integrated child support registry and enforcement system, and the requirement to implement the system would be

contingent upon the receipt of locally generated funds and federal reimbursement.

Once the installation of an automated child support system is operational, the AG would be encouraged to maximize the collection of medical support and establish cash medical support orders for children eligible for medical assistance under the state Medicaid program for whom private insurance coverage is not available.

Employer reporting and statewide fraud database. The bill would expand the state's Employer New Hire Reporting (ENHR) program by involving the Department of Human Services (DHS), the Workers' Compensation Commission and the Texas Employment Commission with the AG to create and develop programs to collect child support payments and extend fraud prevention into the welfare, workers' compensation and unemployment insurance systems through the establishment of a statewide database. Subject to approval of agencies involved and requirements of federal law, the centralized database would make information available for:

- purposes directly connected with the administration of a plan or program for unemployment benefits, workers' compensation benefits, child support, or public assistance;
- an investigation or a civil or criminal prosecution relating to the administration of such plan or program; or
- the administration of any other federal or federally assisted program that provides assistance, in cash or in kind, or services directly to individuals on the basis of need.

The AG would be required to work closely with the Texas Employment Commission (TEC), the Texas Workers' Compensation Commission, the comptroller, the Texas Department of Commerce, the secretary of state and employer groups in an effort to expand the ENHR program. All of the affected agencies would have to implement a plan to create an ENHR database, if cost-effective, using existing funding and considering savings and revenue gains that could result.

Medical coverage for children. CSHB 2664 would amend state law to comply with medical support provisions of the federal Omnibus Budget Reconciliation Act of 1993 (OBRA), including:

- requiring that an order to an employer directing that health insurance coverage be provided to a child of an employee or member is binding on the employer upon receipt, provided the employee or member is eligible for dependent health coverage for the child. "Employer" would include a union, trade association or other similar organization for purposes of enrolling dependents in a group health insurance plan;
- eliminating a reference to "enrollment" periods in the Family Code;
- adding that an employer who fails to enroll a child, fails to withhold or remit premiums or cash medical support or who discriminates in hiring or employment on the basis of a medical support order would be subject to the provisions generally applicable to a wage withholding order or writ.
- prohibiting an insurer from denying children health insurance coverage on the grounds that the child has a pre-existing condition; was born out-of-wedlock; was not claimed as a dependent on the parent's federal income tax return; does not reside with the parent or in the insurer's service area; or is or has been an applicant for or recipient of medical assistance;
- requiring that if a dependent adult is eligible for dependent health coverage from a health insurer and a court or administrative order requires that the parent provide coverage of the parent's child, the health insurer would be required to enroll the child without regard to any enrollment period restrictions;
- requiring that if a dependent adult is eligible for dependent health coverage from a health insurer and a court or administrative order requires that the parent provide coverage of the parent's child and the parent fails to apply to obtain the coverage for the child, then the insurer would be required to enroll the child on application of a custodial parent of a child, a child support agency or a child;
- prohibiting the disenrollment of a child unless a court order is terminated or the child becomes enrolled in comparable health coverage as required by federal law and clarifies that the eligibility of a child for enrollment in a health plan does not terminate because a parent's eligibility has terminated;
- prohibiting an insurer from imposing requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance and covered for health benefits from the insurer that would be different

than the requirements applicable to an agent or assignee of any other covered individual and

- providing the rights of custodial parents and adult children related to the filing of claims and receiving information and payments on claims.

The bill would amend a prohibition against service area restrictions by forbidding contract provisions that deny, limit or reduce payments for claims of children who live outside the coverage area.

CSHB 2664 would allow a child support agency or custodial parent a transition to continuation or conversion of health coverage, if such provisions were present in the original coverage, when the employee loses eligibility for dependent health coverage.

CSHB 2664 would add a subchapter to the Insurance Code defining "child," "child support agency," "custodial parent," "health insurer," "insurer" and "medical assistance." "Insurer" would be defined broadly in order to include health maintenance organizations and other benefit plans, as required by OBRA 1993. The commissioner of insurance could develop rules in order to implement the provisions, including a further definition of unfair and deceptive practices.

The bill would eliminate a provision that permits an employee to veto a child's enrollment and clarify that an employer has no obligation to the obligor for complying with a medical support order.

Establishment of parentage. CSHB 2664 would strike the word "paternity" and replace it with "parentage" throughout Family Code sec. 231.428. CSHB 2664 would authorize a child support agency to file a child support review order with a request for parentage testing if either party failed or refused to participate in administrative parentage testing. The court would be required to follow certain procedures and could impose sanctions in order to obtain compliance with the parentage testing order. The court would be required to confirm the child support review order as a temporary or final order of the court only after an opportunity for parentage testing had been provided.

