



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

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132nd General Assembly  
(As Passed by the General Assembly)

**Sens.** Coley, Bacon, Eklund, Terhar, Beagle, Huffman, Burke, Hackett, Hite, Hoagland, Manning, O'Brien, Oelslager, Peterson, Sykes, Wilson

**Reps.** Ginter, Anielski, Arndt, Ashford, Barnes, Boyd, Brown, Craig, Fedor, Galonski, Gavarone, Greenspan, Hambley, Holmes, T. Johnson, Kent, Kick, Lang, LaTourette, Lepore-Hagan, Manning, Miller, O'Brien, Patmon, Patterson, Patton, Pelanda, Perales, Reineke, Rezabek, Rogers, Seitz, Slaby, Sprague, West, Wiggam, Young

**Effective date:** February 11, 2019; Section 3, pertaining to ODJFS preparations and training for child support enforcement changes, effective May 11, 2018

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## **ACT SUMMARY**

### **Paternity changes**

- Permits a mother or other custodian or guardian of a child to bring a court action to require 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) for assistance in obtaining a court or administrative child support order after an acknowledgment of paternity becomes final.
- Eliminates the ability of a mother or other custodian or guardian to request a CSEA administrative officer to issue an administrative child support order after an acknowledgment of paternity becomes final.
- 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 time that a mother, alleged father, and guardian or legal custodian of a child may bring an action to object to an administrative order determining the existence or nonexistence of a parent and child relationship.
- Requires that a Title IV-D application or other IV-D referral be completed and filed and that one of the following exists in order for a CSEA administrative officer to conduct an administrative hearing to establish child support:
  - An administrative officer has issued an order determining paternity;
  - A presumption of paternity exists under Ohio law;
  - A duty of support exists under Ohio law.
- Requires that once a hearing is scheduled, the administrative officer must include in the hearing notice a request for several pieces of information from the parents, and that the CSEA may make reasonable assumptions regarding any information the parents fail to provide or request a court to order the parents to provide the missing information.
- Provides that all administrative orders take effect 14 days (rather than 30 days) after they are issued and remain in effect during the pendency of any court actions to object to the orders, unless a party is granted a stay.

### **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-tested public assistance and defines the latter term.
- Requires an obligor who believes there is a mistake of fact regarding the availability of private health insurance at a reasonable cost to file a written request for an administrative hearing with the CSEA no later than 14 days after issuance of the notice regarding the hearing opportunity.
- Increases, from 7 business days to 14 days, the time in which 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.
- Permits, rather than requires, a CSEA to notify the appropriate court when a person required to obtain health insurance coverage under 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 before 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 in order for the CSEA to conduct the procedures required before formally beginning the review.
- Makes several changes regarding CSEA review of court and administrative child support orders that affect the adjustments made, deadlines, notices, and objections to CSEA determinations.
- Permits "any party" to request that a court 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 review.
- Makes changes to Ohio Department of Job and Family Services (ODJFS) rule-making authority regarding procedures for determining when court and administrative child support orders must be reviewed.
- Provides that if either parent fails to comply with a request for information under an administrative support hearing or review of a child support order, the CSEA may either: (1) request the court to order the parent to provide the information, or (2) make reasonable assumptions necessary regarding the information not provided.
- 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 support payments, a CSEA that receives the 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 deadlines for 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 was previously required to file a notice requesting the county recorder to discharge a lien on an obligor's property.
- Provides for the Office of Child Support and the Tax Commissioner to cooperate to collect overdue "support," instead of overdue "child support" under prior law, from state tax refunds due to an obligor.

### **Prosecution for nonsupport of dependents**

- Allows an obligor to be prosecuted for nonsupport of dependents even after a support order terminates, if an amount for support (1) was due and owing before the person's duty to pay support terminated and (2) remains unpaid.
- Specifies that the statute of limitations for prosecution in this circumstance begins to run on the date that the person's duty to pay support terminates.

### **Preparations**

- During the nine months before the act's changes take effect, requires ODJFS to perform necessary automated system changes, and permits ODJFS to organize and oversee the statewide training of CSEAs, lawyers who practice in child support, and judges who preside over child support cases.

