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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 83
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Russo and Manchester

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SUMMARY

- Permits child support amounts under existing child support orders to be redirected, and under new child support orders to be issued, to a nonparent caretaker who is the primary caregiver of a child.
- Allows a caretaker to file an application for Title IV-D services with the child support enforcement agency (CSEA) in the county in which the caretaker resides to obtain support for the care of the child.
- Requires, upon receipt of a caretaker's Title IV-D application or a referral for Title IV-D services, the CSEA to investigate whether the child is the subject of an existing child support order, and if so, requires an investigation and certain determinations regarding support for the child.
- Requires, if a CSEA determines that a child support order exists, the CSEA to determine whether an existing support order should be redirected, and establishes provisions for notice, objection, and effective dates of redirection orders or recommendations.
- Requires, if a CSEA determines that no child support order exists, the CSEA to determine whether any reason exists for which a child support order should be imposed, and requires the CSEA to comply with existing laws regarding the administrative issuance of a child support order.
- Establishes procedures that a CSEA must follow if it receives notice that a caretaker is no longer the primary caregiver of a child, including what to do if the same caretaker remains the primary caregiver, a new caretaker is the primary caregiver, if a parent is the primary caregiver, or if no one is the primary caregiver of the child.
- Requires the impoundment of any funds received on behalf of a child pursuant to a child support order while the CSEA investigates whether a caretaker is no longer the primary caregiver of a child.

- Authorizes the Director of Job and Family Services to adopt rules to implement the redirection process required in the bill.
- Amends several existing law provisions regarding the establishment of parentage and bringing an action for child support to permit caretakers to receive child support.
- Adds a statement that appears to attempt to clarify that a parent’s duty to support the parent’s minor child may be enforced by a child support order.
- Requires, if a child who is the subject of a child support order resides with a caretaker and neither parent is the residential parent and legal custodian of the child, the court to issue a child support order requiring each parent to pay that child’s child support obligation.
- Repeals language in the power of attorney form and caretaker authorization affidavit form regarding grandparents caring for their grandchildren, which language provides that the power of attorney or affidavit does not allow a CSEA to redirect child support payments to the grandparent.
- Adds redirection to a list of notices under existing law that must be included in each support order or modification.
- Repeals a provision of law which generally provides that when a support order is issued or modified, the court or CSEA may issue an order requiring payment to a third person that is agreed upon by the parents.
- Delays the effective date of the bill’s provisions for six months during which time the Ohio Department of Job and Family Services may take action to implement the bill’s provisions.

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DETAILED ANALYSIS

Redirecting child support to caretakers

The bill makes changes to child support laws by establishing a process to redirect existing child support orders to a caretaker of a child and allows for new child support orders to be directed to the caretaker. The bill makes changes to several existing law provisions to clarify these rights for caretakers. A child support order subject to the process includes both health care coverage and cash medical support required for the child subject to the order.¹

The bill defines a “caretaker” as any of the following, other than a parent:

- A person with whom the child resides for at least 30 consecutive days, and who is the child’s primary caregiver;
- A person who is receiving public assistance on behalf of the child;
- A person or agency with legal custody of the child, including a county department of job and family services or a public children services agency (PCSA);
- A guardian of the person or the estate of a child;
- Any other appropriate court or agency with custody of the child.

The definition does not include a “host family” caring for a child at the request of a parent or other individual under an agreement under existing law.² “Caretaker” replaces the terms “guardian,” “custodian,” and “person with whom the child resides” in certain existing law provisions addressing parentage and child support (see “**Establishing parentage and bringing a child support action,**” below).³

¹ R.C. 3119.95.

² R.C. 3119.01; R.C. 2151.231 and 3111.01.

³ R.C. 2151.231, 3111.111, 3111.29, 3111.38, 3111.48, 3111.49, and 3111.78.

Filing a request

Under the bill, in order to obtain support for the care of the child, the child's caretaker may file an application for Title IV-D services with the child support enforcement agency (CSEA) in the county in which the caretaker resides.⁴

CSEA determination of whether a child support order exists

The bill requires that upon receipt of an application from the caretaker, or a Title IV-D services referral regarding the child, the CSEA must determine whether the child is the subject of an existing child support order.⁵

When a child support order exists

Investigation

The bill requires that if the CSEA determines that there is an existing child support order regarding the child, the CSEA must determine if any reason exists for the child support order to be redirected to the caretaker. If the CSEA determines that the caretaker is the primary caregiver for the child, the CSEA must determine that a reason exists for redirection.⁶

If an CSEA determines that a reason for redirection exists, the CSEA must determine all of the following not later than 20 days after the application or referral for Title IV-D services is received:⁷

- The amount of each parent's obligation under the existing child support order;
- Whether any prior redirection has been terminated under the process established in the bill;
- Whether any arrearages are owed, and the recommended payment amount to satisfy the arrears;
- If more than one child is subject to the existing child support order, whether the child support order for all or some of the children must be subject to redirection.

