

AN ACT

relating to the payment of the child support obligation of a deceased child support obligor.

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

SECTION 1. Subsection (a), Section 154.006, Family Code, is amended to read as follows:

(a) Unless otherwise agreed in writing or expressly provided in the order or as provided by Subsection (b), the child support order terminates on:

(1) the marriage of the child;

(2) the removal of the child's disabilities for general purposes;

(3) the death of [+

~~[(A)]~~ the child; ~~[or~~

~~[(B) a parent ordered to pay child support, or]~~

(4) a finding by a court that the child:

(A) is 18 years of age or older; and

(B) has failed to comply with the enrollment or attendance requirements described by Section 154.002(a); or

(5) if the child enlists in the armed forces of the United States, the date on which the child begins active service as defined by 10 U.S.C. Section 101.

SECTION 2. Subchapter A, Chapter 154, Family Code, is amended by adding Sections 154.015 and 154.016 to read as follows:

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S.B. No. 617

1           Sec. 154.015. ACCELERATION OF UNPAID CHILD SUPPORT  
2 OBLIGATION. (a) In this section, "estate" has the meaning  
3 assigned by Section 3, Texas Probate Code.

4           (b) If the child support obligor dies before the child  
5 support obligation terminates, the remaining unpaid balance of the  
6 child support obligation becomes payable on the date the obligor  
7 dies.

8           (c) For purposes of this section, the court of continuing  
9 jurisdiction shall determine the amount of the unpaid child support  
10 obligation for each child of the deceased obligor. In determining  
11 the amount of the unpaid child support obligation, the court shall  
12 consider all relevant factors, including:

13           (1) the present value of the total amount of monthly  
14 periodic child support payments that would become due between the  
15 month in which the obligor dies and the month in which the child  
16 turns 18 years of age, based on the amount of the periodic monthly  
17 child support payments under the child support order in effect on  
18 the date of the obligor's death;

19           (2) the present value of the total amount of health  
20 insurance premiums payable for the benefit of the child from the  
21 month in which the obligor dies until the month in which the child  
22 turns 18 years of age, based on the cost of health insurance for the  
23 child ordered to be paid on the date of the obligor's death;

24           (3) in the case of a disabled child under 18 years of  
25 age or an adult disabled child, an amount to be determined by the  
26 court under Section 154.306;

27           (4) the nature and amount of any benefit to which the

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S.B. No. 617

1 child would be entitled as a result of the obligor's death,  
2 including life insurance proceeds, annuity payments, trust  
3 distributions, social security death benefits, and retirement  
4 survivor benefits; and

5 (5) any other financial resource available for the  
6 support of the child.

7 (d) If, after considering all relevant factors, the court  
8 finds that the child support obligation has been satisfied, the  
9 court shall render an order terminating the child support  
10 obligation. If the court finds that the child support obligation is  
11 not satisfied, the court shall render a judgment in favor of the  
12 obligee, for the benefit of the child, in the amount of the unpaid  
13 child support obligation determined under Subsection (c). The  
14 order must designate the obligee as constructive trustee, for the  
15 benefit of the child, of any money received in satisfaction of the  
16 judgment.

17 (e) The obligee has a claim, on behalf of the child, against  
18 the deceased obligor's estate for the unpaid child support  
19 obligation determined under Subsection (c). The obligee may  
20 present the claim in the manner provided by the Texas Probate Code.

21 (f) If money paid to the obligee for the benefit of the child  
22 exceeds the amount of the unpaid child support obligation remaining  
23 at the time of the obligor's death, the obligee shall hold the  
24 excess amount as constructive trustee for the benefit of the  
25 deceased obligor's estate until the obligee delivers the excess  
26 amount to the legal representative of the deceased obligor's  
27 estate.

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1           Sec. 154.016. PROVISION OF SUPPORT IN EVENT OF DEATH OF  
2 PARENT. (a) The court may order a child support obligor to obtain  
3 and maintain a life insurance policy, including a decreasing term  
4 life insurance policy, that will establish an insurance-funded  
5 trust or an annuity payable to the obligee for the benefit of the  
6 child that will satisfy the support obligation under the child  
7 support order in the event of the obligor's death.

