



Sub. H.B. 200

125th General Assembly

(As Reported by H. Human Services & Aging)

Reps. Willamowski, Schneider, Otterman, S. Patton, Flowers, Hagan, Price, Reidelbach, Schmidt

BILL SUMMARY

- Permits a child support enforcement agency (CSEA) to contract with the county sheriff to compensate the sheriff's office for service of process.
- Permits a CSEA to contract with a private person or entity to provide service of process for the agency.
- Eliminates the Program Income Fund in the Ohio Department of Job and Family Services.
- Requires monthly distributions of administrative charge amounts to CSEAs.

CONTENT AND OPERATION

Contracts for service of process

Background

The Child Support Reform Shareholders' Group was created in April 2001 with the purpose of assisting the state, counties, and child support partners in improving programs and delivery of quality services to parents and their children. The Group's 41 members included parents, employers, advocacy association representatives, a professional payroll association, county director's association, members of the judiciary and legislature, county prosecutors and the Attorney General, administrators and staff of child support enforcement agencies, the federal Office of Child Support Enforcement, and other interested parties. In December 2002, after considering information provided in community forums held throughout the state, a consumer survey, feedback provided on the Group's website, and a survey of the counties, the Shareholders' Group submitted 28

recommendations to the Department of Job and Family Services. This bill includes the recommendation regarding service of process.

Contracts for service of process

(R.C. 3125.141)

The constitutional obligation to provide a defendant in judicial proceedings with proper notice and an opportunity to be heard is one component of the due process limitation on a court's ability to exercise jurisdiction. In general, the defendant has been provided notice when he has received the set of papers known as "process." Process consists of a summons, which directs the defendant to appear before the court under penalty of default, and a copy of the complaint. For the court to have valid jurisdiction, process must have been properly served and the defendant must have been given sufficient notice of the pending action to satisfy due process. Rules governing methods of service, as well as who may be served and special rules governing out-of-state service and service by publication are set forth in the Ohio Rules of Civil Procedure.¹

The Ohio Department of Job and Family Services has also adopted a rule governing service of process for establishing and enforcing support obligations.² Criminal actions and court or administrative actions to establish paternity or support or bring civil contempt actions generally require personal service. Other notices may generally be served by ordinary first class mail. The rules require each local child support enforcement agency (CSEA) to make diligent efforts for service of process, including determining the appropriate method of service, using the most time efficient means available for service, accomplishing service within 30 days, continuing to attempt service periodically if it is not initially accomplished, and documenting each service attempt.

The Shareholders' Group recommended that CSEAs implement performance-based contracts with county sheriffs and others to improve service of process. The rationale expressed in the Recommendations was that lack of successful service is a barrier to parentage and support order establishment and actions for contempt for failure to pay existing support obligations when the sheriff's office is unable to focus on child support activities due to staffing or other issues.

In providing for service of process of a notice or order required by the law governing parentage actions and the establishment and enforcement of support

¹ *Civ. R. 4, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6.*

² *Ohio Administrative Code 5101:1-30-19.*

orders, and in accordance with the Rules of Civil Procedure that govern service of process, the bill permits a CSEA to contract with the sheriff of the county served by the CSEA to compensate the sheriff's office for service of process, including incentives for successful service of process. The bill also permits a CSEA to contract with a private person or entity to provide service of process for the CSEA, but does not specify that compensation is dependent on successful service.

Program Income Fund

(R.C. 3121.60 and 3121.63 (*both repealed*))

A court or CSEA that issues or modifies a child support order is required to impose on the obligor a processing charge that is the greater of 2% of the support payment to be collected under the order or \$1 per month (R.C. 3119.27 *not in the bill*).³ The Office of Child Support in the Department of Job and Family Services is required to collect these charges (R.C. 3121.56 *not in the bill*).

The Revised Code provides that the Program Income Fund is to consist of the following: processing charges; program income collected from portions of fines imposed on parties to a support order for failure to notify the CSEA of any change in the party's address, income, employment, or other relevant information provided in law; any other program income. The Office of Child Support and CSEAs must use the funds for child support enforcement activities.

The bill eliminates the Program Income Fund. According to the Department of Job and Family Services, the Fund is not currently being used; processing charges and program income are being collected and disbursed from another fund.

Distribution of administrative charges

(R.C. 3121.64)

On receipt of processing charges from courts and CSEAs, the Office of Child Support must determine the amounts collected from obligors under support orders being administered by each county's CSEA and distribute quarterly to each CSEA an amount equal to the charges attributable to that agency. The bill requires that these distributions be made monthly.

³ *The obligor is the person required to pay child support.*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-21-03	p. 499
Reported, H. Human Services & Aging	06-26-03	p. 1002

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