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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Ingram

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SUMMARY

- Establishes a procedure to suspend child support obligations for an obligor who: (1) has been laid off, terminated, furloughed, or has otherwise lost the obligor's primary source of income during the COVID-19 emergency declared by Governor Mike DeWine, and (2) is unable to fulfill the obligation.
- Establishes procedures for notification to, and investigation by, the child support enforcement agency (CSEA) of such claims.
- Terminates existing default investigations and suspends existing default proceedings during the investigation period.
- Prohibits the CSEA from taking enforcement actions under existing law during the suspension period for an obligor subject to a final and enforceable determination of default.
- Enacts protections for unpaid support obligations during the suspension period.
- Prohibits unpaid child support amounts during a suspension period from constituting the criminal offense of nonsupport of dependents, and the number of weeks of suspension from counting towards the determination of a felony conviction.
- Prohibits a CSEA or court from issuing a new child support order requiring an obligor to pay any amount of support if the obligor has lost a primary source of income during the declared state of emergency regarding COVID-19 and is unable to pay support.
- Provides that the bill's provisions apply during the period of the state of emergency and ends at either the end of the emergency or September 1, 2020 – whichever is later.
- Declares an emergency.

DETAILED ANALYSIS

Suspension of child support obligations

The bill generally suspends child support obligations for obligors who can no longer fulfill them during the COVID-19 state of emergency, as declared by Executive Order 2020-01D, issued by Governor Mike DeWine on March 9, 2020. More specifically, the bill applies to any obligor who: (1) has been laid off, terminated, furloughed, or has otherwise lost the individual's primary source of income during the COVID-19 emergency, and (2) is unable to fulfill a child support obligation, including cash medical support and health care coverage.¹

Notification

Under the bill, an obligor that meets the above criteria must notify the child support enforcement agency (CSEA) administering the order of his or her inability to fulfill the child support obligation and provide proof of income loss.²

Investigation

Once the CSEA receives the obligor's notification, it must investigate to confirm that the obligor is unable to fulfill the child support obligation because of income loss due to the COVID-19 pandemic.³ If the CSEA determines that the obligor has not lost a source of income and remains able to fulfill the child support obligation, the CSEA must notify the obligor of that determination and that the obligation remains in effect.⁴

If the CSEA determines that the obligor no longer has a source of income and is unable to fulfill the child support obligation, the CSEA must suspend the obligation and notify the obligor of the terms of the suspension, including whether any default proceedings or enforcement mechanisms have been suspended (see "**Defaults**," below).⁵

Defaults

The bill provides that if the CSEA was investigating a default at the time of the above investigation, the CSEA must terminate the default investigation.⁶ If a default proceeding had already been initiated at the time of investigation but a final and enforceable determination of default has not yet been made, the CSEA must suspend the default proceedings for an

¹ Section 1(A).

² Section 1(B).

³ Section 1(C).

⁴ Section 1(D)(2).

⁵ Section 1(D)(1) and (E)(1).

⁶ Section 1(E)(2).

administrative determination or notify the court to suspend proceedings for a court determination.⁷

A CSEA cannot do any of the following under existing default enforcement laws to an obligor subject to a final and enforceable determination of default during the period of suspension:⁸

- Suspend, refuse to issue, or refuse to renew a professional, motor vehicle, or recreational license;
- Provide the obligor's information to a consumer reporting agency;
- Assert a lien on the obligor's real or personal property;
- Issue a withdrawal directive on the obligor's funds held in a financial institute,⁹
- Intercept income tax refunds or obtain administrative offsets;
- Intervene in an action or institute a creditor's bill;
- Intercept unclaimed funds;
- Publish and distribute posters under the Office of Child Support's and each CSEA's delinquent child support obligor poster program;
- Take any other action to enforce a child support obligation or penalize an obligor in default.

Protections during suspension period

The bill prohibits any child support obligation that is not fulfilled during the suspension period from serving as the basis for a new default proceeding.¹⁰ Additionally, a child support obligation that has been suspended cannot serve as the basis for a contempt of court action for disobeying or resisting a court order or failing to comply with an administrative support order.¹¹ Finally, a suspended child support obligation amount cannot accumulate to determine an obligor's support obligation amount after the suspension period ends.¹²

Crime of nonsupport of dependents

Under the bill, nonpayment of a suspended child support obligation does not constitute the criminal offense of nonsupport of dependents. Also, the number of weeks for which a

⁷ Section 1(E)(3).

⁸ Section 1(E)(4)(a) to (i).

⁹ A technical amendment is needed to change "institute" to "institution."

¹⁰ Section 1(F).

¹¹ Section 1(I).

¹² Section 1(J).

support obligation has been suspended does not count towards the determination of a felony conviction of that offense.¹³

Under existing law, unchanged by the bill, a person may commit the crime of nonsupport of dependents by failing to provide support as established by a court order to, another person whom, by court order, the person (1) is legally obligated to support or (2) was legally obligated to support and (a) an amount for support was due and owing before the termination of the duty to pay support and (b) the amount remains unpaid.¹⁴

The crime of nonsupport of dependents is a first degree misdemeanor. The violation, however, becomes a fifth degree felony if: (1) the offender has previously been convicted of or pleaded guilty to the crime or (2) the offender failed to provide support for a total accumulated period of 26 out of 104 consecutive weeks, regardless of whether the 26 weeks were consecutive. If the offender has previously been convicted of or pleaded guilty to a felony violation of the crime, a violation is a fourth degree felony.¹⁵

No new child support orders during emergency

The bill prohibits a court or CSEA from issuing a new child support order requiring an obligor to pay child support if the obligor has lost a primary source of income during the state of emergency declared by Executive Order 2020-01D and is unable to pay support.¹⁶

Period of applicability

The bill's provisions apply during the period of the state of emergency declared by Executive Order 2020-01D and ends at either the end of the state of emergency, or September 1, 2020, whichever is later.¹⁷

Emergency clause

The bill declares it is an emergency measure and goes into immediate effect on the Governor's approval. The reason for the emergency is to provide relief for obligors who are unable to make child support payments due to a loss of income during the period of the state of emergency declared by Executive Order 2020-01D.¹⁸

¹³ Section 1(H).

¹⁴ R.C. 2919.21(B), not in the bill.

¹⁵ R.C. 2919.21(G), not in the bill.

¹⁶ Section 1(G).

¹⁷ Section (1)(K).

¹⁸ Section 2.

HISTORY

Action	Date
Introduced	05-11-20
