



Ohio Legislative Service Commission

Bill Analysis

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S.B. 262

131st General Assembly
(As Introduced)

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BILL SUMMARY

Basic child support schedule

- Repeals the existing statutory basic child support schedule and requires the Ohio Department of Job and Family Services (ODJFS) to adopt rules to create the schedule.
- Requires the new schedule to incorporate a self-sufficiency reserve in order to create an adjusted schedule for parents whose gross annual income is at or less than 116% of poverty income guidelines.
- Requires ODJFS to update the basic child support schedule created in rules and the self-sufficiency reserve every four years to reflect changes in the Consumer Price Index for All Urban Consumers.

Child support worksheets

- Repeals the existing statutory worksheet forms used to calculate child support and requires ODJFS to adopt rules governing the creation of child support worksheet forms and a standard instruction manual to provide guidance and assistance for calculating child support.

Child Support Guidelines Advisory Council review

- Makes changes to the law requiring ODJFS, with the assistance of a Child Support Guidelines Advisory Council, to conduct a review every four years to determine whether child support orders issued under the basic child support schedule and

worksheets adequately provide for the needs of children subject to child support orders.

Child support calculation

- Allows a court or child support enforcement agency (CSEA) to determine obligation amounts on a case-by-case basis when the combined gross income of both parents is greater than the maximum gross income established in the basic child support schedule adopted by ODJFS.
- Makes the following changes regarding calculation of the amount of child support to be paid:
 - Permits deduction from a parent's gross income of the annual amount of any court-ordered spousal support that is actually paid, excluding any ordered payments on arrears.
 - Requires a court or CSEA to adjust the amount of child support to be paid by a parent who has children in more than one household, instead of deducting from gross income amounts paid for children under pre-existing support order or for children with another parent not involved in the child support proceedings.
 - Establishes additional factors that, if applicable, prevent a court or CSEA from determining a parent to be unemployed or underemployed, for purposes of imputing income.
 - Permits a child support obligation to exceed the support obligation for a parent based on the parent's income share, if permitted in the basic child support schedule.
 - Requires a deduction from the parent's annual child support obligations for any nonmeans tested benefits that a child receives as a result of claims made by the parent.
 - Requires both parents to share child care costs, and specifies factors that a court or CSEA must consider in determining child care costs.
 - Requires a court or CSEA to reduce an annual child support obligation by 10% when a court issues a parenting time order that exceeds a standard parenting time order.

- Amends the existing deviation factors that the court may consider when determining whether to deviate from the amount of child support that would otherwise result from the use of the basic child support schedule and worksheet.
- Permits a court to consider the following new deviation factors when determining whether to grant a deviation:
 - The child support obligee's income, if the obligee's gross income is equal to or less than 100% of the federal poverty level.
 - Extraordinary work-related expenses incurred by either parent.
 - Post-secondary educational expenses paid for by a parent for the parent's own child or children, regardless of whether the child or children are emancipated.
 - Costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in child abuse, neglect, or dependency cases.
 - Extraordinary costs required for the child or children that exceed the maximum statewide credit, including extraordinary costs associated with specialized physical, psychological, or education conditions.
- Specifies that, in determining whether to grant a deviation based on the deviation factors, the court must recognize that expenses for children are incurred in both households and apply criteria based on the amount of court-ordered parenting time.
- Repeals "the amount of time the children spend with each parent" considered to be an extraordinary circumstance permitting deviation from the amount of child support calculated pursuant to a shared parenting order.
- Permits a court to issue separate orders for education expenses and for appropriate expenses and allows the court to consider the expenses in adjusting a child support order.
- Increases the minimum support obligation from \$50 to \$80 and permits CSEAs to impose minimum support obligations.

Health care

- Requires each child support order to specify that both the child support obligor and obligee are liable for the health care expenses of any children not covered by health

insurance as those expenses are calculated under the worksheet using a formula established by the court or CSEA.

- Makes changes regarding the determination of responsibility for obtaining health insurance coverage including establishing a rebuttable presumption that the child support obligee is the appropriate parent to provide health insurance coverage.
- Specifies circumstances that a court or CSEA may use to rebut the presumption, such as when a child support obligor wishes to be named the health insurance obligor or when the child support obligor can obtain reasonably priced coverage for the child through an employer or other source.
- Establishes a credit for the cost of providing health insurance coverage against a parent's gross income when calculating child support.
- Makes changes to the requirement for cash medical support in child support orders.
- Makes changes regarding the payment of extraordinary medical expenses.
- Clarifies the law governing accessibility determinations made by a court or CSEA regarding primary care services under private health insurance coverage.
- Provides for modification of a child support order if a court determines that insurance coverage under the order is inadequate to meet the medical needs of the child.

