



# Ohio Legislative Service Commission

## Bill Analysis

Chenwei Zhang

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(As Reported by S. Civil Justice)

**Sens.** Coley, Eklund, Hite

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## **BILL SUMMARY**

### **Paternity changes**

- Permits a custodian or guardian of a child to bring a court action for child support requiring the father or mother to pay child support after an acknowledgment of paternity becomes final.
- Permits a mother or other custodian or guardian to contact the child support enforcement agency (CSEA) in obtaining a court or administrative child support order after an acknowledgement of paternity becomes final.
- Eliminates the ability to request an administrative officer of a CSEA to issue an administrative child support order based on a paternity presumption.
- Requires a Title IV-D application or other IV-D referral to be completed and filed in order for a CSEA to seek to determine paternity.
- Provides that, when a CSEA administrative officer receives genetic results and identical siblings are named as the alleged father of a child, the officer must refer the case to a court for determination, and is not permitted to issue an administrative order establishing paternity.
- Decreases from 30 days to 14 days the amount of time that a mother, alleged father, and guardian or legal custodian of a child may bring an action to object to an administrative order establishing paternity.
- Requires that a Title IV-D application or other IV-D referral must be completed and filed and that one of the following exists in order for an CSEA administrative officer to conduct an administrative hearing to establish child support:

- An administrative officer has issued an order establishing paternity;
  - A presumption of paternity exists under law;
  - A duty of support exists under law.
- Requires that once a hearing is scheduled, the administrative officer must include in the notice of the hearing a request for several pieces of information from the parents, and that the CSEA may make reasonable assumptions regarding any information not provided or request a court to order the parents to provide the missing information.
  - Provides that all administrative orders take effect 14 days after the order is issued and remain in effect during the pendency of any court actions to object to the orders.

### **Calculation of child support changes**

- Changes, with respect to minimum child support orders, the term used for public assistance from need-based public assistance to means-test public assistance and defines the later term.
- Provides that if the obligor believes there is a mistake of fact regarding the availability of private health insurance at a reasonable cost, the obligor may file a written request for an administrative hearing with the CSEA no later than 14 days after the notice is issued.
- Provides that a person who receives a notice of medical support enforcement activity may file a written request for an administrative hearing with the CSEA that issued the notice no later than 14 days after the notice was issued.
- Permits a CSEA to notify the appropriate court when a person required to obtain health insurance coverage pursuant to a child support order fails to do so within 30 days after the order is issued.
- Makes several changes to procedures a CSEA must follow prior to formally beginning review of a court or administrative child support order.
- Requires a Title IV-D application to be completed and filed with the CSEA before conducting the procedures required before beginning a formal review.
- Makes several changes regarding CSEA review of court and administrative child support orders that affect the adjustments made, time deadlines, notices, and objections to CSEA determinations.

- Permits a court, on request of any party, to designate which parent may claim the children as dependents for federal income tax purposes and limits reconsideration of the designation pursuant to a court hearing regarding a revised child support order resulting from a CSEA formal review.
- Makes changes to Ohio Department of Job and Family Services (ODJFS) rule-making authority regarding procedures determining when court and administrative child support order must be reviewed.
- Provides that if either parent fails to comply with a request for information under either an administrative support hearing or formal review of a child support order, the CSEA may either: (1) request the court of appropriate jurisdiction to order the parent to provide the information, or (2) make any reasonable assumptions necessary regarding the information not provided to ensure a fair and equitable review.
- Makes several changes regarding the reasons for terminating a child support order and CSEA termination investigations.

### **Collection and disbursement changes**

- Specifies that if the court or CSEA determines that a withholding or deduction notice is appropriate, it must be sent by ordinary mail or electronic means to each person required to comply with it.
- Expands CSEA responsibility regarding lump sum payments with respect to both administrative and court child support orders and reduces court responsibility.
- Provides that when there is a notice of a lump sum payment made in accordance with a support order issued before 1998 that requires an employer to withhold an amount of the obligor's personal earnings for payment of support, a CSEA that receives lump sum payment notification must notify the court that issued the order.
- Requires that each order or modification of an order must include a provision stating that an obligor or obligee that fails to give notice of change in specified contact or other identifying information to the CSEA may not receive notice of the changes and requests to change conditions of the child support order.

### **Default changes**

- Makes various changes regarding the time deadlines regarding administrative and court hearings and CSEA determinations related to default notices.

- Makes various changes to the law governing access restrictions and withdrawal directives regarding accounts at financial institutions of obligors in default.
- Eliminates certain circumstances under which a CSEA would be required to file a motion requesting the county recorder to discharge a lien on an obligor's property in the amount of any arrearage owed under a support order.
- Provides for the Office of Child Support and the Tax Commissioner to cooperate to collect overdue support, instead of overdue child support as required under current law, from state tax refunds due an obligor.

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## CONTENT AND OPERATION

### Overview

The bill makes numerous changes to various provisions of the law governing the establishment of paternity, the calculation of child support, the collection and disbursement of child support, and support defaults.

### Paternity law changes

#### Obtaining child support based on a final acknowledgment of paternity

The bill permits the mother or other custodian or guardian of the child to bring an action for child support in a juvenile court or other court with jurisdiction requesting that the mother (in addition to the father under current law) be ordered to pay an amount of the support of the child once an acknowledgement of paternity becomes final.<sup>1</sup> Because a mother would not likely bring an action for child support against herself, such an action for child support would likely be brought when someone other than the mother or father is the guardian or custodian of the child and there is a final acknowledgment of paternity.

