

CHAPTER 816

S.B. No. 84

AN ACT

relating to the enforcement of support orders for children and the issuance of insurance coverage for certain persons subject to a medical support order for a child; providing a penalty.

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

ARTICLE 1. MEDICAL SUPPORT ORDERS FOR CHILDREN

SECTION 1.01. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.042 to read as follows:

Sec. 32.042. INFORMATION REQUIRED FROM HEALTH INSURERS. (a) An insurer shall maintain a file system that contains the name, employer's mailing address,

social security number, and date of birth of each subscriber or policyholder covered by the insurer.

(b) *The state's Medicaid third-party recovery division shall identify state medical assistance recipients who have third-party health coverage or insurance as provided by this subsection. The department shall provide to an insurer Medicaid data tapes that identify medical assistance recipients and request that the insurer identify each subscriber or policyholder of the insurer whose name also appears on the Medicaid data tape. An insurer shall comply with a request under this subsection not later than the 60th day after the date the request was made. An insurer is only required under this subsection to provide the department with the information maintained under Subsection (a) by the insurer or made available to the insurer from the plan. A third-party administrator is subject to this subsection to the extent the information described in this subsection is made available to the third-party administrator from the plan.*

(c) *An insurer may not be required to provide information in response to a request under this section more than once during a calendar year.*

(d) *An insurer shall provide the information required under this section only if the department certifies that the identified individuals are applicants for or recipients of services under Medicaid or are legally responsible for an applicant for or recipient of Medicaid services.*

(e) *The department may enter into an agreement with insurers that provides procedures for requesting and providing information under this section. An agreement under this subsection may not be inconsistent with any law relating to the confidentiality or privacy of personal information or medical records. The procedures agreed to under this subsection must include financial arrangements to reimburse an insurer for necessary costs incurred in providing the requested information and must state the time and manner the procedures take effect.*

(f) *Information required to be furnished to the department under this section is limited to information necessary to determine whether health benefits have been or should have been claimed and paid under a health insurance policy or plan for medical care or services received by an individual for whom Medicaid coverage would otherwise be available.*

(g) *Information regarding an individual certified to an insurer as an applicant for or recipient of medical assistance may only be used to identify the records or information requested and may not violate the confidentiality of the applicant or recipient. The department shall establish guidelines not later than the date on which the procedures agreed to under Subsection (e) take effect.*

(h) *In this section, "insurer" means a group health services corporation, a health maintenance organization, a self-funded or self-insured welfare or benefit plan or program to the extent the regulation of the plan or program is not preempted by federal law, and any other entity that provides health coverage in this state through an employer, union, trade association, or other organization or other source.*

SECTION 1.02. Section 14.061, Family Code, is amended by adding Subsection (r) to read as follows:

(r) *For purposes of enrolling a child in a health insurance program under this section, a court order requiring that health insurance be provided for a child is a change in the family circumstances of the covered person equivalent to the birth or adoption of a child by the covered person. On receipt of the medical support order by the employer, the child shall be automatically enrolled for the first 31 days after the receipt of the order by the employer on the same terms and conditions as apply to a dependent child. On receipt of the order by the employer, the employer shall notify the insurer of the automatic enrollment. During the 31-day period, the policyholder shall apply for coverage for the child in accordance with the medical support order.*

SECTION 1.03. Subsections (l) and (n), Section 14.43, Family Code, are amended to read as follows:

(l) *Liability and Obligation of Employer for Payments. An employer receiving 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 received an order or writ of withholding and 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, *including an amount the obligor is required to pay for health insurance under Section 14.061 of this code*, or to the obligor for the amount withheld and not paid and for reasonable attorney's fees and court costs. An employer receiving two or more orders or writs on any named obligor shall comply with every order or writ to the maximum extent possible. 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 all orders or writs until each order is 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.

(n) Fine for Employers. In addition to the civil 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 may be subject to a fine not to exceed \$200 [~~\$50~~] for each occurrence in which the employer fails to withhold. Any fines recovered under this subsection shall be paid to the obligee and credited against any amounts owed by the obligor.

SECTION 1.04. Subsections (A), (K), (L), and (M), Section 2, Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), are amended to read as follows:

(A) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(1) the entire money and other consideration therefor are expressed therein or in the application, if it is made a part of the policy; and

(2) the time at which the insurance takes effect and terminates is expressed therein; and

(3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policy holder, any two or more eligible members of that family, including husband, wife, dependent children, including a dependent grandchild of the policy holder who is less than 21 years old and living with and in the household of the policy holder, or any children under a specified age which shall not exceed twenty-five years, *a child the policy holder is required to insure under a medical support order issued under Section 14.061, Family Code, or enforceable by a court in this state*, and any other person dependent upon the policy holder; and

(4) the style, arrangement and over-all appearance of the policy gives no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers (except copies of applications and identification cards) are plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions); and

(5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 3 of this Act, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions"; provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) it contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in

full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or shortrate table filed with the Board; and

(8) it shall have printed thereon or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such person and to have the premium paid refunded if, after examination of the policy, such person is not satisfied with it for any reason. If such person pursuant to such notice, returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued. This subdivision shall not apply to single premium nonrenewable policies.

