

## **BILL ANALYSIS**

Senate Research Center

S.B. 1847  
By: Harris  
Jurisprudence  
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As Filed

### **DIGEST**

Currently, the Office of the Attorney General (OAG) administers the Title IV-D child support enforcement program. The Comptroller's *Disturbing the Peace*, in issues GG 12 through GG 16, identified several tools and system efficiencies that could be implemented by OAG to improve performance of the Title IV-D child support program. This bill would implement some of those tools and system efficiencies identified in *Disturbing the Peace*.

### **PURPOSE**

As proposed, S.B. 1847 implements tools and systems efficiencies identified in the Comptroller's *Disturbing the Peace* to help the Office of the Attorney General in implementing the Title IV-D child support enforcement program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Title IV-D agency in SECTION 16 (Section 157.471(b), Family Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 72C, Government Code, by adding Section 72.028, as follows:

Sec. 72.028. PILOT PROGRAM: FAMILY LAW CASE PROCEEDING. Requires the Office of Court Administration of the Texas Judicial System (office) to establish a pilot program to improve the efficiency of court processing of family law cases. Requires the office to award grants to at least two counties for the development of pilot program projects during each fiscal year. Requires the office to give preference to Bexar and Harris counties in awarding grants. Sets forth the requirements that a pilot program project must have in order to be eligible for a grant. Requires the office, as part of the pilot program, to review county assessments of needs related to processing family law cases and to provide technical assistance to county and district clerks as requested. Authorizes the office to use a reasonable portion of the money appropriated for the pilot program to defray the costs of administering the program. Requires the attorney general and the Department of Protective and Regulatory Services (DPRS) to cooperate in the development of the pilot program and in the development and support of the pilot projects. Requires each state agency or local government participating in the pilot program to identify all pilot program parts that qualify for federal financing assistance and seek that assistance. Requires the office, by January 15 of each odd-numbered year, to submit a report regarding the effectiveness of the pilot program to certain high government officials. Requires the office to make the report available to any member of the legislature.

SECTION 2. Amends Section 157.311, Family Code, to define "court having continuing jurisdiction."

SECTION 3. Amends Section 157.312, Family Code, by adding Subsections (d)-(f), to set forth when a child support lien arises. Authorizes a child support lien arising in another state to be enforced in the same manner and to the same extent as a lien arising in this state. Provides that a foreclosure action under this subchapter is not required as a prerequisite to levy and execution on

judgment or an administrative determination of arrearage rendered after notice and opportunity for hearing.

SECTION 4. Amends Section 157.313, Family Code, to amend Subsection (a), to require a child support lien to contain, among other items, the amount of child support arrearages owed by the obligor and the date of the rendition of the court order, administrative order, or writ that determined the arrearages or the date on which and manner in which the arrearages were determined; and the rate of interest specified in the court order, administrative order, or writ or, in the absence of a specified interest rate, the rate provided for by law, rather than Subchapter F. Makes conforming changes.

SECTION 5. Amends Section 157.314, Family Code, to authorize a child support lien notice or an abstract of judgment for past due child support to be filed by the claimant with the county clerk of, among other counties, the county in which the court of continuing jurisdiction sits. Authorizes a child support lien notice to be filed with clerk of the court in which a claim, counterclaim, or suit by or on behalf of the obligor is pending; any other individual or organization believed to be in possession of real or personal property of the obligor; or any governmental unit or agency that issues or records certificates, titles, or other indicia of property. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 157.316, Family Code, to provide that a child support lien is perfected, rather than attaches, when an abstract of judgment for past due child support of a child support lien notice is filed with the county clerk as provided by this subchapter.

SECTION 7 Amends Section 157.317(a), Family Code, to provide that a lien attaches to all real and personal property not exempt under the Texas Constitution owned by the obligor on or after the date the lien notice or abstract of judgment is filed with the county clerk of the county in which the property is located, with the court clerk as to property or claims in litigation or, as to property of the obligor in the possession or control of a third party, from the date the lien notice is filed with that party, rather than on or after the date the lien attaches.

