

SUBJECT: Child support enforcement

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Goodman, Staples, McClendon, McReynolds, Naishtat, A. Reyna
0 nays
3 absent — J. Jones, Smith, Williams

WITNESSES: For — None
Against — Robert L. (Bob) Green, Primary Nurturing Fathers of Texas and Texas Fathers Alliance; David Allen Shelton, Texas Fathers Alliance
On — Dan Morales and Jorge Vega, Office of the Attorney General; Linda Boline, Texas Department of Public Safety; Cindy Alexander, Comptroller's Office

BACKGROUND : Title IV, Part D of the federal Social Security Act, commonly known as the “Title IV-D” program, provides funding and guidelines for state child support enforcement programs. The Office of the Attorney General (OAG) is the “Title IV-D agency” for Texas because it is responsible for administering the state’s Title IV-D child support enforcement program.

In the latest Texas Performance Review, *Disturbing the Peace*, the Comptroller’s Office made several recommendations regarding administration of the Texas child support enforcement program. The report recommended that Texas create pilot projects in the Bexar County and Harris County district courts to improve the processing of child support enforcement and foster care cases through increased automation; increase child support collections by contracting for certain child support enforcement functions; amend state law to strengthen the license suspension program in child support enforcement; expand the OAG’s “Most Wanted” program with a bounty and more publicity to increase collections of child-support payments in arrears; and simplify and clarify the OAG’s lien procedures for parents who are delinquent in making child support payments.

DIGEST: CSHB 3281 would amend the Family Code and the Transportation Code to implement several of the comptroller's recommendations to develop a statewide integrated system for child support and medical support enforcement and make other changes in Texas child support enforcement.

Streamlined case processing pilot programs

The Title IV-D agency would be required to establish a pilot program to improve the efficiency of court processing of family welfare cases, including child support, medical support and foster care cases. The Title IV-D agency would have to consult with the Department of Protective and Regulatory Services (DPRS) in establishing the pilot program with respect to the processing of foster care cases.

The Title IV-D agency would have to establish pilot programs during the 1998-1999 biennium in at least two counties with populations of more than one million and voluntarily participating in the statewide integrated system. The Title IV-D agency would have to provide funding for the programs from its appropriated funds and from any available federal funds.

Counties would be selected on the basis of their ability to achieve automation goals. The pilot program would have to provide for electronic case filing and automated processes for reporting appropriate orders to the state case registry, case tracking, child support delinquency monitoring, and statistical reporting to the state case registry.

The pilot programs would have to be developed and implemented in cooperation with representatives of the counties, including representatives of the county's judiciary. Also, the Title IV-D agency would have to review county assessments of needs related to processing child support, medical support and foster care cases and provide technical assistance to county and district clerks as requested.

By January 15, 1999, the agency would have to submit a report regarding the status of the pilot program to the governor, lieutenant governor, speaker of the House, and the comptroller. On request, the Title IV-D agency would have to make the report available to any member of the Legislature.

Agency information

The Title IV-D agency of Texas or any other state could request and obtain information relating to identity, employment, compensation, benefits and any other assets of a person, in addition to the information on location, income and property holdings already authorized in the Family Code. Private companies, institutions and other entities, in addition to government agencies, would have to provide requested information subject to safeguards for privacy and information security. Any individuals or entities disclosing information in response to a request from a Title IV-D agency could not be held liable in any civil action or proceeding to any person for the disclosure of the information.

Upon the written request of certain custodial parents, the state case registry would have to provide any information concerning the parent's case, including the noncustodial parent's address, social security number; the employer's name and address; the amount and location of real and personal property owned by the noncustodial parent; the name and address of financial institutions in which the noncustodial parent had an account and each account number.

Public information

The agency also would have to make available on the Internet child support information, including application forms, child support collection in other states, and profiles of certain obligors who are in arrears in paying child support.

The Title IV-D agency would have to develop a program for publicly identifying certain delinquent child support obligors; the state would be divided into at least six regions for this program. Program elements would include photograph displays and posters in the news media and in public places. The agency could also identify those obligors on its public internet site. In carrying out this program, the agency could not disclose information required by law to remain confidential.

The agency could reward individuals providing information that helped collect delinquent child support. The agency would adopt rules providing for the amounts of rewards offered and the circumstances entitling an individual to a reward. Rewards would be paid from the child support retained collections account.

Child support collection

The Title IV-D agency could pay a contingency fee in a contract or agreement to carry out Title IV-D program child support enforcement duties. The agency or a contractor performing child support collection services could enter into an agreement with a person liable for child support. The agreement could relate to any matter that could be adjudicated by a court, including determinations of paternity and the amount of child support due, the method of making child support payments, the imposition of income garnishment or withholding, the payment of fees, the reimbursement of costs, and other child support enforcement matters permitted by state or federal law.

The State Council on Competitive Government would be required to:

- establish an initiative called “Kids Can’t Wait” to increase child support enforcement;
- identify child support enforcement functions performed by the Title IV-D agency that may be competitively bid;
- establish guidelines for referral of child support enforcement cases to a contractor; and
- make recommendations regarding competitive bidding of appropriate child support enforcement functions.

The council also would be directed to study the feasibility of participating in an electronic parent locator network and of instituting cost recovery options in child support collection actions for children who do not receive public assistance. The council also could engage in other activities necessary for

the administration of competitive bidding for child support collection services.

The Title IV-D agency would have to coordinate with the council regarding competitive bidding of child support enforcement functions. By October 1, 1998, the council and the Title IV-D agency would have to report to the presiding officer of each house of the Legislature the results of the council's efforts regarding competitive bidding for child support collection services.

