

CHAPTER 10

S.B. No. 26

AN ACT

providing for the Child Support Enforcement Improvement Act of 1986; relating to the collection of child support and certain administrative and judicial requirements and procedures; making a transfer and an appropriation; amending the Family Code, as amended, by amending Subsections (e) and (f) of Section 14.05, repealing Subsections (g) and (h) of Section 14.09 and amending and redesignating Subsection (i) of Section 14.09 as Subsection (d) of Section 14.32, amending Section 14.31, amending Subsections (a) and (b) of Section 14.41, amending Section 14.43, adding Sections 14.44 and 14.45, amending Subdivision (4) of Subsection (b) of Section 14.61, amending Subdivisions (6) and (15) of Section 21.03, amending Section 21.21, and adding a new Subchapter D, relating to expedited process in Title IV-D cases, to Chapter 14.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. This Act may be cited as the Child Support Enforcement Improvement Act of 1986.

SECTION 2. Section 14.05, Family Code, as amended, is amended by amending Subsections (e) and (f) to read as follows:

"(e) Except for good cause shown, on agreement of the parties, or as provided in Subsection (f) of this section, in every proceeding in which periodic payments of child support are ordered, the court shall order that income be withheld from the disposable earnings of the obligor to conform with the provisions of Subchapter B of this chapter. The court shall order that income withheld for child support shall be paid through a court registry, a child support collection office, or the attorney general, unless the court finds that there is good cause to require payments to be made to another person or office. If the court does not order income withholding, an order for support entered or modified on or after January 1, 1987, must contain a provision for income withholding to ensure that withholding may be effected if a delinquency occurs. These orders must be construed to contain this withholding provision even if the provision has been omitted from the written order. In the case of each obligor against whom an order for support has been issued or modified prior to January 1, 1987, the order is presumed to contain a provision for income withholding procedures to take effect in the event a delinquency occurs without further amendment to the order or future action by the court.

"(f) Except as provided in Sections 14.44 and 14.45 of this code, in [In] any proceeding brought under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), the court shall order that income be withheld from the disposable earnings of the obligor and that all child support payments shall be paid through the Attorney General of Texas."

SECTION 3. Subsections (g) and (h), Section 14.09, Family Code, as amended by Sections 12 and 13, Chapter 802, Acts of the 69th Legislature, Regular Session, 1985, are repealed.

SECTION 4. Subsection (i), Section 14.09, Family Code, as added by Section 13, Chapter 802, Acts of the 69th Legislature, Regular Session, 1985, is redesignated as Subsection (d), Section 14.32, Family Code, and amended to read as follows:

"(d) [(i)] The court in which a motion to enforce a child support order under this subchapter [section, Section 14.091 of this code, or Rule 308 A, Texas Rules of Civil Procedure,] is pending shall give preference to the pending motion in setting a date for a hearing and may not continue or postpone the hearing because of a motion under Section 14.08 of this code to modify the order on which the support obligation is founded."

SECTION 5. Section 14.31, Family Code, as added, is amended to read as follows:

"Section 14.31. PROCEDURE IN ENFORCEMENT PROCEEDINGS. (a) Proceeding Commenced By Motion. Enforcement proceedings under this subchapter shall be commenced by the filing of a motion to enforce a final [the] order, judgment, or decree.

“(b) Pleading. (1) Contents of Motion. Motions under this subchapter shall be verified as to the truth of the facts alleged by the party seeking enforcement of the court order. The motion shall set out specifically and with particularity the provisions of the *final* order, decree, or judgment sought to be enforced and, in separate counts, the time, date, and place of each occasion upon which the respondent has not complied with the order, the manner of the noncompliance, and the relief sought by the movant. The movant or the movant’s attorney shall sign the motion.

