

As Passed by the House

135th General Assembly

Regular Session

2023-2024

Am. H. B. No. 338

Representatives White, Sweeney

**Cosponsors: Representatives Plummer, Hillyer, Baker, Liston, Brennan, Miller, A.,
Dell'Aquila, Dobos, Forhan, Grim, Isaacsohn, Jarrells, Miller, J., Mohamed,
Oelslager, Patton, Piccolantonio, Russo, Somani, Thomas, C., Upchurch, Young,
T.**

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) "Caretaker" means any of the following, other than a parent:	50 51
(a) A person with whom the child resides for at least thirty consecutive days, and who is the child's primary caregiver;	52 53 54
(b) A person who is receiving public assistance on behalf of the child;	55 56
(c) 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;	57 58 59
(d) A guardian of the person or the estate of a child;	60
(e) Any other appropriate court or agency with custody of the child.	61 62
"Caretaker" excludes a "host family" as defined under section 2151.90 of the Revised Code.	63 64
(2) "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.	65 66 67
(3) "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.	68 69 70
(4) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of	71 72

the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33, 73
2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, 3109.20, 74
3111.13, 3113.04, 3113.07, 3113.31, 3119.11, 3119.65, or 3119.70 75
of the Revised Code, or division (B) of former section 3113.21 76
of the Revised Code. 77

(5) "Court-ordered parenting time" means the amount of 78
parenting time a parent is to have under a parenting time order 79
or the amount of time the children are to be in the physical 80
custody of a parent under a shared parenting order. 81

(6) "Court support order" means either a court child 82
support order or an order for the support of a spouse or former 83
spouse issued pursuant to Chapter 3115. of the Revised Code, 84
section 3105.18, 3105.65, or 3113.31 of the Revised Code, or 85
division (B) of former section 3113.21 of the Revised Code. 86

(7) "CPI-U" means the consumer price index for all urban 87
consumers, published by the United States department of labor, 88
bureau of labor statistics. 89

(8) "Extraordinary medical expenses" means any uninsured 90
medical expenses incurred for a child during a calendar year 91
that exceed the total cash medical support amount owed by the 92
parents during that year. 93

(9) "Federal poverty level" has the same meaning as in 94
section 5121.30 of the Revised Code. 95

(10) "Income" means either of the following: 96

(a) For a parent who is employed to full capacity, the 97
gross income of the parent; 98

(b) For a parent who is unemployed or underemployed, the 99
sum of the gross income of the parent and any potential income 100

of the parent. 101

(11) "Income share" means the percentage derived from a 102
comparison of each parent's annual income after allowable 103
deductions and credits as indicated on the worksheet to the 104
total annual income of both parents. 105

(12) "Insurer" means any person authorized under Title 106
XXXIX of the Revised Code to engage in the business of insurance 107
in this state, any health insuring corporation, and any legal 108
entity that is self-insured and provides benefits to its 109
employees or members. 110

(13) "Gross income" means, except as excluded in division 111
(C) (13) of this section, the total of all earned and unearned 112
income from all sources during a calendar year, whether or not 113
the income is taxable, and includes income from salaries, wages, 114
overtime pay, and bonuses to the extent described in division 115
(D) of section 3119.05 of the Revised Code; commissions; 116
royalties; tips; rents; dividends; severance pay; pensions; 117
interest; trust income; annuities; social security benefits, 118
including retirement, disability, and survivor benefits that are 119
not means-tested; workers' compensation benefits; unemployment 120
insurance benefits; disability insurance benefits; benefits that 121
are not means-tested and that are received by and in the 122
possession of the veteran who is the beneficiary for any 123
service-connected disability under a program or law administered 124
by the United States department of veterans' affairs or 125
veterans' administration; spousal support actually received; and 126
all other sources of income. "Gross income" includes income of 127
members of any branch of the United States armed services or 128
national guard, including, amounts representing base pay, basic 129
allowance for quarters, basic allowance for subsistence, 130

supplemental subsistence allowance, cost of living adjustment, 131
specialty pay, variable housing allowance, and pay for training 132
or other types of required drills; self-generated income; and 133
potential cash flow from any source. 134

"Gross income" does not include any of the following: 135

(a) Benefits received from means-tested government 136
administered programs, including Ohio works first; prevention, 137
retention, and contingency; means-tested veterans' benefits; 138
supplemental security income; supplemental nutrition assistance 139
program; disability financial assistance; or other assistance 140
for which eligibility is determined on the basis of income or 141
assets; 142

