

AN ACT

To amend sections 3119.60, 3119.61, 3119.71, and 3119.74 and to enact sections 3119.77, 3119.771, 3119.772, and 3119.773 of the Revised Code to provide for review of a child support order at the request of a member of the uniformed services called to active military service.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3119.60, 3119.61, 3119.71, and 3119.74 be amended and sections 3119.77, 3119.771, 3119.772, and 3119.773 of the Revised Code be enacted to read as follows:

Sec. 3119.60. If a child support enforcement agency, periodically or on request of an obligor or obligee, plans to review a child support order in accordance with the rules adopted pursuant to section 3119.76 of the Revised Code or otherwise plans to review a child support order, it shall do all of the following prior to formally beginning the review:

(A) Establish a date certain on which the review will formally begin;

(B) ~~At~~ Except as otherwise provided in section 3119.771 of the Revised Code, at least forty-five days before formally beginning the review, send the obligor and the obligee notice of the planned review and of the date when the review will formally begin;

(C)(1) Request the obligor to provide the agency, no later than the scheduled date for formally beginning the review, with all of the following:

(a) A copy of the obligor's federal income tax return from the previous year;

(b) A copy of all pay stubs obtained by the obligor within the preceding six months;

(c) A copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligor within the preceding six months;

(d) A list of the group health insurance and health care policies, contracts, and plans available to the obligor and their costs;

(e) The current health insurance or health care policy, contract, or plan under which the obligor is enrolled and its cost;

(f) If the obligor is a member of the uniformed services and is on active military duty, a copy of the obligor's Internal Revenue Service form W-2, "Wage and Tax Statement," and a copy of a statement detailing the obligor's earnings and leave with the uniformed services;

(g) Any other information necessary to properly review the child support order.

(2) Request the obligee to provide the agency, no later than the scheduled date for formally beginning the review, with all of the following:

(a) A copy of the obligee's federal income tax return from the previous year;

(b) A copy of all pay stubs obtained by the obligee within the preceding six months;

(c) A copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligee within the preceding six months;

(d) A list of the group health insurance and health care policies, contracts, and plans, including the tricare program offered by the United States department of defense, available to the obligee and their costs;

(e) The current health insurance or health care policy, contract, or plan under which the obligee is enrolled and its cost;

(f) Any other information necessary to properly review the child support order.

(D) Include in the notice sent pursuant to division (B) of this section, one of the following:

(1) If the child support order being reviewed is a court child support order, a notice that a willful failure to provide the documents and other information requested pursuant to division (C) of this section is contempt of court;

(2) If the child support order being reviewed is an administrative child support order, a notice that if either the obligor or obligee fails to comply with the request for information, the agency may bring an action under section 3119.72 of the Revised Code requesting that the court find the obligor and the obligee in contempt pursuant to section 2705.02 of the Revised Code.

Sec. 3119.61. The child support enforcement agency shall review an administrative child support order on the date established pursuant to section 3119.60 of the Revised Code for formally beginning the review of the order. If the agency determines that a modification is necessary and in the best interest of the child subject to the order, the agency shall calculate the amount the obligor shall pay in accordance with section 3119.021 of the

Revised Code. The agency may not grant a deviation pursuant to section 3119.23 of the Revised Code from the guidelines set forth in section 3119.021 of the Revised Code. If the agency can set the child support the obligor is to pay without granting such a deviation from the guidelines, the agency shall do the following:

(A) Give the obligor and obligee notice of the revised amount of child support to be paid under the administrative child support order, of their right to request an administrative hearing on the revised child support amount, of the procedures and time deadlines for requesting the hearing, and that the agency will modify the administrative child support order to include the revised child support amount unless the obligor or obligee requests an administrative hearing on the revised amount no later than thirty days after receipt of the notice under this division;

(B) If neither the obligor nor obligee timely requests an administrative hearing on the revised amount of child support, modify the administrative child support order to include the revised child support amount;

(C) If the obligor or obligee timely requests an administrative hearing on the revised amount of child support, do all of the following:

(1) Schedule a hearing on the issue;

(2) Give the obligor and obligee notice of the date, time, and location of the hearing;

(3) Conduct the hearing in accordance with the rules adopted under section 3119.76 of the Revised Code;

(4) Redetermine at the hearing a revised amount of child support to be paid under the administrative child support order;

(5) Modify the order to include the revised amount of child support;

(6) Give notice to the obligor and obligee of the amount of child support to be paid under the order and that the obligor and obligee may object to the modified order by initiating an action under section 2151.231 of the Revised Code in the juvenile court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code of the county in which the mother, the father, the child, or the guardian or custodian of the child reside.

If Except as otherwise provided in section 3119.772 of the Revised Code, if the agency modifies an existing administrative child support order, the modification shall relate back to the first day of the month following the date certain on which the review began under section 3119.60 of the Revised Code.

If the agency cannot set the amount of child support the obligor will pay under the administrative child support order without granting a deviation pursuant to section 3119.23 of the Revised Code, the agency shall bring an

action under section 2151.231 of the Revised Code on behalf of the person who requested that the agency review the existing administrative order or, if no one requested the review, on behalf of the obligee, in the juvenile court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code of the county in which the agency is located requesting that the court issue a child support order.

