

Amendment of Family Code Chapters 8, 101, 154 and 157 QDRO
Bill

See Accompanying Bill Analysis for Narrative Explanation.

The proposed legislation has not previously been submitted to the legislature.

The proposed legislation has been submitted to all sections and committees of the State bar of Texas as required by §8.01.06(D) of the Legislative Policy of the State Bar of Texas. If comments are received, I will forward them to the State Bar.

Respectfully submitted,

Family Law Section, State Bar of Texas
By: /s/ Jack W. Marr
Its: Co-Chair Legislative Committee

ANALYSIS

Payment and Collection of Child Support and Spousal Support Applicable Statutes: Chapters 8, 101, 154 and 157

Purpose: Under federal law, child support and spousal support can be paid and collected via QDROs. Texas attorneys and the AG's office have used QDROs for the payment and collection of child support and spousal maintenance. In the Summer of 2018, the TSC decided *Dalton v. Dalton*, which was a spousal support case. Justice Lehrmann agreed with the result under the circumstances in the case, but wrote a concurring opinion to clarify her views on a spouse's ability to enforce spousal maintenance via a QDRO. The resounding effect of *Dalton* was that courts would no longer sign QDROs for the enforcement of child support or spousal maintenance. The court's reasoning in *Dalton* was that QDROs are only provided for in Title 1 (9.101 – 9.106). This bill provides for QDROs to be used for the payment and collection of both child support and spousal maintenance, as has been done for years under federal law.

Policy: After *Dalton*, courts would no longer sign a QDRO for the collection of child support and spousal maintenance. After *Dalton*, millions of dollars of child support and spousal support went uncollected, and the arrearages could have been collected via a QDRO. This is why it is important for the bill to apply to any existing order pertaining to the payment of child support or maintenance, the enforcement of such orders, and any order rendered after the effective date of the act (proposed date September 1, 2021).