Penalties for delinquent child support

HB 3286 would amend the child support lien provisions of the Family Code to provide for an automatic lien that would arise by operation of law against the real and personal property of an obligor for all amounts of overdue support, regardless of whether the amounts had been adjudicated or were subject to recording and notice requirements.

A child support lien also would arise when a court or the Title IV-D agency determined an amount of arrearage owed by a child support obligor. Child support liens from other states could be enforced in the same manner and to the same extent as liens arising in Texas. A foreclosure process would not be required as a prerequisite to execution on a judgment or an administrative determination of arrearage rendered after notice and opportunity for hearing.

A child support lien would be effective until all current support and child support arrearages, including interest, were paid or the lien was otherwise released. Except under limited circumstances, persons having notice of the lien who possessed nonexempt personal property of the obligor that could be subject to the lien could not divest themselves of the property. Violators could be joined as parties to a foreclosure action and would be subject to penalties.

Once child support, costs, and any attorney's fees due were paid in full, the obligor would receive a release of lien, which would be effective when filed with the county clerk.

CSHB 3281 would specify that a court or the Title IV-D agency could suspend licenses of delinquent obligors who refused or failed to comply with a payment schedule.

Sunset review of OAG child support efforts

OAG's involvement in child support enforcement would be subject to sunset review. The Sunset Advisory Commission would be required to select an independent firm with experience in evaluating government programs to conduct a comprehensive analysis of and to make recommendations to the commission concerning the structure, efficiency, and effectiveness of the OAG's involvement in matters relating to child support enforcement. In performing its analysis, the firm would have to consider and recommend whether these programs should remain part of the OAG, be privatized, or be transferred to an independent state agency established to operate child support enforcement programs.

The OAG would have to pay the costs of the analysis from funds appropriated to it for child support enforcement.

The Sunset Commission would be required to report its findings to the 76th Legislature in 1999.

SUPPORTERS SAY:

CSHB 3281 would address some serious problems in Texas' child support enforcement program. The number of new cases of delinquent child support is growing, by as many as 15,000 per month. Unworked cases at the OAG continue to multiply, making the job of tracking down deadbeat parents even more difficult and costly.

The pilot projects for streamlining court processing of cases would improve the efficiency of legal services, reduce the state's costs for foster care, and increase the amount of child support collections. The consolidated family processing system also would reduce errors and improve efficiency by eliminating duplicate data entries and paper files. The system would improve case management tools and reports that move child support enforcement and child protective services cases to final disposition. The projects would serve as models for similar development of case processing systems in other counties. Also, the automated data exchanges, automated

tracking systems and imaging technologies developed in the pilot projects could serve as models for more general use in civil and criminal courts.

Competitive bidding initiatives would allow Texas to maximize collection efforts. Allowing the OAG to pay a contingency fee in a contract with a private agency or individual for the purpose of carrying out Title IV-D child support duties would mean the agency could hire child support vendors without dipping into its own regular appropriations and without threatening its own operations.

CSHB 3281 would offer new ways to locate delinquent obligors. Most long-term delinquents cannot be located by the OAG, and bounties would help track down these parents. Putting more child support information on the Internet would improve customer service and decrease application turnaround times. While computers with internet connections are far from universal at present, increasing numbers of them are available in libraries and other public settings, so that individuals without computers could still have access to the information.

The mix of programs and measures proposed by CSHB 3281 would improve efficiency in child support enforcement and generate real savings to the state. The fiscal note to the bill estimates it would create a net positive impact of more than \$14.4 million to general revenue related funds through the biennium ending August 31, 1999.

**OPPONENTS
SAY:**

Child support liens should continue to expire after 10 years as in current law rather than existing in perpetuity or until they are paid off. There should remain some cut-off point for child support obligations. Otherwise, liens would burden obligors and the OAG long after the children who are the subject of the child support obligation have grown up.

Another sunset review for the OAG would be an exercise in futility because the OAG did not successfully implement any of the recommendations from the last review it received. The OAG child support division provides poor or no service to many custodial parents and children who desperately need child support orders to be established and enforced. Because of its poor performance, public confidence in the OAG is at a low point. The OAG does not deserve another review; it is time for the OAG to be replaced with a

new stand-alone agency to administer the Texas child support enforcement program.

OTHER
OPPONENTS
SAY:

Contracting out child support enforcement duties would exacerbate the lopsided piecemeal approach already being taken by the OAG in enforcing court orders. Visitation orders need to be as strongly enforced as child support orders. In fact, enforcing visitation is one of the best ways of ensuring payment of child support by noncustodial parents. Texas needs an agency that will enforce both visitation and child support orders. This bill would worsen the current problem by unleashing child support enforcement contractors whose sole focus would be child support orders.

The bill should authorize noncustodial parents, in addition to custodial parents, to use and request information from the state case registry. Texas needs to have a more level playing field for custodial and noncustodial parents. Too often laws do not include equal rights for noncustodial parents who may need access to information and services to find out the physical location of their child in order to facilitate court-ordered visitation.

NOTES:

The committee substitute deleted sections addressing private collection services and added sections addressing a competitive bid process, child support enforcement management, license suspension, state case registry information, and sunset review of the OAG.

CSHB 3281 provisions addressing liens for child support arrearages are nearly identical to several provisions in SB 29 by Zaffirini, which would adopt federal child support mandates. SB 29 passed the House on April 29.

HB 3281
House Research Organization
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