Other child support provisions

- Requires a CSEA reviewing a court child support order to apply deviations and parenting time adjustments from the existing order to the revised amount of child support if the monetary or percentage value can be determined by the CSEA.
- Establishes a rebuttable presumption that the amounts withheld or deducted to recover the overdue and unpaid support or arrearage under a terminated child support order are at least equal to the amount that was withheld or deducted under the terminated order.
- Permits a court or CSEA to consider evidence of household expenditures, income variables, extraordinary health care issues, and other reason for deviation from the presumed amount.

TABLE OF CONTENTS

Background.....	6
Basic child support schedule.....	6
Replaced by rules	6
Self-sufficiency reserve	7
Update every four years	7
Child support worksheets.....	8
Child Support Guideline Advisory Council review.....	8
Scope of the review.....	8
Change to Council membership	9
Report year	9
Child support calculation	9
Combined gross income not covered by the schedule.....	9
Specific computation requirements	10
Deducting spousal support.....	10
Children in more than one household	10
Determining when a parent is voluntarily unemployed or underemployed	11
Excess support obligation.....	12
Adjustments for non-means tested benefits.....	12
Sharing child care costs	12
Reduction for parenting time	13
Deviations-generally.....	14
Assignment of monetary value to deviations.....	16
Deviation determinations based on parenting time	16
Shared parenting deviation.....	17
Separate orders for educational and appropriate expenses.....	18
Minimum support obligations.....	18
Health Care.....	18
Health care expenses	18
Health insurance coverage.....	19
Determining responsibility	19
Rebuttable presumption	19
Reasonable cost	20
Credit for health insurance cost.....	20
Cash medical support	21
Extraordinary medical expenses	21
Accessibility of care.....	22
Modification to meet child medical needs	22
Administrative reviews of court child support orders.....	23
Collecting arrearages.....	23



CONTENT AND OPERATION

Background

Title IV-D of the federal Social Security Act requires every state to establish child support guidelines and review those guidelines at least once every four years to ensure that their application results in the determination of appropriate child support award amounts. Ohio law requires the ODJFS to conduct the review with the assistance of the Child Support Advisory Council. ODJFS and the Council must prepare a report of its review and submit a copy of the report to both houses of the General Assembly. The most recent report was issued in 2013.¹ S.B. 262 includes changes to Ohio law governing child support that were recommended by this latest report.

Specifically, the bill makes changes to (1) the basic child support schedule and worksheets, (2) the Child Support Guideline Advisory Council review, (3) how child support is calculated, (4) minimum child support order requirements, (5) how health care for the children covered by a child support order is handled, (6) the review and modification of child support orders, and (7) the collection of arrearages under terminated orders.

Basic child support schedule

Replaced by rules

The bill repeals the statutory basic child support schedule used by courts and CSEAs to calculate child support amounts. In its stead, the bill requires the ODJFS Director to create a schedule by rule pursuant to the Administrative Procedure Act (R.C. Chapter 119).² The schedule must consist of a table depicting the payments required, depending on the number of children subject to the order. The bill requires the table to begin at an annual gross income of \$8,400 and increase at \$600 increments to a maximum annual gross income of \$300,000 (existing law schedule is \$6,600 to \$150,000 in \$600 increments). The child support obligation amount is to be determined at the intersection of the income row with the row designating the number of children. To create the schedule, ODJFS must multiply the guidelines income amounts, at \$600 increments, by the basic obligation percentages listed in the bill for each coordinate income range listed in the bill, for each child. The basic obligation percentages change

¹ Ohio Department of Job and Family Services, *2013 Child Support Guidelines Review*, available at <http://jfs.ohio.gov/Ocs/pdf/2013CSGuidelinesAdvCouncilReport.stm>, 42 U.S.C. 667(a) and R.C. 3119.024.