(K) An accident and sickness insurance policy that provides coverage for the immediate family or children of a person insured under the policy may not exclude from coverage or limit coverage to a child of the insured solely because the child is adopted. For the purposes of this subsection, a child is considered to be the child of an insured if:

[~~(1)~~] the insured is a party in a suit in which the adoption of the child by the insured is sought; ~~and~~

[~~(2)~~] ~~the insured has custody of the child under a temporary court order that grants to the insured conservatorship of the child.~~

(L) An individual or group policy of accident and sickness insurance that is delivered, issued for delivery, or renewed in this state, including a policy issued by a company subject to Chapter 20, Insurance Code, [~~and~~] evidence of coverage issued by a health maintenance organization subject to the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), ~~and a self-funded or self-insured welfare or benefit plan or program to the extent that regulation of the plan or program is not preempted by federal law~~ that provides coverage for a child of the policyholder, must provide coverage upon payment of a premium for any children of the policyholder's child if those children are dependents of the policyholder for federal income tax purposes ~~or for a child for whom the group member or insured must provide medical support under an order issued under Section 14.061, Family Code, or enforceable by a court in this state.~~

(M)(1) A group or individual accident and sickness insurance policy that provides coverage for dependent children of a group member or a person insured under the policy may not exclude from or discontinue coverage or set a different premium for the natural born or adopted child of the group member or person insured ~~or for a child for whom the group member or insured must provide medical support under an order issued under Section 14.061, Family Code, or enforceable by a court in this state~~ for either of the following reasons:

(a) the child does not reside with the group member or insured; or

(b) the group member or insured does not claim the child as an exemption for federal income tax purposes under Section 151(c)(1)(B), Internal Revenue Code of 1986 (26 U.S.C. Section 151(c)(1)(B)).

(2) A group or individual accident and sickness insurance policy that provides coverage for dependent children of a group member or a person insured under the policy may not exclude from or discontinue coverage or set a different premium for the natural born or adopted child of the spouse of the group member or person insured, provided that the child resides with the group member or person insured.

(3) Other policy provisions relating to maximum limiting attained age and enrollment in school may be used to establish continued eligibility for coverage of a dependent child. In the event of late enrollment, the insurance company may require evidence of insurability satisfactory to the company before inclusion of the dependent child for coverage under the policy.

SECTION 1.05. Subsection (c), Section 3D, Article 3.51-6, Insurance Code, is amended to read as follows:

(c) For the purposes of this section, a child is considered to be the child of an insured if:

[~~(1)~~] the insured is a party in a suit in which the adoption of the child by the insured is sought; ~~and~~

~~[(2) the insured has custody of the child under a temporary court order that grants to the insured conservatorship of the child].~~

SECTION 1.06. The comptroller shall perform a study to determine the cost-effectiveness of performing data matches under Section 32.042, Human Resources Code, as added by this Act, and the feasibility of expanding the scope of the program under that section. The comptroller shall report the results of the study to the lieutenant governor and the speaker of the house of representatives not later than December 1, 1994.

SECTION 1.07. (a) This article applies only to an order in a suit affecting the parent-child relationship or reciprocal child support action entered on or after the effective date of this Act. An order entered before the effective date of this Act is governed by the law in effect on the date the order was entered, and that law is continued in effect for that purpose.

(b) This article applies only to a policy delivered, issued for delivery, or renewed on or after January 1, 1994. A policy delivered, issued for delivery, or renewed before that date is governed by the law that existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 2. ENFORCEMENT OF CHILD SUPPORT ORDERS AFFECTING LICENSE HOLDERS AND MISCELLANEOUS ENFORCEMENT PROVISIONS.

SECTION 2.01. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.52 to read as follows:

Sec. 14.52. INELIGIBILITY TO RECEIVE STATE GRANTS OR LOANS OR BID ON STATE CONTRACTS. (a) A child support obligor who is 30 or more days delinquent in paying child support is not eligible to:

- (1) submit a bid or enter into a contract to provide property, materials, or services under a contract with the state; or*
- (2) receive a state-funded grant or loan.*

(b) A sole proprietorship, partnership, corporation, or other entity in which a sole proprietor, partner, majority shareholder, or substantial owner is a delinquent obligor who is ineligible to bid on a state contract under Subsection (a)(1) of this section may not bid on a state contract as provided by this section.

(c) A child support obligor remains ineligible to submit a bid on or enter into a state contract or apply for a state-funded grant or loan under Subsection (a) of this section until:

- (1) all arrearages have been paid; or*
- (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.*

(d) Each bidder for a state contract or applicant for a state-funded loan or grant under Subsection (a) of this section shall submit a signed, sworn statement accompanying any bid or application for a grant or loan affirming that the bidder or applicant is not 30 or more days delinquent in providing child support under a court order or a written repayment agreement.