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## CONTENT AND OPERATION

### Overview

The act makes numerous changes to child support laws 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 act changes the law regarding actions that can be taken once an acknowledgment of paternity becomes final. Under continuing law, the mother or other custodian or guardian of a child may bring an action for child support in a juvenile court or other court with jurisdiction requesting that the father pay an amount for the support of the child once an acknowledgment of paternity becomes final. The act adds that a mother may also be ordered to pay support.<sup>1</sup>

The act also permits the mother or other custodian or guardian to contact the child support enforcement agency (CSEA) for assistance in obtaining a child support order, defined as a child support order issued by a court or CSEA.<sup>2</sup> The act repeals law that allows a mother or other custodian or guardian to request an administrative officer of the CSEA to issue an administrative child support order.<sup>3</sup>

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

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

<sup>3</sup> R.C. 3111.29(B).

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

The act reduces the options available for obtaining child support based on a presumption that a man is the child's father. Under continuing law, 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 resides may do either of the following to require the presumed father to pay child support and provide for the child's health care:

- If the presumption is not based on an acknowledgment of paternity, file a complaint in the 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 a CSEA to request assistance in obtaining an order for support and the provision of health care for the child.

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

## **Administrative paternity determinations**

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

Under the act, a CSEA must, at the request of a person with standing to make the request, determine the existence or nonexistence of a parent and child relationship between an alleged father and a child 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. Former law did not specify that a Title IV-D application or referral was required.<sup>5</sup>

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

Under the act, if an administrative officer of a 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.<sup>6</sup>

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

<sup>5</sup> R.C. 3111.38; R.C. 3111.04(A), not in the act.

<sup>6</sup> R.C. 3111.46(A)(2).





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

The act decreases the time in which a mother, alleged father, and guardian or legal custodian may bring an action to object to an administrative order determining the existence or nonexistence of a parent and child relationship from 30 days to 14 days after the date the administrative officer issues the order. After 14 days, the administrative order is final and enforceable by a court. Under former law, it became final and enforceable after 30 days.<sup>7</sup>

## **Administrative hearings regarding child support**

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

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

- (1) An administrative officer has issued an administrative order determining paternity;
- (2) A presumption of paternity exists under Ohio law;
- (3) A duty of support otherwise exists under Ohio law.

This is mostly a continuation of requirements under prior law, which required an administrative officer to schedule an administrative hearing if: (1) an administrative order determining paternity was issued, or (2) an administrative support order was requested based on a presumption of paternity or based on a final acknowledgment of paternity. These requirements are continued under the act because: (1) the act maintains an administrative order determining paternity as a basis for scheduling a hearing, (2) the act maintains a presumption of paternity as a basis for scheduling a hearing, and (3) a final acknowledgment of paternity creates a duty of support under continuing law. However, prior law contained no specification that a Title IV-D application or other IV-D referral had to be completed and filed before an administrative child support hearing could be scheduled. The act also requires that the hearing be conducted by an administrative officer assigned by the CSEA.<sup>8</sup>

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<sup>7</sup> R.C. 3111.49.

<sup>8</sup> R.C. 3111.80(A); R.C. 3111.80, under prior law.





### **Notice about requests for information**

The act adds that a notice of a hearing to each of the child's parents must include a request for certain information about the parents (see "**Request for information**," below). The notice must state that if either parent fails to comply with the request, the CSEA may make reasonable assumptions regarding information not provided and proceed with the support determination as if all information had been provided (see "**Failure to provide the information**," below).<sup>9</sup>

### **Civil procedure rules**

The act provides that any summons related to the administrative hearing is generally governed by the Ohio Rules of Civil Procedure.<sup>10</sup>

### **Holding the hearing**

The act requires that the administrative hearing 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 [the paternity determination]."<sup>11</sup>

### **Requests for information**

The act requires an administrative officer to request that each parent provide the CSEA, not later than the date scheduled for formally beginning the administrative hearing, 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 preceding six months;
- (3) A copy of all other records evidencing receipt of any other salary, wages, or compensation by each parent within the 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;

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

<sup>10</sup> R.C. 3111.80(B).

<sup>11</sup> R.C. 3111.80(C).



(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>12</sup>

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

The act allows the CSEA to employ one of the following options, if either parent fails to provide the information requested above:

(1) 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 requested information;

(2) Make reasonable assumptions regarding the information the parent did not provide and proceed with the support determination as if all requested information had been provided.<sup>13</sup>

It is worth noting that two different sections of the act describe the second option, with each section containing slightly different language. One authorizes the CSEA to make "any reasonable assumptions necessary . . . to ensure a fair and equitable review" of the support order.<sup>14</sup> The other authorizes the CSEA to make reasonable assumptions, but does not reference fairness or equity.<sup>15</sup> This could lead to uncertainty regarding how fairness and equity should inform the CSEA's assumptions.