“(2) Joinder of Claims and Remedies. A party seeking enforcement of a *final* court order under this subchapter may join in the same proceeding, either independently or alternately, as many claims and remedies as he has against another party, whether such claims arise under this chapter, other provisions of this subtitle, or other provisions or rules of law. Claims that may be joined include but are not limited to proceedings to:

“(A) enforce a child support order by contempt under Section 14.40 of this code;

“(B) reduce child support arrearages to judgment under Section 14.41 of this code;

“(C) require a person obligated to support a child to furnish bond or other security under Section 14.42 of this code;

“(D) require withholding from earnings under Section 14.43 or Subchapter C of this chapter;

“(E) enforce a right to possess and have access to a child by contempt under Section 14.50 of this code;

“(F) require a person to furnish bond or other security to ensure compliance with a court order for possession of and access to a child under Section 14.51 of this code;

“(G) transfer the proceeding because venue is improper under Section 11.06 of this code;

“(H) petition for further action concerning a child under Section 11.07 of this code;

“(I) modify an existing order or decree under Section 14.08 of this code;

“(J) petition for a writ of habeas corpus under Section 14.10 of this code; ~~and~~

“(K) recover damages under Chapter 36 of this code;

“(L) *initiate procedures for withholding child support from earnings without the necessity of further action by the court under Sections 14.44 and 14.45 of this code; and*

“(M) *recover under any reciprocal enforcement of support act or interstate income withholding act whether as rendering or responding state.*

“(c) Duty of Court on Filing of Motion. On the filing of a motion under this subchapter, the court shall endorse thereon the time, place, and date of the hearing at which the respondent shall appear and respond to the motion. The hearing shall be held no sooner than 10 a.m. of the Monday next after the expiration of 20 days from the date of service, except that if enforcement by contempt under Section 14.40 of this code is the only remedy sought by the movant, the court may direct the respondent to appear on a date not sooner than 10 days from the date of service to show cause why he should not be adjudged in contempt.

“(d) Notice of Motion. A respondent or alleged contemnor is entitled to 10 days’ notice of a proceeding under Rule 308–A of the Texas Rules of Civil Procedure or of a proceeding under this subchapter in which *enforcement of child support by contempt, income withholding, or both are the only remedies* ~~[contempt under Section 14.40 of this code is the only remedy]~~ sought. In all other proceedings the provisions of the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit shall apply to a motion to enforce under this subchapter. Each party whose rights, privileges, duties, or powers may be affected by the motion to enforce is entitled to receive notice by the service of citation commanding the person to appear by filing a written answer, *unless the proceeding is brought under Sections 14.44 and 14.45 of this code.* An employer who may be ~~directed~~ ~~ordered~~ to withhold income from earnings under Section 14.43 or 14.45 of this code need not be given notice of the proceedings prior to the issuance of an

order or writ for income withholding [~~except as required by that section~~]. After the filing of an answer, the proceedings shall be conducted in the same general manner as in other civil cases.”

SECTION 6. Section 14.41, Family Code, as added, is amended by amending Subsections (a) and (b) to read as follows:

“(a) Judgment for Arrearages. *A periodic child support payment not timely made shall constitute a final judgment for the amount due and owing.* On the motion of an obligee or obligor, after notice and hearing, the court shall *confirm the amount of child support in arrears and shall render judgment against an obligor for any amount of child support unpaid and owing. The judgment rendered by the court may be subject to a counterclaim or offset as provided by Subsection (c) of this section.* The judgment may be enforced by any means available for the enforcement of judgments for debts.

“(b) Time Limitations. The court may not *confirm the amount of child support in arrears and may not enter a judgment for unpaid child support payments that were due and owing more than 10 years before the filing of the motion to render judgment under this section.* The court retains jurisdiction to enter judgment for past-due child support obligations if a motion to render judgment for the arrearages is filed within two years after:

“(1) the child becomes an adult; or

“(2) the date on which the child support obligation terminates pursuant to the decree or order or by operation of law.”

