

BILL ANALYSIS

Senate Research Center

S.B. 426
By: Harris
Jurisprudence
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As Filed

DIGEST

Currently, Chapter 159, Family Code, sets forth the provisions of the Uniform Interstate Family Support Act (UIFSA). The National Conference of Commissioners on Uniform State Laws (NCCUSL) adopted amendments to UIFSA in July of 1996. Thereafter, the U.S. Congress enacted welfare reform, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, that mandated all states to pass UIFSA, as amended by NCCUSL. Such state legislation is necessary in order for a state to remain eligible for federal funding of child support enforcement. This bill would amend UIFSA to comply with the federal law in order to retain the federal subsidy for child support enforcement.

PURPOSE

As proposed, S.B. 426 amends Chapter 159, Family Code, setting forth the provisions of the Uniform Interstate Family Support Act, to comply with federal law in order to retain the federal subsidy for child support enforcement.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 159.101(7), (16), and (19), Family Code, to redefine "initiating state," "responding state," and "state."

SECTION 2. Amends Section 159.102, Family Code, as follows:

Sec. 159.102. New heading: TRIBUNAL OF STATE.

SECTION 3. Amends Section 159.203, Family Code, as follows:

Sec. 159.203. New heading: INITIATING AND RESPONDING TRIBUNAL OF STATE.

SECTION 4. Amends Section 159.205(a), Family Code, to provide that a tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order unless, among other items, all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

SECTION 5. Amends Section 159.207, Family Code, as follows:

Sec. 159.207. New heading: RECOGNITION OF CONTROLLING CHILD SUPPORT ORDER. Provides that if a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized. Sets forth the rules a tribunal of this state shall apply in determining which order to recognize for purposes of continuing, exclusive jurisdiction if a proceeding is brought under this chapter and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child. Authorizes a party to request a tribunal of

this state to determine which order controls and must be so recognized if two or more child support orders have been issued for the same obligor and child and if the obliger or the individual obligee resides in this state. Requires the request to be accompanied by a certified copy of every support order and that the requesting party give notice of the request to each party whose rights may be affected by the determination. Provides that the tribunal that issues the controlling order is the tribunal that has continuing, exclusive jurisdiction under Section 159.205. Requires a tribunal that determines by order the identity of the controlling order or that issues a new controlling order to state in that order the basis upon which the tribunal made its determination. Sets forth the filing guidelines for the party who obtains the order. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 159.301, Family Code, as follows:

Sec. 159.301. New heading: PROCEEDINGS UNDER CHAPTER. Provides that this chapter provides for the establishment of an order for spousal support or child support pursuant to, rather than under, Section 159.401. Provides that this chapter provides for the enforcement of a support order of another state without registration pursuant to Sections 159.501-159.507, rather than under Subchapter F. Provides that this chapter provides for registration of an order for spousal support or child support of another state for enforcement pursuant to Sections 159.601-159.608, rather than under Subchapter G. Provides that this chapter provides for modification of an order for child support or spousal support issued by a tribunal of this state pursuant to, rather than under, Sections 159.203-159.205. Provides that this chapter provides for registration of an order for child support of another state for modification pursuant to Sections 159.609-159.614, rather than under Subchapter G. Provides that this chapter provides for determination of parentage pursuant to Section 159.701, rather than under Subchapter H. Provides that this chapter provides for the assertion of jurisdiction over nonresidents pursuant to, rather than under, Sections 159.201-159.202. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Section 159.303, Family Code, as follows:

Sec. 159.303. New heading: APPLICATION OF LAW OF STATE.

SECTION 8. Amends Section 159.304, Family Code, to authorize a tribunal of this state to issue a certificate or other document and make findings required by the law of the responding state if a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to that Act. Authorizes the tribunal to specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state if the responding state is a foreign jurisdiction.

SECTION 9. Amends Sections 159.305(a), (b), and (e), Family Code, to delete a requirement that notification to a certain petitioner by a responding tribunal be completed by first class mail. Deletes a provision providing that a responding tribunal, authorized to place liens and order execution on an obligor's property, is prohibited from placing such liens on real property.

SECTION 10. Amends Section 159.306, Family Code, to make a conforming change.

SECTION 11. Amends Section 159.307(b), Family Code, to make conforming changes.

