



Judicial Impact Statement

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House Bill 238 128th General Assembly

Sponsor

Representative Sandra
Stabile Harwood

Status

House Judiciary Committee

Version

As Introduced

TITLE INFORMATION

To amend section 3105.171 of the Revised Code to require parties in divorce or legal separation proceedings to fully disclose their assets and to include nondisclosure of assets as financial misconduct.

IMPACT SUMMARY

House Bill 238 will improve the administration of justice and public confidence in the law by requiring full disclosure of assets by parties to divorce and legal separation proceedings. This will help to ensure that all parties and Ohio's domestic relations courts have all of the necessary information to make fair and informed decisions relating to division of property as well as spousal and child support.

BACKGROUND

House Bill 238 is the result of a joint effort between the Ohio Judicial Conference's Domestic Relations Law & Procedure Committee and the Ohio Association of Domestic Relations Judges to develop a legislative proposal to require the full disclosure of assets and property by both spouses in divorce and legal separation proceedings.

Current law prohibits the dissipation, destruction, concealment or fraudulent disposition of assets in a divorce or legal separation proceeding. There is nothing, however, in the Revised Code or the Civil Rules that requires full disclosure of assets, debts, and income information in these same proceedings.

The process of finding assets and debts and proving income is often the most difficult and costly aspect of the divorce process. Frequently, one party controls the couples' finances or has sole access to or knowledge of their assets, debt, and income. Many times, one party is a sole proprietor

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

or works in a family owned or closely held business. This makes it difficult for the other party to obtain accurate information through discovery.

Every court with Domestic Relations jurisdiction has financial disclosure forms that must be filed early in the case. In addition, the Supreme Court of Ohio is working on state-wide forms for Domestic Relations cases. This bill would reinforce the importance of and provide an enforcement mechanism for this effort.

Several states currently require full disclosure of assets in divorce proceedings, including California, New York, Florida, Illinois, Massachusetts, and Wisconsin. However, there is no existing statutory requirement in Ohio mandating full disclosure of assets in actions for divorce and legal separation. Although some Ohio courts have local rules requiring such disclosure, the penalties for non-disclosure are generally weak. Similarly, the general sanctions for discovery violations under the Ohio Rules of Civil Procedure are cumbersome and often ill suited to divorce actions, and Rule 11 sanctions are rarely an effective deterrent. In this age of increasing pro-se litigation in family law cases, it is especially important that all parties be required to disclose all assets and property so that Ohio's domestic relations courts will have all of the necessary financial information to make fair and informed decisions in approving settlements or rendering judgments relating to the division of property as well as spousal and child support.

BILL DESCRIPTION

House Bill 238 will create a new paragraph in R.C. 3105.171 providing that the court in divorce and legal separation actions shall require each spouse to disclose in a full and complete manner all marital property, separate property, and other assets. Additionally, the bill will amend R.C. 3105.171 to provide that the nondisclosure of assets as required by the statute will be treated as financial misconduct so that the court may compensate the offended spouse with a distributive award or with a greater award of marital property.

JUDICIAL IMPACT

Caseload: No impact is expected on judicial caseloads, as the provisions of House Bill 238 clarify existing law and procedures and will not create new litigation.

Workload: House Bill 238 may improve court workloads in jurisdictions that do not already have local rules requiring disclosure of assets by both spouses in divorce and legal separation proceedings by mandating disclosure of this information without use of time-consuming discovery practices. Accordingly, it may also reduce the number of motions filed in existing cases for sanctions under Rule 11 of the Ohio Rules of Civil Procedure for failing to comply with discovery requests. Statutorily mandated disclosure of assets may increase settlements by eliminating the ability for one or both spouses to actively conceal or passively fail to disclose assets during the discovery process, making litigation of divorce proceedings less complicated and time consuming.

Fiscal: No fiscal impact on courts is expected to result from House Bill 238.

CONCLUSION

The Ohio Judicial Conference, the voice of Ohio's judges, encourages the passage of House Bill 238. The bill will promote public confidence and improve the administration of justice by ensuring that both spouses and Ohio's domestic relations courts have all of the necessary financial information to make fair and informed decisions relating to division of property as well as spousal and child support.