SECTION 8. Amends Section 157.318, Family Code, as follows:

Sec. 157.318. New heading: DURATION AND EFFECT OF CHILD SUPPORT LIEN. Provides that a lien is effective until all current support and child support arrearages have been paid or the lien is otherwise released as provided in this subchapter, rather than for 10 years from the date the notice is recorded in the county clerk's office in the county where the property of the obligor is located. Provides that the lien secures payment of all child support arrearages owed by the obligor pursuant to the underlying support order, rather than authorizing the lien to be extended for an additional 10-year period by a certain recording. Provides that the filing of a lien notice or abstract of judgment with the county clerk is a record of the notice and has the same effect as any other lien notice with respect to real property records.

SECTION 9. Amends Section 157.319, Family Code, as follows:

Sec. 157.319. New heading: EFFECT OF LIEN NOTICE. Deletes existing Subsection (a). Deletes text in reference to a lien that has been filed as provided in this subchapter. Authorizes a person having notice of a child support lien who violates this section to be joined as a party to a foreclosure action under this chapter and is subject to the remedies provided by this subchapter. Makes conforming changes.

SECTION 10. Amends Section 157.321, Family Code, to prohibit the release or return from operating to prevent future action to collect from the same or other property owned by the obligor.

SECTION 11. Amends Section 157.322, Family Code, to require the claimant, under certain conditions, to execute and deliver to the obligor or the obligor's attorney a release of the child support lien. Requires the release of the lien to be effective when filed with the county clerk of the county where the lien notice or abstract of judgment was filed. Authorizes a copy of the release of lien to be filed with any other individual or organization that may have been served with a lien notice under this subchapter. Deletes existing Subsections (b)-(e).

SECTION 12. Amends Section 157.323, Family Code, as follows:

Sec. 157.323. New heading: FORECLOSURE OR SUIT TO DETERMINE ARREARAGES. Authorizes an action to foreclose a child support lien or to dispute the amount of arrearages stated in the lien, in addition to any other remedy provided by law, to be brought in the court of continuing jurisdiction or, if there is no court of continuing jurisdiction in this state, in the district court of the county in which the property is or was located and the lien was filed. Requires the procedure for a closure action under this section to be conducted as provided by Subchapter B, except that a person or organization in possession of property of the obligor may be joined as an additional respondent. Requires the court, if arrearages are owed by the obligor, among other options, to order an individual or organization in possession of nonexempt personal property or cash owned by the obligor to dispose of the property as the court may direct. Makes conforming and nonsubstantive changes.

SECTION 13. Amends Section 157.324, Family Code, to provide that a person who knowingly disposes of property subject to a lien or who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court or administrative order under this subchapter is liable to the claimant in an amount equal to the arrearages for which the foreclosure judgment was issued. Makes a conforming change.

SECTION 14. Amends Section 157.325(b), Family Code, to authorize the holder of the personal property or the obligor, if the claimant refuses the request, to file suit under this subchapter for an order determining arrearages and discharging, rather than petition the court of competent jurisdiction for discharge of, excess personal property or money from the lien.

SECTION 15. Amends Section 157.326, Family Code, to authorize a spouse of an obligor to file an affidavit with the court of continuing, rather than a court of competent, jurisdiction or, if there is no court of continuing jurisdiction within this state, in the district court of the county in which the property is or was located and the lien was filed requesting that the court determine the extent, if any, of the spouse's interest in real or personal property that is subject to a lien perfected under this subchapter; or an action to foreclose under this subchapter. Requires the court, after notice to the obligee, among others, to conduct a hearing and determine the extent of the ownership interest in the property held by the obligor's spouse. Requires the court, if the court finds that the property is jointly owned by the obligor and the obligor's spouse, to determine whether the sale of the obligor's interest in the property would result in an unreasonable hardship on the obligor's spouse and family and, if not, the court shall render an order partitioning the property and directing that the property be sold and the proceeds applied to the child support arrearages. Provides that in a proceeding under this section, the spouse claiming an ownership interest in the property has the burden to prove the extent of that ownership interest. Makes conforming changes.

SECTION 16. Amends Chapter 157, Family Code, by adding Subchapter J, as follows:

SUBCHAPTER J. SPECIAL ENFORCEMENT METHODS  
BY TITLE IV-D AGENCY

Sec. 157.471. REWARDS FOR INFORMATION. Authorizes the Title IV-D agency to offer a reward to an individual who provides information to the agency that leads to the collection of child support owed by an obligor who is delinquent in paying support. Requires the Title IV-D agency to adopt rules providing for the amounts of rewards offered under this section and the circumstances under which an individual providing information is entitled to receive a reward. Requires a reward paid under this section to be paid from the child support retained collections account.

