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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

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Office

**H.B. 508**  
**(1\_134\_1415-6)**  
**134<sup>th</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for H.B. 508's Bill Analysis](#)

**Version:** In House Civil Justice

**Primary Sponsors:** Reps. West and Creech

**Local Impact Statement Procedure Required:** Yes

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### **Highlights**

- Courts of common pleas will incur costs to adopt, implement, and administer rules on standard parenting time guidelines related to the presumption in certain domestic relations and juvenile cases that equal parenting time is in the best interest of the child. The likely outcome is that courts will generally expend more time and effort to administer such cases, including possible costs associated with additional hearings, expert testimony, and guardian ad litem appointments. Some costs may be partially offset if fees are raised, which would be at the discretion of each court.
- Courts of common pleas will experience costs to establish and maintain a process to make available the required annual parenting time report. At least one court has indicated that this would necessitate additional staff to compile and update case information.
- County child support enforcement agencies (CSEAs) could realize costs to modify child support orders. The total cost will depend on the number of requests received and the scope of review for requests.
- Public children services agencies (PCSAs) could realize costs to provide supervision and other services if courts order supervised parenting time due to unreasonable interference with parenting time. The total cost will depend on the number of court orders there are, as well as the amount of supervision and types of services provided.

### **Detailed Analysis**

The bill makes changes to current law regarding the allocation of parental rights and responsibilities in a divorce, dissolution, annulment, or legal separation proceeding. The overarching effect of the bill is to establish state policy for the allocation of parental rights and responsibilities, equal decision-making responsibility and equal time spent with the child

between each parent, when the parents do not submit an agreed upon parenting plan. The bill requires each court of common pleas (1) to adopt rules on standard parenting time guidelines as established in the bill and (2) to compile an annual report of data regarding division of parenting time.

## **Courts of common pleas**

### **Allocation of parental rights and responsibilities**

Courts of common pleas have jurisdiction over all proceedings involving divorce or dissolution of marriages, annulment, legal separation, spousal support, and allocation of parental rights and responsibilities for the care of children. The bill will affect divisions of the court with jurisdiction over domestic relations and juvenile cases, with the latter involving child custody matters where the parents are not married.

Existing law requires the court to allocate parental rights and responsibilities upon hearing the parents' testimony and considering any mediation report. The bill repeals this existing law and instead establishes a new process that essentially sets as the default in cases regarding the allocation of parental rights and responsibilities, equal decision-making responsibility and equal time spent with the child between each parent, when the parents do not submit an agreed upon parenting plan.

Under the bill, a shared parenting plan for the custody and care of children that the parents jointly submit is rebuttably presumed to be in the best interest of the child and must be approved by the court, unless it is shown to be detrimental to the child. If no agreement exists, there is a rebuttable presumption that equal decision-making responsibilities and equal parenting time are in the best interest of the child and must be allocated accordingly, unless it is shown to be detrimental to the child.

The bill requires that a shared parenting order and parental rights and responsibilities order include 12 specified elements, and any other provisions required by statute or the court.<sup>1</sup> Agreements to the orders and other supporting documents, for example work schedules and living arrangements, must be filed with the court no later than 30 days before the hearing to determine the allocation of parental responsibilities.

Courts of common pleas will be required to rewrite their local rules to conform to the bill's provisions regarding the allocation of parental rights and responsibilities. Polling of judges by the Ohio Judicial Conference has identified some of the bill's potential cost components for the courts. The changes are expected to increase the number of hearings associated with cases involving parental rights and custody. Provisions related to the rebuttals could add time to cases as the standard is set at a preponderance of the evidence. While this standard is lower than "clear and convincing evidence," it seems likely that more evidence may be submitted to the court and require review.

Additional cases may require expert witness testimony if a court finds that a shared parenting agreement is detrimental to the children. More situations requiring the appointment of a guardian ad litem are likely. Under current practice, the cost of a guardian ad litem is set and

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<sup>1</sup> See R.C. 3109.046 for the required elements of an order.

assessed by the court. Typically, the costs are attached to the case and shared by the parties. If the parties are indigent though, those costs may be borne by the court or other local agencies. It is uncertain how many cases will or may qualify for a guardian ad litem. Costs and fees vary from court to court, but as one example, the Franklin County Court of Common Pleas requires an \$800 deposit by the parties, with the hourly rate set by the judge or magistrate.

The bill (1) allows a court to impose a reasonable monetary sanction or community service against a person that the court has determined to have intentionally made a false accusation of child abuse or neglect against a parent in a proceeding to allocate parental rights and responsibilities, and (2) requires a court generally to hold a hearing on a motion alleging interference with parenting time no later than 28 days after the filing of the motion. Court costs and attorney fees may be assessed.