### **Time for objecting to administrative child support orders**

The act decreases the time in which a parent may object to an administrative child support order. Prior law required the parent to object by bringing an action for child support in a juvenile court or other court with jurisdiction not later than 30 days after the issuance of the administrative order. The act reduces this to 14 days after the order's issuance.<sup>16</sup>

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<sup>12</sup> R.C. 3111.801.

<sup>13</sup> R.C. 3111.80(D) and 3119.72.

<sup>14</sup> R.C. 3119.72(A)(2).

<sup>15</sup> R.C. 3111.80(D)(2).

<sup>16</sup> R.C. 3111.81 and 3111.84.



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

The act requires an administrative child support order to take effect 14 days after it is issued. It requires the order to remain in effect while an objection is pending, unless a party requests a stay and the court grants it. Prior law stated that the order became final and enforceable if the parents failed to bring an action to object to the order within the required 30-day period.<sup>17</sup>

### **Notice of right to object**

The act requires the notice that must be included in the administrative child support order to recite the 14-day limit regarding the parents' right to object to the administrative order. In addition, it repeals the requirement that the notice address the effect of failure to timely bring an action to object to the order.<sup>18</sup>

### **Enforcement of administrative child support orders**

The act allows a CSEA, in addition to a court, to enforce an administrative child support order. Prior law allowed only a court to enforce an administrative child support order.<sup>19</sup>

## **Calculation of child support**

### **Change to term used for public assistance**

The act 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 veterans' benefits.<sup>20</sup>

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

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

The act requires 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

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

<sup>18</sup> R.C. 3111.81 and 3111.84.

<sup>19</sup> R.C. 3111.84.

<sup>20</sup> R.C. 3119.06.



support order, the obligor must file a written request for an administrative hearing with the CSEA. The obligor must make the request no later than 14 days after the notice informing the obligor of the hearing opportunity is issued.<sup>21</sup>

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

The act increases the time in which a person who receives a notice of medical support enforcement activity may file a written request for an administrative hearing with the CSEA. It requires the request to be made no later than 14 days after the notice was sent. Prior law required the request to be made no later than 7 business days after the notice was sent.

The act similarly increases the time, from 7 business days to 14 days, in which the person may file a written motion with the court for a hearing to determine if there is still a mistake of fact after the CSEA issues its determination following the hearing.<sup>22</sup>

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

The act permits, rather than requires (as provided in current law), a CSEA to notify the appropriate court when a person required to obtain health insurance coverage pursuant to a child support order does not obtain the required coverage within 30 days after the order is issued. In addition, the act adds that the court may punish the person for contempt for failing to obtain the required coverage.<sup>23</sup>

## **Review of child support orders**

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

The act 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. Prior law governing a CSEA's review of child support orders did not reference the IV-D application. Prior law also allowed the request to come from the "obligor or obligee." The act replaces this with "either parent."<sup>24</sup>

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<sup>21</sup> R.C. 3119.30(D).

<sup>22</sup> R.C. 3119.38.

<sup>23</sup> R.C. 3119.43.

<sup>24</sup> R.C. 3119.60.



## Procedures prior to review

The act makes changes to certain actions a CSEA must take prior to formally beginning a review. The table below demonstrates how the act alters these actions.<sup>25</sup>

Prior law	The act
Required the CSEA, at least 45 days before formally beginning review, to send the notice or the planned review to the obligor and obligee.	Decreases the time period to 30 days, adds a requirement that the notice 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.
<p>Required the CSEA to request that the obligor and obligee each provide the following to the CSEA, no later than the scheduled date for formally beginning the review:</p> <ol style="list-style-type: none"> <li>1. Federal income tax return from the previous year;</li> <li>2. A list of group health insurance and health care policies, contracts, and plans available, and their costs (the list had to include, with respect to obligees, the Tricare program offered by the U.S. Department of Defense);</li> <li>3. If the obligor was a member of the uniformed services and was on active military duty, a copy of the obligor's IRS form W-2, and a copy of a statement detailing the obligor's earnings and leave with the uniformed services (this provision was not applicable to obligees).</li> </ol>	<p>Makes the following changes to what must be requested, and requires the CSEA to request the information from "each parent" rather than the obligor and obligee:</p> <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. Removes the Tricare provision previously applicable only to obligees;</li> <li>3. If either parent is a member of the uniformed services and is on active military duty, requires only a copy of the parent's leave and earnings statement.</li> </ol>

