

By: _____

_____ .B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to the payment and collection of child support and spousal maintenance.

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

SECTION 1. Section 8.001, Family Code is amended by adding section 8.001 (6) to read as follows:

"Domestic Relations Order" means a domestic relations order, qualified domestic relations order, or other similar order permitting the payment of pension, retirement, or other employee benefits for purposes of the payment of maintenance.

SECTION 2. Section 8.057, Family Code is amended to read as follows:

(b) Notice of a motion to modify maintenance, or to establish or modify a domestic relations order providing for maintenance, and the response, if any, are governed by the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit.

Notice must be given by service of citation, and a response must be in the form of an answer due on or before 10 a.m. of the first Monday after 20 days after the date of service. A court shall set a hearing on the motion in the manner provided by Rule 245, Texas Rules of Civil Procedure.

(c) After a hearing, the court may modify an original or modified order for maintenance, including a decree or domestic relations order providing for maintenance ~~or portion of a decree providing for maintenance~~, on a proper showing of a material and substantial change in circumstances, including circumstances reflected in the factors specified in Section 8.052, relating to either party or to a child of the marriage described by Section 8.051(2)(C), if applicable. The court shall apply the modification only to payment accruing after the filing of the motion to modify.

SECTION 3. Section 8.059, Family Code is amended to read as follows:

(b) On the suit to enforce by an obligee, the court may render judgment against a defaulting party for the amount of arrearages after notice by service of citation, answer, if any, and a hearing finding that the defaulting party has failed or refused to comply with the terms of the order. The judgment may be enforced by any means available for the enforcement of judgment for debts, by an order or writ of withholding, and by a domestic relations order.

SECTION 4: CHAPTER 8, SUBCHAPTER B, Family Code, is amended by adding Section 8.0592 to read as follows:

JURISDICTION FOR DOMESTIC RELATIONS ORDER.

(a) The court that rendered an order for the payment of maintenance, or the court that obtains jurisdiction to enforce a maintenance order, has continuing jurisdiction to render a domestic relations order to satisfy payments due under a maintenance order. A court described by this section retains jurisdiction to render a domestic relations order until all maintenance due under an order for maintenance, including arrearages, has been paid.

(b) DEFECTIVE PRIOR DOMESTIC RELATIONS ORDER. If a plan

administrator or other person acting in an equivalent capacity determines that a domestic relations order does not satisfy the requirements of the plan, the court retains continuing jurisdiction over the parties to the extent necessary to render a domestic relations order that qualifies with the plan.

(c) AMENDMENT OF DOMESTIC RELATIONS ORDER. A court that renders a domestic relations order retains continuing jurisdiction:

(1) to amend the domestic relations order to correct the order, clarify the terms of the order, or add language to the order to provide for the collection of maintenance;

(2) to convert the amount or frequency of payments under the order to a formula that is in compliance with the terms of the plan; and

(3) to vacate or terminate the order.

SECTION 5: CHAPTER 8, SUBCHAPTER B, Family Code, is amended by adding Section 8.0593 to read as follows:

SUBMISSION OF DOMESTIC RELATIONS ORDER. An amended domestic relations order must be submitted to the plan administrator or other person acting in an equivalent capacity to determine whether the amended domestic relations order satisfies the requirements of the plan. Section 8.0592(b) applies to an order amended under this section.

SECTION 6: CHAPTER 8, SUBCHAPTER B, Family Code, is amended by adding Section 8.0594 to read as follows:

LIBERAL CONSTRUCTION. The court shall liberally construe this subchapter to effect payment of pension, retirement, or other employee benefits for the satisfaction of the obligor's maintenance obligation.

SECTION 7: CHAPTER 8, SUBCHAPTER B, Family Code, is amended by adding Section 8.0595 to read as follows:

ATTORNEY'S FEES AND COSTS.

(a) In a proceeding under this chapter, the court may order a party to pay reasonable attorney's fees incurred by a party to obtain the order, all court costs, and all fees charged by a plan administrator.

(b) Fees and costs ordered under this section may be enforced by any means available for the enforcement of a judgment for debt.

SECTION 8. Subchapter B, Chapter 8, Family Code, is amended by adding Section 8.062 to read as follows:

Sec. 8.062. ADDITIONAL MANNER OF PAYMENT.

(a) At any time before all spousal maintenance and arrearages are paid, the court, in a domestic relations order, may order the payment of maintenance, arrearages, and fees charged by the plan. The order shall terminate when the payment of maintenance terminates and any arrearages are paid. A party to a maintenance order may petition the court for a domestic relations order in an original suit or in an action for enforcement under this chapter. The Title IV-D agency in a Title IV-D case for the enforcement of maintenance may petition the court for a domestic relations order in an action for enforcement under this chapter.

(b) Each party to a post judgment action is entitled to notice under the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit.