AG and DHS cooperation on AFDC cases. The bill would require the AG and DHS by rule to adopt a memorandum of understanding governing the establishment and enforcement of court-ordered child support in cases

involving children who receive AFDC. The memorandum would specify procedures to ensure that the information DHS is required to collect is collected at the time the application is filed, is accurate and complete and is information not previously reported to the agency. The AG and DHS would be required to review and renew or modify the memorandum semiannually.

The AG and DHS could negotiate an agreement regarding payment to the AG of a cash incentive by DHS for each child eligible for medical assistance under the state Medicaid program that the AG causes to be enrolled in a private health insurance plan including payment of a portion of the state share of costs recovered or saved as a result of the efforts of the AG. The AG and DHS would be required to report to the Legislature the results of negotiations not later than October 1, 1996.

Other provisions. The bill would require the AG to the extent possible, to enforce child support obligations in AFDC cases within one year of receiving necessary information from DHS.

The AG could contract with private entities in addition to private attorneys and political subdivisions of the state to provide services in Title IV-D cases. An attorney who was employed to provide Title IV-D services would represent the interest of the state and not of any other party when providing those services.

CSHB 2664 would authorize a political subdivision contracting with the AG to provide Title IV-D services and to bring any necessary and appropriate legal action under Title 5 of the Family Code.

The bill would amend provisions on administrative child support review, such as allowing a court to compel compliance with administrative subpoenas and to award attorneys' fees and costs to a child support agency enforcing an administrative subpoena on proof that an individual or organization failed to comply with the subpoena without good cause.

The AG could conduct a study to determine and compare the cost of child support enforcement through use of the child support review process and the cost of child support enforcement by the AG through use of other enforcement mechanisms available. The AG would be required to report the results of the study to the governor and Legislature not later than September 1, 1996 and would be required to make recommendations

regarding statutory changes for improving the judicial and administrative processes for child support enforcement.

The AG, state Medicaid administrator and the insurance commissioner would undertake a study and prepare a report regarding establishment of a health insurance purchasing alliance to purchase insurance coverage for children for whom a child support obligation is established or enforced under Title IV-D. The report would be required to be submitted to the governor, lieutenant governor, speaker of the House, AG, and commissioner of HHSC by October 1, 1996.

All funds received from the federal government as reimbursement relating to the statewide integrated system would be in excess of any amount appropriated by the 74th Legislature to the AG for the fiscal biennium ending August 31, 1997.

The AG would be required by July 1, 1996, to perform a cost analysis like the one used by the Council on Competitive Government for a standardized comparison of similar activities performed by private firms and the AG. The AG would be required to coordinate with the council and could retain private consultants to develop and evaluate the activities under consideration to be privatized. If the AG found that state office costs are higher for identified Title IV-D activities than that of a private contractor, the AG could consider a private contractor to perform those functions. The AG would be required to report the results of the analysis to the governor, Legislature and comptroller by December 1, 1996.

The bill further requires that the AG provide the Legislature by December 1, 1996, with an estimate of the cost savings to the state and the effectiveness of the expansion of child support enforcement services and privatization efforts. The general effective date of the bill would be September 1, 1995, with various other dates of implementation and phase-in provisions.

**SUPPORTERS
SAY:**

The proposed statewide unified registry system would, in time, unify state and local child support registries so that all child support orders and medical support orders entered in the state could be recorded and tracked for compliance. This would save the state millions of dollars by ensuring that children would not be forced to obtain state AFDC or Medicaid assistance when their parents could meet their needs.

CSHB 2664 would provide another important tool in an effort to reform the state welfare system. The development of a unified registry to keep track of child support payments and compliance with medical support orders, along with an enhanced database to weed out fraud in welfare, workers' compensation and unemployment insurance, would be an important part of the state's continuing effort to enforce child support orders and reduce fraud in government programs.

The changes made relative to medical coverage for children are designed to avoid the loss of all federal contributions to the Texas Medicaid program by making Texas comply with federal law under OBRA. In addition CSHB 2664 would promote the health of children by assuring that their health coverage is not lost or compromised due to the marital status of parents, thus shifting the costs of these children's health care coverage from the taxpayers to the parents and private sector.

**OPPONENTS
SAY:**

The provisions for the cross-agency database to create an interlocking net of employers and state and federal agencies to check up on those who may owe child support or be receiving welfare or unemployment benefits raises serious concerns of governmental intrusion into citizens' lives.

The reports and studies called for in the bill should establish a mechanism for input from fathers, the primary payers of child support.

NOTES:

The Legislative Budget Board estimates that implementing the bill would require 77 full-time workers within the Attorney General's Office and a two-year cost of \$6,699,656. The fiscal note also projects a \$4 million to \$6 million annual gain in general revenue and other revenue gains for the state.

The committee substitute would makes several substantive changes to the originally filed bill including changing using private entities for child support enforcement to using state agencies.

The Senate companion, SB 793 by Harris, passed the Senate by 31-0 on May 4. It was referred to the House Juvenile Justice and Family Issues Committee.