## Changes to CSEA review of administrative child support orders

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

The act changes the term "modification" to "adjustment" in a provision of continuing law governing a CSEA's review of an administrative child support order. The provision requires the CSEA to recalculate the amount the obligor must pay when the CSEA, under the review, determines that "an adjustment" (formerly "a modification") is necessary and in the child's best interest. The act also permits the

<sup>25</sup> R.C. 3119.60(A) to (C).



CSEA, if it makes this determination, to add or adjust payments on arrearages as provided under Ohio's child support law.<sup>26</sup>

#### ***Time to request hearing on revised amount; ordinary mail for notice***

The act decreases the time in which the obligor or obligee may request an administrative hearing on the revised child support amount determined under the review. It requires the request to be made no later than 14 days after the notice of the revised amount is issued. Under prior law, the request had to be made no later than 30 days after receipt of the notice. The act also requires that the notice be sent to the obligor and obligee by ordinary mail.<sup>27</sup>

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

The act requires a CSEA, if it redetermines revised support obligations at an administrative hearing, to add or adjust payments on arrearages as provided under Ohio's child support law. Under prior law, the CSEA had no authority to add or adjust payments on arrearages at this stage. Also, prior law used the phrase "revised amount of child support to be paid" rather than "revised support obligations."<sup>28</sup>

#### ***Notice regarding venue of court action to object***

The act changes the notice provided to the obligor and obligee of their right to object to the revised child support amount determined after an administrative hearing. Under the act, the CSEA that modifies the support order must notify the obligor and obligee that they may object by bringing an action for child support in the juvenile court or other court with jurisdiction in the county in which the CSEA that issued the order is located. Under former law, the CSEA had to notify the obligor and obligee that the action could be brought in the county in which the mother, father, child, guardian, or custodian of the child resided. The act also requires that this notice be sent by ordinary mail.<sup>29</sup>

#### ***CSEA action when deviation required***

The act repeals a provision affecting how the CSEA must bring a court action for child support when the CSEA cannot set the amount of child support to be paid by the obligor under an administrative child support order without granting a deviation. The repealed law required that the CSEA 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

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<sup>26</sup> R.C. 3119.61.

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

<sup>28</sup> R.C. 3119.61(C)(4).

<sup>29</sup> R.C. 3119.61(C)(6).

the obligee. The act's change effectively requires that the action be brought in the CSEA's own name.<sup>30</sup>

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

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

Under the act, a CSEA conducting a review of a court child support order must calculate a revised "child support computation worksheet and issue a child support recommendation" under the order, including adding or adjusting a payment on arrearages as provided under Ohio's child support law. Under prior law, the CSEA calculated a revised amount of child support to be paid, and had 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 act requires a CSEA, if it determines revised support obligations at an administrative hearing, to add or adjust payments on arrearages as provided under Ohio's child support law. Under prior law, the CSEA had no authority to add or adjust payments on arrearages at this stage. Also, prior law used the phrase "redetermine . . . a revised amount of child support to be paid" rather than "determine . . . revised support obligations."<sup>32</sup>

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

The act modifies the deadline for an obligor or obligee to request a hearing before the CSEA submits the revised child support amount to the court for inclusion in a revised court child support order. It modifies this deadline by changing notice provisions. Under continuing law, the CSEA must give the obligor and obligee notice of both:

(1) That the 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; and

(2) 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.

Prior law required the request for an administrative hearing described in (1) to be made within 14 days after *receipt* of the notice, and the request for a court hearing

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<sup>30</sup> R.C. 3119.61(C).

