



H.B. 208

124th General Assembly
(As Introduced)

Rep. Raga

BILL SUMMARY

- Authorizes a court that issues or modifies a spousal support order to permit the direct payment of spousal support to the obligee, instead of payment through the Department of Job and Family Services, if the obligor and obligee have no minor children born as a result of the marriage and the obligee has not assigned the support amounts to the Department under certain laws.

CONTENT AND OPERATION

Continuing law

Continuing law provides that when a court issues or modifies a *support order*, issues a withholding or deduction notice, or issues another enforcement order, it must require that the support payments be made to the Office of Child Support in the Ohio Department of Job and Family Services (ODJFS) as trustee for remittance to the person entitled to receive the payments. Support payments also may be ordered sent to the child support enforcement agency in certain cases, including those cases in which centralized collection is not in effect. (R.C. 3121.44--not in the bill.) A "support order" means either an administrative child support order or a court support order. A "court support order" means either a court child support order or an order for the support of a spouse issued pursuant to R.C. Chapter 3115. (Uniform Interstate Family Support Act), R.C. 3105.18 (spousal support in divorce or legal separation proceedings), R.C. 3113.31 (provision for support in domestic violence protection order or consent agreement), R.C. 3123.07 (reissuance of support order in certain cases of default), or former R.C. 3113.21(B) (withholding or deduction requirements to enforce support orders prior to its repeal by Am. Sub. S.B. 180 of the 123rd General Assembly). (R.C. 3119.01(B)(5) and (C)(3) and R.C. 3121.01(A)--not in the bill.)

Operation of the bill

The bill provides that notwithstanding the provisions of certain laws (see **COMMENT 1**) providing for the Office of Child Support in the Department of Job and Family Services to collect, withhold, or deduct spousal support, when a court issues or modifies an order requiring an obligor to pay spousal support pursuant to R.C. 3105.18 (see **COMMENT 2**), or at any time after issuance or modification of such an order, the court may permit the obligor to make the spousal support payments directly to the obligee instead of to the Office if the obligee and the obligor have no minor children born as a result of their marriage and the obligee has not assigned the spousal support amounts to the Department pursuant to R.C. 5101.59 or R.C. 5107.20 (see **COMMENT 3** and paragraph (f) of **COMMENT 1**). (R.C. 3121.441.)

COMMENT

1. These provisions of law are the following:

(a) R.C. Chapter 3119. dealing with the calculation of child support orders;

(b) R.C. Chapter 3121. dealing with the collection and disbursement of support payments and including the provisions described above in "**Continuing law**";

(c) R.C. Chapter 3123. dealing with default under support orders;

(d) R.C. Chapter 3125. dealing with Title IV-D child support cases;

(e) R.C. 3770.071, which prescribes certain requirements and procedures if a winner of a lottery prize award worth \$600 or more is in default under a "support order" (defined as described above in "**Continuing law**"). The procedures include a hearing in the court that issued the support order to determine if the person is in default under the support order. If the court so determines, the court must issue an order to the Director at the Lottery Commission headquarters requiring the Director or the Director's designee to deduct from any unpaid prize award or annual installment payment of a prize award, a specified amount for child support or spousal support in satisfaction of the support order. The Director must pay the amount specified in the court order to the Office of Child Support in ODJFS.

(f) R.C. 5107.20, which provides that participation in Ohio Works First constitutes an assignment to ODJFS of any rights that members of an assistance group have to "support" (defined as child support, spousal support, and support for a spouse or former spouse) from any other person, excluding medical support assigned pursuant to R.C. 5101.59 (see **COMMENT 3**, below). The Office of

Child Support in ODJFS must collect and distribute support payments owed to Ohio Works First participants, whether assigned to ODJFS or unassigned, in accordance with certain federal statutes and regulations, state statutes, and rules adopted under the Ohio Works First Law.

2. Under R.C. 3105.18, not in the bill, in *divorce and legal separation proceedings*, upon the request of either party and after the court determines the division and disbursement of property, the court of common pleas may award reasonable spousal support to either party. "Spousal support" means any payment or payments to be made to a spouse or former spouse, or to a third party for the benefit of a spouse or a former spouse, that is both for sustenance and for support of the spouse or former spouse. "Spousal support" does not include any payment made to a spouse or former spouse, or to a third party for the benefit of a spouse or former spouse, that is made as part of a division or distribution of property or a distributive award under R.C. 3105.171. An award of spousal support may be allowed in real or personal property, or both, or by decreeing a sum of money, payable either in gross or by installments, from future income or otherwise, as the court considers equitable. (R.C. 3105.18(A) and (B).)

In an action brought solely for an order for legal separation under R.C. 3105.17, any continuing order for periodic payments of money entered pursuant to R.C. 3105.18 is subject to further order of the court upon changed circumstances of either party (R.C. 3105.18(D)). If a continuing order for periodic payments of money as alimony is entered in a divorce or dissolution of marriage action that is determined on or after May 2, 1986, and before January 1, 1991, or if a continuing order for periodic payments of money as spousal support is entered in a divorce or dissolution of marriage action that is determined on or after January 1, 1991, the court that enters the decree of divorce or dissolution of marriage does not have jurisdiction to *modify* the amount or terms of the alimony or spousal support unless the court determines that the circumstances of either party have changed and unless one of the following applies (R.C. 3105.18(E)):

(a) In the case of a divorce, the decree or a separation agreement of the parties to the divorce that is incorporated into the decree contains a provision specifically authorizing the court to modify the amount or terms of alimony or spousal support.

(b) In the case of a dissolution of marriage, the separation agreement that is approved by the court and incorporated into the decree contains a provision specifically authorizing the court to modify the amount or terms of alimony or spousal support.

For purposes of R.C. 3105.18(D) and (E), as described above, a change in the circumstances of a party includes, but is not limited to, any increase or

involuntary decrease in the party's wages, salary, bonuses, living expenses, or medical expenses (R.C. 3105.18(F)).

3. Under R.C. 5101.59, the application for or acceptance of public assistance constitutes an automatic assignment of certain rights to ODJFS. The public assistance applicant, recipient, or participant assigns to ODJFS any rights to medical support available to the applicant, recipient, or participant or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant, recipient, participant, or other members of the assistance group. The rights of assignment given to ODJFS under R.C. 5101.59 do not include rights to support assigned under R.C. 5107.20 (see paragraph (f) in **COMMENT 1**, above).

HISTORY

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