The bill also provides that the mother or other custodian or guardian may contact the child support enforcement agency (CSEA) for assistance in obtaining a child support order, as defined under the child support law. Under that law, "child support order" means a child support order issued by a court or CSEA.<sup>2</sup> Under current law, the mother, guardian, or custodian is allowed to contact the CSEA (1) for help in obtaining the child support order from the juvenile court or other appropriate court, or (2) to request an administrative officer of the CSEA to issue an administrative child support order from the CSEA.<sup>3</sup>

#### Obtaining child support based on a paternity presumption

The bill reduces the options available for obtaining child support based on a presumption that a man is the child's father. Under the bill, a parent, guardian, or legal custodian of a child; the person with whom the child resides; or the CSEA of the county in which the child, parent, guardian, or legal custodian of the child resides, may do either of the following to require the presumed father to pay child support and provide for the child's health care:

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<sup>1</sup> R.C. 3111.29(A).

<sup>2</sup> R.C. 3119.01, not in the bill.

<sup>3</sup> R.C. 3119.29(B).

- If the presumption is not based on an acknowledgment of paternity, file a complaint in a juvenile court or other court with jurisdiction requesting that the presumed father be ordered to pay an amount for the support of the child;
- Contact the CSEA to request assistance in obtaining an order for support and the provision of health care for the child.

The bill repeals the ability of the foregoing persons to request an administrative officer of a CSEA to issue a child support order from the CSEA.<sup>4</sup>

### **Administrative paternity determinations**

#### **Title IV-D application required**

Under the bill, any person with standing to bring a court action to determine the existence or nonexistence of a parent and child relationship between an alleged father and a child, may request the CSEA to establish paternity with the father. The CSEA must determine the existence or nonexistence of a parent child relationship if an application for services administered under Title IV-D of the federal Social Security Act or other IV-D referral has been completed and filed.<sup>5</sup> Current law only requires the person with standing to request the determination and does not specify that a Title IV-D application or referral is required. Under federal law, however, the Title IV-D application allows the Ohio Department of Job and Family Services (ODJFS) to seek federal reimbursement in order to offset the administrative costs of the service.<sup>6</sup>

#### **Identical siblings named as alleged father**

Under the bill, if an administrative officer of the CSEA receives genetic results and identical siblings are named as the alleged father of a child, the officer must refer the case to the court, and is not permitted to issue an administrative order establishing paternity of the child who is the subject of the proceeding.<sup>7</sup>

#### **Objecting to an administrative order establishing paternity**

The bill decreases the amount of time in which a mother, alleged father, and guardian or legal custodian of a child may bring an action to object to an administrative

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<sup>4</sup> R.C. 3111.78.

<sup>5</sup> R.C. 3111.38.

<sup>6</sup> 42 U.S.C. 651 and 655, not in the bill.

<sup>7</sup> R.C. 3111.46(A)(2).

order determining the existence of a parent and child relationship from 30 days to 14 days after the date the administrative officer issues an order. After 14 days, the administrative order is final and enforceable by a court.<sup>8</sup>

## **Administrative hearings regarding child support**

### **Requirements for scheduling a hearing**

Under the bill, an administrative officer must schedule and conduct an administrative hearing to determine the child support amount that any parent must pay, the method of payment, and the method for determining health care, if a Title IV-D application or other referral has been completed and filed and one of the following applies:

- (1) An administrative officer has issued an administrative order establishing paternity;
- (2) A presumption of paternity exists under Ohio law;
- (3) A duty of support otherwise exists under Ohio law.<sup>9</sup>

Current law requires an administrative officer of the CSEA to schedule an administrative hearing as described above if an administrative support order is requested based on a final acknowledgement of paternity or based on a presumption of paternity, or if an administrative order determining paternity is issued. These requirements are continued under the bill because a final acknowledgement of paternity creates a duty of support under continuing law and the bill maintains a presumption of paternity and the administrative order determining paternity as bases for scheduling a hearing. However, current law contains no specification that a Title IV-D application or other referral must be completed and filed before an administrative child support hearing can be scheduled (see **COMMENT 1**).<sup>10</sup>

### **Notice about request for information**

The bill also adds that a notice of hearing to each of the children's parents must include a request for certain information about the parents (see "**Request for information**," below) and must state that if either parent fails to comply with the

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<sup>8</sup> R.C. 3111.49.

<sup>9</sup> R.C. 3111.80(A).

<sup>10</sup> R.C. 3111.80 (under current law).





request for information, the CSEA may make reasonable assumptions and proceed with the support determination (see "**Failure to provide the information**," below).<sup>11</sup>

### **Civil procedure rules**

The bill provides that any summons related to the administrative hearing shall be governed by the Ohio Rules of Civil Procedure.<sup>12</sup>

### **Holding the hearing**

The administrative hearing must be held not later than 60 days after the Title IV-D application is submitted to or the Title IV-D referral is received by the CSEA, or after the issuance of paternity establishment.<sup>13</sup>

### **Request for information**

The bill specifies that each parent provide to the CSEA, not later than the date scheduled for formally beginning the administrative hearing, all of the following:

- (1) A copy of each parent's most recently filed federal income tax return and all supporting schedules and documents;
- (2) A copy of all pay stubs of each parent from the immediately preceding six months;
- (3) A copy of all other records evidencing the receipt of any other salary, wages, or compensation by each parent within the immediately preceding six months;
- (4) A list of the group health insurance and health care policies, contracts, and plans available to each parent, and their costs;
- (5) The current health insurance or health care policy, contract, or plan under which each parent is enrolled, and its cost;
- (6) If either parent is a member of the uniformed services and is on active military duty, a copy of the parent's leave and earnings statement;
- (7) Any other information necessary to properly establish the child support order.<sup>14</sup>

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<sup>11</sup> R.C. 3119.80(B).