The additional workload for the courts will be highly variable and depend, in part, on the current docket size. For a court that processes a high number of proceedings involving divorce or dissolution of marriages, annulment, legal separation, spousal support, and allocation of parental rights and responsibilities for the care of children, costs will likely be higher than a court that processes a relatively small number of such cases. It is uncertain if courts will opt to reexamine their local filing fees in order to offset any increase in case processing costs.

The bill contains transitional provisions that address orders allocating parental rights and responsibilities, parenting time orders, and orders for companionship and visitation under existing law. Under the bill, these orders that were issued under existing law will remain in effect upon the bill's enactment, but must be enforced and modified in accordance with the bill's provisions. These provisions appear to create the potential for settled cases being reopened and reexamined using the new criteria and guidelines. This would further affect court caseloads and costs. A review of similar legislation in Kentucky indicated that its enactment resulted in a one-time influx of new case reviews.

### **Parenting time reports**

The bill requires each court that issues certain custody orders to compile an annual report of data regarding the division of parenting time, as tracked by overnight stays with a parent. This requirement includes (1) identifying the type of case involving parenting time, such as a shared parenting order, parental rights and responsibilities order, or a parenting time order, (2) tracking the number of cases of agreed judgment entries that were contested and ordered by the court, and (3) publishing the data on the court's website or otherwise make it publicly available, upon request.

In order to implement these reporting requirements, courts of common pleas will need to develop and implement a means to collect and publish the parenting time data. Each court would have some manner of discretion in determining how best to compile and make the data available. At least one court has indicated that additional staff would be needed in order to compile and update the information as needed. These would be ongoing costs for each court.

## Child support services

The CSEA Directors' Association believes that the bill could result in additional requests for modifications or terminations of child support orders.<sup>2</sup> There would be administrative costs to review and process any additional requests received. The total costs would depend on the number of requests received and the scope of review associated with each request. It is also possible that there could be an initial increase in requests shortly after enactment. In addition, the bill outlines several requirements that must be included in a shared parenting agreement or parental rights and responsibilities order, which might increase administrative costs.

Funding for child support enforcement agencies (CSEAs) consists of federal, state, and local dollars. Federal reimbursement (typically about 66%) can be received for cases that are Title IV-D eligible. In addition, an individual who receives assistance through the Ohio Works First (OWF) Program<sup>3</sup> must assign their child support rights to the state to help offset associated state and federal costs.<sup>4</sup> For those on Medicaid who receive cash medical support, the cash medical support is paid to the state.<sup>5</sup> Thus, if any requests for child support review resulted in reductions or terminations of monetary support for applicable recipients, there could be a loss or reduction of such reimbursements.

The Ohio Department of Job and Family Services supervises Ohio's Child Support Program while county CSEAs administer it at the local level. CSEA services are available to all residents who apply for services. However, public assistance recipients are automatically referred to CSEAs to establish paternity or support orders. Available CSEA services include location of noncustodial parents, establishment of paternity, establishment and enforcement of monetary and medical support orders, collection of support, and review and modification of support orders. In the case of divorcing couples, established support orders are sent from the court to CSEAs to administer and make modifications if warranted. However, CSEAs can establish and modify support orders in the case of unmarried couples or couples who are married but separated.

## Public children services agencies

The bill implies that, if the court orders supervised parenting time due to unreasonable interference with parenting time, the court may require a public children services agency (PCSA) to provide the supervision and other services. This could result in additional costs to PCSAs. The amount of the increase will depend on the additional supervision required, as well as how many additional services the PCSAs must provide.

## Ohio court statistics

The information shown in the two tables below summarizes for courts and assigned judges, respectively, the number of parenting-related cases filed in courts of common pleas across the state from calendar years (CYs) 2015 through 2021. These are likely to be the types of

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<sup>2</sup> The Ohio CSEA Directors' Association is a statewide organization representing county child support enforcement agencies (CSEAs).

<sup>3</sup> Ohio Works First provides financial assistance to eligible families for specific timeframes.

<sup>4</sup> Ohio Administrative Code (O.A.C.) 5101:1-3-10.

<sup>5</sup> R.C. 5160.38.

cases affected by the bill. The data, including drill-through data for each county, is available on the Ohio Supreme Court's website ([Interactive Data Dashboard](http://www.supremecourt.ohio.gov)): [www.supremecourt.ohio.gov](http://www.supremecourt.ohio.gov). Of note is the general downturn in CY 2020 and 2021 case volumes, which was due to the impact of the COVID-19 pandemic on court operations statewide.