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

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



described in (2) to be made no later than 14 days after *receipt* of the notice. The act changes both references to 14 days after the notices are *issued*. Continuing law requires the CSEA to submit the revised amount of child support to the court if neither the obligor nor the obligee timely requests an administrative or court hearing.<sup>33</sup>

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

The act imposes a deadline for the obligor and obligee to request a court hearing on the revised amount of child support determined by the CSEA. It requires the request to be made within 14 days after the notice of the revised amount is issued.<sup>34</sup>

#### ***Notice by ordinary mail***

The act requires that the notice regarding the revised child support amount determined under the review be sent by ordinary mail. Additionally, it requires the CSEA to send deviation notice described above by ordinary mail.<sup>35</sup>

### **Federal income tax deduction**

The act permits "any party" to request that a court designate which parent may claim the children who are subject of a court child support order as dependents for federal income tax purposes. Continuing law also requires the court to make the designation when it issues, modifies, or otherwise reconsiders a court child support order.<sup>36</sup>

Also under the act, when a CSEA submits a recommendation for inclusion in a revised court child support order, the court can only reconsider the allocation of the federal income tax deduction if a party files a request for a hearing on the matter.<sup>37</sup>

### **Rule-making authority regarding reviews**

The act changes requirements governing rules adopted by ODJFS regarding child support order reviews. Under continuing law, the Director of ODJFS must adopt rules pursuant to R.C. Chapter 119. to establish a procedure for determining when existing court and administrative child support orders must be reviewed. The act decreases from 45 to 30 the number of days of prior notice that the CSEA must, under the rules, give to an obligor and obligee regarding review of their child support order. The act

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

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

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

<sup>36</sup> R.C. 3119.82.

<sup>37</sup> R.C. 3119.631 and 3119.82.



also repeals a provision that required that the rules obligate the CSEA to 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>38</sup>

### **Failure to comply with a request for information**

The act modifies the law governing the effects of an obligor's or obligee's failure to provide information the CSEA requests before the CSEA's review of an administrative or court child support order.

#### **Applicable to parents**

First, the effects of failure apply, under the act, to parents, instead of obligors and obligees.<sup>39</sup>

#### **Reasonable assumptions**

The act also permits the CSEA to do either of the following, if either parent fails to comply with a request for information:

(1) 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 requested information;

(2) Make any reasonable assumptions necessary regarding the information not provided to ensure a fair and equitable review of the child support order.

If the CSEA decides to make reasonable assumptions, it must proceed with the review in the same manner as if all requested information had been received.<sup>40</sup> For both court child support orders and administrative orders, the act requires notice to each parent that the CSEA may, if information is not provided, proceed with the review and make reasonable assumptions.<sup>41</sup>

### **Contempt – court child support orders**

The act is unclear as to whether a parent must be held in contempt of court if the parent fails to comply with a request for information regarding the review of a court child support order. Under prior law repealed by the act, if a court child support order was being reviewed, any failure to comply with a request for information was contempt

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<sup>38</sup> R.C. 3119.76(D).

<sup>39</sup> R.C. 3119.72(A).

<sup>40</sup> R.C. 3119.72(A) and (B).

<sup>41</sup> R.C. 3119.60(D).

of court. The CSEA had to notify the court of any such failure.<sup>42</sup> But continuing law still requires the CSEA, before reviewing a court support order, to send notice that a willful failure to provide the requested information is contempt of court.<sup>43</sup> It is unclear whether this notice requirement has any effect, since the law no longer explicitly provides that a failure to provide information is contempt of court.

### **Contempt option for administrative child support orders repealed**

Under prior law repealed by the act, if the child support order being reviewed was an administrative order, the CSEA was able to request the court of common pleas in the CSEA's county to issue an order requiring compliance with the request for information. Failure to comply with the court order was contempt of court.<sup>44</sup>

### **Child support order termination**

#### **Termination imminent**

Under continuing law, the residential parent and legal custodian of a child subject to a court or 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 act adds that nothing in continuing law precludes a person from notifying the CSEA that a reason for which a child support order should terminate is imminent.<sup>45</sup>

#### **Reasons for termination**

The act adds to the continuing law the following reasons for which a child support order should terminate:<sup>46</sup>

- (1) A termination condition specified in the court child support order has been met for a child who turns 19;
- (2) The child's adoption;
- (3) The obligor's death;

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<sup>42</sup> R.C. 3119.72(B), under prior law.

<sup>43</sup> R.C. 3119.60(D)(1).

<sup>44</sup> R.C. 3119.72(B), under prior law.

<sup>45</sup> R.C. 3119.87.

<sup>46</sup> R.C. 3119.88.



(4) 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>47</sup>

(5) The obligor and obligee marry, if the two reside together with the child.