<sup>12</sup> R.C. 3119.80(B).

<sup>13</sup> R.C. 3111.80(C).



### **Failure to provide the information**

The bill provides that if either parent fails to provide the information requested above, the agency may do either of the following:

- Request the court of appropriate jurisdiction of the county in which the CSEA is located to issue an order requiring the parent to provide the information as requested;
- Make reasonable assumptions regarding the information not provided and proceed with the support determination as if all the information was provided.<sup>15</sup>

### **When administrative child support orders take effect**

The bill provides that an administrative child support order must take effect 14 days after it is issued. The bill also requires a notice required to be included in the order to recite the same 14-day-period limitation regarding parents' right to object to the administrative order (by bringing an action for child support in a juvenile court or other court with jurisdiction). In addition, the bill repeals the requirement that the notice include language regarding the effect of failure to timely bring the action to object to the administrative order.<sup>16</sup>

### **Action to object**

Either parent may object to the order by bringing an action for child support in a juvenile court or other court with jurisdiction not later than 14 days after the issuance of the administrative support order. The bill makes it clear, however, that the administrative order will take effect regardless of any action to object by the parents because the bill (1) requires it to take effect 14 days after issuance, with no condition (see "**When administrative child support orders take effect**," above), and (2) provides that the administrative order remains in effect while the objection is pending, unless a party requests a stay and it is granted by the court (see **COMMENT 2**).<sup>17</sup>

Under current law, the parents have 30 days to bring the action. If they fail to do so in that time period the order becomes final and enforceable by a court. The bill, along with the other changes above, adds that the order is also enforceable by a CSEA.

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<sup>14</sup> R.C. 3111.801.

<sup>15</sup> R.C. 3111.80(D).

<sup>16</sup> R.C. 3111.81.

<sup>17</sup> R.C. 3111.84.

## **Calculation of child support changes**

### **Means-tested public assistance**

The bill changes, with respect to minimum child support orders, the term used for public assistance from need-based public assistance to means-tested public assistance. It defines means-tested public assistance to include cash assistance payments under the Ohio Works First Program, financial assistance under the Disability Financial Assistance program, Supplemental Security Income, or means-tested veteran's benefits.<sup>18</sup>

### **Administrative hearings regarding medical support**

#### **Mistake of fact regarding health insurance cost**

The bill provides that if the obligor believes there is a mistake of fact regarding the availability of private health insurance at a reasonable cost as ordered under a child support order, the obligor must file a written request for an administrative hearing with the agency no later than 14 days after the notice informing the obligor of the hearing opportunity is issued.<sup>19</sup>

#### **Mistake of fact regarding notice of medical support enforcement activity**

Under the bill, a person who receives a notice of medical support enforcement activity may file a written request for an administrative hearing with the CSEA that issued the notice, no later than 14 days after the notice of medical support enforcement activity was sent to determine whether there was a mistake of fact in the national medical support notice. If a mistake of fact hearing is held and the CSEA issues a determination, it becomes final, unless within 14 days after the issuance, the person files a written motion with the court for a hearing to determine if there is still a mistake of fact in the national medical support notice. Under current law, the person has seven business days to request the administrative hearing and to file a motion for a court hearing after the administrative hearing and determination.<sup>20</sup>

#### **Failure to provide health insurance coverage**

Under the bill, if the person required to obtain health insurance coverage pursuant to the child support order does not obtain the required coverage within 30 days after the order is issued, the CSEA may notify the court that issued the court child

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<sup>18</sup> R.C. 3119.06.

<sup>19</sup> R.C. 3119.30(D).

<sup>20</sup> R.C. 3119.38.

support order, or, with respect to an administrative child support order, the court of common pleas of the county in which the CSEA is located. Under current law, a CSEA *must* notify the court of such failure. In addition, the bill adds that the court may punish the person for contempt for the failure under continuing Ohio law governing contempt.<sup>21</sup>

## Formal review of child support orders

### Title IV-D application required

The bill specifies that if a Title IV-D application has been completed and filed with the CSEA and the CSEA receives a request from either parent or periodically plans to review a court or administrative child support order, it must do certain things required in law before formally beginning the review. Under current law, the IV-D application was not required and the request could come from the obligor or obligee and not "either parent" (the bill replaces obligors and obligees with parents regarding the law governing proceedings prior to review – see **COMMENT 3**).<sup>22</sup>

### Procedures prior to formal review

The bill makes changes to those actions a CSEA must take prior to formally beginning a review. Below is a list of those actions in current law and how the bill alters them, if at all.<sup>23</sup>

Current law	The bill
Establish a date on which review will formally begin.	No change.
Requires the CSEA, at least 45 days before formally beginning review, to send the obligor and obligee notice of the planned review, and the date of when the review will formally begin.	Changes the time period to 30 days, requires notice to be sent by ordinary mail to each parent, and provides that the review may add or adjust a payment on arrearages in accordance with continuing law.
Requires the CSEA to request that the obligor and obligee each provide to the agency, no later than the scheduled date for formally beginning the review, all of the following: <ol style="list-style-type: none"> <li>1. Federal income tax return from the previous year;</li> <li>2. A copy of all pay stubs from the</li> </ol>	Same, but for the following changes to what the parents must provide: <ol style="list-style-type: none"> <li>1. Federal income tax return from the previous year, and <i>all supporting schedules and documents</i>;</li> <li>2. No change;</li> <li>3. No change;</li> </ol>

<sup>21</sup> R.C. 3119.43.

