

As Reported by the Senate Judiciary Committee

135th General Assembly

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Am. S. B. No. 176

Senators Sykes, Romanchuk

Cosponsors: Senators Craig, DeMora, Lang



A BILL

To amend sections 3119.01, 3119.66, 3119.86, and 1
3119.88 and to enact sections 3109.20, 3119.10, 2
3119.11, 3119.12, 3119.861, 3119.862, and 3
3119.863 of the Revised Code to allow child 4
support orders to be issued, modified, or 5
extended for children over 18 with a disability. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3119.01, 3119.66, 3119.86, and 7
3119.88 be amended and sections 3109.20, 3119.10, 3119.11, 8
3119.12, 3119.861, 3119.862, and 3119.863 of the Revised Code be 9
enacted to read as follows: 10

Sec. 3109.20. (A) For purposes of this section, "person 11
with a disability" has the same meaning as in section 3119.10 of 12
the Revised Code. 13

(B) Notwithstanding section 3109.01 of the Revised Code, a 14
court may issue, pursuant to a proceeding for divorce, 15
dissolution, legal separation, or annulment, an order of support 16
for the care and maintenance of the parties' child who is a 17
person with a disability, regardless of whether the child has 18

reached the age of majority. 19

(C) In determining the amount reasonable or necessary for 20
child support, including the medical needs of the child, the 21
court shall comply with Chapter 3119. of the Revised Code. The 22
court shall comply with Chapters 3119., 3121., 3123., and 3125. 23
of the Revised Code when it makes or modifies an order for child 24
support under this section. 25

Sec. 3119.01. (A) As used in the Revised Code, "child 26
support enforcement agency" means a child support enforcement 27
agency designated under former section 2301.35 of the Revised 28
Code prior to October 1, 1997, or a private or government entity 29
designated as a child support enforcement agency under section 30
307.981 of the Revised Code. 31

(B) As used in this chapter and Chapters 3121., 3123., and 32
3125. of the Revised Code: 33

(1) "Administrative child support order" means any order 34
issued by a child support enforcement agency for the support of 35
a child pursuant to section 3109.19 or 3111.81 of the Revised 36
Code or former section 3111.211 of the Revised Code, section 37
3111.21 of the Revised Code as that section existed prior to 38
January 1, 1998, or section 3111.20 or 3111.22 of the Revised 39
Code as those sections existed prior to March 22, 2001. 40

(2) "Child support order" means either a court child 41
support order or an administrative child support order. 42

(3) "Obligee" means the person who is entitled to receive 43
the support payments under a support order. 44

(4) "Obligor" means the person who is required to pay 45
support under a support order. 46

(5) "Support order" means either an administrative child support order or a court support order.	47 48
(C) As used in this chapter:	49
(1) "Cash medical support" means an amount ordered to be paid in a child support order toward the ordinary medical expenses incurred during a calendar year.	50 51 52
(2) "Child care cost" means annual out-of-pocket costs for the care and supervision of a child or children subject to the order that is related to work or employment training.	53 54 55
(3) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, <u>3109.20</u> , 3111.13, 3113.04, 3113.07, 3113.31, <u>3119.11</u> , 3119.65, or 3119.70 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.	56 57 58 59 60 61 62
(4) "Court-ordered parenting time" means the amount of parenting time a parent is to have under a parenting time order or the amount of time the children are to be in the physical custody of a parent under a shared parenting order.	63 64 65 66
(5) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.	67 68 69 70 71
(6) "CPI-U" means the consumer price index for all urban consumers, published by the United States department of labor, bureau of labor statistics.	72 73 74

