

CHAPTER 261

S.B. No. 291

AN ACT

relating to the administration of a statewide plan for child support by the attorney general's office and awards of costs in Title IV-D cases and including appropriations of federal funds.

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

SECTION 1. Section 76.002, Human Resources Code, is amended by amending Subsection (b) and adding Subsections (f) and (g) to read as follows:

(b) The attorney general may assist in the judicial determination of the paternity of a child ~~[who has no presumed father whose support rights have been assigned to the attorney general's office].~~

(f) *The attorney general may take any actions with respect to execution, collection, and release of a judgment or lien for child support as necessary to satisfy the judgment or lien.*

(g) *In any proceeding brought under this chapter the attorney general may pay all fees, expenses, costs, and bills necessary to secure evidence and to take the testimony of a witness, including advance payments or purchases for transportation, lodging, meals, and incidental expenses of custodians of evidence or witnesses whose transportation is necessary and proper for the production of evidence or the taking of testimony. In making payments under this subsection, the attorney general shall present vouchers to the comptroller that have been sworn to by the custodian or witness and approved by the attorney general. The voucher shall be sufficient to authorize payment under this subsection without the necessity of a written contract. The attorney general may directly pay a commercial transportation company or commercial lodging establishment for the expense of transportation or lodging of a custodian or witness.*

SECTION 2. Section 76.003, Human Resources Code, is amended by amending Subsection (b) and adding Subsections (e) and (f) to read as follows:

(b) Child support payments for the benefit of a ~~[recipient] child [or a child other than a recipient child for]~~ whose support rights have been assigned to ~~[benefit]~~ the attorney general under this section or under Section 76.004 shall ~~[has provided service under this chapter may]~~ be made payable to and transmitted to the attorney general. If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or to a person other than such applicant or recipient, the attorney general may file notice of the assignment with the court ordering the payments. The notice must include:

- (1) a statement that the child is an applicant for or recipient of financial assistance, or a child other than a recipient child for whom services are provided;
- (2) the name of the child and the caretaker for whom support has been ordered by the court;
- (3) the style and cause number of the case in which support was ordered; and
- (4) a request that the payments ordered be made payable and transmitted to the attorney general's office.

(e) *The attorney general may file a notice of termination of assignment which may include a request that all or a portion of the payments be made payable to the attorney general and to such other persons who are entitled to receive such payments. On receipt of notice of termination of assignment the court shall order that the payments be directed as set forth in the notice.*

(f) *If an abstract of judgment or a child support lien on support amounts assigned to the attorney general under this chapter has previously been filed of record, the attorney general shall file for recordation, with the county clerk of each county in which such abstract or lien has been filed, a certificate that an order of assignment or a notice of termination of assignment has been issued.*

SECTION 3. Subsections (a), (b), and (c), Section 76.006, Human Resources Code, are amended to read as follows:

(a) *Except as provided in Subsection (c), all [All] files and records of services provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and an alleged or [father of a child who has no] presumed father, are confidential.*

(b) *Except as provided by Subsection (c), all [All] communications made by a recipient of financial assistance under Chapter 31 of this code or an applicant for or recipient of services under Section 76.004 of this chapter are privileged.*

(c) *The attorney general may use or release [Release of] information from the files and records, including information that results from a communication made by a recipient of financial assistance under Chapter 31 or by an applicant for or recipient of services under Section 76.004, for [shall be restricted to] purposes directly connected with the administration*

of the child support, paternity determination, parent locator, or aid to families with dependent children programs.

SECTION 4. Section 76.007, Human Resources Code, is amended by amending Subsections (a) and (b) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) Attorneys employed by the attorney general may represent *this [the] state or another state [other parties] in an action [a suit to establish or modify a child support obligation, collect child support, or determine paternity]* brought under the authority of federal law or this chapter.

(b) The attorney general may contract with private attorneys or political subdivisions of the state to represent *this state or another state [parties] in an action [legal actions to establish or modify child support obligations, to collect child support, or to determine paternity,]* brought under the authority of federal law and this chapter.