² R.C. 3119.021.



with each income range and increase with the number of children. Just like current law, the resulting schedule is to be applicable up to six children.³

Self-sufficiency reserve

The schedule must also incorporate a self-sufficiency reserve based on 116% of the poverty income guidelines amount for a single person, as reported by the United States Department of Health and Human Services in calendar year 2015 (see **COMMENT 1**). ODJFS, in order to account for the self-sufficiency reserve, must first create an unadjusted schedule as described above and then use the following:

- For gross annual income lower than 116% of the poverty income guidelines for a single person, the schedule amount must be the minimum order amount specified in R.C. 3119.06 (see "**Minimum support obligations**" below);
- For gross annual income at least 116% of the poverty income guidelines for a single person, the amount must be the lesser of: (1) the unadjusted amount in the schedule, or (2) 30% of the difference between gross annual income minus 116% of the poverty income guidelines for a single person. In either situation, the amount must not be less than the minimum order amount specified in R.C. 3119.06.⁴

Update every four years

The bill requires ODJFS to update the schedule and the self-sufficiency reserve every four years to reflect changes in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics by the United States Department of Labor (CPI-U) and changes in the poverty income guidelines amount for a single person as reported by the United States Department of Health and Human Services. When updating the schedule for the most recent CPI-U, ODJFS must update the figures in the guidelines income column for the percentage difference between the most recent CPI-U and the March 2015 CPI-U. When updating the reserve, ODJFS must set it based on 116% of the poverty income guidelines in the most recent calendar year (see **COMMENT 1**).⁵

³ R.C. 3119.021(A) and (B)(1).

⁴ R.C. 3119.021(B)(2).

⁵ R.C. 3119.01(C)(7) and 3119.021(C)(1) and (2).

Child support worksheets

The bill repeals the existing statutory worksheet forms required to be used by courts and CSEAs when calculating child support under sole custody, shared parenting, and split custody situations. In their place, the bill requires the ODJFS Director to adopt rules governing the creation of child support guidelines worksheets and instructions that incorporate the requirements of the child support law for the calculation of child support and medical support obligations. Additionally, the Director must adopt standard worksheet forms for use by all courts and CSEAs and a standard instruction manual to provide guidance and assistance to those calculating support obligations.

The bill requires the Director to revise the worksheets and the manual at least once every five years consistent with any determinations made under the Child Support Guideline Advisory Council review (see below).⁶

Child Support Guideline Advisory Council review

The bill makes changes to the law requiring ODJFS, with the assistance of a Child Support Guidelines Advisory Council that ODJFS constitutes, to conduct a review every four years of the basic child support schedule and to issue a report on any recommendations to the General Assembly.

Scope of the review

Under current law, the review is conducted for the purpose of determining whether the child support orders issued in accordance with the schedule and worksheets adequately provide for the needs of children under the child support orders. The bill adds that, in conducting the review, ODJFS may consider:

- The adequacy and appropriateness of the current schedule;
- Whether there are substantial and permanent changes in household consumption and savings patterns, particularly those resulting in substantial and permanent changes in the percent of total household expenditures devoted to children;
- Whether there have been substantial and permanent changes to the federal and state income tax code, other than inflationary adjustments to such things as the exemption amount and income tax brackets; and

⁶ R.C. 3119.022.

- Other factors.

The bill also states that this review is in addition to, and independent of, the update of the basic child support schedule that is required every four years as described above under "**Update every four years.**"⁷

Change to Council membership

Although the bill retains nearly all the requirements of current law regarding a Council, it does make a change to the membership. The bill requires a Council to include:

- Common pleas court judges who have jurisdiction over domestic relations and juvenile cases that involve the determination of child support; and
- Attorneys whose practice includes a significant number of domestic relations or juvenile cases that involve the determination of child support.

Under current law there is no requirement that the cases "involve the determination of child support." And with respect to the judges, current law does not require jurisdiction over juvenile cases.⁸

Report year

The bill changes the cycle of the Council review. Under the bill, ODJFS must make a report of the review on or before March 1 of every fourth year after 2015. Under existing law, it is every fourth year after 1993-the latest report being in 2013.

Child support calculation

Combined gross income not covered by the schedule

The bill provides that if the combined annual gross income of the parents is greater than \$300,000 (which is the top end of the new basic child support schedule to be created by ODJFS rules) a court or CSEA, regarding court and administrative child support orders, respectively, the child support obligor's support obligation must be determined on a case-by-case basis. In doing so, the court or CSEA must consider the needs and standards of the children subject to the order and the parents. The court or CSEA cannot compute a basic child support obligation that is less than what the

⁷ R.C. 3119.023(A) (R.C. 3119.024 under current law).