(7) "Extraordinary medical expenses" means any uninsured	75
medical expenses incurred for a child during a calendar year	76
that exceed the total cash medical support amount owed by the	77
parents during that year.	78
(8) "Federal poverty level" has the same meaning as in	79
section 5121.30 of the Revised Code.	80
(9) "Income" means either of the following:	81
(a) For a parent who is employed to full capacity, the	82
gross income of the parent;	83
(b) For a parent who is unemployed or underemployed, the	84
sum of the gross income of the parent and any potential income	85
of the parent.	86
(10) "Income share" means the percentage derived from a	87
comparison of each parent's annual income after allowable	88
deductions and credits as indicated on the worksheet to the	89
total annual income of both parents.	90
(11) "Insurer" means any person authorized under Title	91
XXXIX of the Revised Code to engage in the business of insurance	92
in this state, any health insuring corporation, and any legal	93
entity that is self-insured and provides benefits to its	94
employees or members.	95
(12) "Gross income" means, except as excluded in division	96
(C) (12) of this section, the total of all earned and unearned	97
income from all sources during a calendar year, whether or not	98
the income is taxable, and includes income from salaries, wages,	99
overtime pay, and bonuses to the extent described in division	100
(D) of section 3119.05 of the Revised Code; commissions;	101
royalties; tips; rents; dividends; severance pay; pensions;	102
interest; trust income; annuities; social security benefits,	103

including retirement, disability, and survivor benefits that are 104
not means-tested; workers' compensation benefits; unemployment 105
insurance benefits; disability insurance benefits; benefits that 106
are not means-tested and that are received by and in the 107
possession of the veteran who is the beneficiary for any 108
service-connected disability under a program or law administered 109
by the United States department of veterans' affairs or 110
veterans' administration; spousal support actually received; and 111
all other sources of income. "Gross income" includes income of 112
members of any branch of the United States armed services or 113
national guard, including, amounts representing base pay, basic 114
allowance for quarters, basic allowance for subsistence, 115
supplemental subsistence allowance, cost of living adjustment, 116
specialty pay, variable housing allowance, and pay for training 117
or other types of required drills; self-generated income; and 118
potential cash flow from any source. 119

"Gross income" does not include any of the following: 120

(a) Benefits received from means-tested government 121
administered programs, including Ohio works first; prevention, 122
retention, and contingency; means-tested veterans' benefits; 123
supplemental security income; supplemental nutrition assistance 124
program; disability financial assistance; or other assistance 125
for which eligibility is determined on the basis of income or 126
assets; 127

(b) Benefits for any service-connected disability under a 128
program or law administered by the United States department of 129
veterans' affairs or veterans' administration that are not 130
means-tested, that have not been distributed to the veteran who 131
is the beneficiary of the benefits, and that are in the 132
possession of the United States department of veterans' affairs 133

or veterans' administration;	134
(c) Child support amounts received for children who are	135
not included in the current calculation;	136
(d) Amounts paid for mandatory deductions from wages such	137
as union dues but not taxes, social security, or retirement in	138
lieu of social security;	139
(e) Nonrecurring or unsustainable income or cash flow	140
items;	141
(f) Adoption assistance, kinship guardianship assistance,	142
and foster care maintenance payments made pursuant to Title IV-E	143
of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670	144
(1980), as amended;	145
(g) State kinship guardianship assistance described in	146
section 5153.163 of the Revised Code and payment from the	147
kinship support program described in section 5101.881 of the	148
Revised Code.	149
(13) "Nonrecurring or unsustainable income or cash flow	150
item" means an income or cash flow item the parent receives in	151
any year or for any number of years not to exceed three years	152
that the parent does not expect to continue to receive on a	153
regular basis. "Nonrecurring or unsustainable income or cash	154
flow item" does not include a lottery prize award that is not	155
paid in a lump sum or any other item of income or cash flow that	156
the parent receives or expects to receive for each year for a	157
period of more than three years or that the parent receives and	158
invests or otherwise uses to produce income or cash flow for a	159
period of more than three years.	160
(14) "Ordinary medical expenses" includes copayments and	161
deductibles, and uninsured medical-related costs for the	162

children of the order.	163
(15) (a) "Ordinary and necessary expenses incurred in generating gross receipts" means actual cash items expended by the parent or the parent's business and includes depreciation expenses of business equipment as shown on the books of a business entity.	164 165 166 167 168
(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (C) (15) (a) of this section, "ordinary and necessary expenses incurred in generating gross receipts" does not include depreciation expenses and other noncash items that are allowed as deductions on any federal tax return of the parent or the parent's business.	169 170 171 172 173 174 175
(16) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes wages, salary, commissions, bonuses, draws against commissions, profit sharing, vacation pay, or any other compensation.	176 177 178 179
(17) "Potential income" means both of the following for a parent who the court pursuant to a court support order, or a child support enforcement agency pursuant to an administrative child support order, determines is voluntarily unemployed or voluntarily underemployed:	180 181 182 183 184
(a) Imputed income that the court or agency determines the parent would have earned if fully employed as determined from the following criteria:	185 186 187
(i) The parent's prior employment experience;	188
(ii) The parent's education;	189
(iii) The parent's physical and mental disabilities, if	190