Sec. 3119.71. Except as otherwise provided in section 3119.772 of the Revised Code:

(A) If the obligor or obligee does not request a court hearing on the revised child support amount determined by the child support enforcement agency and filed with the court pursuant to section 3119.63 of the Revised Code and the court modifies the order to include the revised amount pursuant to section 3119.65 of the Revised Code, the modification shall relate back to the first day of the month following the date certain on which the review of the court child support order began pursuant to division (A) of section 3119.60 of the Revised Code. ~~If~~

(B) If the obligor or obligee requests a court hearing on the revised child support amount and the court, after conducting a hearing, modifies the court child support amount under the order, the modification shall relate back to the first day of the month following the date on which the review of the court child support order began pursuant to division (A) of section 3119.60 of the Revised Code.

Sec. 3119.74. In addition to administrative reviews conducted pursuant to sections 3119.60 to 3119.63 and section 3119.771 of the Revised Code, a child support enforcement agency may conduct administrative reviews of support orders to do the following:

(A) Obtain voluntary notices or court orders under section 3121.03 of the Revised Code;

(B) Correct any errors in the amount of any arrearage owed by an obligor.

The agency shall notify the obligor and obligee of the time, date, and location of the administrative review at least fourteen days before the hearing is held.

Sec. 3119.77. (A) As used in this section and sections 3119.771, 3119.772, and 3119.773 of the Revised Code:

(1) "Active military service" means the performance of active military duty by a member of the uniformed services for a period of more than thirty days.

(2) "Uniformed services" means any reserve components of the armed forces of the United States or the Ohio organized militia when engaged in

full-time national guard duty for a period of more than thirty days.

(B) An obligor who is called to active military service in the uniformed services may request a review of a child support order for the purpose of modification of the amount of support required under the order. The request must be submitted to the child support enforcement agency administering the order.

(C) An obligor who makes a request under division (B) of this section must indicate that the reason for the modification is the obligor's active military service and provide with the request any orders or other appropriate documentation specifying the commencement date of the obligor's active military service and the monthly monetary compensation for that service. The obligor also shall submit documentation on all other outside income.

(D) The obligor may provide the child support enforcement agency with a military power of attorney executed pursuant to 10 U.S.C. 10446 designating another individual to act in the administrative review and modification on behalf of the obligor. By designating another individual to so act on behalf of the obligor, the obligor waives any right of an appearance and any right to request a stay of the action or proceeding.

Sec. 3119.771. (A) A child support enforcement agency that receives a request for review and modification of a child support order pursuant to section 3119.77 of the Revised Code shall send to the obligor and obligee, not later than three business days after receipt of the request, notice of the review and of the date it will begin. The child support enforcement agency shall complete an administrative review in accordance with sections 3119.60 to 3119.63 of the Revised Code. The agency shall consider the obligor's call to active military service as a change of circumstances substantial enough to require a review of the child support amount.

(B) On receipt of a military power of attorney from an obligor designating another individual to act for the obligor, the child support enforcement agency shall allow the individual to act on the obligor's behalf during the agency's review of the order and shall provide the other individual with any notices required to be given under sections 3119.60 to 3119.63 of the Revised Code, including the notice sent pursuant to division (A) of this section. If, with respect to the review of a court child support order under section 3119.63 of the Revised Code, the obligor or obligee requests a court hearing, the court shall provide the individual acting on behalf of the obligor with any notices required to be given under sections 3119.67 to 3119.69 of the Revised Code. The individual acting on behalf of the obligor may not assert any right to a stay under the Servicemembers Civil Relief Act, 117 Stat. 2835 (2003), 50 App. U.S.C. 501 et. seq., as

amended.

(C) If, after the obligor provides written notice of the date of termination of the obligor's active military service pursuant to section 3119.773 of the Revised Code, the obligor provides the child support enforcement agency with written documentation sufficient to establish that the obligor's employer has violated the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 to 4333, with regards to the obligor, the child support enforcement agency shall consider this change of circumstance substantial enough to require a review of the obligor's amount of support to be paid under the child support order.

Sec. 3119.772. If a child support enforcement agency modifies an administrative child support order, or a court modifies a court child support order, based on an administrative review conducted pursuant to section 3119.771 of the Revised Code, the modification shall relate back to the later of the date the child support enforcement agency sent notice of the review pursuant to division (A) of section 3119.771 of the Revised Code or the first day of the month in which the obligor's active military service begins. The agency or court shall include a provision in the modified order stating that, except as otherwise provided in division (C) of section 3119.771 of the Revised Code, the modification will terminate and the prior amount of support be reinstated as of the first day of the month following the date that the obligor's active military service ends.

Sec. 3119.773. If the amount to be paid under a child support order is modified pursuant to an administrative review conducted pursuant to section 3119.771 of the Revised Code, the obligor shall provide written notice of the date of termination of the obligor's active military service to the child support enforcement agency administering the order not later than the last day of the month in which the service ends.

SECTION 2. That existing sections 3119.60, 3119.61, 3119.71, and 3119.74 of the Revised Code are hereby repealed.

SECTION 3. The General Assembly hereby requests the Supreme Court of Ohio to adopt a rule to provide that child support hearings for an obligor or obligee who is a member of the Ohio organized militia be expedited when the court receives notice that the obligor or obligee has requested a child support hearing.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 149

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____