⁸ R.C. 3119.023(B) (R.C. 3119.024 under current law).

schedule and applicable worksheet would have computed for a combined gross income of \$300,000, unless the amount is determined to be unjust and inappropriate and thus not in the best interest of the children. These requirements are identical to current law, except for the increase in the maximum income amount of \$300,000. But, the bill repeals the current law requirement that, if the combined gross income of both parents is under \$6,600, the court or CSEA must determine on a case-by-case basis the maximum child support amount that does not deny the child support obligor the means for self-support at a minimum subsistence level, using the schedule as a guideline.⁹ The bill enacts no similar provision for situations involving a combined gross income of less than the \$8,400 minimum amount under the basic child support schedule to be adopted by ODJFS by rules (see **COMMENT 2**).

Specific computation requirements

The bill amends and adds certain requirements and adjustments that must be considered when a court or CSEA computes the amount of child support to be paid pursuant to an order.

Deducting spousal support

The bill provides that the annual amount of any court-order spousal support that is actually paid, excluding any ordered payment on arrears, must be deducted from that parent's gross income to the extent the amount is verified by supporting documentation. Under current law, payment on arrears is not excluded.¹⁰

Children in more than one household

The bill eliminates current law requirements regarding deductions from a parent's gross income for amounts paid for children under pre-existing support orders and amounts for children with another parent not involved in the child support proceedings. In their stead, the bill requires a court or CSEA to adjust the amount of child support to be paid by a parent who has children in more than one household. In calculating the adjusted amount, the court or CSEA must use the basic child support schedule and do the following:

(1) Determine the amount of child support each parent would be ordered to pay for all children for whom the parent has the legal duty to support, according to each

⁹ R.C. 3119.04(A) and (B).

¹⁰ R.C. 3119.05(B).

parent's annual gross income. If that number is greater than six, multiply the amount for three children by the following:

Number of children	Factor
Seven children	1.440
Eight children	1.540
Nine children	1.638
Ten children	1.734
Eleven children	1.827
Twelve children	1.919
Thirteen children	2.008
Fourteen children	2.096
More than fourteen children	2.182

(2) Next, compute a child support credit amount for each parent's children who are not subject to the child support order by dividing the amount calculated in (1) above by the total number of children whom the parent is obligated to support and multiplying that number by the number of that parent's children who are not subject to the child support order.

(3) Finally, determine the adjusted income of the parents by subtracting the credit for minor children not subject to the child support order computed under (2) above from the gross income of each parent for the children each has a duty to support that are not subject to the child support order.¹¹

Determining when a parent is voluntarily unemployed or underemployed

The bill adds the following factors to the factors under current law, that, if they exist, prevent a court or CSEA from determining a parent to be voluntarily unemployed or underemployed, and therefore imputing income to that parent:

- The parent is receiving recurring monetary income from general assistance received under former Chapter 5113 of the Revised Code;
- The parent is approved for Social Security Disability Insurance benefits because of a mental or physical disability, or the court or CSEA

¹¹ R.C. 3109.05(B) and (C).

determines that the parent cannot work based on medical documentation that includes a physician's diagnosis or opinion that the parent cannot work due to a mental or physical disability;

- The parent has proven that he or she has made a continuous and diligent effort, without success, to find and accept employment, including temporary employment, part-time employment, or employment at less than his or her previous wage;
- The parent is complying with court-ordered family reunification efforts in a child abuse, neglect, or dependency proceeding, which limits the parent's ability to earn income.¹²

Excess support obligation

The bill provides that a support obligation may exceed the support obligation for a parent based on the income share of the parent, if permitted in the basic child support schedule.¹³ "Income share" means the amount a parent must pay, which is derived from a comparison of a parent's individual annual gross income to the total combined annual gross income of the parents.¹⁴

Adjustments for nonmeans tested benefits

The bill adds that if a child receives any nonmeans tested benefits as a result of claims made by either parent, the amount is to be deducted from that parent's annual child support obligations after all other adjustments have been made. If the amount deducted exceeds the child support obligation of the parent from whose claim the benefit is realized, the obligation becomes zero.¹⁵

Sharing child care costs

The bill provides that as part of the child support calculation, both parents must also share the costs of child care. A child support obligor must pay an amount equal to the obligor's income share of the child care cost for all children subject to the order.¹⁶

¹² R.C. 3119.05(I)(1) to (4).

¹³ R.C. 3119.05(M).

¹⁴ R.C. 3119.01(C)(11).

¹⁵ R.C. 3119.05(N).

¹⁶ R.C. 3119.05(O).