<sup>22</sup> R.C. 3119.60.

<sup>23</sup> R.C. 3119.60(A) to (C).



Current law	The bill
<p>preceding six months;</p> <ol style="list-style-type: none"> <li>3. A copy of all other records evidencing receipt of any other salary, wages, or compensation within the preceding six months;</li> <li>4. A list of group health insurance and health care policies, contracts, and plans available, and their costs;</li> <li>5. The current health insurance or health care policy, contract, or plan under which the obligor and obligee are each enrolled, and its cost;</li> <li>6. If either the obligor or obligee is a member of the uniformed services and is on active military duty, a copy of the obligor's or obligee's IRS form W-2, and a copy of a statement detailing the obligor's or obligee's earnings and leave with the uniformed services;</li> <li>7. Any other information necessary to properly review the child support order.</li> </ol>	<ol style="list-style-type: none"> <li>4. No change;</li> <li>5. No change;</li> <li>6. If either parent is a member of the uniformed services and is on active military duty, a copy of the parent's leave and earnings statement.</li> <li>7. No change.</li> </ol>

With respect to the notice referred to in the table above that is sent prior to beginning the formal review, the bill makes the following alterations:<sup>24</sup>

Type of order	Current law	The bill
Court child support order	Provide notice that a willful failure to provide documents and other information requested is contempt of court.	Same, but adds that the CSEA may proceed with the review and make reasonable assumptions with respect to the information that was not provided.
Administrative child support order	Provide notice that if either the obligor or obligee fails to comply with the request for information, the CSEA may bring an action requesting that the court find the obligor and the obligee in contempt.	Provide notice that if either parent fails to comply with the request for information, the CSEA may make reasonable assumptions with respect to the information not provided.

<sup>24</sup> R.C. 3119.60(D).

## Changes to CSEA review of administrative child support orders

### *Adjustments to current support and arrearages – under formal review*

Under the bill, if a CSEA, under the formal review, determines that an adjustment is necessary to an administrative child support order and it is in the child's best interest, the CSEA is required to calculate the amount the obligor must pay and may add or adjust payment on arrearages as provided under Ohio's child support law. Under current law, the CSEA determines if a modification is necessary and has no authority to add or adjust payments on arrearages at this stage.<sup>25</sup>

### *Adjustments to current support and arrearages – after CSEA hearing*

The bill provides that, if the CSEA, at an administrative hearing to review the revised support amount, redetermines "revised support obligations" (see **COMMENT 4**) under the administrative order, it may also add or adjust payments on arrearages as provided under Ohio's child support law. Under current law, the CSEA may redetermine at the hearing a revised amount of child support to be paid and has no authority to add or adjust payments on arrearages at this stage.<sup>26</sup>

### *Time to request hearing on revised amount*

The bill requires that the notice sent containing the revised amount of child support to be paid determined under the formal review, must also notify the obligor and obligee that the administrative child support order will be amended to include the revised amount unless the obligor or obligee requests an administrative hearing on the revised amount not later than 14 days after the notice is issued. Under current law, the time period is 30 days after receipt of the notice.<sup>27</sup>

### *Venue of court action to object*

The bill provides that an obligor or obligee may object to the revised amount of child support determined after an administrative hearing by bringing an action for child support in the juvenile court or other court with jurisdiction of the county in which the CSEA that issued the order is located. Under current law, the action may be brought in the juvenile court or other court with jurisdiction of the county in which the mother, father, child, or guardian or custodian of the child reside.

### *CSEA action when deviation required*

The bill provides if the CSEA cannot set the amount of child support to be paid by the obligor under the administrative child support order without granting a deviation, the CSEA is required to bring an action for child support in the juvenile court

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<sup>25</sup> R.C. 3119.61.

<sup>26</sup> R.C. 3119.61(C)(4).

<sup>27</sup> R.C. 3119.61(A).



or other court with jurisdiction. Under current law, the CSEA is required to bring the action on behalf of the person who requested the CSEA to review the order, or if no one requested the review, on behalf of the obligee. The bill repeals the current law provision with the result that the CSEA is bringing action in its own capacity.<sup>28</sup>

### *Notice by ordinary mail*

The bill also requires that once the formal review is completed, the notice sent to the obligor and obligee regarding the revised amount of child support to be paid under the administrative child support order must be sent by ordinary mail.<sup>29</sup> The bill also requires the CSEA, after an administrative hearing is held, to send notice by ordinary mail to the obligor and obligee of the revised amount of child support and the right to object to the CSEA's determination.<sup>30</sup>

## **Changes to CSEA review of court child support orders**

### *Adjustments to current support and arrearages – under formal review*

Under the bill, a CSEA, under the formal review, is required to calculate a revised "child support computation worksheet and issue a child support recommendation" (see **COMMENT 5**) under the court child support order, including adding or adjusting payment on arrearages as provided under Ohio's child support law. Under current law, the CSEA calculates a revised amount of child support to be paid and has no authority to add or adjust payments on arrearages at this stage.<sup>31</sup>

### *Adjustments to current support and arrearages – after CSEA hearing*

The bill provides that, if the CSEA, at an administrative hearing to review the revised support amount, determines "revised support obligations" (see **COMMENT 5**) under the court child support order, it may also add or adjust payments on arrearages as provided under Ohio's child support law. Under current law, the CSEA may redetermine at the hearing a revised amount of child support to be paid and has no authority to add or adjust payments on arrearages at this stage.<sup>32</sup>

### *Time to request administrative hearing/court hearing regarding deviation*

The bill requires the CSEA to send notice to the obligor and obligee of the revised amount of child support, the right to request an administrative hearing on the amount, the applicable procedures and time deadlines for requesting the hearing, and that the

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<sup>28</sup> R.C. 3119.61(C).