**Table 1. Parenting-Related Cases, CYs 2015-2021  
Total Incoming Cases  
(New Filings plus Reactivations and Transfers)**

<b>Court Type/Case Type</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021*</b>
<b>Domestic Relations</b>							
Marriage Dissolutions w/Children	7,370	7,149	6,877	7,064	6,788	6,797	6,816
Marriage Dissolutions w/o Children <i>(included for comparison only)</i>	10,011	9,974	9,806	9,912	9,680	9,548	9,906
Marriage Terminations w/Children	13,194	12,921	12,415	12,305	12,209	10,513	11,040
Marriage Terminations w/o Children	13,123	12,839	12,897	12,582	12,596	11,067	11,451
Change of Custody	6,582	6,124	6,264	6,133	6,399	5,500	5,865
Parentage	1,440	1,275	1,282	1,314	1,250	1,117	1,594
Support – Enforce or Modify	26,831	25,584	25,386	25,496	24,036	17,958	18,541
U.I.F.S.A. **	1,060	966	889	864	890	650	776
Visitation – Enforce or Modify	3,000	2,780	2,971	2,991	2,980	2,754	2,652
<b>Total</b>	<b>82,611</b>	<b>79,612</b>	<b>78,787</b>	<b>78,661</b>	<b>76,828</b>	<b>65,904</b>	<b>68,641</b>
<b>Juvenile</b>							
Custody/Visitation	31,928	32,482	33,850	34,317	34,291	27,028	30,021
Parentage	7,617	7,250	6,759	6,383	6,255	5,005	5,682
Support – Enforce or Modify	52,574	49,694	53,704	49,381	46,720	29,793	31,099
U.I.F.S.A. **	1,129	1,118	1,459	946	944	677	709
<b>Total</b>	<b>93,248</b>	<b>90,544</b>	<b>95,772</b>	<b>91,027</b>	<b>88,210</b>	<b>62,503</b>	<b>67,511</b>

\*2021 data is incomplete (five outstanding monthly reports for domestic relations cases and 17 outstanding monthly reports for juvenile cases).

\*\*The Uniform Interstate Family Support Act (UIFSA) is a law which regulates the processing of all cases in which parties are located in more than one state.

**Table 2. Parenting-Related Cases, CYs 2015-2021  
Average Total Incoming Cases Per Judge  
(New Filings plus Reactivations and Transfers)**

<b>Court Type/Case Type</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021*</b>
<b>Domestic Relations</b>							
Marriage Dissolutions w/Children	55	54	52	54	51	51	51
Marriage Dissolutions w/o Children <i>(included for comparison only)</i>	75	75	74	75	73	72	74
Marriage Terminations w/Children	99	97	94	93	92	79	82
Marriage Terminations w/o Children	99	97	98	95	95	83	85
Change of Custody	49	46	47	46	48	41	44
Parentage	11	10	10	10	9	8	12
Support – Enforce or Modify	202	192	192	193	181	135	138
U.I.F.S.A.**	8	7	7	7	7	5	6
Visitation – Enforce or Modify	23	21	23	23	22	21	20
<b>Total</b>	<b>621</b>	<b>599</b>	<b>597</b>	<b>596</b>	<b>578</b>	<b>496</b>	<b>512</b>
<b>Juvenile</b>							
Custody/Visitation	290	295	308	312	309	243	268
Parentage	69	66	61	58	56	45	51
Support – Enforce or Modify	478	452	488	449	421	268	278
U.I.F.S.A.**	10	10	13	9	9	6	6
<b>Total</b>	<b>847</b>	<b>823</b>	<b>870</b>	<b>828</b>	<b>795</b>	<b>562</b>	<b>603</b>

\*2021 data is incomplete (five outstanding monthly reports for domestic relations cases and 17 outstanding monthly reports for juvenile cases).

\*\*The Uniform Interstate Family Support Act (UIFSA) is a law which regulates the processing of all cases in which parties are located in more than one state.

## Synopsis of Fiscal Effect Changes

The substitute bill (l\_134\_1415-6) makes several procedural changes to the provisions in the As Introduced version of the bill pertaining to the allocation of parental rights and responsibilities in a divorce, dissolution, annulment, or legal separation proceeding. The changes will likely create additional avenues for motions to be filed with the court (e.g., motions alleging interference of the parenting time agreement or allegations of false accusations during the consideration of a parenting agreement). Some of these costs may be offset either in whole or in part by any fees or costs assessed by the court.

The substitute bill requires shared parenting orders and parental rights and responsibilities orders to include a number of specific factors, e.g., the designation of a parent for the purpose of paying and receiving child support, health care coverage, cash medical support in accordance with child support laws, and claiming the child as a dependent for income tax purposes; the allocation of decision-making and other responsibilities; and the procedure for parenting time. The As Introduced version of the bill required a shared parenting agreement to include all factors relevant to the care of the children, e.g., child support obligations, and physical living arrangements. The additional factors in the substitute bill could increase child support enforcement agency (CSEA) administrative costs.

The substitute bill adds a provision implying that, if the court orders supervised parenting time due to unreasonable interference with parenting time, the court may require the public children services agencies (PCSAs) to provide the supervision and other services, which could result in costs to PCSAs. The costs will depend on how much additional supervision is required and how many services are provided.