The bill defines "child care cost" to mean the annual out-of-pocket costs for the care and supervision of a child or children subject to the order that is related to work or employment training.¹⁷

The child care cost required to be used in the child support calculation must:

- Be for child care determined to be necessary to allow a parent to work or for activities related to employment training;
- Be verifiable by credible evidence;
- Exclude reimbursed or subsidized child care costs, including any state or federal income tax credit for child care available to the parent or caretaker, whether or not claimed; and
- Not exceed the maximum statewide average cost estimates provided by ODJFS.¹⁸

The basic child support schedule may establish a threshold for a child support obligor's individual annual gross income, at which the share of the child care cost paid by the obligor is required to be equal to the lower of the obligor's income share of the child care cost or 50% of the child care cost.¹⁹

Reduction for parenting time

Under the bill, a court or CSEA calculating the amount to be paid under a child support order must reduce by 10% the amount of the parent or parent's annual individual support obligation when a court has issued or is issuing a parenting-time order that equals or exceeds the standard parenting time order of the issuing court. The 10% reduction may be in addition to other deviations and reductions provided in the bill and current law.²⁰ If requested by a child support obligee, however, a court may review a support order under review procedures established by ODJFS and eliminate a

¹⁷ R.C. 3119.01(C)(2).

¹⁸ R.C. 3119.05(O)(1)(a) to (d).

¹⁹ R.C. 3119.05(O)(2).

²⁰ R.C. 3119.051(A).

previously granted adjustment if the child support obligor does not exercise the court-ordered parenting time, without just cause.²¹

Deviations-generally

Generally, the bill amends the factors that the court may consider when determining whether to deviate from the amount of child support that would otherwise result from the use of the basic child support schedule and worksheets. After consideration of the factors *and* determining that the amount of child support would be unjust or inappropriate and therefore not in the best interest of the child, current law permits the court to order an amount of child support that deviates from the amount determined pursuant to the schedule and worksheet. The changes made by the bill are described below.²²

Factor #	Current law	The bill
1	Special and unusual needs of the children.	Special and unusual needs of the child or children, including consideration of needs arising from the physical or psychological condition of the child or children.
2	Extraordinary obligations for minor children or obligations for handicapped children who are not stepchildren and who are not offspring from the marriage or relationship that is the basis of the immediate child support determination.	Repeals this provision.
3	Other court-ordered payments.	No change.
4	Extended parenting time or extraordinary costs associated with parenting time, provided that this factor does not authorize and is not construed as authorizing any deviation from the schedule and the applicable worksheet, through the line establishing the actual annual obligation, or any escrowing, impoundment, or withholding of child support because of a denial of or interference with a right of parenting	Extended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time. See Parenting time deviation below.

²¹ R.C. 3119.051(B) and 3119.76.

²² R.C. 3119.22 and 3119.23.

Factor #	Current law	The bill
	time granted by court order.	
5	The child support obligor obtaining additional employment after a child support order is issued in order to support a second family.	Repeals this provision.
6	The financial resources and the earning ability of the child.	The financial resources and the earning ability of the child <i>or children</i> .
7	Disparity in income between parties or households.	The relative financial resources, <i>including</i> disparity in income between parties or households, other assets, and the needs of each parent.
8	No provision.	The child support obligee's income, if the obligee's gross income is equal to or less than 100% of the federal poverty level.
9	Benefits that either parent receives from remarriage or sharing living expenses with another person.	No change.
10	The amount of federal, state, and local taxes actually paid or estimated to be paid by a parent or both of the parents.	No change.
11	Significant in-kind contributions from a parent, including, but not limited to, direct payment for lessons, sports equipment, schooling, or clothing.	No change.
12	The relative financial resources, other assets and resources, and needs of each parent.	Combined with 7.
13	No provision.	Extraordinary work-related expenses incurred by either parent.
14	The standard of living and circumstances of each parent and the standard of living the child would have enjoyed had the marriage continued or had the parents been married.	No change.
15	The physical and emotional condition and needs of the child.	Repeals this provision; however 1 above specifies special or unusual needs arising from the physical or psychological condition of the children.

Factor #	Current law	The bill
16	The need and capacity of the child for an education and the educational opportunities that would have been available to the child had the circumstances requiring a court order for support not arisen.	The educational opportunities that would have been available to the child had the circumstances requiring a child support order not arisen.
17	The responsibility of each parent for the support of others.	The responsibility of each parent for the support of others, including support of a child or children with disabilities who are not subject to the support order.
18	No provision.	Post-secondary educational expenses paid for by a parent for the parent's own child or children, regardless of whether the child or children are emancipated.
19	No provision.	Costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in child abuse, neglect, or dependency cases.
20	No provision.	Extraordinary child care costs required for the child or children that exceed the maximum statewide credit provided in R.C. 3119.05(C)(2), including extraordinary costs associated with specialized physical, psychological, or education conditions (see COMMENT 3).
21	Any other relevant factor.	No change.

