

FINANCE CODE

TITLE 5. PROTECTION OF CONSUMERS OF FINANCIAL SERVICES
CHAPTER 396. PRIVATE CHILD SUPPORT ENFORCEMENT AGENCIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Child support enforcement" means an action, conduct, or practice in enforcing, or in soliciting for enforcement, a child support obligation, including the collection of an amount owed under a child support obligation.

(2) "Child support obligation" means an obligation for the payment of financial support for a child under an order or writ issued by a court or other tribunal.

(3) "Department" means the Texas Department of Banking.

(4) "Foreign agency" means a private child support enforcement agency that engages in business in this state solely by use of telephone, mail, the Internet, facsimile transmission, or any other means of interstate communication.

(5) "Obligee" means the person identified in an order for child support issued by a court or other tribunal as the payee to whom an obligor's amounts of ordered child support are due.

(6) "Obligor" means the person identified in an order for child support issued by a court or other tribunal as the individual required to make payment under the terms of a support order for a child.

(7) "Private child support enforcement agency" means an individual or nongovernmental entity who engages in the enforcement of child support ordered by a court or other tribunal for a fee or other consideration. The term includes a foreign agency. The term does not include:

(A) an attorney enforcing a child support obligation on behalf of, and in the name of, a client unless the attorney has an employee who is not an attorney and who on behalf of the attorney:

(i) regularly solicits for child support

enforcement; or

(ii) regularly contacts child support obligees or obligors for the purpose of child support enforcement;

(B) a state agency designated to serve as the state's Title IV-D agency in accordance with Part D, Title IV, Social Security Act (42 U.S.C. Section 651 et seq.), as amended; or

(C) a contractor awarded a contract to engage in child support enforcement on behalf of a governmental agency, including a contractor awarded a contract by a political subdivision of this or another state that is authorized by law to enforce a child support obligation.

(8) Repealed by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 47(3), eff. September 1, 2019.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 32, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 47(3), eff. September 1, 2019.

SUBCHAPTER E. REQUIRED BUSINESS PRACTICES

Sec. 396.202. RECORDS. (a) A private child support enforcement agency shall maintain records of all child support collections made on behalf of, and disbursed to, a client who is an obligee, including:

(1) the name of any obligor who made child support payments collected by the agency;

(2) the amount of support collected by the agency for each client, including:

(A) the date on which the amount was collected; and

(B) the date on which each amount due the client by the obligor was paid to the client;

(3) a copy of the order establishing the child support obligation under which a collection was made by the agency; and

(4) any other pertinent information relating to the child support obligation, including any case, cause, or docket number of the court having jurisdiction over the matter.

(b) The records required under this section must be updated at least monthly and must be maintained by the private child support enforcement agency for a period of four years from the date of the last support payment collected by the agency on behalf of an obligee.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 33, eff. September 1, 2019.

Sec. 396.203. CONTRACT FOR SERVICES. (a) A private child support enforcement agency shall execute a written contract for the enforcement of child support for each client of the agency that is residing in this state.

(b) The contract required under this section must:

(1) be in writing, dated, and signed by both parties to the contract; and

(2) specify its terms in clear language.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 34, eff. September 1, 2019.

SUBCHAPTER F. PROHIBITED PRACTICES

Sec. 396.251. THREATS OR COERCION. (a) In enforcing a child support obligation, a private child support enforcement agency may not use threats, coercion, or attempts to coerce that employ any of the following practices:

(1) using or threatening to use violence or other criminal means to cause harm to an obligor or property of the obligor;

(2) accusing falsely or threatening to accuse falsely an obligor of a violation of state or federal child support laws;

(3) taking or threatening to take an enforcement action against an obligor that is not authorized by law; or

(4) intentionally representing to a person that the agency is a governmental agency authorized to enforce a child support obligation.

(b) Subsection (a) does not prevent a private child support enforcement agency from:

(1) informing an obligor that the obligor may be subject to penalties prescribed by law for failure to pay a child support obligation; or

(2) taking, or threatening to take, an action authorized by law for the enforcement of a child support obligation by the agency.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 35, eff. September 1, 2019.

Sec. 396.252. FRAUDULENT, DECEPTIVE, OR MISLEADING REPRESENTATIONS. In enforcing a child support obligation, a private child support enforcement agency or employee of the agency may not:

(1) identify the agency by any name other than one by which the agency is authorized to do business under the laws of this state;

(2) falsely represent the nature of the child support enforcement activities in which the agency is authorized by law to engage; or

(3) falsely represent that an oral or written communication is the communication of an attorney.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 36, eff.

September 1, 2019.

SUBCHAPTER H. CIVIL REMEDIES

Sec. 396.351. CIVIL ACTION. (a) In addition to any other remedy provided by this chapter, a person may bring an action for:

(1) injunctive relief to enjoin or restrain a violation of this chapter; and

(2) actual damages incurred as a result of a violation of this chapter.

(b) A person who prevails in an action brought under this section is entitled to recover court costs and reasonable attorney's fees.

(c) On a finding by a court that an action under this section was brought in bad faith or for purposes of harassment, the court shall award the defendant attorney's fees reasonably related to the work performed and costs.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Sec. 396.352. SERVICE OF PROCESS OUTSIDE STATE. (a) A private child support enforcement agency that is located in another state or that engages in the business of child support enforcement in this state in violation of this chapter is considered to have submitted to the jurisdiction of the courts of this state with respect to an action brought under this chapter.

(b) A foreign agency engaging in business in this state in violation of this chapter is considered to have appointed the department as the agency's agent for service of process in any action, suit, or proceeding arising from a violation of this chapter.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. [614](#)), Sec. 37, eff. September 1, 2019.

Sec. 396.353. REMEDIES UNDER OTHER LAW. (a) A violation of this chapter is a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

(b) This chapter does not affect or alter a remedy at law or in equity otherwise available to an obligor, obligee, governmental entity, or other legal entity.

Added by Acts 2001, 77th Leg., ch. 1023, Sec. 73, eff. Sept. 1, 2001.