<sup>29</sup> R.C. 3119.61(A).

<sup>30</sup> R.C. 3119.61(A) and (C)(6).

<sup>31</sup> R.C. 3119.63(A).

<sup>32</sup> R.C. 3119.63(E).



revised amount will be submitted to the court for inclusion in the court support order unless the obligor or obligee requests an administrative hearing on the proposed change within 14 days after the notice is issued. The bill also requires the CSEA to send notice to the obligor or obligee, that if the order contains a child support deviation or if the obligor or obligee intends to request a deviation, they may request a court hearing on the revised amount of child support without first requesting an administrative hearing if they make the request no later than 14 days after the notice is issued. Under current law, the 14 days, under both notices, begins to run after "receipt" of the notice.<sup>33</sup>

#### *Time to request court hearing after CSEA hearing*

The bill requires that if the CSEA determines revised support obligations pursuant to an administrative hearing, it must also notify the obligor and obligee of the revised amount of child support and that they may request a court hearing on the revised amount within 14 days after the notice of the revised amount is issued.<sup>34</sup>

#### *Notice by ordinary mail*

The bill also requires that the notice sent regarding the revised amount of child support determined under the formal review must be sent by ordinary mail.<sup>35</sup> The bill also requires the CSEA to send deviation notice described above by ordinary mail.<sup>36</sup>

### **Federal income tax deduction**

The bill permits a court, upon the request of any party, to designate which parent may claim the children who are subject of the court child support order as dependents for federal income tax purposes according to the specific requirements of the law governing such designations. Under current law, a court may make the designation when it issues, modifies, or otherwise reconsiders a court child support order.<sup>37</sup>

Also under the bill, when a CSEA submits a recommendation (see **COMMENT 5**) for inclusion in a revised court child support order and a party files a request for a court hearing, the court may only reconsider the allocation of the federal income tax deduction pursuant to Ohio's child support law.<sup>38</sup>

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<sup>33</sup> R.C. 3119.63(B) and (C).

<sup>34</sup> R.C. 3119.63(F).

<sup>35</sup> R.C. 3119.63(B).

<sup>36</sup> R.C. 3119.63(C).

<sup>37</sup> R.C. 3119.82.

<sup>38</sup> R.C. 3119.631 and 3119.82.





## Rule-making authority regarding formal reviews

Under current law, unchanged by the bill, the Director of ODJFS must adopt rules pursuant to Chapter 119. of the Revised Code to establish a procedure for determining when existing court and administrative child support orders must be reviewed. Under the bill, the number of days of prior notice that must be specified under the rules that the CSEA must give to obligors and obligees regarding review of any child support order decreases from 45 days to 30 days. The bill also repeals a provision requiring the Director to specify in the rules a requirement that the CSEA must give notice that a failure to comply with a request for documents or information to be used in a review of a child support order is contempt of court.<sup>39</sup>

## Failure to comply with a request for information

The bill modifies the law governing the effects of failure by an obligor or obligee to provide information for purposes of CSEA proceedings prior to conducting formal review of an administrative or court child support order. The bill imposes the requirements on parents, instead of obligors and obligees, and makes the requirements applicable to CSEA proceedings to issue an administrative child support order in addition to CSEA proceedings prior to conducting formal child support order reviews. Under the bill, if either parent fails to comply with a request for information made under either type of proceeding, the CSEA may: (1) request the court of appropriate jurisdiction within the county in which the CSEA is located to issue an order requiring the parent to provide the information requested, or (2) make any reasonable assumptions necessary regarding the information not provided to ensure a fair and equitable review of the child support order or establishment of an administrative order (see **COMMENT 3**).<sup>40</sup>

Under current law, if a court child support order is being reviewed, failure to comply with a request for information is contempt of court, and the CSEA must notify the court of the failure to comply with the request for information. If the child support order being reviewed is an administrative order, the agency may request the court of common pleas in the county in which the agency is located to issue an order requiring compliance with the request for information. Failure to comply with the court order would be contempt of court.

Under both circumstances, the CSEA may request the court to issue an order requiring the obligor and obligee to provide the information requested or take whatever

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<sup>39</sup> R.C. 3119.76(D).