If the CSEA determines that more than one child is the subject of a support order and the order for fewer than all of the children should be redirected, the CSEA must determine the amount of child support to be redirected. That amount must be the pro rata share of the child support amounts for each such child under the child support order. The CSEA must also make a similar determination regarding health care coverage and cash medical support that may be redirected.⁸

⁴ R.C. 3119.951.

⁵ R.C. 3119.953(A).

⁶ R.C. 3119.953(B) and 3119.955(A).

⁷ R.C. 3119.955(B) and (C).

⁸ R.C. 3119.957.

The bill provides that the investigation under these provisions must not include a formal review under existing law governing the review of child support orders.⁹

Order for redirection

Under the bill, not later than 20 days after completing an investigation, the CSEA must determine, based on the information gathered, whether the child support order is to be redirected or is not to be redirected.¹⁰

If the CSEA determines that the child support order should be redirected, the CSEA must either issue a redirection order (for an administrative child support order) or recommend to the court with jurisdiction over the court child support order (which is a child support order issued by a court) to issue a redirection order to include the child support amount to be redirected, as well as provisions for redirection regarding health care coverage and cash medical support.¹¹

Notice

Upon issuing a redirection order or making a redirection recommendation to the court, the CSEA must provide notice to the child's parent or caretaker and include it as part of the redirection order or recommendation. The notice must include all of the following:¹²

- The results of its investigation;
- For an administrative child support order:
 - That the CSEA has issued a redirection order regarding the child support order and a copy of the redirection order;
 - The right to object to the redirection order by bringing an action for child support without regard to marital status, not later than 14 days after the order is issued;
 - That the redirection order becomes final and enforceable if no timely objection is made;
 - The effective date of the redirection order (see "**Effective date**," below).
- For a court child support order:
 - That the CSEA has made a recommendation for a redirection order to the court with jurisdiction over the court child support order, and a copy of the recommendation;
 - The right to object to the redirection by requesting a hearing with the court that has jurisdiction over the court child support order no later than 14 days after the recommendation is issued;

⁹ R.C. 3119.959.

¹⁰ R.C. 3119.9511.

¹¹ R.C. 3119.9513 and 3119.01.

¹² R.C. 3119.9515.

- That the recommendation will be submitted to the court for inclusion in a redirection order, unless a request for a court hearing is made not later than 14 days after the recommendation is issued;
- The effective date of the redirection order (see “**Effective date,**” below).

Objection

The bill allows a parent or caretaker to object to an administrative redirection order by bringing an action for a child support order without regard to marital status, not later than 14 days after the redirection order is issued. If no timely objection is made, the redirection order is final and enforceable.¹³

Similarly, the bill allows a parent or caretaker to object to a redirection recommendation by requesting a hearing with the court with jurisdiction over the court child support order not later than 14 days after the CSEA issued the recommendation to the court. The redirection recommendation must be submitted to the court for inclusion in a redirection order, unless a request for a court hearing is made.¹⁴

Effective date of redirection

The bill requires that both an administrative redirection order that has become final and enforceable and a court-issued redirection order based on a recommendation for redirection must take effect as of, and relate back to, the date that the CSEA received the Title IV-D services application or referral that initiated the proceedings.¹⁵

When a child support order does not exist

The bill provides that if an CSEA determines that the child under the care of a caretaker is not the subject of an existing child support order, it must determine whether any reason exists for which a child support order for the child should be imposed. The CSEA must make the determination not later than 20 days after the receipt of the Title IV-D services application or referral, and the determination must include whether the caretaker is the child’s primary caregiver.¹⁶

If the CSEA determines that a reason exists for a child support order to be imposed, the CSEA must comply with existing law provisions regarding issuing an administrative child support order.¹⁷

CSEA action re: notice caretaker is no longer the primary caregiver

Under the bill, if an CSEA receives notice that a caretaker is no longer the primary caregiver for a child subject to a redirection order or recommendation, the CSEA must:

¹³ R.C. 3119.9517(A).

