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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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**H.B.338**  
**135<sup>th</sup> General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. White and Sweeney

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### SUMMARY

- Clarifies that a child support order may continue beyond the age of majority for a person with a disability.
- Defines “person with a disability” as a person with a mental or physical disability, whose disability began before the person reached the age of majority, and whose disability makes the person incapable of supporting or maintaining oneself.
- Allows a court to issue or modify a child support order for the care of a child who is a person with a disability as part of a marriage termination proceeding or when issuing or modifying a court-issued child support order, regardless of whether the child is over or under the age of majority at the time.
- Allows a court to terminate a child support order for a person with a disability upon satisfactory proof that the person is no longer mentally or physically disabled or is capable of supporting or maintaining oneself.
- Updates the definition of “court child support order” to include any order for child support issued for a child who is a person with a disability.
- Specifies that nothing in the Revised Code allows a child support enforcement agency (CSEA) to issue an administrative child support order for a person over the age of 18, including a person with a disability, and instead allows the CSEA to file an action in court for the support of a person with a disability.

### DETAILED ANALYSIS

#### **Court child support orders for a child with a disability**

The bill allows a court to extend an existing child support order or to issue or modify a new child support order for a child who is a person with a disability, regardless of whether the child has reached the age of majority. This includes the authority to issue child support orders

as part of a proceeding for divorce, dissolution, legal separation, or annulment and in all circumstances where a court child support order may be issued or modified. In determining the amount reasonable or necessary for child support, including the child's medical needs, and when issuing or modifying an order, the court must comply with existing laws on child support calculation, the collection and disbursement of child support, enforcement, and Title IV-D cases.<sup>1</sup>

Existing law specifies that a duty of support to a child imposed under a court child support order must continue beyond the child's 18<sup>th</sup> birthday when the child is mentally or physically disabled and is incapable of supporting or maintaining himself or herself.<sup>2</sup> The bill clarifies that this must be pursuant to an order issued or modified under the above provision.<sup>3</sup>

Existing law, unchanged by the bill, also specifies the following as the two other circumstances under which a duty of support imposed pursuant to a child support order must continue for a child over 18:

- The child's parents have agreed to continue support beyond the child's 18<sup>th</sup> birthday pursuant to a separation agreement that was incorporated into a decree of divorce or dissolution;
- The child continuously attends a recognized and accredited high school on a full-time basis on or after the child's 18<sup>th</sup> birthday.<sup>4</sup>

Finally, the bill specifies that a court may terminate a child support order that it issues for a child who is a person with a disability upon satisfactory proof that the person who is the subject of the order is no longer mentally or physically disabled or is capable of supporting or maintaining oneself.<sup>5</sup>

## Definitions

The bill defines "person with a disability" as a person with a mental or physical disability, whose disability began before the person reached the age of majority, and whose disability

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<sup>1</sup> R.C. 3109.20(B) and (C) and 3119.11. R.C. 3109.20 creates the authority to issue child support orders for an adult child with a disability as part of a marriage termination proceeding. R.C. 3119.11 applies in all circumstances where a court child support order may be issued or modified. Because the definition of "court child support order" under R.C. 3119.01(C)(3), which includes these new orders, also includes orders issued by a juvenile court, it is clear that R.C. 3119.11 applies to support orders not connected to a marriage termination proceeding.

<sup>2</sup> R.C. 3119.86(A)(1)(a), as it appears in existing law.

<sup>3</sup> R.C. 3119.86(A)(1).

<sup>4</sup> R.C. 3119.86(A)(1)(b) to (c), as it appears in existing law; recodified in the bill as R.C. 3119.86(A)(2) to (3).

<sup>5</sup> R.C. 3119.88(B)(1). A technical amendment is needed to add a missing "the" in front of "subject" in "[ . . . ] the person who is subject of the order [ . . . ]."

makes the person incapable of supporting or maintaining oneself.<sup>6</sup> The bill updates the definition of “court child support order” to include a court-issued child support order for a child who is a person with a disability.<sup>7</sup>

## No issuance of administrative support order for child over 18

The bill specifies that nothing in the Revised Code allows a child support enforcement agency (CSEA) to issue an administrative child support order for a person who has reached the age of 18, including a person with a disability. Whenever a CSEA is prohibited from issuing an administrative child support order, it may request the appropriate court to take action to provide for the care and maintenance of a person with a disability.<sup>8</sup>

## Recodification

The bill recodifies R.C. 3119.86 for easier readability. The table below indicates how the section has been recodified:

Provision	Current law	Bill
Continuing a support order beyond a child’s 18 <sup>th</sup> birthday	R.C. 3119.86(A)(1) and (2)	R.C. 3119.86
Support orders after a child’s 19 <sup>th</sup> birthday	R.C. 3119.86(B)	R.C. 3119.861
Support orders may not continue beyond an agreed-upon date in a separation agreement	R.C. 3119.86(C)	R.C. 3119.862
Parent must pay support order until it terminates	R.C. 3119.86(D)	R.C. 3119.863

## HISTORY

Action	Date
Introduced	11-21-23

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<sup>6</sup> R.C. 3119.10 and 3109.20(A).

<sup>7</sup> R.C. 3119.01(C)(3).

<sup>8</sup> R.C. 3119.12.