#### **Conditions to termination reasons**

The act clarifies that the reasons for termination, under continuing law and added by the act, are reasons for which a court or administrative child support order should terminate through the administrative termination process under Ohio law. It also specifically provides that the court or CSEA may terminate a court or administrative order for any of those same reasons. And it permits a court to terminate an order for any other appropriate reason brought to the court's attention, unless otherwise prohibited by law.<sup>48</sup>

#### **CSEA investigation**

The act requires that an application for services under Title IV-D be completed and filed before the CSEA is required to complete an investigation of a notice of a reason for termination. It adds that a CSEA may initiate an investigation before a reason for which the order should terminate has occurred.<sup>49</sup>

Under continuing law, upon investigation, if the CSEA determines that a child support order should terminate and child support paid should be impounded to prevent overpayment, the CSEA 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 a certain time period. The act decreases the time period from 30 days after receipt of the notice to 14 days after the notice is issued.<sup>50</sup>

Also under law mostly retained by the act, if an obligor or obligee timely requests an administrative hearing, the CSEA, on completing 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

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<sup>47</sup> R.C. 3109.19, not in the act.

<sup>48</sup> R.C. 3119.88(A) and (B).

<sup>49</sup> R.C. 3119.89(A).

<sup>50</sup> R.C. 3119.90(B)(4).



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 act again decreases the number of days from 30 to 14 days.<sup>51</sup>

## **Collection and disbursement**

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

Under the act, if the court or CSEA determines that a withholding or deduction notice is appropriate after issuing or modifying 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 prior law, the notice had to be sent by "regular" mail or via secure federally managed data transmission interface.<sup>52</sup> It is unclear whether there is a difference between "ordinary" and "regular" mail.

### **Administrative seek-work orders**

The act repeals language that authorizes a CSEA to issue an order requiring an obligor under an administrative child support order to seek employment or participate in certain work activities in order to ensure that withholding or deduction to pay support and arrearages is available.<sup>53</sup> However, it does not repeal another provision that requires a CSEA to issue this administrative order if circumstances described in the law require it.<sup>54</sup> Therefore, a conflict may exist as to whether CSEAs retain authority to issue administrative seek-work orders.

## **Lump sum payments**

### **CSEA administers**

The act specifies that on receipt of a notice that a lump sum payment of \$150 or more is to be paid to the obligor, the CSEA must administer those amounts as specified under "**CSEA actions**," below. Under prior law, the court handled those amounts with

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<sup>51</sup> R.C. 3119.91 and 3119.92.

<sup>52</sup> R.C. 3121.01(A) and 3121.035(A); R.C. 3119.01, not in the act.

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

<sup>54</sup> R.C. 3121.03, not in the act.



respect to court support orders (court child support and spousal support orders) and CSEAs handled those amounts with respect to administrative child support orders.<sup>55</sup>

### **CSEA actions**

The act provides that on receipt of the lump sum notice, the CSEA must require one of the following in an administrative order:

(1) That the lump sum 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;

(2) That the lump sum be released immediately to the obligor if the obligor is not in default or does not owe an arrearage.

Prior law required the CSEA, with respect to an administrative support order, and the court, with respect to a court support order, to require one of the following:

(1) The same as (1), above;

(2) The person who gave notice of the lump sum payment to immediately pay the full amount to the obligor.<sup>56</sup>

### **Repeal of CSEA notice to courts**

The act 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 act also repeals the CSEA's discretionary authority to notify the court of lump sum payments under \$150.<sup>57</sup>

### **Notification of lump sum payments and liability**

The act broadens the scope of a provision governing liability for support payments not made to obligees by applying the provision to a "payor" rather than an "employer." The act provides that a payor that knowingly fails to notify the CSEA of any lump sum payment to be made to an obligor is liable for any support payment not made to the obligee as a result of the payor's failure to give notice. Under continuing law, a "payor" includes an employer, certain retirement and pension systems, the obligor if the obligor is self-employed, the Bureau of Workers' Compensation, and any

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<sup>55</sup> R.C. 3121.01(A) and 3121.12(A); R.C. 3119.01, not in the act.

<sup>56</sup> R.C. 3121.12(A)(1) and (2), 3121.33, and 3121.34.

