

Senate Study Bill 96

Conference Committee Text

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1 1 Section 1. Section [234.39](#), subsection 1, Code 1995, is
1 2 amended to read as follows:

1 3 1. For an individual to whom section 234.35, subsection 1,
1 4 is applicable, a dispositional order of the juvenile court
1 5 requiring the provision of foster care, or an administrative
1 6 order entered pursuant to chapter 252C, or any order
1 7 establishing paternity and support for a child in foster care,
1 8 shall establish, after notice and a reasonable opportunity to
1 9 be heard is provided to a parent or guardian, the amount of
1 10 the parent's or guardian's support obligation for the cost of
1 11 foster care provided by the department. The

~~court, or the~~

1 12

~~department of human services in establishing support by~~

1 13

~~administrative order, shall establish the~~

~~amount of the~~

1 14 parent's or guardian's support obligation and the amount of
1 15 support debt accrued and accruing shall be established in
1 16 accordance with the child support guidelines prescribed under
1 17 section 598.21, subsection 4. However, the court, or the
1 18 department of human services in establishing support by
1 19 administrative order, may deviate from the prescribed
1 20 obligation after considering a recommendation by the
1 21 department for expenses related to goals and objectives of a
1 22 case permanency plan as defined under section 237.15, and upon
1 23 written findings of fact which specify the reason for
1 24 deviation and the prescribed guidelines amount. Any order for
1 25 support shall direct the payment of the support obligation to
1 26 the collection services center for the use of the department's
1 27 foster care recovery unit. The order shall be filed with the
1 28 clerk of the district court in which the responsible parent or
1 29 guardian resides and has the same force and effect as a
1 30 judgment when entered in the judgment docket and lien index.
1 31 The collection services center shall disburse the payments
1 32 pursuant to the order and record the disbursements. If
1 33 payments are not made as ordered, the child support recovery
1 34 unit may certify a default to the court and the court may, on
1 35 its own motion, proceed under section 598.22 or 598.23 or the
2 1 child support recovery unit may enforce the judgment as
2 2 allowed by law. An order entered under this subsection may be
2 3 modified only in accordance with the guidelines prescribed
2 4 under section 598.21, subsection 8.

2 5 Sec. 2. Section [252A.3A](#), subsection 2, unnumbered
2 6 paragraph 1, Code 1995, is amended to read as follows:

2 7

~~Establishment of~~

~~When paternity has not been legally~~

2 8 established, paternity may be established by affidavit under
2 9 this section

~~may be used to establish paternity of~~

~~for the~~

2 10 following children:

2 11 Sec. 3. Section 252C.3, subsection 1, paragraph a, Code
2 12 1995, is amended to read as follows:

2 13 a. A statement that the support obligation will be set
2 14 pursuant to the child support guidelines established pursuant
2 15 to section 598.21, subsection 4, and the criteria established
2 16 pursuant to section 252B.7A, and that the responsible person
2 17 is required to provide medical support in accordance with
2 18 chapter 252E.

2 19 Sec. 4. Section 252C.3, subsection 1, paragraph c, Code
2 20 1995, is amended by striking the paragraph.

2 21 Sec. 5. Section 252D.17, unnumbered paragraph 1, Code
2 22 1995, is amended to read as follows:

2 23 The child support recovery unit or the district court shall
2 24 provide notice

~~of~~

~~by sending a copy of the order for income~~

2 25 withholding to the obligor's employer, trustee, or other payor
2 26 of income

~~Notice shall be sent~~

~~by regular mail, with proof~~

2 27 of service completed according to rule of civil procedure 82
2 28

~~and, in~~

~~The order may be sent to the employer, trustee, or~~

2 29 other payor of income on the same date that the order is sent
2 30 to the clerk of court for filing. In addition to the amount
2 31 to be withheld for payment of support, the order shall include
2 32 all of the following information regarding the duties of the
2 33 payor in implementing the withholding order:

2 34 Sec. 6. Section 252D.17, subsection 4, Code 1995, is
2 35 amended to read as follows:

3 1 4.

~~Income~~

~~The income withholding order is binding on an~~

3 2 existing or future employer, trustee, or other payor ten days
3 3 after receipt of the

~~notice~~

~~copy of the order, and is binding~~

3 4 whether or not the copy of the order received is file-stamped.

3 5 Sec. 7. Section 252D.23, Code 1995, is amended to read as
3 6 follows:

3 7 252D.23 FILING OF WITHHOLDING ORDER – ORDER EFFECTIVE AS
3 8 DISTRICT COURT ORDER.

3 9 An income withholding order entered by the child support
3 10 recovery unit pursuant to this chapter shall be filed with the
3 11 clerk of the district court.

~~Upon filing, for~~

~~For the~~

3 12 purposes of demonstrating compliance by the employer, trustee,
3 13 or other payor, the copy of the withholding order received,
3 14 whether or not the copy is file-stamped, shall have all the
3 15 force, effect, and attributes of a docketed order of the
3 16 district court including, but not limited to, availability of
3 17 contempt of court proceedings against an employer, trustee, or
3 18 other payor for noncompliance. However, any information
3 19 contained in the income withholding order related to the
3 20 amount of the accruing or accrued support obligation which

3 21 does not reflect the correct amount of support due does not
3 22 modify the underlying support judgment.
3 23 Sec. 8. Section 598.21, subsection 4A, paragraph c, Code
3 24 1995, is amended to read as follows:
3 25 c. Notwithstanding paragraph "a", in a pending dissolution
3 26 action under this chapter, a prior determination of paternity
3 27 by operation of law through the marriage of the established
3 28 father and mother of the child may be overcome under this
3 29 chapter if the following conditions are met:
3 30 (1) The established father and mother of the child

~~submit~~

3 31 file a written statement with the court that both parties
3 32 agree that the established father is not the biological father
3 33 of the child

~~and the~~

3 34 (2) The court finds that it is in the best interest of the
3 35 child to overcome the established paternity. In determining
4 1 the best interest of the child, the court shall consider the
4 2 criteria provided in section 600B.41A, subsection 3, paragraph
4 3 "g".

