



Judicial Impact Statement

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JUDICIAL IMPACT STATEMENT: UNEMPLOYMENT OF CHILD SUPPORT OBLIGOR

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TITLE INFORMATION

To develop an automatic adjustment of a child support obligation when the obligor goes on unemployment.

IMPACT SUMMARY

This proposal will increase fairness in imposing child support obligations.

BACKGROUND

If a child support obligor who, because of nonpayment, received an order to have a portion of wages withheld and subsequently becomes unemployed, OAC 5101:12-60-05.1(E)(2) provides that the unemployment (after thirty consecutive days) qualifies for an administrative review of the order. However, the review of the child support order must be initiated by one of the parties to the original child support order. If the newly unemployed obligor fails to make this request in a timely manner, he is likely to fall very far behind in payments.

When a child support obligor finally receives an administrative or judicial modification of support (R.C. 3119.64 et seq.), R.C. 3119.83 prevents the order from being retroactively applied. An obligor will not qualify for an administrative review until he has been unemployed for thirty days (OAC 5101:12-60-05.1(E)(2)). After applying, the agency is required to provide 45 days notice to all of the parties. After at least a month and a half, the agency can modify the order, but the affected party has a right to a review by a juvenile/domestic relations court, which could add time before a modification can be made. If an obligor requests a child support modification after three months of unemployment, but does so successfully, he will be required to pay (without a current stream of income) the larger amount from the previous order for the three months between becoming unemployed and seeking the order.

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.

An obligor falling behind on an order creates several new problems. What was once a mere monthly payment (that he/she already struggled to pay if a court previously ordered a garnishment), becomes a rather large arrearage that often has the effect of discouraging the obligor from paying at all.

RECOMMENDATION

The Ohio Judicial Conference recommends an administrative automatic adjustment of any child support order as soon as an obligor begins receiving unemployment benefits, so that the agency does not garnish so much of the unemployment benefit as to leave the obligor without a means to support himself between jobs. This amendment could very easily be coupled with a chance for the opposing party, to challenge the change with the agency, and, if not satisfied with the agency decision, with the court. When an obligor begins receiving unemployment benefits, child support benefits are automatically withheld. Because of this, an automatic adjustment to reflect the obligor's lowered income could be achieved using existing frameworks.