(d) *An attorney employed by the attorney general or as otherwise provided by this chapter represents the interest of the state and not the interest of any other party. The provision of services by an attorney under this chapter does not create an attorney-client relationship between the attorney and any other party. The attorney general's office shall, at the time an application for child support services is made, inform the applicant that neither the attorney general's office nor any attorney who provides services under this chapter is the applicant's attorney and that the attorney providing services under this chapter does not provide legal representation to the applicant.*

(e) *An attorney employed by the attorney general or as otherwise provided under this chapter may not be appointed or act as a guardian ad litem or attorney ad litem for a child or another party.*

(f) *The provision of services by the attorney general's office under this chapter or Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.) does not authorize service on the attorney general's office of any legal notice that is required to be served on any party other than the attorney general.*

(g) *A court shall not disqualify the attorney general in a legal action brought under this chapter or Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.) on the basis that the attorney general has previously provided services to a party whose interests may now be adverse to the relief sought by the attorney general in providing services under this chapter.*

SECTION 5. Section 76.009, Human Resources Code, is amended by adding Subsection (i) to read as follows:

(i) *A district clerk, a county child support registry or enforcement office, or a domestic relations office may not assess or collect fees for processing child support payments or for child support services from the attorney general, a managing conservator, or a possessory conservator in a case brought under this chapter, except as provided by Subsection (a) of this section.*

SECTION 6. Chapter 76, Human Resources Code, is amended by adding Section 76.011 to read as follows:

Sec. 76.011. **EMPLOYER NEW HIRE REPORTING PROGRAM.** (a) *The attorney general shall create and develop a voluntary Employer New Hire Reporting (ENHR) program in the child support enforcement division of the office of the attorney general. The ENHR program shall provide a means for employers to assist in the state's efforts to locate absent parents who owe child support and collect support from those parents by reporting information concerning newly hired and rehired employees directly to the child support enforcement program.*

(b) *To ensure timely receipt of information, the ENHR program shall provide that employers participating in the program report new hires and rehires within 10 working days of hire.*

(c) *The ENHR program shall apply to any person who:*

(1) *will be employed for more than one month's duration;*

(2) *will be paid for more than 350 hours during a continuous six-month period; or*

(3) will have gross earnings of more than \$300 in each month of employment.

(d) Any employer doing business in the State of Texas may voluntarily participate in the ENHR program by reporting to the attorney general:

(1) the hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; or

(2) the rehiring or return to work of any employee who was laid off, furloughed, separated, granted leave without pay, or terminated from employment.

(e) Employers participating in the ENHR program may provide information to the attorney general by:

(1) sending a copy of the new employee's W-4 form;

(2) completing a form supplied by the attorney general; or

(3) any other means authorized by the attorney general for conveying information, including electronic transmission or delivery of data tapes containing the employee's name, address, social security number, date of birth, and salary information, and the employer's name, address, and employer identification number.

(f) An employer participating in the ENHR program is authorized by this section to disclose the information described above and is not liable to the employee for such disclosure or any subsequent use by the attorney general of the information.

(g) For each employee reported under the ENHR program, the attorney general shall retain the information only if the attorney general is responsible for establishing, enforcing, or collecting a support obligation or debt of the employee or reporting to a court, domestic relations office, or a friend of the court the location of a parent who is denying possession of or access to a person with a valid possession order. If the attorney general is not responsible for establishing, enforcing, or collecting a support obligation or debt of the employee or reporting to a court, domestic relations office, or a friend of the court the location of a parent who is denying possession of or access to a person with a valid possession order, the attorney general shall not create a record regarding the employee and the information contained in the notice shall be promptly destroyed.

(h) In cooperation with the Texas Employment Commission and representatives of the private sector, the attorney general may develop a plan for phasing in implementation of this program, acknowledging employer participation in the program, and publicizing the availability of this program to Texas employers.

SECTION 7. Subsection (a), Section 11.181, Family Code, is amended to read as follows:

(a) At the conclusion of a Title IV-D case, the court may [shall] assess attorney fees and all [other] court costs as authorized by law against the nonprevailing party, except that the court may not assess those amounts against the attorney general or [a] private attorney or political subdivision that has entered into a contract under Section 76.007(b), Human Resources Code, or any party to whom [represented by] the attorney general has provided services under this chapter. Such fees and costs shall not exceed reasonable and necessary costs as determined by the court.

SECTION 8. All funds received from the federal government as reimbursement for the costs of contracts entered into by the attorney general pursuant to Subsection (d), Section 76.002, and Subsection (b), Section 76.007, Human Resources Code, shall be in excess of any amount appropriated to the attorney general by other Acts of the 73rd Legislature and are hereby appropriated to the attorney general for the purposes authorized by Chapter 76, Human Resources Code, for the fiscal years ending August 31, 1994, and August 31, 1995.

SECTION 9. (a) This Act takes effect September 1, 1993.

(b) The change in law made by this Act to Section 76.007, Human Resources Code, applies to the provision of services by an attorney without regard to whether the services were provided before, on, or after the effective date of this Act.

SECTION 10. The importance of this legislation 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 April 28, 1993: Yeas 31, Nays 0; the Senate concurred in House amendments on May 13, 1993, by a viva-voce vote; passed the House, with amendments, on May 12, 1993, by a non-record vote.

Approved May 23, 1993.

Effective Sept. 1, 1993.