SECTION 7. Section 14.43, Family Code, is amended to read as follows:

“Section 14.43. WITHHOLDING FROM EARNINGS FOR CHILD SUPPORT. (a) Duty of Court to Order Income Withholding. Except for good cause shown, or on agreement of the parties, or as provided in Subsection (b) of this section, the court shall enter an order that provides that income be withheld from the disposable earnings of the obligor:

“(1) in every original suit affecting the parent-child relationship in which child support payments are ordered;

“(2) on motion to require income withholding regarding a child support order entered before the effective date of this subchapter; provided that at the time the motion is filed the obligor is shown to have been in arrears for a time period of at least 30 days for some portion of the amount due and [~~is currently~~] in arrears for an amount equal to or greater than that due for a one-month period; [~~or~~]

“(3) on motion to modify an order entered after the effective date of this subchapter that did not originally order income withheld; provided that the obligor is shown to have been in arrears for a time period of at least 30 days for some portion of the amount due and is currently in arrears for an amount equal to or greater than that due for a one-month period; or

“(4) after a hearing unsuccessfully contesting a notice of delinquency as provided by Section 14.44 of this code in a case involving the delinquency of either a child support order entered before the effective date of this subchapter or after the effective date of this subchapter that did not originally order income withheld. Payment of overdue support after receipt of notice of a hearing as provided by this section shall not be the sole basis for the court to refuse to order withholding from income.

“(b) Title IV Suits. *Except as provided in Sections 14.44 and 14.45 of this code, in* [~~in~~] any proceeding brought under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), the court shall order that income be withheld from the disposable earnings of the obligor and that all child support payments shall be paid through the Attorney General of Texas.

“(c) Payment. The court shall order that income withheld for child support be paid through *and promptly distributed by* a court registry, a child support collection office, or the attorney general, unless the court finds that there is good cause to require payments to be made to another person or office.

“(d) Withholding for Arrearages. In addition to income withheld for the current support of a child, in appropriate circumstances and in accordance with the guidelines established for child support payments as provided in *Subsection (a) of Section 14.05 [14.05(2)]* of this code, the court shall enter an order that income be withheld from the disposable earnings of the obligor to be applied toward the liquidation of any child support arrearages. *The additional amount to be withheld to be applied towards arrears should be sufficient to fully discharge those arrears in not more than two years or add 20 percent to the amount of the current monthly support order, whichever is less, consistent with the limitations on the maximum amount that may be withheld from earnings as provided by Subsection (f) of this section. If the court finds that such a repayment schedule would cause the obligor, the obligor’s family, or the children for whom the support is due to suffer unreasonable hardship, the court may extend the repayment period for a reasonable length of time.*

“(e) Contents of Order. An order withholding income shall state:

- “(1) the style, docket number, and court having continuing jurisdiction of the suit;
- “(2) the name, address, and, if available, the social security number of the obligor;
- “(3) the amount and duration of the child support payments;
- “(4) the name, address, and, if available, the social security numbers of the child and the obligee;
- “(5) the name and address of the person or agency to whom the payments shall be made; and
- “(6) any other matter deemed necessary to effectuate the order.

“The court shall order the obligor to notify the court promptly of any change affecting the order and that the ordered amount be paid to the attorney general, the court registry, or a child support collection office serving the court, unless the court finds there is good cause to require that payments be made directly to the obligee or to another person or office.

“(f) Amount Withheld From Earnings. The court shall enter an order directing that any employer of the obligor withhold from the obligor’s disposable earnings the amount specified in the order, up to a ~~the~~ maximum amount of 50 percent of the obligor’s ~~disposable earnings [permitted under Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Section 1673(b)].~~

“(g) Issuance of Order. On the request of the prosecuting attorney, the attorney general, *the obligor*, or the obligee, the clerk of the court shall cause a certified copy of the order withholding income from earnings to be delivered to the obligor’s current employer or to any subsequent employer of the obligor. In addition, the clerk shall attach a copy of this section to the order for the information of the employer.

“(h) Notice and Effective Date of Order. The employer shall begin to withhold income in accordance with an ~~the~~ order issued under this section or a writ issued under *Section 14.45 of this code* no later than the first pay period which occurs 14 days following the date on which the order or writ was delivered to the employer ~~serviced~~ and shall continue to withhold income as long as the obligor is employed by the employer. Delivery of the order or writ to the employer shall be by certified or registered mail, return receipt requested, *to the person authorized to receive service of process in civil cases generally, or to a person designated by the employer to receive notices of delinquency by written notice to the clerk of the appropriate court, or by the service of citation as provided by the Texas Rules of Civil Procedure.* After the effective date, the ~~ordered~~ amount to be withheld ~~less any administrative fee,~~ shall be remitted to the person or office named in the order on each regular due date or pay date.