<sup>57</sup> R.C. 3121.11, repealed by the act.



other person or entity that gives income to an obligor, except for ODJFS with respect to unemployment compensation.<sup>58</sup>

### **Pre-1998 support orders**

If a payor notifies the CSEA of a lump sum payment made under a support order that meets the following requirements, the act requires the CSEA to then notify the court that issued the support order:

- The support order was issued before 1998;
- The support order requires an employer to withhold from an obligor's personal earnings to pay support.

Upon receiving the CSEA's notice, the court must issue a supplemental order regarding the treatment of the lump sum consistent with continuing law.<sup>59</sup>

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

Under continuing law, each support order or modification of a support order must include a notice in boldface type and all capital letters informing each party that they 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 to this information. The act requires that this notice must also include in boldface type and all capital letters a statement 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>60</sup>

### **Definition changes**

The act 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>61</sup>

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<sup>58</sup> R.C. 3121.01(E) and 3121.12(D).

<sup>59</sup> R.C. 3121.02(B), 3121.12(C), and 3123.06.

<sup>60</sup> R.C. 3121.29.

<sup>61</sup> R.C. 3121.01(A); R.C. 3119.01, not in the act.



## Default changes

### Notices of default

Under continuing law, a default notice must include certain pieces of information. Under prior law, some of the information was specific to the date the notice was sent. The act changes that information to be specific to the date the notice is *issued*, as follows:<sup>62</sup>

- The date the default notice is *issued*;
- The arrearages the obligor owes due to the default as of the date the notice is *issued*;
- A statement that any arrearages 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 act also increases from *7 business days* to *14 days* the following deadlines that must be included in the default notice:<sup>63</sup>

- A statement that the obligor may file with the CSEA, within *14 days* after the default notice is *issued* (*sent* under prior 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 CSEA makes its determinations under the administrative hearing, a written motion for a court hearing.

The act similarly lengthens the deadline for an obligor who receives a default notice to request an administrative mistake-of-fact hearing, to *14 days* after the default notice is *issued* from *7 business days* after the notice was *sent*. Continuing law also provides that these 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. The act similarly lengthens the deadline for making the motion, to *14 days* after the CSEA issues its determinations from *7 business days* after the CSEA makes its

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<sup>62</sup> R.C. 3123.031(A), (C), and (D).

<sup>63</sup> R.C. 3123.031(G) and (H).



determinations. The act also requires the court to hold the mistake-of-fact hearing if the obligor files the motion within that 14-day time period.<sup>64</sup>

### **Ordinary mail**

The act requires that if a court mistake-of-fact hearing is to be held, the court must send notice of the date, time, place, and purpose of the court hearing by "ordinary" mail. Prior law required "regular" mail.<sup>65</sup> It is unclear whether there is a difference between "ordinary" and "regular" mail.

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

The act addresses the circumstances authorizing a CSEA to issue an access restriction notice to a financial institution, with respect to an account maintained by an obligor who is subject to a final and enforceable determination of default. Under the act, a CSEA may do so whenever, upon notice or discovery, it determines an in-default obligor has an account. The prior law more narrowly authorized a CSEA to do so when it determined an account existed via the case registry maintained by the state Office of Child Support.<sup>66</sup>

The act also permits, rather than requires, the CSEA to investigate and determine the amount in the account that is available to satisfy the obligor's arrearages. Prior law required the CSEA to do the investigation no later than five business days after the information was entered into the case registry.<sup>67</sup>

The act also changes deadlines to request hearings related to financial account withdrawals. Under continuing law, if a CSEA finds that a person other than an obligor in default has an ownership interest in an account, the CSEA must send written notice informing that person that an amount will be withdrawn from the account to pay for default arrearages.<sup>68</sup> The act gives the person no later than *14 days* after the notice was *issued* to file 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

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<sup>64</sup> R.C. 3123.04 and 3123.05.

<sup>65</sup> R.C. 3123.05.

<sup>66</sup> R.C. 3123.25.

<sup>67</sup> R.C. 3123.27.

