

- SUBJECT:** Allowing wage garnishment for spousal maintenance
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 7 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, Truitt
0 nays
2 absent — A. Reyna, E. Reyna
- WITNESSES:** For — None
Against — Robert L. Green, Jr., and David Allen Shelton, Texas Fathers Alliance
- BACKGROUND:** Art. 16, sec. 28 of the Texas Constitution prohibits the garnishment of wages except to enforce court-ordered child-support payments.
- Spousal maintenance is court-ordered support paid to one spouse by another after divorce. Under current law, a court orders such support in cases in which:
- ! the spouse who is to pay the support is convicted of or receives deferred adjudication for an offense of family violence within two years of the divorce or while the case is pending; or
 - ! the marriage lasted 10 years or more and the spouse seeking support lacks sufficient financial resources to provide for his or her minimum needs.
- A spouse seeking support also must prove the inability to support himself or herself because of an incapacitating physical or mental disability, because the spouse is the custodian of a child who requires substantial care, or because the spouse clearly lacks earning ability in the labor market adequate to provide support for his or her minimum reasonable needs.
- DIGEST:** HJR 16 would amend Art. 16, sec. 28 of the Constitution to allow the garnishment of wages to enforce court-ordered spousal maintenance.

The proposal would be presented to the voters at an election on November 2, 1999. The ballot proposal would read: "The constitutional amendment authorizing garnishment of wages for the enforcement of court-ordered spousal maintenance."

**SUPPORTERS
SAY:**

HJR 16 would address a growing problem in Texas: the deadbeat spouse who refuses to pay court ordered spousal maintenance. Spousal maintenance was enacted with the express purpose of providing temporary financial assistance for ex-spouses who have no or limited job skills and financial resources. The intent is to keep these spouses from relying on government assistance. Wage garnishment is especially effective against those spouses who do not respond to court orders or default judgments.

As it is for collecting child support, wage garnishment would be an appropriate remedy for ensuring that the money owed actually is paid. The procedures for garnishment involving child support are well established, and adding spousal maintenance would not impose a burden on employers.

**OPPONENTS
SAY:**

Garnishment of wages to enforce court-ordered spousal maintenance would bring Texas closer to the alimony system in California. Spousal maintenance in Texas has been evolving toward becoming outright alimony, and this bill would accelerate that trend. Many spouses of lesser means and who already may be paying 30 percent of their income for child support would be placed in an even worse position. Combined child support and spousal maintenance payments could approach 50 percent of some spouses' income.

Garnishment of wages is a drastic step that should be reserved for payment of child support, not allowed for alimony-type payments. Unlike child support, spousal maintenance payments are used to support adults who may be capable of supporting themselves.

NOTES:

HB 145 by Thompson, which would provide for the garnishment of wages for spousal maintenance, is on today's General State Calendar.