“(i) Fees. The employer may deduct ~~from the ordered amount~~ an administrative fee of not more than \$5 per month *from the obligor’s disposable earnings in addition to the amount to be withheld as child support [to be credited towards the obligor’s payment of support].* The clerk of the court may charge the requestor a reasonable fee for each order delivered to an employer by mail, not to exceed \$5.

“(j) Hearing Requested by Employer. Within 20 days after *delivery* [~~service~~] of an [the] order or writ of income withholding, the employer may make a motion for hearing on the applicability of the order or writ to the employer. The hearing shall be held within 15 days following the filing of the motion. *The* [~~Pending the hearing, the~~] order or writ remains binding and payments shall continue to be made *pending further order of* [~~unless otherwise ordered by~~] the court.

“(k) Priority of Withholding. An order made under this section or a writ issued under Section 14.45 of this code has priority over any garnishment, attachment, execution, or other assignment or order affecting disposable earnings.

“(l) Liability and Obligation of Employer for Payments. An employer receiving [~~served with~~] an order under this section or a writ under Section 14.45 who complies with the order or writ is not liable to the obligor for the amount of income withheld and paid as provided in the order or writ. An employer who does not comply with the order or writ is liable to the obligee for the amount not paid in compliance with the order or writ and for reasonable attorney’s fees and court costs. An employer receiving [~~served with~~] two or more orders or writs on any named obligor shall comply with *every order or writ to the maximum extent possible* [~~all orders~~]. If the total amount in the orders or writ exceeds the maximum amount allowable to be withheld under this section, the employer shall pay an equal amount *towards the current support portion of* [on] all orders or writs until each order is [~~the orders are~~] individually complied with, and thereafter equal amounts on the arrearage portion of all orders until each order or writ is complied with, or until the maximum total amount of allowable withholding under Subsection (f) of this section is reached, whichever occurs first. *If an employer is ordered to withhold from more than one obligor, the employer may combine the withheld amounts from the obligors’ wages and make a single payment to each appropriate agency requesting withholding if the employer separately identifies the amount of the payment that is attributable to each obligor.*

“(m) Employer’s Penalty for Discriminatory Hiring or Discharge. An employer may not use an order or writ authorized by this subchapter as grounds in whole or part for the termination of employment or for any other disciplinary action against an employee. An employer may not refuse to hire an employee because of an order or writ withholding income. If an employer intentionally discharges an employee in violation of this subsection, the employer continues to be liable to the employee for current wages and other benefits and for reasonable attorney’s fees and court costs incurred by the employee in enforcing the employee’s rights under this subsection. An action under this subsection may be brought only by the employee.

“(n) Fine for Employers. In addition to the remedies provided by Subsections (l) and (m) of this section or by any other remedy provided by law, an employer who knowingly violates the provisions of those subsections *shall be* [~~is~~] subject to a fine not to exceed \$50.

“(o) Notice of Termination of Employment and of New Employment. If and when an obligor terminates employment with an employer who has been withholding income, both the obligor and the employer shall notify the court and the obligee of that fact within seven days of the termination of employment and shall provide the obligor’s last known address and the name and address of the obligor’s new employer, if known. The obligor has a continuing duty to inform any subsequent employer of the income withholding order or writ after obtaining employment.

“(p) Form of Order Withholding Income. The attorney general shall promulgate by regulation a form for the order withholding income that shall be sufficient if entered by a court in substantially the prescribed manner. *The attorney general may promulgate additional forms to facilitate the efficient collection of child support and to promote the administration of justice for all parties.*

“(q) Reduction or Termination of Withholding. *In any proceeding brought under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), the attorney general shall establish procedures for the reduction in or termination of withholding from income on the liquidation of an arrearage or the termination of the obligation of support. The procedures must provide that the*

payment of overdue support may not be used as the sole basis for terminating withholding.”

