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H.B. 338
135th General Assembly

Final Analysis

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Primary Sponsors: Reps. White and Sweeney

Effective date: March 20, 2025

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UPDATED VERSION*

SUMMARY

Court child support orders for a child with a disability

- Clarifies that a child support order may continue beyond the age of majority for a person with a disability.
- Defines “person with a disability” as a person with a mental or physical disability, whose disability began before the person reached the age of majority, and whose disability makes the person incapable of supporting or maintaining oneself.
- Allows a court to issue or modify a child support order for the care of a child who is a person with a disability as part of a marriage termination proceeding or when issuing or modifying a court-issued child support order, regardless of whether the child is over or under the age of majority.
- Allows a court to terminate a child support order for a person with a disability upon satisfactory proof that the person is no longer mentally or physically disabled or is capable of supporting or maintaining oneself.
- Updates the definition of “court child support order” to include any order for child support issued for a child who is a person with a disability.
- Specifies that nothing in the Revised Code allows a child support enforcement agency (CSEA) to issue an administrative child support order for a person over the age of 18, including a person with a disability, and instead allows the CSEA to file an action in court for the support of a person with a disability.

* This version updates the effective date.

Lebanon Municipal Court

- Converts the part-time judge of the Lebanon Municipal Court to a full-time judge beginning March 20, 2025 (the act's effective date), until December 31, 2027, when the current part-time judge's term expires.

Court computerization fees

- Allows an elected clerk of a county court to determine that additional funds are required to computerize the office of the clerk and retains the court's authority to do so when the clerk is appointed.
- Clarifies that an elected clerk of a municipal or county court may disburse computerization funds subject to an appropriation by the commissioners, while in a court with an appointed clerk, the court may issue an order to disburse the funds subject to an appropriation by the commissioners.
- Specifies that in a court of common pleas where the clerk is appointed, the court may authorize and disburse computerization funds, instead of the county executive.

DETAILED ANALYSIS

Court child support orders for a child with a disability

The act allows a court to extend an existing child support order or to issue or modify a new child support order for a child who is a person with a disability, regardless of whether the child has reached the age of majority. This includes the authority to issue child support orders as part of a proceeding for divorce, dissolution, legal separation, or annulment and in all circumstances where a court child support order may be issued or modified. In all of these circumstances, the court must comply with preexisting laws on child support calculation, the collection and disbursement of child support, enforcement, and Title IV-D cases.¹

The act maintains law specifying that a duty of support to a child imposed under a court child support order must continue beyond the child's 18th birthday when the child is mentally or physically disabled and is incapable of supporting or maintaining oneself, but clarifies that this must be pursuant to an order issued or modified under the above provision.²

¹ R.C. 3109.20(B) and (C) and 3119.11. R.C. 3109.20 creates the authority to issue child support orders for an adult child with a disability as part of a marriage termination proceeding. R.C. 3119.11 applies in all circumstances where a court child support order may be issued or modified. Because the definition of "court child support order" under R.C. 3119.01(C)(3), which includes these new orders, also includes orders issued by a juvenile court, it is clear that R.C. 3119.11 applies to support orders not connected to a marriage termination proceeding.

² R.C. 3119.86(A)(1).

The act also retains law that specifies the following as the two other circumstances under which a duty of support imposed pursuant to a child support order must continue for a child over 18:

- The child’s parents have agreed to continue support beyond the child’s 18th birthday pursuant to a separation agreement that was incorporated into a decree of divorce or dissolution;
- The child continuously attends a recognized and accredited high school on a full-time basis on or after the child’s 18th birthday.³

By specifying that a court may issue a *new* child support order for a child who is a person with a disability after the child has turned 18, the act resolves a split among Ohio’s appellate courts over whether the Revised Code allowed this practice.⁴

Finally, the act allows a court to terminate a child support order it issues for a child who is a person with a disability upon satisfactory proof that the person who is the subject of the order is no longer mentally or physically disabled or is capable of supporting or maintaining oneself.⁵

Definitions

The act defines “person with a disability” as a person with a mental or physical disability, whose disability began before the person reached the age of majority, and whose disability makes the person incapable of supporting or maintaining oneself.⁶ The act updates the definition of “court child support order” to include a court-issued child support order for a child who is a person with a disability.⁷

No issuance of administrative support order for child over 18

The act specifies that nothing in the Revised Code allows a child support enforcement agency (CSEA) to issue an administrative child support order for a person who has reached the age of 18, including a person with a disability. When a CSEA is prohibited from issuing an

³ R.C. 3119.86(A)(2) to (3).

