

By: Wentworth

S.B. No. 431

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the enforcement of unpaid child support.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 157.005(b), Family Code, is amended to
5 read as follows:

6 (b) The court retains jurisdiction to confirm the total
7 amount of child support arrearages and render judgment for past-due
8 child support until the date all current child support and medical
9 support and child support arrearages, including interest and any
10 applicable fees and costs, have been paid [if a motion for
11 enforcement requesting a money judgment is filed not later than the
12 10th anniversary after the date].

13 [~~(1) the child becomes an adult; or~~

14 [~~(2) on which the child support obligation terminates~~
15 ~~under the child support order or by operation of law~~].

16 SECTION 2. Section 157.311(1), Family Code, is amended to
17 read as follows:

18 (1) "Account" means:

19 (A) any type of a demand deposit account,
20 checking or negotiable withdrawal order account, savings account,
21 time deposit account, money market mutual fund account, certificate
22 of deposit, or any other instrument of deposit in which an
23 individual, as a signatory or not, has a beneficial ownership
24 either in its entirety or on a shared or multiple party basis,

1 including any accrued interest and dividends, and includes an
2 account in which:

3 (i) the obligor has a community or separate
4 property interest; or

5 (ii) funds are held for the obligor's
6 benefit or placed at the direction of the obligor, regardless of
7 whether the funds are held in the name of a nominal owner other than
8 the obligor; and

9 (B) a life insurance policy in which an
10 individual has a beneficial ownership or liability insurance
11 against which an individual has filed a claim or counterclaim.

12 SECTION 3. Section 157.312(g), Family Code, is amended to
13 read as follows:

14 (g) A child support lien under this subchapter may not be
15 directed to an employer in lieu of an order or writ under Chapter
16 158 to withhold child support from [attach to] the disposable
17 earnings of an obligor [paid by the employer].

18 SECTION 4. Section 157.314, Family Code, is amended by
19 amending Subsection (d) and adding Subsection (e) to read as
20 follows:

21 (d) If a child support lien notice is delivered to a
22 financial institution with respect to an account of the obligor,
23 the institution shall immediately:

24 (1) provide the claimant with the last known address
25 of the obligor and disclose to the claimant the amount in the
26 account at the time of receipt of the notice; and

27 (2) notify any other person having an ownership

1 interest in the account that the account has been frozen in an
2 amount not to exceed the amount of the child support arrearage
3 identified in the notice.

4 (e) On request, a financial institution to which a child
5 support lien notice has been delivered shall provide the claimant
6 with a statement showing all transactions involving the obligor's
7 account that occurred from the date of receipt of the child support
8 lien notice to the date of receipt of the request for information.

9 SECTION 5. Sections 157.327(b), (c), and (f), Family Code,
10 are amended to read as follows:

11 (b) The notice under this section must:

12 (1) identify the amount of child support arrearages
13 owing at the time the amount of arrearages was determined or, if the
14 amount is less, the amount of arrearages owing at the time the
15 notice is prepared and delivered to the financial institution; and

16 (2) direct the financial institution to pay to the
17 claimant, not earlier than the 15th day or later than the 21st day
18 after the date of delivery of the notice, an amount from the assets
19 of the obligor or from funds due to the obligor at the time the levy
20 is paid that are held or controlled by the institution or that
21 should have been held or controlled by the institution, not to
22 exceed the amount of the child support arrearages identified in the
23 notice, unless:

24 (A) the institution is notified by the claimant
25 that the obligor has paid the arrearages or made arrangements
26 satisfactory to the claimant for the payment of the arrearages;

27 (B) the obligor or another person with an

1 ownership interest in the account files, not later than the 10th day
2 after the date of delivery of the notice, a suit under Section
3 157.323 requesting a hearing by the court; or

4 (C) if the claimant is the Title IV-D agency, the
5 obligor has requested an agency review under Section 157.328.

6 (c) A financial institution that receives a notice of levy
7 under this section may not close an account in which the obligor has
8 a beneficial [an] ownership interest, permit a withdrawal from any
9 account the obligor owns, in whole or in part, or pay funds to the
10 obligor or a nominal owner so that any amount remaining in the
11 account is less than the amount of the arrearages identified in the
12 notice, plus any fees due to the institution and any costs of the
13 levy identified by the claimant.

14 (f) A financial institution may collect any fees and costs
15 identified in Subsection (c) from the obligor but may not deduct
16 those [the] fees and costs [identified in Subsection (c)] from the
17 obligor's assets before paying the appropriate amount to the
18 claimant.

19 SECTION 6. Section 34.001, Civil Practice and Remedies
20 Code, is amended by adding Subsection (c) to read as follows:

21 (c) This section does not apply to a child support judgment
22 or any other child support collection remedy authorized by the
23 Family Code.

24 SECTION 7. The changes in law made by this Act to Section
25 157.005, Family Code, apply to child support arrearages regardless
26 of the date:

27 (1) the child support became due; or

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1 (2) the child support obligation terminated.

2 SECTION 8. The changes in law made by this Act to Sections
3 157.311 and 157.312, Family Code, apply only to a child support lien
4 notice filed on or after the effective date of this Act. A child
5 support lien notice filed before the effective date of this Act is
6 governed by the law in effect on the date the lien notice was filed,
7 and the former law is continued in effect for that purpose.

8 SECTION 9. The changes in law made by this Act to Sections
9 157.314 and 157.327(f), Family Code, apply only to a financial
10 institution that receives a lien notice or notice of levy under
11 those sections on or after the effective date of this Act. A
12 financial institution that receives a lien notice or notice of levy
13 under those sections before the effective date of this Act is
14 governed by the law in effect on the date the lien notice or notice
15 of levy is received, and the former law is continued in effect for
16 that purpose.

17 SECTION 10. The changes in law made by this Act to Section
18 34.001, Civil Practice and Remedies Code, apply to each child
19 support judgment or collection remedy, regardless of the date on
20 which the judgment is rendered or the remedy is sought.

21 SECTION 11. This Act takes effect September 1, 2009.