SECTION 8. Chapter 14, Family Code, as amended, is amended by adding Sections 14.44 and 14.45, to read as follows:

“Section 14.44. **NOTICE OF DELINQUENCY IN COURT-ORDERED CHILD SUPPORT.** (a) *Notice of Delinquency.* A proceeding may be initiated under Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), if a delinquency allegedly occurs in any previously ordered child support in an amount equal to or greater than the total support due for one month, whether the order was rendered prior to the effective date of this subchapter or income withholding was not ordered as provided by an exception contained in Subsection (a) of Section 14.05 and Section 14.43 of this code or by any other applicable law. The attorney general shall prepare and file with the court of continuing jurisdiction a verified notice of delinquency and deliver notice of delinquency to the obligor by hand delivery by a person designated by the attorney general or by first class or certified mail, return receipt requested, addressed to his last known address or place of employment. Upon mailing or hand delivery of the notice, the attorney general shall file with the court a certificate stating the name, address, and date on which the mailing or hand delivery was made. In the event that the notice of delinquency cannot be delivered in the manner described, the obligor may be served by the means prescribed for service of citation in civil cases generally. Payment of overdue support after the receipt of a notice of delinquency shall not be the sole basis for failure to issue and deliver a writ of withholding.

“(b) *Contents of Notice.* The notice of delinquency to the obligor shall:

“(1) state the amount of monthly support due, the amount of overdue support that is owed as an arrearage or anticipated arrearage, and the amount of wages that will be withheld by a writ of income withholding;

“(2) contain a statement that the withholding applies to each current or subsequent employer or period of employment;

“(3) contain a statement that if the obligor does not contest the withholding within 10 days after the receipt of the notice of delinquency, the obligor’s employer will be notified to begin the withholding;

“(4) describe the procedures for contesting the issuance and delivery of a writ of withholding;

“(5) contain a statement that if the obligor contests the withholding, he will be afforded an opportunity to present his case to the court within 30 days of receipt of the notice of contest;

“(6) state that the sole ground for successfully contesting the issuance of a withholding notice is a mistake of fact, which means a dispute concerning the identity of the obligor or the existence or amount of the arrearage;

“(7) describe the actions that the attorney general will take if the obligor contests the withholding, including the procedures for suspending issuance of a writ on withholding income; and

“(8) include with the notice of delivery a suggested form for the motion to stay issuance and delivery of the writ of withholding that the obligor may file with the clerk of the appropriate court.

“(c) *Staying Issuance and Delivery of a Writ of Income Withholding.* The obligor may stay the issuance and delivery of a writ of income withholding on his current or subsequent employer by filing a motion to stay issuance and delivery with the clerk of court with jurisdiction of the matter within 10 days of the date that the notice of delinquency is received by him. The grounds for granting the motion to stay issuance and delivery shall be limited to a dispute concerning the identity of the obligor or the existence or the amount of the arrearage. The obligor shall verify that statements of fact in the motion to stay issuance of the writ are true and correct. The filing of a motion to stay issuance and delivery within the 10 days required under this subsection prohibits the clerk of court from delivering the writ of income withholding to any

employer of the obligor pending a hearing as provided by this section and Section 14.43 of this code.

(d) Hearing on Contested Delinquency. When a petition to stay issuance and delivery has been filed, a hearing on the motion must be held within 30 days of its filing. The obligor and obligee, or their authorized representatives, must be notified by the clerk of court of the date, time, and place of the hearing. The court must decide the contested delinquency and either enter an order for income withholding pursuant to Section 14.43 of this code or deny the requested relief within 45 days of the date that the notice of delinquency was received by the obligor. If movant is pleading repeated violations of the court order, it is permissible to plead anticipated future violations of a similar nature that may arise between the filing of the motion or the notice of delinquency and the date of the hearing or the issuance of a writ of withholding from earnings for child support. Any defect in pleadings will be considered waived unless respondent specially excepts in writing and cites with particularity the alleged defect, obscurity, or other ambiguity in the motion for enforcement. Any such defensive pleading must be heard by the court before hearing the motion to enforce. If any exceptions are sustained by the court, the movant shall be given an opportunity to replead and hearing continued to a date certain without the requirement of additional service.

