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H.B. 508
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Fiscal Note & Local Impact Statement

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Version: As Introduced

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.

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.

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 clear and convincing evidence and as such, more evidence may be submitted and reviewed.

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 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 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.

Since the bill states that current orders would be subject to the provisions of the bill, there is 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 legislation could result in additional requests for modifications or terminations of child support orders.¹ 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. 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) Program² must assign their child support rights to the state to help offset associated state and federal costs.³ For those on Medicaid who receive cash medical support, the cash medical support is paid to the state.⁴ 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

¹ The Ohio CSEA Directors' Association is a statewide organization representing county child support enforcement agencies (CSEAs).

² Ohio Works First provides financial assistance to eligible families for specific timeframes.

³ Ohio Administrative Code (O.A.C.) 5101:1-3-10.

⁴ R.C. 5160.38.

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.

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 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](https://www.supremecourt.ohio.gov/InteractiveDataDashboard)): 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)							
Court Type/Case Type	2015	2016	2017	2018	2019	2020	2021*
Domestic Relations							
Marriage Dissolutions w/Children	7,370	7,149	6,877	7,064	6,788	6,797	6,816
Marriage Dissolutions w/o Children	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
Total	82,611	79,612	78,787	78,661	76,828	65,904	68,641

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

Court Type/Case Type	2015	2016	2017	2018	2019	2020	2021*
Juvenile							
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
Total	93,248	90,544	95,772	91,027	88,210	62,503	67,511

*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)**

Court Type/Case Type	2015	2016	2017	2018	2019	2020	2021*
Domestic Relations							
Marriage Dissolutions w/Children	55	54	52	54	51	51	51
Marriage Dissolutions w/o Children	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

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

Court Type/Case Type	2015	2016	2017	2018	2019	2020	2021*
U.I.F.S.A. **	8	7	7	7	7	5	6
Visitation – Enforce or Modify	23	21	23	23	22	21	20
Total	621	599	597	596	578	496	512

Juvenile

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
Total	847	823	870	828	795	562	603

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

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