



ENACTMENT NEWS

House Bill 366 **Child Support** Effective March 28, 2019

On June 29, 2018, the Governor signed House Bill 366, the makes significant changes to Ohio's child support law. The bill becomes effective six-months after the 90-day effective date, on March 28, 2019.

Child Support Calculation Definitions

H.B. 366 creates new definitions under the child support law for “cash medical support,” “child care cost,” “court-ordered parenting time,” “CPI-U (Consumer Price Index for All Urban Consumers),” “federal poverty level,” “income share,” “ordinary medical expenses,” and “self-sufficiency reserve.” The bill also eliminates the existing definition of “combined gross income.” (R.C. 3119.01).

Child Support Schedule

H.B. 366 repeals the existing basic child support schedule and requires the director of the Ohio Department of Job and Family Services (ODJFS) to create, by rule, a new schedule based on the parents' combined annual income and self-sufficiency reserve calculation. (R.C. 3119.021).

The self-sufficiency reserve creates an adjusted schedule based on 116% of the federal poverty level as determined annually by the United States Department of Health and Human Services.

Schedule Updates

The bill requires ODJFS to update the basic child support schedule and self-sufficiency reserve by rule every four years after the effective date of the bill to reflect changes in the Consumer Price Index for All Urban Consumers (CPI-U) and federal poverty level. (R.C. 3119.021(C)). ODJFS must update the child support manual and worksheet as needed, but it must be revised at least once every five years. (R.C. 3119.022).

The bill also requires all new or modified child support orders to calculate the parent's “cash medical support” in addition to their child support. (R.C. 3119.02).

Child Support Calculation

If the combined annual income of both parents exceeds the maximum annual amount listed in the child support schedule, the court or Child Support Enforcement Agency (CSEA) shall determine the amount of support on a case-by-case basis. If the combined annual income of both parents falls below the minimum annual income in the child support schedule, the court or CSEA must apply the minimum support order. (R.C. 3119.04).

The bill permits deduction from a parent's annual income of the annual amount of any court-ordered spousal support that is actually paid, excluding any ordered payments on arrears. The bill also requires a court or CSEA to adjust the amount of child support to be paid by a parent who has children not subject to the order and provides a formula to calculate this credit for up to 15 children not subject to the order. (R.C. 3119.05).

The bill provides that unless it is in the best interest of the child, a court or CSEA shall not impute income for a parent under the following new circumstances: (1) The parent is approved for Social Security Disability Insurance benefits because of a mental or physical disability, or the court or CSEA determines that the parent cannot work based on medical documentation that includes a physician's diagnosis and physician's opinion that the parent cannot work due to a mental or physical disability; (2) The parent has proven that he or she has made continuous and diligent efforts without success to find employment; and (3) The parent is complying with a court-ordered family reunification plan that limits the parent's ability to find employment. (R.C. 3119.05(I)).

The bill provides that if a parent has an annual income subject to the self-sufficiency reserve, the parent's support obligation cannot exceed the obligation that would result from the schedule that is not adjusted for the reserve. (R.C. 3119.05(M)).

The bill adds that if a child subject to the order receives any non-means tested benefits as a result of claims made by either parent, the amount is to be deducted from that parent's annual child support obligation after all other adjustments have been made. If the amount deducted exceeds the child support obligation of the parent from whose claim the benefit is realized, the obligation shall be zero dollars. (R.C. 3119.05(N)).

The bill provides that as part of the child support calculation, parents must share the costs of child care, and a child support obligor must pay an amount equal to the obligor's income share of the child care cost for all children subject to the order. If the obligor's annual income is subject to the self-sufficiency reserve, the obligor's share of the child care cost must be equal to the lower of the obligor's income share of the child care cost or 50% of the child care cost. (R.C. 3119.05(O)).

The bill increases the minimum support order from the current rate of \$50 per month to \$80 per month for all the children subject to the order. The court and CSEA retain discretion under the bill to issue an order less than \$80 per month under certain specified circumstances. (R.C. 3119.06).

Parenting Time Adjustments & Deviation

The bill requires a court or CSEA to automatically reduce a child support obligation by 10% if the obligor has court-ordered parenting time that equals or exceeds 90 overnights per year. The court may eliminate the adjustment at the request of the obligee if the obligor failed to exercise the court-ordered parenting time without just cause. (R.C. 3119.051).

The bill revises the R.C. 3119.23 factors a court may consider in determining whether to deviate from the amount of child support determined by the support schedule and worksheet. (R.C. 3119.23).

The bill requires a court to consider an additional deviation if court-ordered parenting time exceeds 90 overnights per year. If the court orders 147 or more days of parenting time, but does not grant an additional deviation, the court must specify the facts supporting that decision. The bill does not require specifying facts if the court-ordered parenting time falls between 91 and 146 days and the court does not grant an additional deviation. (R.C. 3119.231).

Children's Health Insurance Coverage

The bill modifies children's health insurance coverage definitions, eliminating the existing definitions for "case medical support," "federal poverty line," and "Title XIX," and creates a new definition for "family coverage." (R.C. 3119.29).

The bill creates a rebuttable presumption that the child support obligee is the appropriate parent to provide health insurance coverage for the child, and lists factors for the court or CSEA to consider to rebut that presumption. (R.C. 3119.30).

The bill makes changes to cash medical support orders, including requiring payment through ODJFS or to the Department of Medicaid (R.C. 3110.302) and administration in the same manner as the underlying child support order (R.C. 3119.303).

The bill modifies requirements for children's health insurance orders, including mandating that the parent or parents providing health insurance for the child must provide CSEA with documentation of coverage within 30 days of the issuance of the order. (R.C. 3119.32).

Arrearages

Under the bill, the collection of arrearages remains enforceable even when a child support order has been terminated. The bill creates a rebuttable presumption that the amount of money to be withheld for arrearages from the obligor's personal earnings, income, or accounts is at least equal to the amount withheld or deducted under the terminated support order. The bill also permits a court or CSEA to consider evidence of household expenditures, income variables, extraordinary health care issues, and other reasons to deviate from the presumed amount. (R.C. 3121.36 & R.C. 3123.14).