(e) Failure to Receive Notice of Delinquency. Within 30 days after the effective date of a writ of withholding on the obligor's employer, the obligor may file an affidavit with the court that a motion to stay issuance and delivery was not timely filed because the notice of delinquency was not received and that grounds exist for a motion to stay issuance and delivery as stated in Subsection (c) of this section. Concurrently, the obligor may file a motion to withdraw the writ of income withholding and to hold the hearing provided by Subsection (d) of this section and by Section 14.43 of this code. Income withholding shall not be interrupted until after the hearing at which the court enters an order granting the relief sought by the obligor based on the limited grounds for a motion to stay issuance and delivery.

(f) Form of Notice of Delinquency and Ancillary Forms. The attorney general shall promulgate by regulation a form for the notice of delinquency that shall be delivered to the obligor in the prescribed manner. The attorney general shall also promulgate by regulation additional forms in order to facilitate the efficient collection of child support and to promote the administration of justice for all parties. The appropriate forms shall be made readily available to obligors who choose to proceed without representation by an attorney.

Section 14.45. WRIT OF WITHHOLDING FROM EARNINGS FOR CHILD SUPPORT. (a) *Issuance and Delivery.* No sooner than 20 days following the mailing of a notice of delinquency to the obligor by first class mail or 11 days after receipt of a notice of delinquency by the obligor by hand delivery or certified mail, if no petition to stay issuance of the writ has been filed the attorney general shall file a request with the clerk of court to issue a writ of income withholding. The writ shall be delivered by certified mail, return receipt requested, to the employer of the obligor to the person authorized to receive service of process in civil cases generally, or to a person designated by the employer to receive writs of withholding by written notice to the clerk of the appropriate court, or by the service of citation as provided by the Texas Rules of Civil Procedure. The writ shall be issued and mailed by the clerk not later than the second working day after the request is filed.

(b) Contents. Except as provided in Subsection (c) of this section, the writ of income withholding shall direct the employer to withhold from the obligor's disposable income for current child support and child support arrearage in a manner identical to the terms provided by Section 14.43 of this code, as far as is practical.

(c) Withholding for Arrearages. In addition to withholding for current child support, the writ of income withholding shall require an additional amount to be withheld to be applied towards the arrearage sufficient to fully discharge those arrears in not more than two years or add 20 percent of the amount of current monthly support order, whichever is less. However, if the attorney general finds that

the obligor, the obligor's family, or the children for whom the support is due would suffer unreasonable hardship from such a schedule of repayment, the attorney general may request an extended repayment schedule to be instituted by the writ.

“(d) Hearing. Upon receipt of a writ of income withholding, the employer of the obligor may request a hearing in the same manner and according to the same terms as provided by Subsection (j) of Section 14.43 of this code.

“(e) Penalties for Noncompliance. In the absence of a hearing requested by the employer as provided in this section, failure to comply with the terms of a writ of income withholding shall subject an employer to the same liabilities and penalties as provided by Section 14.43 of this code applicable to an employer's failure to comply with an order of income withholding.

“(f) Modifications to Withholding. The attorney general shall cause the clerk to issue and to deliver a writ of withholding to the obligor's employer reflecting any modification or changes in the amount to be withheld from the obligor's disposable earnings or the termination of withholding.

“(g) Form of Writ of Income Withholding. The attorney general shall promulgate by regulation a form for the writ of income withholding that shall be sufficient when issued by the clerk and delivered to the employer of the obligor in substantially the prescribed manner.”

SECTION 9. Subsection (b), Section 14.61, Family Code, as added, is amended by amending Subdivision (4) to read as follows:

“(4) ‘Attorney General’ means the Child Support Enforcement Division of the Office of the Attorney General of Texas charged with the income withholding function, and ‘Agency’ means the Texas Department of Human Services [Resources] and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this subchapter, including the issuance and enforcement of support orders.”