4 4 If the court overcomes a prior determination of paternity,
4 5 the previously established father shall be relieved of support
4 6 obligations as specified in section 600B.41A, subsection 4.
4 7 In any action to overcome paternity other than through a
4 8 pending dissolution action, the provisions of section 600B.41A
4 9 apply. Overcoming paternity under this paragraph does not bar
4 10 subsequent actions to establish paternity if it is
4 11 subsequently determined that the written statement attesting
4 12 that the established father is not the biological father of
4 13 the child may have been submitted erroneously, and that the
4 14 person previously determined not to be the child's father
4 15 during the dissolution action may actually be the child's
4 16 biological father.

4 17 Sec. 9. Section 600B.41, subsection 2, Code 1995, is
4 18 amended to read as follows:

4 19 2. If a blood or genetic test is required, the court shall
4 20 direct that inherited characteristics

~~, including but not~~

4 21

~~limited to blood types,~~

~~be determined by appropriate testing~~

4 22 procedures, and shall appoint an expert qualified as an
4 23 examiner of genetic markers to analyze and interpret the
4 24 results and to report to the court.

4 25 EXPLANATION

4 26 This bill amends areas of the Code relating to child
4 27 support recovery.

4 28 Section 1 provides that if the department of human services
4 29 is responsible for the foster care costs of a child, any order
4 30 establishing paternity and support for the child shall
4 31 establish the obligation of the parent or guardian for the
4 32 cost of foster care provided by the department.

4 33 Section 2 of the bill provides that establishment of
4 34 paternity by affidavit is only applicable when paternity has
4 35 not previously been legally established.

5 1 Sections 3 and 4 of the bill delete Code language which
5 2 requires that the notice of support debt issued prior to
5 3 administrative establishment of support include a demand for
5 4 immediate payment of the support or medical support debt or
5 5 both and amends a previous paragraph to provide for only

5 6 notice of the duty to provide medical support.

5 7 Sections 5 through 7 provide that an income withholding
5 8 order may be sent to an employer or other payor of income on
5 9 the same date that it is sent to the clerk of court for filing
5 10 and that the order is binding on the income payor whether or
5 11 not the income payor has received a file-stamped copy.

5 12 Section 8 restricts use of the procedure in section
5 13 598.21(4A)(c) regarding overcoming paternity established by
5 14 operation of law through marriage to pending dissolution
5 15 actions under chapter 598, provides that any other action to
5 16 overcome paternity shall be pursuant to section 600B.41A, and
5 17 provides that if paternity is overcome under this section, the
5 18 previously established father is relieved of support
5 19 obligations unless it is subsequently determined that
5 20 paternity may have been incorrectly overcome.

5 21 Section 9 deletes language regarding blood or genetic
5 22 testing so that in an action for establishment of paternity in
5 23 which the court requires testing of inherited characteristics,
5 24 a determination of blood types is no longer required.

5 25 BACKGROUND STATEMENT

5 26 SUBMITTED BY THE AGENCY

5 27 This bill proposes amendments to the laws regarding child
5 28 support recovery.

5 29 Section 1 of the bill provides for the establishment of
5 30 paternity and a support order by administrative process for
5 31 children placed in foster care. This authority already exists
5 32 for all other children served by the child support recovery
5 33 unit.

5 34 Section 2 of the bill establishes that the paternity by
5 35 affidavit process is used to establish paternity only when no
6 1 previous court order or affidavit establishing paternity
6 2 exists.

6 3 Section 3 and 4 of the bill strike Code language which
6 4 requires that the notice of support debt in an administrative
6 5 establishment of support action include a demand for immediate
6 6 payment of support or medical support and substitutes language
6 7 which merely requires that the notice include a statement that
6 8 a person has a duty to provide medical support.

6 9 Sections 5 through 7 of the bill provide for earlier and
6 10 more efficient implementation of income withholding orders
6 11 without depriving child support payors of due process.

6 12 Section 8 corrects a conflict between sections of the
6 13 statute regarding actions to overcome paternity established by
6 14 operation of law through marriage.

6 15 Section 9 of the bill provides for establishment of
6 16 paternity at the earliest possible age of a child by allowing
6 17 other genetic tests in lieu of blood tests. Buccal swabs are
6 18 used to obtain tissue samples from infants which can be used
6 19 for DNA testing. Current statute requires test results to
6 20 include blood type, which cannot be determined from a nonblood
6 21 tissue sample.

6 22 This bill neither increases nor decreases the operational
6 23 costs of the child support recovery unit. Sections 5, 6, 7,
6 24 and 9 are expected to increase collections for the state and
6 25 families by a small, but indeterminable, amount.

6 26 Sections 5, 6, 7, and 9 will streamline program operations
6 27 to allow more casework to be accomplished with the same or
6 28 minimally increased number of staff and to allow case actions
6 29 to be completed earlier in the life of the case. These
6 30 sections will required some changes in the child support
6 31 computer software in areas already slated for additional
6 32 development. No increased data processing costs are
6 33 anticipated.

6 34 Sections 2 and 8 may prevent lawsuits and other disputes
6 35 from arising in the future.