(b) Benefits for any service-connected disability under a 143
program or law administered by the United States department of 144
veterans' affairs or veterans' administration that are not 145
means-tested, that have not been distributed to the veteran who 146
is the beneficiary of the benefits, and that are in the 147
possession of the United States department of veterans' affairs 148
or veterans' administration; 149

(c) Child support amounts received for children who are 150
not included in the current calculation; 151

(d) Amounts paid for mandatory deductions from wages such 152
as union dues but not taxes, social security, or retirement in 153
lieu of social security; 154

(e) Nonrecurring or unsustainable income or cash flow 155
items; 156

(f) Adoption assistance, kinship guardianship assistance, 157
and foster care maintenance payments made pursuant to Title IV-E 158
of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 159

(1980), as amended;	160
(g) State kinship guardianship assistance described in section 5153.163 of the Revised Code and payment from the kinship support program described in section 5101.881 of the Revised Code.	161 162 163 164
(14) "Nonrecurring or unsustainable income or cash flow item" means an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise uses to produce income or cash flow for a period of more than three years.	165 166 167 168 169 170 171 172 173 174 175
(15) "Ordinary medical expenses" includes copayments and deductibles, and uninsured medical-related costs for the children of the order.	176 177 178
(16) (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.	179 180 181 182 183
(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (C) (16) (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	184 185 186 187 188

as deductions on any federal tax return of the parent or the 189
parent's business. 190

(17) "Personal earnings" means compensation paid or 191
payable for personal services, however denominated, and includes 192
wages, salary, commissions, bonuses, draws against commissions, 193
profit sharing, vacation pay, or any other compensation. 194

(18) "Potential income" means both of the following for a 195
parent who the court pursuant to a court support order, or a 196
child support enforcement agency pursuant to an administrative 197
child support order, determines is voluntarily unemployed or 198
voluntarily underemployed: 199

(a) Imputed income that the court or agency determines the 200
parent would have earned if fully employed as determined from 201
the following criteria: 202

(i) The parent's prior employment experience; 203

(ii) The parent's education; 204

(iii) The parent's physical and mental disabilities, if 205
any; 206

(iv) The availability of employment in the geographic area 207
in which the parent resides; 208

(v) The prevailing wage and salary levels in the 209
geographic area in which the parent resides; 210

(vi) The parent's special skills and training; 211

(vii) Whether there is evidence that the parent has the 212
ability to earn the imputed income; 213

(viii) The age and special needs of the child for whom 214
child support is being calculated under this section; 215

(ix) The parent's increased earning capacity because of experience;	216 217
(x) The parent's decreased earning capacity because of a felony conviction;	218 219
(xi) Any other relevant factor.	220
(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.	221 222 223 224 225 226
(19) "Schedule" means the basic child support schedule created pursuant to section 3119.021 of the Revised Code.	227 228
(20) "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 parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.	229 230 231 232 233 234 235 236 237 238
(21) "Self-sufficiency reserve" means the minimal amount necessary for an obligor to adequately subsist upon, as determined under section 3119.021 of the Revised Code.	239 240 241
(22) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities	242 243 244

and each parent is the residential parent and legal custodian of 245
at least one of those children. 246

(23) "Worksheet" means the applicable worksheet created in 247
rules adopted under section 3119.022 of the Revised Code that is 248
used to calculate a parent's child support obligation. 249

Sec. 3119.10. For purposes of sections 3119.11 and 3119.12 250
of the Revised Code, "person with a disability" means a person 251
with a mental or physical disability, whose disability began 252
before the person reached the age of majority, and whose 253
disability makes the person incapable of supporting or 254
maintaining oneself. 255

Sec. 3119.11. Notwithstanding section 3109.01 of the 256
Revised Code, when issuing or modifying a court child support 257
order, a court may provide for the care and maintenance of a 258
child who is a person with a disability and the subject of the 259
order, to be issued or continue after the date the child reaches 260
the age of majority. This section applies regardless of whether 261
the child is younger or older than the age of majority when the 262
court issues or modifies the order. The court shall comply with 263
Chapters 3119., 3121., 3123., and 3125. of the Revised Code when 264
it makes or modifies an order under this section. 265