Sec. 157.472. PUBLIC IDENTIFICATION OF CERTAIN OBLIGORS. Requires the Title IV-D agency to develop a program to identify publicly certain child support obligors who are delinquent in the payment of child support. Requires the program to include the displaying of photographs and profiles of obligors in public and private locations. Requires the Title IV-D agency to use posters, the news media, and other cost-effective methods to display

photographs and profiles of certain obligors who are in arrears in paying child support. Requires the Title IV-D agency to divide the state into at least six regions for local identification of certain child support obligors who are delinquent. Prohibits the Title IV-D agency from disclosing the information under this section that is by law required to remain confidential.

Sec. 157.473. INFORMATION ON INTERNET. Requires the Title IV-D agency to place on the Internet for public access child support information to assist the public in child support matters.

SECTION 17. Amends Chapter 231C, Family Code, by adding Section 231.2025, as follows:

Sec. 231.2025. CONTINGENCY FEES. Authorizes the Title IV-D agency to pay a contingency fee in contract or agreement between the agency and a private agency or individual authorized under Section 231.002(c). Requires the contingency fee to be paid from the funds recovered by the private agency or individual. Authorizes the remaining funds recovered by a private agency or individual after payment of a contingency fee to be spent for child support enforcement.

SECTION 18. Amends Section 231.302, Family Code, by amending Subsections (a), (b), (c), and (e) and by adding Subsection (g), as follows:

(a) Authorizes the Title IV-D agency of this or another state, rather than requiring the Title IV-D agency to attempt to locate a person needed to establish or enforce a support or medical support obligation, to request and obtain information relating to the identity, location, employment, compensation, benefits, income, and property holdings or other assets of any person from a state or local government agency, private company, institution, or other entity as necessary to establish, modify, or enforce a support order. Makes conforming changes.

(b) Requires a government agency, private company, institution, or other entity to provide the information requested under Subsection (a) and, subject to safeguards on privacy and information security, to provide the information in the most efficient and expeditious manner available. Prohibits any individual or entity disclosing information under this section in response to a request from a Title IV-D agency from being held liable in any civil action or proceeding to any person for the disclosure of information.

(c) Provides that to assist in the administration of laws relating to child support enforcement under Parts A and D of Title IV of the federal Social Security Act (42 U.S.C. Sections 601 et seq. and 651 et seq.), each licensing authority responsible for issuing a professional license, a commercial driver's license, or an occupational license shall require that the social security number of any applicant for a license be recorded on the application. Makes conforming and nonsubstantive changes.

(e) Makes conforming changes.

(g) Defines "licensing authority."

SECTION 19. Amends Title 5D, Family Code, by adding Chapter 233, as follows:

#### CHAPTER 233. COMPETITIVE BIDDING FOR CHILD SUPPORT COLLECTION SERVICES

Sec. 233.001. DEFINITION. Defines "council."

Sec. 233.002. POWERS AND DUTIES OF COUNCIL. Sets forth the required powers and duties of the State Council on Competitive Government (council). Authorizes the powers and duties under this section to be performed by the members of the council or by employees of the state agencies represented by the council members. Requires the Title IV-D agency to cooperate with the council if requested by the council. Requires the council and the attorney

general to report to the presiding officers of each house of the legislature the results of the efforts under this section by October 1, 1998.

Sec. 233.004. CHILD SUPPORT COLLECTION AGREEMENT. Authorizes the attorney general or a contractor to enter into an agreement with a person liable for the payment of child support. Authorizes the agreement to relate to any matter that may be adjudicated by a court.

SECTION 20. Amends Section 521.044, Transportation Code, by adding Subsections (e) and (f), as follows:

(e) Requires the Department of Public Safety (DPS) to include a statement in all notices to driver's license holders that if a holder is delinquent in child support payments, the holder should make satisfactory arrangements with the office of the attorney general to correct such delinquency. Authorizes the attorney general, if no contract or arrangements are made by a delinquent license holder, to commence procedures to suspend the holder's drive's license.

(f) Requires DPS to include performance measures on the percentage of complete and correct social security numbers on driver's licenses in their legislative appropriations requests and budgets, in quarterly performance reports, and in audits of their local DPS offices.

SECTION 21. Makes application of this Act prospective.

SECTION 22. Emergency clause.  
Effective date: 90 days after adjournment.