



Employer Responsibilities Under The Texas Family Code

IF GOVERNING A CORPORATION IN TODAY'S POST-Enron world were not difficult enough, the Texas Legislature has dropped some potential landmines into the Texas Family Code.

Here are the top things an executive should know about the code — many of which involve an employer's responsibilities regarding the children of an employee following that employee's divorce.

Employers should take heed of these provisions or else face the consequences of some severe monetary penalties.

1. An employer must, if served with a proper order, withhold income from an employee's paycheck for payment of child support. Such an order is binding on the employer, even without notice of any prior proceedings.

The employer must withhold the support not later than the first pay period following the date on which the order was delivered to the employer and must continue to withhold income as required by the order for so long as the person obligated to pay support is employed.

These Family Code provisions reflect Texas' strong policy in favor of timely child support collection. In fact, income withholding is mandated for all child support cases in Texas and has become the universal mechanism to ensure that parents pay child support.

2. Within 20 days after the order is delivered, the employer may request a hearing before the court that has continuing jurisdiction over the child support case to contest the applicability of the order to the employer. For example, an employer could request a

hearing if it appears that, for some reason, it could be improper to withhold support from an employee's paycheck.

3. Among other penalties, an employer receiving an order to withhold income for an employee's

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nonpayment of child support — but who fails to withhold the money — may be liable to the person entitled to receive child support for the amount of child support not paid, including interest on that amount. This Family Code provision imposes potentially serious liability on an employer who fails to adhere to the terms of a valid withholding order.

4. An employer may not use an order for child support withholding as grounds, in whole or in part, for termination of employment or for disciplinary action against the employee. An employer may not refuse to hire an employee for the same reason.

These provisions reflect state policy that the existence of a withholding order should not be held against any particular employee or potential employee.

Violation of these rules may result in the employer's liability to the employee for current wages, benefits, and reasonable attorney's fees and court costs, in addition to various other fines.

5. Generally, an employer must, if required to do so by a proper order, provide health insurance for the child of one of its employees and must immediately enroll the child in the health insurance plan (regardless of whether the employee is enrolled in the plan) if insurance is available to the employee. Of course, the employee must pay for the additional insurance and the employer may deduct that amount from the employee's earnings.

This provision also reflects Texas' strong policy

CHILD'S PAY

- EMPLOYEES' PERSONAL LIVES CAN CREATE LEGAL DUTIES ON THE PART OF THEIR EMPLOYERS, PARTICULARLY IN THE CASE OF CHILD SUPPORT AND HEALTH INSURANCE FOR EMPLOYEES' CHILDREN AFTER A DIVORCE.
- EMPLOYERS CANNOT FIRE OR REFUSE TO HIRE EMPLOYEES ON THE BASIS OF AN ORDER FOR CHILD SUPPORT WITHHOLDING.
- EMPLOYERS MUST, UPON RECEIVING A PROPER ORDER, PROVIDE HEALTH INSURANCE FOR THE CHILD OF AN EMPLOYEE, IF INSURANCE IS AVAILABLE TO THE EMPLOYEE.

continued on page 16 >>

<< *continued from page 15*

in favor of ensuring that children are not left without health insurance, if it is available through the employee-parent's employer.

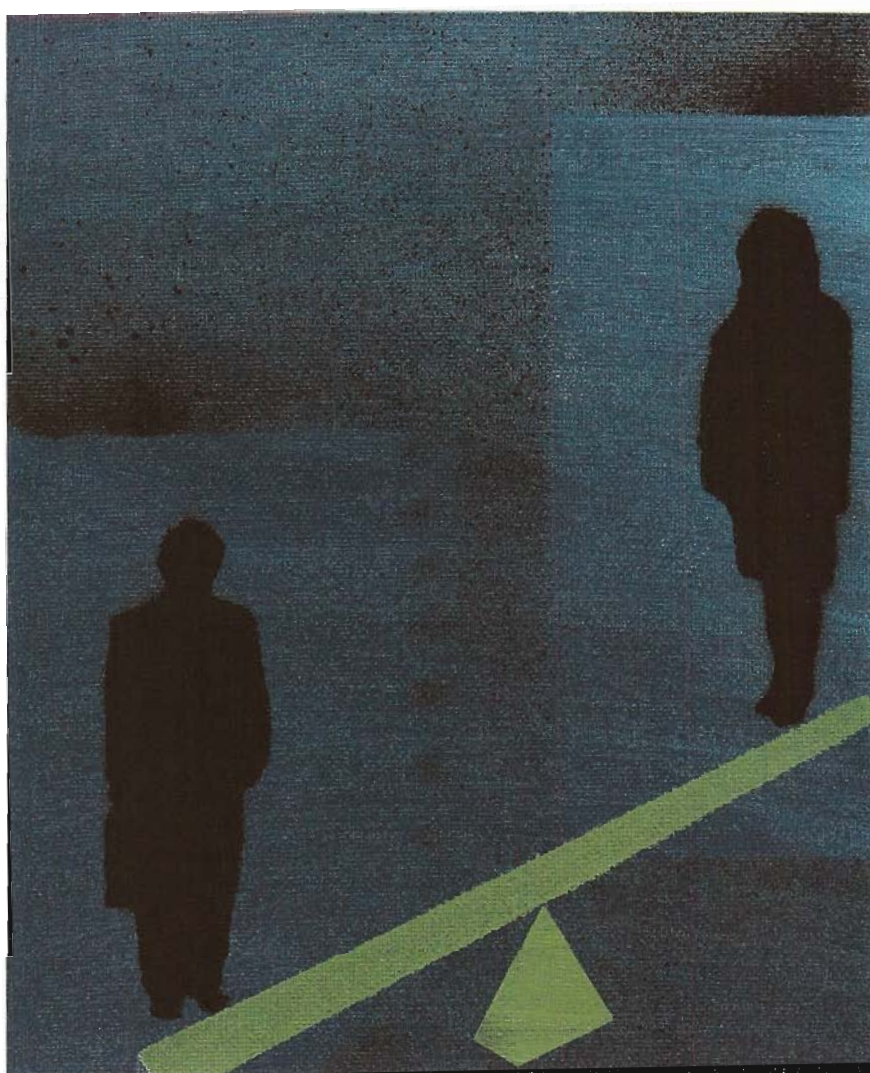
6. If dependent coverage is not available to the employee, the employer must provide notice to the sender of the order. For example, if no insurance was available to the employee, there is no additional duty imposed to provide insurance to the employee's child. In that instance, the employer would be required to send a notice that no insurance was available.

7. An employer who has received a proper order must give notice to the sender not later than the 30th day after the employer receives the order that the child has been enrolled in the plan or cannot be enrolled in the plan. If coverage cannot be provided, the employer must provide the reason why.

These provisions ensure that the person send-

ing the health insurance order is provided a timely and detailed explanation that the child has been enrolled or is not enrolled in a plan.

8. An employer who fails to enroll a child, fails to withhold or remit premiums or cash medical support, or discriminates in hiring or employment on the basis of a health insurance order is subject to various penalties and fines. ELA



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