¹⁴ R.C. 3119.9517(B).

¹⁵ R.C. 3119.9519.

¹⁶ R.C. 3119.953(C) and 3119.9523.

¹⁷ R.C. 3119.9525.

(1) investigate if that is the case, and (2) take action depending on whether the CSEA determines that the child remains under the primary care of the caretaker, is under the care of a new caretaker, is under the care of a parent, or is not under anyone's care.¹⁸

Same caretaker remains primary caregiver

If the CSEA determines that the caretaker to whom amounts are redirected remains the primary caregiver of the child who is the subject of the redirection order or recommendation, the CSEA must take no further action on the notice.¹⁹

A new caretaker is the primary caregiver

If the CSEA determines that a new caretaker is the primary caregiver for the child, the CSEA must: (1) terminate the existing redirection order (for an administrative order) or request that the court terminate the redirection order based on the recommendation for redirection and (2) direct the new caretaker to file an application for Title IV-D services to obtain support for the child as provided in the bill (see "**Filing a request**," above).²⁰

A parent is the primary caregiver

If the CSEA determines that a parent of the child is the primary caregiver, the CSEA must do one of the following:

- If the parent is the obligee under the support order that is subject to redirection, either terminate the existing redirection order (for an administrative order) or request the court to terminate the redirection order based on the recommendation for redirection.²¹
- If the parent is the obligor under the child support order that is subject to redirection, the CSEA must do one of the following (as applicable): (1) terminate the existing redirection order (for an administrative order) or request the court to terminate the redirection order based on the recommendation for redirection, and (2) notify the obligor that the obligor may do the following: (a) request that the child support order be terminated under existing law permitting notification to the CSEA of a reason for termination, (b) request either a review of an administrative child support order under existing law governing the review of administrative child support orders or request the court to amend the court child support order.²²

No one is the primary caregiver

If the CSEA determines that no one is taking care of the child, the CSEA must terminate the existing redirection order (for an administrative order) or request the court to terminate the redirection order based on the recommendation for redirection. If the CSEA becomes aware

¹⁸ R.C. 3119.9527.

¹⁹ R.C. 3119.9529.

²⁰ R.C. 3119.9531.

²¹ R.C. 3119.9533(A).

²² R.C. 3119.9533(B).

of circumstances indicating that the child may be abused or neglected, it must make a report under existing child abuse and neglect reporting law.²³

Impoundment

The bill requires that if an CSEA that receives notification that a caretaker is no longer the primary caregiver for a child subject to a redirection order or recommendation, the CSEA must impound any funds received on behalf of the child pursuant to the child support order. Impoundment must continue until any of the following occur:²⁴

- The CSEA determines that the caretaker to whom amounts are redirected remains the primary caregiver of the child subject to the redirection order or recommendation;
- The CSEA issues a redirection order for a new caretaker;
- The CSEA determines that a parent is the primary caregiver for the child and terminates the redirection order (for an administrative order) or a court terminates its redirection order.

When impoundment terminates, the impounded amounts must be paid to the obligee designated under the child support order or the applicable redirection order.²⁵

Impoundment regarding a redirection order that was terminated because no one is caring for the child must continue until further order from the CSEA (for an administrative order) or from the court with jurisdiction over the court child support order.²⁶

Rulemaking authority

The bill allows the Director of Job and Family services to adopt rules in accordance with the Administrative Procedure Act under Chapter 119 of the Revised Code to implement the redirection process under the bill.²⁷

Establishing parentage and bringing a child support action

The bill makes several modifications regarding the establishment of parentage and bringing an action for child support to clarify that caretakers hold these rights. Below is a summary of these modifications.

²³ R.C. 3119.9535.

²⁴ R.C. 3119.9537(A) and (B).

²⁵ R.C. 3119.9537(C).

²⁶ R.C. 3119.9539.

²⁷ R.C. 3119.9541.