(e) The attorney general and the General Services Commission may adopt rules or prescribe forms to implement any provision of this section.

SECTION 2.02. Chapter 76, Human Resources Code, is amended by adding Section 76.0041 to read as follows:

Sec. 76.0041. DEBTS TO STATE. (a) A person obligated to pay child support in a case in which the attorney general is providing services under this chapter who does not pay the required child support is in debt to the state for the purposes of Section 403.055, Government Code.

(b) The debt of a person in debt to the state as provided by Subsection (a) is equal to the amount of the child support that is past-due and not paid and any interest, fees, court costs, or other amounts owed by the person as a result of the person's failure to pay the child support.

(c) *The attorney general is an assignee of all payments, including compensation, by the state to a person in debt to the state as provided by this section. The assignment under this subsection takes effect before the date the person's debt to the state arose.*

(d) *A person in debt to the state as provided by this section may eliminate the person's debt by:*

- (1) *paying the entire amount of the debt; or*
- (2) *resolving the debt in a manner acceptable to the attorney general.*

(e) *The comptroller may rely on a representation by the attorney general that:*

- (1) *a person is in debt to the state as provided by this section; or*
- (2) *a person who was in debt to the state has eliminated the person's debt as provided by Subsection (d).*

(f) *In this section, the payment of workers' compensation benefits to a person in debt to the state is the same as any other payment made to the person by the state. Notwithstanding Section 4.08, Texas Workers' Compensation Act (Article 8308-4.08, Vernon's Texas Civil Statutes), an order or writ to withhold income from workers' compensation benefits is not required under this section. However, the amount of weekly workers' compensation benefits that may be withheld or assigned under this section may not exceed the percentage of the person's benefits that would apply if the benefits equalled the person's monthly net resources under the child support guidelines in Section 14.055, Family Code, except that in no event may more than 50 percent of the person's weekly compensation benefits be withheld or assigned.*

(g) *Notwithstanding Sections 403.055(c) and (e)(4), Government Code, the comptroller may not issue a warrant to a state officer or employee who is in debt to the state as provided by this section.*

(h) *In this section, "compensation" has the meaning assigned by Section 403.055(f)(1), Government Code, and includes the payment of workers' compensation benefits.*

SECTION 2.03. Section 77.001, Human Resources Code, is amended to read as follows:

Sec. 77.001. DESIGNATED STATE AGENCY. (a) The state agency designated to administer a statewide plan for child support may establish and conduct a parent locator service which shall be used to obtain information as to the whereabouts, income, and holdings of any person when such information is to be used for the purposes of locating such person and establishing or enforcing a support or medical support obligation against such person.

(b) The designated state agency is entitled to [may] request and obtain such information from state and local government agencies, private companies, institutions, or other entities as deemed necessary to carry out the provisions of this Act. Such government and private entities shall furnish any information so requested and known to such entity to the designated agency unless state or federal law specifically provides that the information may not be disclosed to the designated agency office[, except to the extent such information is made nondisclosable by law].

(c) *The designated agency may issue an administrative subpoena to any individual or organization to furnish information necessary to carry out the provisions of this section, and any individual or organization receiving a subpoena shall comply with the subpoena.*

(d) The furnishing of information provided for in Subsection (a) of this section by state governmental agencies shall include the transmittal of information in the most efficient and expeditious manner available, including electronic or automated transfer and interface.

SECTION 2.04. Subsection (c); Section 14.972, Family Code, is amended to read as follows:

(c) The lien attaches to all personal property not exempt under provisions of the Texas Constitution, including all claims for negligence, personal injury, or workers' compensation, including an insurance award for any of those claims, owned by the obligor on or after the date on which the lien attaches.

SECTION 2.05. Section 76.002, Human Resources Code, is amended by adding Subsection (i) to read as follows:

(i) *The attorney general shall report to the legislature each biennium on the effectiveness of the attorney general's child support enforcement activity in reducing the state's public assistance obligations. The attorney general shall develop a method for estimating the costs and benefits of the child support enforcement program and the effect of the program on appropriations for public assistance. The attorney general shall conduct a study on the payment of child support in Texas and shall report back to the 74th Legislature not later than March 1, 1995. Local child support registries, as defined by Section 11.01(11), Family Code, and other governmental entities shall, on request, provide to the attorney general such information as is necessary for the attorney general to conduct this study. This study may include any issues that the attorney general deems relevant and shall include:*

(1) *data relating to the percentage of obligors who pay child support as ordered by the court and the percentage of court-ordered child support which is paid; and*

(2) *the reasons for nonpayment of child support, including the obligor's ability to pay child support and the obligor's opportunity to exercise court-ordered possession of or access to the obligor's child or children.*

ARTICLE 3. EFFECTIVE DATE AND EMERGENCY PROVISION

SECTION 3.01. This Act takes effect September 1, 1993.

SECTION 3.02. 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 March 4, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 27, 1993, by a viva-voce vote; passed the House, with amendments, on May 25, 1993, by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.