Assignment of monetary value to deviations

The bill repeals a provision that permits a court to accept an agreement of the parents that assigns a monetary value to any of the factors and criteria listed in the table above that are applicable to their situation.²³

Deviation determinations based on parenting time

The bill provides that, in determining whether to grant a deviation described in the table above, except for extraordinary travel expenses, the court must recognize that

²³ R.C. 3119.23.

expenses for the children are incurred in both households and apply the following criteria:

- If court-ordered parenting time is equal to or less than 130 overnights per year, the court must not grant a deviation.
- If court-ordered parenting time exceeds 130 overnights per year but is less than 147 overnights per year, the court may consider a deviation.
- If court-ordered parenting time is equal to or exceeds 147 overnights per year, the court must consider a substantial deviation. If the court does not grant a substantial deviation from that amount, it must specify in the order the facts that are the basis for the court's decision.²⁴

Shared parenting deviation

The bill makes changes to the law governing deviations from the child support obligations required under shared parenting orders. Current law requires a court that issues a shared parenting order to also order child support pursuant to the basic child support schedule and worksheet and grants the court the authority to deviate from this amount if that amount would be unjust or inappropriate to the children or either parent and not in the best interest of the child because of the extraordinary circumstances of the parents or because of any other factors or criteria listed in the deviation table above. "Extraordinary circumstances" include:

- The amount of time the children spend with each parent;
- The ability of each parent to maintain adequate housing for the children;
- Each parent's expenses, including child care expenses, school tuition, medical expenses, dental expenses, and any other expenses the court considers relevant;
- Any other circumstances the court considers relevant.

The bill repeals "the amount of time the children spend with each parent" as an extraordinary circumstance for deviating from the amount of child support calculated pursuant to a shared parenting order.²⁵

²⁴ R.C. 3119.231.

²⁵ R.C. 3119.24(B).

Separate orders for educational and appropriate expenses

The bill permits a court to issue separate orders for education expenses and for appropriate expenses. In making a separate order, the court may consider the expenses in adjusting a child support order.²⁶

Minimum support obligations

The bill increases the minimum amount a child support order must be issued for from \$50 to \$80 dollars and expands the requirement to not just apply to the courts but also to CSEAs whenever either issues or modifies a child support order or determines the amount of child support to be paid. The bill continues the ability of a court, and now a CSEA, to issue an order for less than the minimum amount, in appropriate circumstances, which circumstances may include a physical or mental disability.²⁷

Health Care

The bill makes extensive and complicated changes to the law governing health care for children subject to child support orders. As a result, this analysis, with respect to these health care changes, seeks to focus primarily on the law as it would result from the bill. Under continuing law, each child support order shall determine the person or persons responsible for the health care of the children subject of the child support order and must include provisions for the health care of those children.²⁸

Health care expenses

The bill requires that each child support order specify that both the child support obligor and obligee are liable for the health care expenses of any children not covered by health insurance, as those expenses are calculated in accordance with the worksheet under a formula established by the court or CSEA, depending on whether it is a court or administrative child support order (see **COMMENT 4**).

²⁶ R.C. 3119.05(F)(1) and (2).

²⁷ R.C. 3119.06.

²⁸ R.C. 3119.30(A).

Health insurance coverage

Determining responsibility

The bill specifies that when a court or CSEA is determining who is responsible for health care of the children under a child support order, if the cost of private health insurance to either parent exceeds a reasonable cost, that parent cannot be ordered to provide health insurance coverage, except (1) when the parent requests to obtain or maintain private health insurance that exceeds a reasonable cost, or (2) when a court determines it is in the best interest of the children for a parent to obtain and maintain private health insurance that exceeds a reasonable cost and the cost will not impose an undue financial burden on either parent.²⁹

In addition, in any action or proceeding in which a court or CSEA is determining responsibility for health care of children under a child support order, each party must provide the court or CSEA the cost of self-only and family coverage under available policies, contracts, or plans. The bill defines "family coverage" to mean the health insurance plan that provides coverage for the children who are the subject of a child support order.³⁰

Rebuttable presumption

The bill also specifies that the child support obligee is rebuttably presumed to be the parent to provide the health insurance coverage for the children under the child support order. The court or CSEA may consider the following factors to rebut this presumption when determining whether the child support obligor is the appropriate parent to provide health insurance coverage:

- The child support obligor already has health insurance coverage for the child at a reasonable cost.
- The child support obligor already has health insurance coverage for the child that is not at a reasonable cost, but the obligor wishes to be named the health insurance obligor and provide the health insurance coverage.
- The child support obligor can obtain coverage for the child that is reasonable in cost through an employer or other source. For employer-based coverage, the court or CSEA must consider the length of time that

²⁹ R.C. 3119.302(A)(2).