SECTION 10. Section 21.03, Family Code, as amended, is amended by amending Subdivisions (6) and (15) to read as follows:

*“(6) ‘Duty of support’ includes any duty of support imposed or imposable by law, including duties imposed by Chapter 12 or 13 of this code, or by any court order, decree, or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise, but shall not include alimony for a former wife *except in proceedings brought pursuant to Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), requiring that an alimony award is entitled to interstate enforcement if awarded to an obligee with whom the absent parent's child is living, and only if the support obligation established with respect to the child is being enforced.*”*

*“(15) ‘Prosecuting attorney’ means the criminal district attorney, an attorney designated by the court, or the county attorney, or the district attorney where there is no criminal district attorney, attorney designated by the court, *the attorney general, or county attorney.*”*

SECTION 11. Section 21.21, Family Code, is amended to read as follows:

*“Section 21.21. CHOICE OF LAW. Duties of support applicable under this chapter are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought; but shall not include alimony for a former wife *except in proceedings brought pursuant to Part D of Title IV of the federal Social Security Act, as amended (42 U.S.C. Section 651 et seq.), requiring that an alimony award is entitled to interstate enforcement if awarded to an obligee with whom the absent parent's child is living, and only if the support obligation established with respect to the child is being enforced.* The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.”*

SECTION 12. Chapter 14, Family Code, as amended, is amended by adding Subchapter D to read as follows:

**"SUBCHAPTER D. EXPEDITED PROCESS TO ESTABLISH OR ENFORCE
SUPPORT OBLIGATIONS IN TITLE IV-D CASES**

"Section 14.80. DEFINITIONS. *In this subchapter:*

"(1) 'Secretary' means the Secretary of Health and Human Services of the United States.

"(2) 'Title IV-D case' means an action to establish or enforce support obligations brought under Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.).

"Section 14.81. TIME FOR DISPOSITION. *(a) Title IV-D cases must be disposed of within the following time periods:*

"(1) 90 percent within three months;

"(2) 98 percent within six months; and

"(3) 100 percent within one year.

"(b) Title IV-D cases shall be given priority over other cases.

"(c) A clerk or judge shall not restrict the number of Title IV-D cases which are filed or heard in the courts.

"Section 14.82. APPOINTMENT OF MASTER. *(a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having jurisdiction of Title IV-D cases, shall determine which courts require the appointment of a full-time or part-time master to complete each Title IV-D case within the time specified in Section 14.81 of this code. The presiding judge may limit the appointment to a specified time period and may terminate an appointment at any time. A master appointed under this subchapter may be appointed to serve more than one court.*

"(b) If the presiding judge determines that a court requires a master, the presiding judge shall appoint a master. If a master is appointed, the judge of the court shall refer all Title IV-D cases to the master. A master may be appointed to serve more than one court.

"(c) The provisions of Subchapter A, Chapter 54, Government Code, and Section 1, Chapter 851, Acts of the 69th Legislature, Regular Session, 1985, relating to the qualifications, powers, and immunity of a master apply to a master appointed under this section.

"(d) Except as provided in this section, the provisions of Subchapter A, Chapter 54, Government Code, and Section 1, Chapter 851, Acts of the 69th Legislature, Regular Session, 1985, that apply to a party or witness before a master, papers transmitted to the judge by a master, judicial action on the master's report, hearings before the judge, appeal, the effect of the master's report pending appeal, jury trial, the attendance of bailiff, and the presence of a court reporter apply to a master appointed under this section.

"(e) On motion of a party, the master may refer a complex case back to the judge for final disposition after the master has recommended temporary support.

"(f) The master shall take testimony and establish a record in all Title IV-D cases.

"(g) If the court determines that the nonprevailing party is able to pay a portion or all of the costs of a master, the court shall tax that amount as costs against the nonprevailing party. No costs may be taxed against the attorney general.

"Section 14.83. COMPENSATION. *(a) A master appointed under this subchapter is entitled to a salary to be determined by the presiding judge in a judicial district comprised of more than one county or by the commissioners court in a judicial district comprised of only one county. Such salary may not exceed 90 percent of the salary paid to a district judge as set by the state appropriations act.*

"(b) The master's salary shall be paid from the county fund available for payment of officers' salaries or from funds available from the state and federal government as provided in Subsection (e) of this section.