Sec. 3119.12. Nothing in the Revised Code authorizes a 266
child support enforcement agency to issue an administrative 267
child support order for a person who has reached the age of 268
eighteen, including a person with a disability. In all cases in 269
which the agency is prohibited from issuing an administrative 270
child support order, the agency may request the appropriate 271
court with jurisdiction to take action under section 3119.11 of 272
the Revised Code to provide for the care and maintenance of the 273
person with a disability. 274

Sec. 3119.66. If the obligor or the obligee requests a 275
court hearing on the revised amount of child support calculated 276
by the child support enforcement agency, the court shall 277
schedule and conduct a hearing to determine whether the revised 278
~~amount of~~ child support is the appropriate amount and whether 279
the amount of child support being paid under the court child 280
support order should be revised. 281

Sec. 3119.86. ~~(A)~~ Notwithstanding section 3109.01 of the 282
Revised Code, both of the following apply: 283

~~(1)~~ (A) The duty of support to a child imposed pursuant to 284
a court child support order shall continue beyond the child's 285
eighteenth birthday only under the following circumstances: 286

~~(a)~~ The (1) Under an order issued or modified pursuant to 287
section 3109.20 or 3119.11 of the Revised Code for a child who 288
is mentally or physically disabled and is incapable of 289
supporting or maintaining ~~himself or herself~~ oneself. 290

~~(b)~~ (2) The child's parents have agreed to continue 291
support beyond the child's eighteenth birthday pursuant to a 292
separation agreement that was incorporated into a decree of 293
divorce or dissolution. 294

~~(c)~~ (3) The child continuously attends a recognized and 295
accredited high school on a full-time basis on and after the 296
child's eighteenth birthday. 297

~~(2)~~ (B) The duty of support to a child imposed pursuant to 298
an administrative child support order shall continue beyond the 299
child's eighteenth birthday only if the child continuously 300
attends a recognized and accredited high school on a full-time 301
basis on and after the child's eighteenth birthday. 302

~~(B) A court child support order shall not remain in effect~~ 303

~~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.~~ 304
305
306
307
308
309

~~(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.~~ 310
311
312
313
314

~~(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.~~ 315
316
317

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 under circumstances described in division (A) (1) or (2) of section 3119.86 of the Revised Code 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. 318
319
320
321
322
323
324
325

Sec. 3119.862. Except as provided in division (A) (1) of section 3119.86 of the Revised Code, if a court incorporates a separation agreement described in division (A) (2) of section 3119.86 of the Revised Code 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. 326
327
328
329
330
331
332

Sec. 3119.863. A parent ordered to pay support under a 333
child support order shall continue to pay support under the 334
order, including during seasonal vacation periods, until the 335
order terminates. 336

Sec. 3119.88. (A) Reasons for which a child support order 337
should terminate through the administrative process under 338
section 3119.89 of the Revised Code include all of the 339
following: 340

(1) The child attains the age of majority if the child no 341
longer attends an accredited high school on a full-time basis 342
and the child support order requires support to continue past 343
the age of majority only if the child continuously attends such 344
a high school after attaining that age; 345

(2) The child ceases to attend an accredited high school 346
on a full-time basis after attaining the age of majority, if the 347
child support order requires support to continue past the age of 348
majority only if the child continuously attends such a high 349
school after attaining that age; 350

(3) A termination condition specified in the court child 351
support order has been met for a child who reaches nineteen 352
years of age; 353

(4) The child's death; 354

(5) The child's marriage; 355

(6) The child's emancipation; 356

(7) The child's enlistment in the armed services; 357

(8) The child's deportation; 358

(9) Change of legal custody of the child; 359

(10) The child's adoption;	360
(11) The obligor's death;	361
(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;	362 363 364 365 366
(13) Marriage of the obligor under a child support order to the obligee, if the obligor and obligee reside together with the child.	367 368 369
(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 :	370 371 372 373
<u>(1) Issued under section 3109.20 or 3119.11 of the Revised Code upon satisfactory proof that the person who is the subject of the order is no longer mentally or physically disabled or is capable of supporting or maintaining oneself;</u>	374 375 376 377
<u>(2) For</u> any other appropriate reasons brought to the attention of the court, unless otherwise prohibited by law.	378 379
Section 2. That existing sections 3119.01, 3119.66, 3119.86, and 3119.88 of the Revised Code are hereby repealed.	380 381
Section 3. Section 3119.01 of the Revised Code as presented in this act takes effect on the later of April 3, 2024, or the effective date of this section. April 3, 2024, is the effective date of an earlier amendment to that section by H.B. 33 of the 135th General Assembly.	382 383 384 385 386