<sup>40</sup> R.C. 3119.72.

action is necessary to obtain the information and make any reasonable assumptions necessary with respect to the information that is not provided to ensure a fair and equitable review.<sup>41</sup>

## **Child support order termination**

### **Termination imminent**

Under current law, unchanged by the bill, the residential parent and legal custodian of a child subject to a court of administrative child support order must immediately notify the CSEA of any reason for which the order should terminate. The obligor may, but is not required to, do the same. The bill clarifies that nothing in this provision precludes a person from notifying the CSEA that a reason for which a child support order should terminate is imminent.<sup>42</sup>

### **Reasons for termination**

The following table lists the reasons for which a child support order should terminate under current law and how the bill changes them, if at all:<sup>43</sup>

<b>Current law</b>	<b>The bill</b>
The child attains the age of majority, if the child no longer attends an accredited high school on a full-time basis and the child support order requires support to continue past the age of majority only if the child continuously attends such a high school after attaining that age.	No change.
The child no longer attends an accredited high school on a full-time basis after attaining the age of majority, if the order requires support to continue past the age of majority only if the child continuously attends such a high school after attaining that age.	No change.
No provision.	A termination condition specified in the court child support order has been met for a child who turns 19.
The child's death.	No change.
The child's marriage.	No change.

<sup>41</sup> R.C. 3119.72.

<sup>42</sup> R.C. 3119.87.

<sup>43</sup> R.C. 3119.88.



Current law	The bill
The child's emancipation.	No change.
The child's enlistment in the armed services.	No change.
The child's deportation.	No change.
Change of legal custody of the child.	No change.
No provision.	The child's adoption.
No provision.	The obligor's death.
No provision.	The grandparent to whom support is being paid or a grandparent who is paying support reports that the grandparent's support order should terminate under Ohio law governing grandparent support of a child born to unmarried and unemancipated minors. <sup>44</sup>
No provision.	The marriage of the obligor to the obligee, if the two reside together with the child.

### Conditions to termination reasons

The bill provides that the reasons for termination listed in the table above are reasons for which a court or administrative child support order should terminate through the administrative termination process under Ohio law. The bill also specifically provides that a court or administrative child support order may be terminated by the court or CSEA for any of the listed reasons. A court may also terminate an order for any other appropriate reason brought to the court's attention, unless otherwise prohibited by law.<sup>45</sup>

### CSEA investigation

Under current law, unchanged by the bill, if a CSEA receives notice of a reason for termination, the CSEA must complete an investigation within 20 days. The bill adds that the CSEA must complete the investigation if an application for services under Title IV-D has been completed and filed (see **COMMENT 3**). The bill also provides that a CSEA may initiate an investigation before a reason for which the order should terminate has occurred.<sup>46</sup>

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<sup>44</sup> R.C. 3109.19, not in the bill.

<sup>45</sup> R.C. 3119.88(A) and (B).

<sup>46</sup> R.C. 3119.89(A).



Under current law, unchanged by the bill, upon investigation, if the CSEA determines that a child support order should terminate and child support amounts paid should be impounded to prevent overpayment, the agency must provide notice that no revised administrative or court child support order will be issued if either the obligor or obligee requests an administrative hearing on the investigation conclusions within 30 days after the receipt of the notice. The bill decreases the number of days from 30 to 14 and measures the time from the date of issuance and not the date of receipt of the notice.<sup>47</sup>

Also under current law, unchanged by the bill, if an obligor or obligee timely requests an administrative hearing, the CSEA, on completion of the hearing, must issue a decision that includes a notice stating that the obligor or obligee may object by filing a motion in an appropriate court within 30 days after the issuance of the decision, and that if neither party files the motion within that time frame, the administrative hearing decision is final. If either or both parties do file a motion with the appropriate court within the 30 days, the court must set the case for a hearing for a determination as to whether the order should be terminated or some other appropriate action should be taken. The bill again decreases the number of days from 30 to 14 days.<sup>48</sup>

## **Collection and disbursement changes**

### **Withholding or deduction notice using ordinary mail or electronic means**

Under the bill, if the court or CSEA determines that a withholding or deduction notice is appropriate following the issuance or modification of a support order (which means an administrative or court child support order or spousal support order), it must be sent by ordinary mail or electronic means to each person required to comply with it. Under current law, the notice must be sent by regular mail or via secure federally managed data transmission interface.<sup>49</sup>

### **Limits on issuance of administrative seek work orders**

The bill eliminates the ability of a CSEA to issue an administrative order requiring an obligor under an administrative child support order to engage in employment, seek employment, or participate in a work activity as a recipient of assistance in order to ensure withholding or deduction to pay support and arrearages.<sup>50</sup>

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<sup>47</sup> R.C. 3119.90(B)(4).

<sup>48</sup> R.C. 3119.91 and 3119.92.

<sup>49</sup> R.C. 3121.035(A); R.C. 3119.01, not in the bill.

<sup>50</sup> R.C. 3121.02(C).

## Lump sum payments

### CSEA administers

The bill modifies the law governing the treatment of lump sum payments made to obligors. The bill provides that on the receipt of a notice that a lump sum payment of \$150 or more is to be paid to the obligor, the CSEA is required to handle the treatment of those amounts. Under current law, the court handled those amounts with regards to court support orders (court child support and spousal support orders) and CSEAs handled those amounts with respect to administrative child support orders.<sup>51</sup>

### CSEA actions

The bill provides that on receipt of the lump sum notice the CSEA must do one of the following by issuing an administrative order:

- Require the lump sum payment to be transmitted, or just the portion necessary to pay the arrearage, to the Office of Child Support in ODJFS, if the obligor is in default or has any arrearage;
- Require the lump sum payment to be released to the obligor if the obligor is not in default or does not owe an arrearage.<sup>52</sup>

### CSEA limitations

The bill eliminates the authority of CSEAs to issue administrative lump sum transmittal orders to ensure withholding or deduction to pay support and arrearages (except, apparently, as provided above under *CSEA actions*).<sup>53</sup>

### Repeal of CSEA notice to courts

The bill repeals the requirement that when a CSEA receives notice of a lump sum payment of \$150 or more to an obligor under a court support order it must notify the issuing court of the notice and its contents. The bill also repeals the discretionary authority CSEAs have to notify the court of lump sum payments under \$150.<sup>54</sup>

### Pre-1998 support orders

The bill provides that in case of a notice of a lump sum payment made under a support order issued prior to 1998 requiring an employer to withhold from an obligor's personal earnings to pay support, the CSEA that receives notification of the lump sum

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<sup>51</sup> R.C. 3121.01 and 3121.12(A).