<sup>68</sup> R.C. 3123.30(A); R.C. 3123.29, not in the act.



sent and should not be subject to the withdrawal directive. Under prior law, the person had *10 days* after the notice was *sent* to make a request.<sup>69</sup>

Continuing law requires the CSEA, if it determines that some of the account funds are the property of another person, to issue a withdrawal directive for any remaining funds belonging to the obligor, unless the other person files a written motion for a hearing with the court of common pleas of the county served by the CSEA. Under prior law, the deadline for the person to request the court hearing was *10 days* after the CSEA *made* its determination. The act changes this to *14 days* after the CSEA *issues* its determination.<sup>70</sup> It further provides that the person may file the motion with the court that issued the support order or that is located in the county where the CSEA issued the order.<sup>71</sup> This filing provision may conflict with the requirement to file the motion in the court served by the CSEA that issued the remaining funds withdrawal directive. The courts might be different.<sup>72</sup>

The act requires the court to hold the hearing on the request no later than *14 days* after the request is filed (under prior law it was *10 days*). It 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>73</sup>

### **Release of liens**

The act repeals the following circumstances under which a CSEA was previously required to file a notice requesting that the county recorder discharge a lien on an obligor's property:<sup>74</sup>

(1) An appropriate withholding or deduction notice or other appropriate order was issued to collect current support and any arrearage due under the support order that had been in default, and the obligor was complying with the notice or order;

(2) A new support order was issued or the support order that was in default had been modified to collect current support and any arrearage due under the support

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<sup>69</sup> R.C. 3123.30(B) and 3123.31.

<sup>70</sup> R.C. 3123.34.

<sup>71</sup> R.C. 3123.35.

<sup>72</sup> See Ohio Administrative Code 5101:1-29-01.2 and 5101:12-1-10.1.

<sup>73</sup> R.C. 3123.35.

<sup>74</sup> R.C. 3123.72; R.C. 3123.66, not in the act.



order that had been in default, and the obligor was complying with the new or modified order.

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

The act likely widens the scope of a law that requires the Office of Child Support in ODJFS to work with the Tax Commissioner to collect overdue support from obligors' state income tax refunds. It requires the Office to work with the Tax Commissioner to collect overdue "support" from obligors' state income tax refunds, whereas prior law addressed collecting overdue "child support" from their refunds.<sup>75</sup> Continuing law defines "obligor" as a person who owes "overdue support," as defined in federal law. Federal law defines "overdue support" as a delinquent obligation amount under a court or administrative order for the support and maintenance of a child or, under certain circumstances, the noncustodial parent's spouse or former spouse.<sup>76</sup> Therefore, the act's use of the term, "overdue support" likely broadens this provision to apply to collecting some spousal support as well as child support.

The act also requires that, in order for overdue support to be collected from state income tax refunds, the obligor must have an arrearage in support payments for three months, and the total arrearage during *each* of the three months must be at least \$150. Prior law required that for overdue *child* support to be collected from state income tax refunds, the obligor had to be not less than three months in arrears in the payment of child support, and that the amount of the arrearage had to be not less than \$150.<sup>77</sup>

### **Prosecution for nonsupport of dependents**

The act allows an obligor to be prosecuted for nonsupport of dependents even after an order for support terminates. Prior law authorized prosecution only for failure to pay under a *current* support order. Specifically, the act makes it a crime to abandon or fail to provide support to another whom the person was legally obligated to support by court order or decree, provided that:

- (1) An amount for support was due and owing prior to the termination of the duty to pay support; and
- (2) The amount remains unpaid.

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<sup>75</sup> R.C. 3123.821(A) and 3123.822.

<sup>76</sup> R.C. 3123.82(A), not in the act. 42 United States Code 666(e).

<sup>77</sup> R.C. 3123.822(C)(1).



The act retains continuing law that criminalizes the failure to pay support under a current support order.

The act specifies that the statute of limitations for prosecution under the new prohibition begins to run on the date the person's duty to pay current support terminates. For example, if a parent fails to pay a child support order and the order terminates because the child turns 18, the statute of limitations would begin to run on the day the child turns 18.<sup>78</sup>

## Preparations

The act's provisions take effect February 11, 2019. During the months prior to that date, ODJFS must perform necessary automated system changes, and may organize and oversee statewide training of CSEAs, lawyers who practice in child support, and judges who preside over child support cases.<sup>79</sup>

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## HISTORY

ACTION	DATE
Introduced	02-22-17
Reported, S. Judiciary	06-27-17
Passed Senate (33-0)	06-28-17
Reported, H. Community & Family Advancement	11-07-17
Passed House (96-1)	01-31-18

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<sup>78</sup> R.C. 2919.21(B).

<sup>79</sup> Section 3 of the act.