R.C. Section	Description
R.C. 2151.231	Allows a caretaker to bring an action in a juvenile court or other court with jurisdiction in the county in which the child, parent, or caretaker of the child resides for an order requiring a parent of a child to pay child support without regard to the marital status of the child's parents.
R.C. 3111.04	Grants a caretaker standing to bring a parentage action.
R.C. 3111.041	Allows a caretaker to authorize genetic testing of a child pursuant to any action or proceeding to establish parentage.
R.C. 3111.07	Requires that a caretaker be made a party to a court action to establish parentage or, if not subject to the court's jurisdiction, be given notice and opportunity to be heard. Allows a caretaker to intervene in an action if the caretaker was or is providing support to the child to whom the action pertains.
R.C. 3111.111	Provides that if a court action is brought under parentage laws to object to a parentage determination, the court must issue a temporary child support order to require the alleged father to pay support to the caretaker.
R.C. 3111.15	Provides that, upon the establishment of parentage, the father's obligations may be enforced in proceedings by a caretaker. Allows the court to order support payments to a caretaker.
R.C. 3111.29	Allows a caretaker to do the following once an acknowledgment of paternity becomes final: <ul style="list-style-type: none"> ▪ File a complaint for support without regard to marital status in the county in which the child or caretaker resides, requesting that the court order the mother, father, or both to pay child support; ▪ Contact the CSEA for assistance in obtaining child support.
R.C. 3111.38	Requires that the CSEA of the county in which the child or caretaker resides determine the existence or nonexistence of a parent and child relationship between an alleged father and child if requested by a caretaker.
R.C. 3111.381 and 3111.06	Allows a caretaker to bring an action to determine whether a parent and child relationship exists in the appropriate division of the common pleas court in the county in which the child resides without requesting an administrative determination, if the caretaker brings an action to request child support.
R.C. 3111.48 and 3111.49	Requires that an administrative order regarding a finding of parentage must include a notice informing the caretaker of the right to bring a court

R.C. Section	Description
	<p>parentage action and of the effect of the failure to bring timely action.</p> <p>Allows a caretaker to object to an administrative order determining the existence or nonexistence of a parent and child relationship by bringing a parentage action within 14 days after the issuance of the order.</p>
R.C. 3111.78	<p>Provides that a caretaker or CSEA in the county in which the caretaker resides may do either of the following to require a man to pay child support and provide health care if presumed to be the father under a presumption of paternity:</p> <ul style="list-style-type: none"> ▪ If the presumption is not based on an acknowledgment of paternity, file a complaint for child support without regard to marital status; ▪ Contact the CSEA to request assistance in obtaining a support order and provision of health care for a child.

Duty of support

The bill amends the law regarding married persons' and parents' obligations of support to add what appears to be a clarifying statement that a parent's duty to support the parent's minor child may be enforced by a child support order.²⁸

Custody and child support

The bill expands the law regarding the effect of child custody on child support to clarify that if neither parent of the child who is the subject of a support order is the residential parent and legal custodian of the child and the child resides with a caretaker, the court must issue a child support order requiring each parent to pay that parent's child support obligation pursuant to the support order. Under existing law, this provision applies when the child resides with a third party who is the legal custodian of the child.²⁹

Grandparent authorizations

The bill modifies the power of attorney form and the caretaker authorization affidavit form for a grandparent caring for a grandchild by repealing language providing an acknowledgment that the document does not authorize an CSEA to redirect child support payments to the grandparent, and that to have an existing child support order modified or a new child support order issued, administrative or judicial proceedings must be initiated.³⁰

²⁸ R.C. 3103.03(D)(2).

²⁹ R.C. 3119.07(C).

³⁰ R.C. 3109.53 and 3109.66.

Notice included with a support order or modification

Under existing law, each support order or modification of an order must contain a notice to each party subject to a support order with specifications provided under existing law. One specification is that if an obligor or obligee fails to give certain required notices to the CSEA, that person may not receive notice of the changes and requests to change a child support amount, health care provisions, or termination of the child support order. The bill adds *redirection* to this list of notices of the changes and requests to change.³¹

Repeal of law addressing child support payment to third parties

The bill repeals a provision of law which generally provides that when a support order is issued or modified, the court or CSEA may issue an order requiring payment to a third person that is agreed upon by the parties and approved or appointed by the court or CSEA (depending on whether it is an administrative or court child support order). A third person may include a trustee, custodian, guardian of the estate, county department of job and family services, PCSA, or any appropriate social agency.³²

Effective date

The provisions of the bill are to take effect six months after the effective date of the bill. During that six-month period, the Ohio Department of Job and Family Services must perform system changes, create rules and forms, and make any other changes as necessary to implement its provisions.³³

HISTORY

Action	Date
Introduced	02-09-21

H0083-I-134/ar

³¹ R.C. 3121.29.

³² R.C. 3121.46, repealed by the bill.

³³ Section 4.