<sup>52</sup> R.C. 3121.12(A)(1) and (2), 3121.33, and 3121.34.

<sup>53</sup> R.C. 3121.02(C).

<sup>54</sup> R.C. 3121.11, repealed by the bill.

payment from the payor must notify the court that issued the order and the court must issue a supplemental order regarding the treatment of the lump sum amount consistent with current law, unchanged by the bill.<sup>55</sup>

### **Accompanying notice to each order or modification of an order**

Under current law, unchanged by the bill, each support order or modification of a support order must include a notice in boldface type and all capital letters informing each party to a support order that the obligor and obligee must notify the CSEA in writing of certain identifying information, such as current mailing and residential addresses, telephone numbers, driver's license numbers, and any changes with regard to this information. The bill requires that this notice must also include in boldface type and all capital letters a provision stating that an obligor or obligee that fails to give the required notices to the CSEA may not receive notice of the changes and requests to change the child support amount, health care provisions, or termination of the child support order.<sup>56</sup>

### **Definition changes**

The bill adds to the definitions section of R.C. Chapter 3121. the following definitions by cross-referencing them to the terms as defined in section R.C. 3119.01: "administrative child support order," "child support order," "obligee," "obligor," and "support order." Revised Code section 3119.01, however, already makes these definitions applicable to R.C. Chapter 3121.<sup>57</sup>

### **Default changes**

#### **Notices of default**

Under current law, unchanged by the bill, a default notice must include certain pieces of information. The bill changes the following from the date that the item is *sent* to the date that it is *issued*:<sup>58</sup>

- The date of the default notice is *issued*;
- The amount of arrearages the obligor owes due to the default as of the date of the default notice is *issued*;

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<sup>55</sup> R.C. 3121.02(B), 3121.12(C), and 3123.06.

<sup>56</sup> R.C. 3121.29.

<sup>57</sup> R.C. 3121.01; R.C. 3119.01, not in the bill.

<sup>58</sup> R.C. 3123.031(A), (C), and (D).

- A statement that any arrearages owed by the obligor that arise after the default notice is *issued* and during the period of default will be added to the obligor's total child support obligation and will be subject to collection efforts without further default notice.

The bill also increases from *seven business days* to *14 days* the following deadlines that must be included in the default notice:<sup>59</sup>

- A statement that the obligor may file with the CSEA, within *14 days* after the date on which the default notice is *issued* (*sent* under current law), a written request for an administrative hearing;
- A statement that, if the obligor files a timely written request for an administrative hearing, the obligor may file with the court, within *14 days* after the agency makes its determination under the administrative hearing, a written motion for a court hearing.

The bill further provides that an obligor who receives a default notice may file a written request for an administrative hearing no later than *14 days* after the date on which the default notice is *issued*. Under current law, the obligor has *seven business days* from the date on which the notice was *sent*. The bill also provides that administrative hearing determinations are final and enforceable by the court, unless an obligor files a written motion with the court for a court mistake of fact hearing within *14 days* after the CSEA issues its determinations. The bill also requires the court to hold a mistake of fact hearing if the obligor files the motion within that 14-day time period. Under current law, the obligor has *seven business days* from the date on which the agency *makes* its determinations.<sup>60</sup>

### **Ordinary mail**

The bill provides that if a court mistake of fact hearing is to be held regarding a default notice, the court must send notice of the date, time, place, and purpose of the court hearing by ordinary mail. Current law requires regular mail.<sup>61</sup>

### **Defaulting obligor's financial account**

The bill provides that, upon notice or discovery of an account in a financial institution maintained by an obligor in default under a support order administered by

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<sup>59</sup> R.C. 3123.031(G) and (H).

<sup>60</sup> R.C. 3123.04 and 3123.05.

<sup>61</sup> R.C. 3123.05.



the CSEA, the CSEA must determine whether the obligor is subject to a final and enforceable determination of default. If so, current law, unchanged by the bill, requires the CSEA to issue an access restriction notice to the financial institution in which the account is maintained. Under current law, the CSEA must take these steps upon examining the case registry of support order maintained by the Office of Child Support, rather than upon notice or discovery.<sup>62</sup>

The bill also permits the CSEA to investigate and determine the amount of funds in the account that is available to satisfy the obligor's arrearages. Under current law, the CSEA is required to do the investigation and to do it no later than five business days after the information is entered into the case registry.<sup>63</sup>

Under current law, unchanged by the bill, if a CSEA finds that a person other than an obligor in default has an ownership interest in an account, the agency must send written notice to that person informing the person that an amount will be withdrawn from the account to pay for default arrearages.<sup>64</sup> The bill gives the person a right to object and also provides that the written notice must specify that the person may object to a withdrawal by filing with the CSEA, no later than *14 days* after the date on which the notice was *issued*, a written request for an administrative hearing to determine whether any amount contained in the account is the property of the person to whom the notice is sent and should not be subject to the withdrawal directive. Under current law, the person has *10 days* after the date on which the notice is *sent* to make a request.<sup>65</sup>

The bill also provides that the CSEA may issue a withdrawal directive for any funds belonging to the obligor in an account unless, no later than *14 days* after the agency *issues* its determination, the person files a written motion in the court of common pleas in the county served by the CSEA for a hearing to determine whether any amount contained in the account is the property of that person. Under current law, the timeline is *10 days* after the agency *makes* its determination.<sup>66</sup>

The bill further provides that with respect to a withdrawal directive for any remaining funds in an account, the person may object by filing a timely motion with the

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<sup>62</sup> R.C. 3123.25.