“(c) The presiding judge in a judicial district comprised of more than one county or the commissioners court in a judicial district comprised of only one county may also appoint such other personnel as may be needed to implement and administer the provisions under this subchapter. The salary of such personnel shall be consistent with the salary schedules of the county in which the person serves. The salary shall be paid from the county fund available for payment of officers’ salaries or from funds available from the state and federal government as provided in Subsection (e) of this section.

“(d) Costs and salaries associated with masters and personnel appointed under this section shall be considered administrative expenses of the judicial region and paid in accordance with other administrative costs.

“(e) The presiding judge and counties may contract with the attorney general for available federal funds under Title IV-D to reimburse such costs and salaries and may also use available state funds and public or private grants. The presiding judge and the office of the attorney general shall act and are authorized to take any action necessary to maximize the amount of federal funds available under the Title IV-D program.

“Section 14.84. APPOINTMENT OF MASTER REQUIRED. The presiding judge shall appoint a master for each court handling Title IV-D cases for which the state has not been granted an exemption from the expedited process of Title IV-D cases required by federal law.

“Section 14.85. EXEMPTION. (a) If a presiding judge of an administrative judicial region does not require the appointment of a master for a court, the presiding judge shall provide to the attorney general the information required by the secretary to grant the court an exemption from the expedited process requirement for Title IV-D cases. On receipt of sufficient information, the attorney general shall immediately apply to the secretary for an exemption from the expedited process requirement for Title IV-D cases for the district court. The attorney general shall promptly notify the presiding judge of the administrative judicial region in which the court is located of any information received from the secretary concerning the application for the exemption.

“(b) If the secretary does not grant an exemption for a court or if the secretary revokes an exemption for a court, the presiding judge of the administrative judicial region in which the court is located shall appoint a master as prescribed by Section 14.82 of this code within 30 days from receiving notice that the exemption was denied or revoked.

“(c) The presiding judge of an administrative judicial region shall require each court within the judicial region to provide information and data to the presiding judge, the office of court administration, and the office of the attorney general regarding the processing of Title IV-D cases necessary to:

“(1) establish the need for an exemption as provided by Subsection (a) of this section; and

“(2) comply with federal law.

“(d) The office of the attorney general and the office of court administration shall provide such assistance as may be required by the presiding judge in obtaining and storing the information and data provided under this section.

“(e) Any information or data required under this section may be provided as required by the presiding judge.

“Section 14.86. RULES AND PROCEDURES. The attorney general shall by rule promulgate any forms and procedures necessary to comply fully with the intent of this subchapter.”

SECTION 13. Not later than the 10th day after the day on which this Act takes effect, the attorney general shall apply to the Secretary of Health and Human Services of the United States for a one-year exemption from implementation of federal law requiring an expedited process for actions to establish or enforce support obligations brought under Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.).

SECTION 14. TRANSFER. On August 31, 1986, the comptroller shall transfer \$500,000 of the unobligated balance in the criminal justice planning fund to the Office of the Attorney General for use in Item 10.c., Program Operations—Child Support Enforcement, Office of the Attorney General, Article I, Chapter 980, Acts of the 69th Legislature, Regular Session, 1985.

SECTION 15. APPROPRIATION. Notwithstanding Article I, Chapter 980, Acts of the 69th Legislature, Regular Session, 1985, there is hereby appropriated to the Office of the Attorney General for use in Item 10.c., Office of the Attorney General, Article I, Chapter 980, Acts of the 69th Legislature, Regular Session, 1985, the amount of \$500,000, and any federal matching funds received by the state, for the implementation of state and federal law concerning the collection and enforcement of child support obligations pursuant to Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.).

SECTION 16. This Act takes effect January 1, 1987.

SECTION 17. The importance of this legislation to improve the collection of child support and bring Texas law into full compliance with the mandates of the federal Child Support Enforcement Amendments of 1984 and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on August 28, 1986, by a viva-voce vote; and that the Senate concurred in House amendment on September 3, 1986, by a viva-voce vote; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas. Passed the House, with amendment, on September 2, 1986, by the following vote: Yeas 77, Nays 48, one present not voting; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas.

Approved Sept. 22, 1986.

Effective Jan. 1, 1987.