⁴ See, e.g., *Abbas v. Abbas*, 128 Ohio App.3d 513 (7th Dist., Mahoning Cnty., June 23, 1998) (holding that support may be ordered because the child has not reached “the age of majority” as a result of the child’s disability); *Geygan v. Geygan*, 2012-Ohio-1965 (10th Dist., Franklin Cnty., May 3, 2012) (holding that since R.C. 3119.86 states “the duty of support . . . shall *continue* beyond the child’s eighteenth birthday. . .”, a court has no authority to establish an initial order of child support to commence after the child has reached age 18; *Donohoo v. Donohoo*, 2012-Ohio-4105 (12th Dist., Clermont Cnty., September 10, 2012) (holding that nothing in R.C. 3119.86 technically prevents the establishment of support after the child’s 18th birthday and the statute may be interpreted as codification of Ohio’s common law principle that support should continue beyond age 18 for a child with a disability).

⁵ R.C. 3119.88(B)(1).

⁶ R.C. 3119.10 and 3109.20(A).

⁷ R.C. 3119.01(C)(3).

administrative child support order, it may request the appropriate court to take action to provide for the care and maintenance of a person with a disability.⁸

Recodification

The act recodifies R.C. 3119.86 for easier readability, as follows:

Provision	Current law	Bill
Continuing a support order beyond a child's 18 th birthday	R.C. 3119.86(A)(1) and (2)	R.C. 3119.86
Support orders after a child's 19 th birthday	R.C. 3119.86(B)	R.C. 3119.861
Support orders may not continue beyond an agreed-upon date in a separation agreement	R.C. 3119.86(C)	R.C. 3119.862
Parent must pay support order until it terminates	R.C. 3119.86(D)	R.C. 3119.863

Lebanon Municipal Court

The act converts the part-time judgeship of the Lebanon Municipal Court to a full-time judgeship beginning March 20, 2025 (the act's effective date), until December 31, 2027, when the current part-time judge's term expires. Beginning March 20, 2025, the part-time judge must perform the duties of a full-time judge and is subject to any preexisting restrictions for a full-time judge of a municipal court.⁹

Under Article IV, Section 6(A)(4) of the Ohio Constitution, the "terms of office of all judges shall begin on the days fixed by law, and laws shall be enacted to prescribe the times and mode of their election." It is not clear whether changing a sitting judge's term from part-time to full-time in the middle of the term would be vulnerable to question as to whether the judge was elected to that full-time term as required under the Constitution. Also, Article II, Section 20 of the Ohio Constitution states that "[the] General Assembly, in cases not provided for in this Constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished." Accordingly, it is not clear whether the Constitution would require that the judge be compensated as a part-time, rather than a full-time, judge for the remainder of the judge's term.

⁸ R.C. 3119.12.

⁹ R.C. 1901.08 and Section 4.

Court computerization fees

The act specifies that an elected clerk of a county court may determine that additional funds are required to computerize the office of the clerk, but retains the court's authority to do so when the clerk is appointed.¹⁰

The act clarifies that an elected clerk of a municipal or county court may disburse computerization funds subject to an appropriation by the commissioners, while in a court with an appointed clerk, the court may issue an order to disburse the funds subject to an appropriation by the commissioners.¹¹

Finally, the act specifies that in a court of common pleas where the clerk is appointed, the court may authorize and disburse computerization funds. This authority previously belonged to the county executive.¹²

HISTORY

Action	Date
Introduced	11-21-23
Reported, H. Civil Justice	04-10-24
Passed House (85-4)	05-08-24
Reported, S. Judiciary	11-13-24
Passed Senate (31-0)	11-13-24
House concurred in Senate amendments (85-0)	12-04-24

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¹⁰ R.C. 1907.261(B)(1)(a) and (b).

¹¹ R.C. 1901.261(B)(2) and 1907.261(B)(2).

¹² R.C. 2303.201(B)(1)(b) and (3).