³⁰ R.C. 3119.29(A) and R.C. 3119.31.

the obligor has worked with the employer and the stability of the insurance.³¹

The bill also specifies that if private health insurance coverage is not available at a reasonable cost to either the child support obligor or obligee at the time the court or CSEA issues the child support order, the order must require the child support obligee to obtain insurance within 30 days and to inform the CSEA once it is obtained.³² Additionally, the bill provides that each child support contain a requirement that whoever is required to provide private health insurance must provide documentation that verifies that coverage is being provided within 30 days of the order.³³

Reasonable cost

The bill defines "reasonable cost" to mean that the cost of health insurance to the person required to provide health insurance coverage for the children subject to the child support order does not exceed an amount equal to 5% of the annual gross income of that person. For purposes of the definition, the cost of health insurance is an amount equal to the difference in cost between self-only and family coverage. The bill further specifies that if the United States Secretary of Health and Human Services issues a regulation that redefines "reasonable cost" or a similar term or phrase, or clarifies the elements of cost used when determining reasonable cost relating to the provision of health care for children in a child support order, and if those changes are substantively different than the definitions and terms used in the bill, those terms must have the same meaning as defined by the Secretary.³⁴

Credit for health insurance cost

The bill provides that the cost of providing health insurance under a child support order is to be defrayed by a credit against that parent's gross income when calculating child support using the basic child support schedule and applicable worksheet. The credit is to be equal to the total out-of-pocket cost for health insurance premium coverage. Any credit given will be less any subsidy, including a premium tax or cost-sharing reduction received by the parent providing the coverage.

³¹ R.C. 3119.30(B)(1).

³² R.C. 3119.32(B)(2).

³³ R.C. 3119.32(A)(2).

³⁴ R.C. 3119.29(G).

Cash medical support

The bill provides that when a child support order is issued or modified, the order must include a cash medical support amount for each child subject to the order. The cash medical support amount must be ordered based on the number of children subject to the order and divided between the parties using the parents' income share. The bill defines cash medical support to mean the amount ordered to be paid in a child support order toward ordinary medical expenses incurred during a calendar year. "Ordinary medical expenses" are defined by the bill to include co-payment and deductibles, and uninsured medical-related costs for the children of the order.³⁵

Under the bill, the cash medical support must be paid through ODJFS by the child support obligor to the child support obligee (if the children subject to the order are not Medicaid recipients), or to the Department of Medicaid when a Medicaid assignment is in effect for any child under the support order.³⁶

The bill requires ODJFS to update the cash medical support obligations *periodically*. The updates must be made in consideration of the Medical Expenditure Panel Survey created by the U.S. Department of Health and Human Services for health care research and quality. The amount must be based on the most recent survey year data, and must be calculated by multiplying the total amount expended for health services for children by the percentage that is out-of-pocket, divided by the number of individuals under 18 that have private insurance.³⁷

Extraordinary medical expenses

The bill defines extraordinary medical expenses to mean any uninsured medical expenses incurred for a child during a calendar year that exceed the cash medical support amount owed during that year.³⁸

A court must issue separate orders for extraordinary medical expenses, which must include orthodontia, dental, optical, and psychological services. These expenses may be considered in adjusting a child support order.³⁹

³⁵ R.C. 3119.01(C)(1) and (15).

³⁶ R.C. 3119.30(D).

³⁷ R.C. 3119.302(B).

³⁸ R.C. 3119.01(C)(8).

³⁹ R.C. 3119.05(C)

The bill also requires that a child support order must contain a requirement that the child support obligor, obligee, or both, pay extraordinary medical expenses for children.⁴⁰ An order must also contain a statement setting forth the name and address of the individual to be reimbursed for extraordinary out-of-pocket medical, optical, hospital, dental, or prescription expenses paid for each child. The bill further provides that extraordinary expenses are any out-of-pocket expenses paid in excess of the cash medical support obligation for any given year (see **COMMENT 5**).

Accessibility of care

The bill clarifies that, notwithstanding the definition of "health insurance coverage" (which current law defines as private health insurance that provides primary care services within 30 miles from the residence of the child subject to the child support order), a court or CSEA may do either of the following:

- Permit primary care services to be farther than 30 miles if resident in part or all of the immediate geographic area customarily travel farther distances;
- Require primary care services be accessible by public transportation if public transportation is the child support obligee's only source of transportation.