any;	191
(iv) The availability of employment in the geographic area in which the parent resides;	192 193
(v) The prevailing wage and salary levels in the geographic area in which the parent resides;	194 195
(vi) The parent's special skills and training;	196
(vii) Whether there is evidence that the parent has the ability to earn the imputed income;	197 198
(viii) The age and special needs of the child for whom child support is being calculated under this section;	199 200
(ix) The parent's increased earning capacity because of experience;	201 202
(x) The parent's decreased earning capacity because of a felony conviction;	203 204
(xi) Any other relevant factor.	205
(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.	206 207 208 209 210 211
(18) "Schedule" means the basic child support schedule created pursuant to section 3119.021 of the Revised Code.	212 213
(19) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the	214 215 216 217

parent in generating the gross receipts. "Self-generated income" 218
includes expense reimbursements or in-kind payments received by 219
a parent from self-employment, the operation of a business, or 220
rents, including company cars, free housing, reimbursed meals, 221
and other benefits, if the reimbursements are significant and 222
reduce personal living expenses. 223

(20) "Self-sufficiency reserve" means the minimal amount 224
necessary for an obligor to adequately subsist upon, as 225
determined under section 3119.021 of the Revised Code. 226

(21) "Split parental rights and responsibilities" means a 227
situation in which there is more than one child who is the 228
subject of an allocation of parental rights and responsibilities 229
and each parent is the residential parent and legal custodian of 230
at least one of those children. 231

(22) "Worksheet" means the applicable worksheet created in 232
rules adopted under section 3119.022 of the Revised Code that is 233
used to calculate a parent's child support obligation. 234

Sec. 3119.10. For purposes of sections 3119.11 and 3119.12 235
of the Revised Code, "person with a disability" means a person 236
with a mental or physical disability, whose disability began 237
before the person reached the age of majority, and whose 238
disability makes the person incapable of supporting or 239
maintaining oneself. 240

Sec. 3119.11. Notwithstanding section 3109.01 of the 241
Revised Code, when issuing or modifying a court child support 242
order, a court may provide for the care and maintenance of a 243
child who is a person with a disability and the subject of the 244
order, to be issued or continue after the date the child reaches 245
the age of majority. This section applies regardless of whether 246

the child is younger or older than the age of majority when the 247
court issues or modifies the order. The court shall comply with 248
Chapters 3119., 3121., 3123., and 3125. of the Revised Code when 249
it makes or modifies an order under this section. 250

Sec. 3119.12. Nothing in the Revised Code authorizes a 251
child support enforcement agency to issue an administrative 252
child support order for a person who has reached the age of 253
eighteen, including a person with a disability. In all cases in 254
which the agency is prohibited from issuing an administrative 255
child support order, the agency may request the appropriate 256
court with jurisdiction to take action under section 3119.11 of 257
the Revised Code to provide for the care and maintenance of the 258
person with a disability. 259

Sec. 3119.66. If the obligor or the obligee requests a 260
court hearing on the revised amount of child support calculated 261
by the child support enforcement agency, the court shall 262
schedule and conduct a hearing to determine whether the revised 263
~~amount of~~ child support is the appropriate amount and whether 264
the amount of child support being paid under the court child 265
support order should be revised. 266

Sec. 3119.86. ~~(A)~~ Notwithstanding section 3109.01 of the 267
Revised Code, both of the following apply: 268

~~(1)~~ (A) The duty of support to a child imposed pursuant to 269
a court child support order shall continue beyond the child's 270
eighteenth birthday only under the following circumstances: 271

~~(a)~~ The (1) Under an order issued or modified pursuant to 272
section 3109.20 or 3119.11 of the Revised Code for a child who 273
is mentally or physically disabled and is incapable of 274
supporting or maintaining ~~himself or herself~~oneself. 275

~~(b) (2)~~ The child's parents have agreed to continue support beyond the child's eighteenth birthday pursuant to a separation agreement that was incorporated into a decree of divorce or dissolution.