8           (b) In determining the nature and extent of the obligation  
9 to provide for the support of the child in the event of the death of  
10 the obligor, the court shall consider all relevant factors,  
11 including:

12                   (1) the present value of the total amount of monthly  
13 periodic child support payments from the date the child support  
14 order is rendered until the month in which the child turns 18 years  
15 of age, based on the amount of the periodic monthly child support  
16 payment under the child support order;

17                   (2) the present value of the total amount of health  
18 insurance premiums payable for the benefit of the child from the  
19 date the child support order is rendered until the month in which  
20 the child turns 18 years of age, based on the cost of health  
21 insurance for the child ordered to be paid; and

22                   (3) in the case of a disabled child under 18 years of  
23 age or an adult disabled child, an amount to be determined by the  
24 court under Section 154.306.

25           (c) The court may, on its own motion or on a motion of the  
26 obligee, require the child support obligor to provide proof  
27 satisfactory to the court verifying compliance with the order

1 rendered under this section.

2 SECTION 3. Section 322, Texas Probate Code, is amended to  
3 read as follows:

4 Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATES OF  
5 DECEDENT. Claims against an estate of a decedent shall be  
6 classified and have priority of payment, as follows:

7 Class 1. Funeral expenses and expenses of last sickness for  
8 a reasonable amount to be approved by the court, not to exceed a  
9 total of Fifteen Thousand Dollars, with any excess to be classified  
10 and paid as other unsecured claims.

11 Class 2. Expenses of administration and expenses incurred  
12 in the preservation, safekeeping, and management of the estate,  
13 including fees and expenses awarded under Section 243 of this code,  
14 and unpaid expenses of administration awarded in a guardianship of  
15 the decedent.

16 Class 3. Secured claims for money under Section 306(a)(1),  
17 including tax liens, so far as the same can be paid out of the  
18 proceeds of the property subject to such mortgage or other lien, and  
19 when more than one mortgage, lien, or security interest shall exist  
20 upon the same property, they shall be paid in order of their  
21 priority.

22 Class 4. Claims for the principal amount of and accrued  
23 interest on delinquent child support and child support arrearages  
24 that have been confirmed and reduced to money judgment, as  
25 determined under Subchapter F, Chapter 157, Family Code, and claims  
26 for unpaid child support obligations under Section 154.015, Family  
27 Code.

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S.B. No. 617

1           Class 5. Claims for taxes, penalties, and interest due  
2 under Title 2, Tax Code; Chapter 8, Title 132, Revised Statutes;  
3 Section 81.111, Natural Resources Code; the Municipal Sales and Use  
4 Tax Act (Chapter 321, Tax Code); Section 451.404, Transportation  
5 Code; or Subchapter I, Chapter 452, Transportation Code.

6           Class 6. Claims for the cost of confinement established by  
7 the institutional division of the Texas Department of Criminal  
8 Justice under Section 501.017, Government Code.

9           Class 7. Claims for repayment of medical assistance  
10 payments made by the state under Chapter 32, Human Resources Code,  
11 to or for the benefit of the decedent.

12           Class 8. All other claims.

13           SECTION 4. (a) Except as provided by Subsection (b) of  
14 this section, the changes in law made in this Act by the amendment  
15 of Subsection (a), Section 154.006 and the addition of Section  
16 154.016, Family Code, apply to an order for child support issued  
17 before, on, or after the effective date of this Act.

18           (b) The changes in law made in this Act by the addition of  
19 Section 154.015, Family Code, and the amendment of Section 322,  
20 Texas Probate Code, apply only to the estate of a decedent who dies  
21 on or after the effective date of this Act. The estate of a decedent  
22 who dies before the effective date of this Act is governed by the  
23 law in effect on the date of the decedent's death, and the former  
24 law is continued in effect for that purpose.

25           SECTION 5. This Act takes effect September 1, 2007.

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S.B. No. 617

David Dewhurst  
President of the Senate

Tom Craddick  
Speaker of the House

I hereby certify that S.B. No. 617 passed the Senate on April 26, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2007, by the following vote: Yeas 30, Nays 0.

Atsuy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 617 passed the House, with amendment, on May 23, 2007, by the following vote: Yeas 144, Nays 0, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

15 JUN 07  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10 PM O'CLOCK

ROGER HUMPHREYS  
Secretary of State