SECTION 9. Subchapter C, Chapter 8, Family Code, is amended to read as follows:

SUBCHAPTER C. ~~INCOME WITHHOLDING~~ METHODS OF PAYMENT

SECTION 10. Subchapter C, Chapter 8, Family Code, is amended by adding Section 8.109 to read as follows:

ORDERS AFFECTING PAYMENT OF EMPLOYEE BENEFITS. Unless prohibited by federal law, a suit seeking a domestic relations order applies

to a pension, retirement, or other employee benefit, regardless of whether the pension, retirement, or other employee benefit:

(1) is private, state, or federal;

(2) is subject to another domestic relations order;

(3) is property that is the subject of a pending proceeding for dissolution of a marriage;

(4) is property disposed of in a previous decree for dissolution of a marriage; or

(5) is the subject of an agreement under Chapter 4.

SECTION 11. Subchapter C, Chapter 8, Family Code, is amended by adding Section 8.110 to read as follows:

Sec. 8.110. DIRECT PAYMENT. Maintenance can be paid by direct payment or other method ordered by the court.

SECTION 12. CHAPTER 101, Family Code is amended by adding Section 101.037 to read as follows:

"Domestic Relations Order" means a domestic relations order, qualified domestic relations order, or other similar order permitting the payment of pension, retirement, or other employee benefits for purposes of the payment of child support.

SECTION 13. Section 154.003, Family Code is amended to read as follows:

(a) The court may order that child support be paid by:

(1) periodic payments;

(2) a lump-sum payment;

(3) an annuity purchase;

(4) the setting aside of property to be administered for the support of the child as specified in the order;

(5) a domestic relations order as defined by 101.037; or

~~(5)~~ (6) any combination of periodic payments, lump-sum payments,

annuity purchases, ~~or~~ setting aside of property, or a domestic relations order defined by 101.037.

(b) Unless prohibited by federal law, a suit seeking a domestic relations order applies to a pension, retirement, or other employee benefit, regardless of whether the pension, retirement, or other employee benefit:

(1) is private, state, or federal;

(2) is subject to another domestic relations order;

(3) is property that is the subject of a pending proceeding for dissolution of a marriage;

(4) is property disposed of in a previous decree for dissolution of a marriage; or

(5) is the subject of an agreement under Chapter 4.

SECTION 14. Chapter 157, Family Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. CHILD SUPPORT DOMESTIC RELATIONS ORDER

Sec. 157.501. JURISDICTION FOR DOMESTIC RELATIONS ORDER.

(a) The court that rendered an order for the payment of child support, or the court that obtains jurisdiction to enforce a child support order under Chapter 159, has continuing jurisdiction to render a domestic relations order permitting the payment of pension, retirement, or other employee benefits to satisfy support amounts due under the child support order. A child support order includes a temporary or final order for child support, medical support, or dental support and arrears and interest with respect to that order.

(b) A court described by Subsection (a) retains jurisdiction to render a domestic relations order under this subchapter until all support due under the child support order, including arrearages, interest, and all attorney's fees and costs under

157.507(b) have been paid.

Sec. 157.502. PROCEDURE.

(a) A party to a child support order, or the Title IV-D agency in a Title IV-D case, may petition the court for a domestic relations order in an original suit or in an action for child support enforcement under this chapter.

(b) Each party is entitled to notice under Subchapter B.

Sec. 157.503. TEMPORARY ORDERS.

(a) While a suit for a domestic relations order is pending or during an appeal of an enforcement order, and on the motion of a party or on the court's own motion after notice and hearing, the court may render an appropriate order, including the granting of a temporary restraining order and temporary injunction, for the preservation of the pension, retirement, or other employee benefits and protection of the parties as the court considers necessary.

(b) An order under this section is not subject to interlocutory appeal.

Sec. 157.504. DEFECTIVE PRIOR DOMESTIC RELATIONS ORDER. If a plan administrator or other person acting in an equivalent capacity determines that a domestic relations order does not satisfy the requirements of a domestic relations order, the court retains continuing jurisdiction over the parties to the extent necessary to render a domestic relations order that qualifies with the plan.

Sec. 157.505. AMENDMENT OF DOMESTIC RELATIONS ORDER.

(a) A court that renders a domestic relations order retains continuing jurisdiction:

(1) to amend, correct, or clarify the terms of the order to provide for the collection of child support;

(2) to convert the amount or frequency of payments under the order to a formula that is in compliance with the terms of the pension, retirement, or employee benefit plan; and

(3) to vacate or terminate the order.

157.506 SUBMISSION OF DOMESTIC RELATIONS ORDER. An amended domestic relations order must be submitted to the plan administrator or other person acting in an equivalent capacity to determine whether the amended order satisfies the requirements of a domestic relations order. Section 157.504 applies to an order amended under this section.

Sec. 157.507. LIBERAL CONSTRUCTION. The court shall liberally construe this subchapter to effect payment of pension, retirement, or other employee benefits for the satisfaction of the obligor's child support obligation.

Sec. 157.508. ATTORNEY'S FEES AND COSTS.

(a) In a proceeding under this subchapter, the court may order the obligor to pay reasonable attorney's fees incurred by a party to obtain the order, court costs, and fees charged by a plan administrator for the domestic relations order.

(b) Fees and costs ordered under this section may be enforced by any means available for the enforcement of child support, including contempt.

SECTION 15. (a) The provisions of this Act, applies to any existing order pertaining to the payment and enforcement of maintenance and child support and any order rendered after the effective date of this Act.

SECTION 16. This Act takes effect September 1, 2021.