If the court or CSEA makes either accessibility determination, it must include the determination in the child support order.⁴¹

Modification to meet child medical needs

The bill provides that if a court determines that the medical needs of a child subject to a child support order are not being met because of inadequate health insurance coverage, the inadequate coverage must be considered a change of circumstance that is substantial enough to require a modification of the child support order (but not a modification of the *child support amount* required to be paid under the order). In adding this requirement, the bill eliminates the requirement to consider the cost of health insurance when recalculating the child support amount required under the current child support order. However, it still appears that the inadequate coverage

⁴⁰ R.C. 3119.32(D).

⁴¹ R.C. 3119.29(C) and 3119.302(A)(4).

determination is to be considered pursuant to a request to modify the amount of child support under the order.⁴²

Administrative reviews of court child support orders

The bill provides that if a court child support order contains a deviation or a parenting time adjustment, the CSEA reviewing the order for purposes of determining whether the child support amount should be updated must apply the deviation or adjustment from the existing order to the revised amount of child support, provided that the CSEA can determine the monetary or percentage value of the deviation. If the agency cannot determine the value, the CSEA shall not apply the deviation to the revised amount of support (see **COMMENT 6**).⁴³

Collecting arrearages

The bill provides that, in situations in which a child support order is terminated and withholding or deduction is initiated to collect to the overdue and unpaid support or arrearage from the child support obligor, the amount that is withheld or deducted must be rebuttably presumed to be at least equal to the amount that was withheld or deducted under the terminated order. The bill permits the court or CSEA to consider evidence of household expenditures, income variables, extraordinary health care issues, and other reasons for deviation from the presumed amount.⁴⁴

COMMENT

1. The bill uses the term "poverty income guidelines" with respect to the calculation of the self-sufficiency reserve and the required four-year update of the basic child support schedule and the reserve. The bill does not define that term. The bill does, however, define "federal poverty level." It may be that federal poverty level is the appropriate term to be used.⁴⁵

2. The bill, despite not permitting a case-by-case determination of child support obligations in situations in which the parents combined gross income is below the

⁴² R.C. 3119.79(B).

⁴³ R.C. 3119.63(B).

⁴⁴ R.C. 3121.36 and R.C. 3123.14.

⁴⁵ R.C. 3119.01(C)(9).

\$8,400 basic child support schedule floor,⁴⁶ it does create the self-sufficiency reserve as part of the schedule.⁴⁷ This reserve, however, may be difficult to apply since the schedule, as directed to be created under ODJFS rules, does not go below \$8,400. The bill also retains the minimum support order requirement, which requirement may be intended to fill the gap regarding parents whose combined gross income falls below the \$8,400 floor.⁴⁸

3. It is not clear what is meant by the "maximum statewide credit" that is cross-referenced regarding this deviation provided for extraordinary child care costs. The cross-referenced section, R.C. 3119.05(C)(2) contains no such credit.

4. It is not clear what formula is being referred to regarding health care expenses for the children who are not covered by private health insurance. This may be intended to refer to the cash medical support requirement that must be issued with every order. Cash medical support is to be updated by ODJFS periodically, which updates are to be based on surveys of costs and calculations using those costs.⁴⁹

5. The description of extraordinary expenses, in context of R.C. 3119.32(B), addresses medical and other health related expenses, but is not consistent with the definition of "extraordinary medical expenses" provided in the bill regarding separate orders for medical expenses under R.C. 3119.05(F). It is not clear whether the difference will affect how either provision is construed.

6. A CSEA reviewing a court child support order for purposes of determining whether the child support amount should be updated must apply the deviation or parenting time adjustment from the existing order to the revised amount of child support. But, the CSEA's application of the deviation or adjustment appears dependent on determining the monetary or percentage value of the deviation only. Further, if the CSEA cannot determine the value, it appears only the deviation cannot be applied. But, it is not clear what happens to any parenting time adjustment in that case.⁵⁰

⁴⁶ R.C. 3119.021(B)(1).

⁴⁷ R.C. 3119.021(B)(2).

⁴⁸ R.C. 3119.021(B)(2)(a) and 3119.06.

⁴⁹ R.C. 3119.30(A) and (C) and 3119.302(B).

⁵⁰ R.C. 3119.63(B).

HISTORY

ACTION

DATE

Introduced

01-25-16

S0262-I-131.docx/emr