SECTION 12. Amends Sections 159.313(a) and (c), Family Code, to prohibit a petitioner from being required to pay a filing fee or other costs. Deletes provision authorizing an initiating court to require payment of either a filing fee or other costs from the obligee and from requesting the responding court to collect fees and costs from the obligor. Deletes provision authorizing the clerk of the responding court to require payment of a filing fee or other costs from the obligee. Makes conforming changes.

SECTION 13. Amends Chapter 159F, Family Code, as follows:

SUBCHAPTER F. New heading: ENFORCEMENT OF ORDER OF ANOTHER STATE

WITHOUT REGISTRATION

Sec. 159.501. New heading: EMPLOYER'S RECEIPT OF INCOME WITHHOLDING ORDER OF ANOTHER STATE. Makes conforming changes.

Sec. 159.502. EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE. Requires an obligor's employer to immediately provide a copy of the order to the obligor upon receipt of an income-withholding order. Requires the employer to withhold and distribute the funds as directed in the withholding order by complying with certain specified terms of the order except as otherwise provided in Section 159.503(d), Family Code. Requires an employer to comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to the employer's fee for processing an income-withholding order; the maximum amount permitted to be withheld from the obligor's income; and the times within which the employer must implement the withholding order and forward the child support payment. Makes conforming changes.

Sec. 159.503. COMPLIANCE WITH MULTIPLE INCOME-WITHHOLDING ORDERS. Provides that an employer satisfies the terms of the multiple orders with respect to the earnings of the same obligor if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

Sec. 159.504. IMMUNITY FROM CIVIL LIABILITY. Provides that an employer who complies with an income-withholding order issued in another state in accordance with this subchapter is not subject to civil liability in regard to that compliance.

Sec. 159.505. PENALTIES FOR NONCOMPLIANCE. Provides that an employer who wilfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Sec. 159.506. CONTEST BY OBLIGOR. Authorizes an obligor to contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Requires the obligor to give notice of the contest to, among others, each employer that has directly received an income-withholding order. Makes conforming changes.

Sec. 159.507. ADMINISTRATIVE ENFORCEMENT. Redesignated from Sec. 159.502.

SECTION 14. Amends Section 159.604(a), Family Code, to delete text providing that the law of the issuing state governs payments and other obligations of support and the payment of arrearages under the order only if a party provides the court having jurisdiction over an action in this state a certified copy of the applicable law of the state. Makes conforming changes.

SECTION 15. Amends Sections 159.605(a) and (b), Family Code, to delete a provision requiring notice of a registered support order or income-withholding order issued in another state to a nonregistering party by the registering tribunal by either first class, certified, or registered mail or by any means of personal service authorized by the law of this state. Makes conforming and nonsubstantive changes.

SECTION 16. Amends Sections 159.606(a) and (c), Family Code, to make conforming and nonsubstantive changes.

SECTION 17. Amends Sections 159.611(a) and (c), Family Code, to provide that after a child support order issued in another state has been registered in this state, the responding tribunal of this state is authorized to modify the order only if, among other items, Section 159.613, Family Code, does not apply and the tribunal finds that the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed in the issuing tribunal written consents for a tribunal of this state to modify the order and assume

jurisdiction over the order, rather than filing consents that provide that a tribunal of this state is authorized to modify such an order. Provides that for the purpose of this subdivision, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order. Provides that if two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under Section 159.207 establishes the aspects of the support order that are nonmodifiable. Makes conforming changes.

SECTION 18. Amends Chapter 159G, Family Code, by adding Sections 159.613 and 159.614, as follows:

Sec. 159.613. JURISDICTION TO MODIFY CHILD SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE. Provides that a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order if all the parties who are individuals reside in this state and the child does not reside in the issuing state. Requires such a tribunal to apply the provisions of Sections 159.101-159.209 and 159.601-159.614 and the procedural and substantive law of this state to the proceeding for enforcement or modification. Provides that Sections 159.301-159.507 and 159.701-159.802 do not apply.

Sec. 159.614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION. Sets forth the requirements for filing, sanctions for failure to file, and the effect of failure to file a modified child support order by the party obtaining such an order.

SECTION 19. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 20. Emergency clause.