<sup>63</sup> R.C. 3123.27.

<sup>64</sup> R.C. 3123.30(A); R.C. 3123.29, not in the bill.

<sup>65</sup> R.C. 3123.30(B) and 3123.31.

<sup>66</sup> R.C. 3123.34.



court that issued the child support order<sup>67</sup> or that is located in the county where the CSEA issued the order. The bill requires the court to hold the hearing on the request no later than *14 days* after the request is filed (under current law it is *10 days*). The bill also adds that the person who filed the motion must be considered a temporary party only for purposes of objecting to an administrative determination regarding the ownership of the amounts in the account.<sup>68</sup>

### **Release of liens**

The bill repeals the following circumstances under which a CSEA would be required to file a motion requesting that the county recorder discharge a lien on an obligor's property in the amount of any arrearages owed under a support order:<sup>69</sup>

- (1) An appropriate withholding or deduction notice or other order has been issued to collect current support and any arrearage due under the support order that was in default, and the obligor is complying with the notice or order;
- (2) A new support order has been issued or the support order that was in default has been modified to collect current support and any arrearage due under the support order that was in default, and the obligor is complying with the new or modified order.

### **Collecting overdue support amounts from state tax refunds**

The bill specifies that the Office of Child Support under ODJFS must work with the Tax Commissioner to collect overdue support from refunds of paid state income taxes that are payable to obligors. Current law provides for collection of overdue child support.<sup>70</sup>

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<sup>67</sup> A corrective amendment may be needed because support order might be intended instead of "child support order" because the law governing access restrictions and withdrawal directives applies to spousal support orders too. R.C. 3123.24 to 3123.38.

<sup>68</sup> R.C. 3123.35.

<sup>69</sup> R.C. 3123.72.

<sup>70</sup> R.C. 3123.821(A) and 3123.822. The bill needs a technical amendment to correct an erroneous reference to the collection of "overpaid support" from obligee refunds instead of "overdue child support" in R.C. 3123.822.



## Effective date

The bill's provisions are to take effect nine months after the bill's effective date, if enacted. During that period, ODJFS is required to perform necessary automated system changes and is permitted to organize and oversee the statewide training of CSEAs, lawyers who practice in child support, and judges who preside over child support cases.<sup>71</sup>

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## COMMENT

1. Although the bill preserves the ability to request a CSEA to help establish a child support order in the case of a final acknowledgement of paternity or presumption of paternity, the CSEA does not have to respond to the request, unless a Title IV-D application or other referral has been completed and filed.

2. The bill provides that the administrative child support order is to remain in effect during the "pendency of the objection." The bill may be referring to the court action that may be brought to object to the administrative order. If that is what is intended, the bill could be clarified to align the terms.

3. The bill replaces obligors and obligees with parents in R.C. 3119.60 (Proceedings prior to review of court and CSEA orders), but not in the closely related requirements of R.C. 3119.61 (Review of CSEA orders) and R.C. 3119.63 (Review of Court orders). The bill also makes the same replacement in R.C. 3119.72, which section deals with the failure to provide information required by a CSEA. It may be that the changes are done in this way due to the expansion of R.C. 3119.72 to govern information required pursuant to proceedings for the establishment of administrative child support orders when paternity is established (R.C. 3111.80 and 3111.801). Those proceedings address parents as opposed to obligors and obligees. Changing the term to parents helps effectuate such expansion. The expansion, however, involves the usage of different terms for the same people in law that deals with the same subject and the application of law that does not deal with the same subject. It is not clear how these changes might be construed, as a result.

4. The bill provides for a CSEA to redetermine, at the hearing held after a formal review of an administrative child support order, the "revised support obligations" (R.C. 3119.61(C)(4)). The bill, however, does not use that term elsewhere in that section, opting instead to refer to "revised amount of child support to be paid." It is not clear how these changes might be construed, as a result.

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<sup>71</sup> Section 3 of the bill.



5. The bill uses "child support recommendation," "revised support obligations," and "revised amount of child support" in the provisions of the bill regarding CSEA review of court child support orders (R.C. 3119.63). With regard to the recommendation, the bill uses the term once in that section and provides no context as to how it is to be used because the law, unchanged by the bill, refers to the revised amount of child support to be "submitted to the court for inclusion in a revised child support order." This issue with the recommendation also impacts R.C. 3119.631 because that section, regarding when to reconsider the allocation of the federal income tax deduction, uses recommendation instead of revised amount of child support to be submitted to the court for inclusion in a revised order. With regard to revised child support obligations, it is unclear how it fits into the review scheme for the same reason: the law refers to the revised amount of child support to be submitted to the court. It is not clear how these changes might be construed, as a result.

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## HISTORY

ACTION	DATE
Introduced	04-07-16
Reported, S. Civil Justice	05-19-16

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