~~(e) (3)~~ The child continuously attends a recognized and accredited high school on a full-time basis on and after the child's eighteenth birthday.

~~(2) (B)~~ The duty of support to a child imposed pursuant to an administrative child support order shall continue beyond the child's eighteenth birthday only if the child continuously attends a recognized and accredited high school on a full-time basis on and after the child's eighteenth birthday.

~~(B) A court child support order shall not remain in effect after the child reaches nineteen years of age unless the order provides that the duty of support continues under circumstances described in division (A) (1) (a) or (b) of this section for any period after the child reaches age nineteen. An administrative child support order shall not remain in effect after the child reaches age nineteen.~~

~~(C) If a court incorporates a separation agreement described in division (A) (1) (b) of this section into a decree of divorce or dissolution, the court may not require the duty of support to continue beyond the date the child's parents have agreed support should terminate.~~

~~(D) A parent ordered to pay support under a child support order shall continue to pay support under the order, including during seasonal vacation periods, until the order terminates.~~

Sec. 3119.861. A court child support order shall not remain in effect after the child reaches nineteen years of age

unless the order provides that the duty of support continues 305
under circumstances described in division (A) (1) or (2) of 306
section 3119.86 of the Revised Code for any period after the 307
child reaches age nineteen. An administrative child support 308
order shall not remain in effect after the child reaches age 309
nineteen. 310

Sec. 3119.862. Except as provided in division (A) (1) of 311
section 3119.86 of the Revised Code, if a court incorporates a 312
separation agreement described in division (A) (2) of section 313
3119.86 of the Revised Code into a decree of divorce or 314
dissolution, the court may not require the duty of support to 315
continue beyond the date the child's parents have agreed support 316
should terminate. 317

Sec. 3119.863. A parent ordered to pay support under a 318
child support order shall continue to pay support under the 319
order, including during seasonal vacation periods, until the 320
order terminates. 321

Sec. 3119.88. (A) Reasons for which a child support order 322
should terminate through the administrative process under 323
section 3119.89 of the Revised Code include all of the 324
following: 325

(1) The child attains the age of majority if the child no 326
longer attends an accredited high school on a full-time basis 327
and the child support order requires support to continue past 328
the age of majority only if the child continuously attends such 329
a high school after attaining that age; 330

(2) The child ceases to attend an accredited high school 331
on a full-time basis after attaining the age of majority, if the 332
child support order requires support to continue past the age of 333

majority only if the child continuously attends such a high school after attaining that age;	334 335
(3) A termination condition specified in the court child support order has been met for a child who reaches nineteen years of age;	336 337 338
(4) The child's death;	339
(5) The child's marriage;	340
(6) The child's emancipation;	341
(7) The child's enlistment in the armed services;	342
(8) The child's deportation;	343
(9) Change of legal custody of the child;	344
(10) The child's adoption;	345
(11) The obligor's death;	346
(12) The grandparent to whom support is being paid or a grandparent who is paying support reports that the grandparent's support order should terminate as a result of one of the events described in division (D) of section 3109.19 of the Revised Code;	347 348 349 350 351
(13) Marriage of the obligor under a child support order to the obligee, if the obligor and obligee reside together with the child.	352 353 354
(B) A child support order may be terminated by the court or child support enforcement agency for any reasons listed in division (A) of this section. A court may also terminate an order for :	355 356 357 358
<u>(1) Issued under section 3109.20 or 3119.11 of the Revised</u>	359

Code upon satisfactory proof that the person who is the subject 360
of the order is no longer mentally or physically disabled or is 361
capable of supporting or maintaining oneself; 362

(2) For any other appropriate reasons brought to the 363
attention of the court, unless otherwise prohibited by law. 364

Section 2. That existing sections 3119.01, 3119.66, 365
3119.86, and 3119.88 of the Revised Code are hereby repealed. 366