

support due to visitation disputes. This could result in increased incentive payments to county support enforcement agencies.

Detailed Fiscal Analysis

Child support guidelines are used by courts and caseworkers to determine the appropriate amount of child support that a noncustodial parent is obligated to pay a custodial parent when the family is no longer together. The guidelines encourage uniformity of child support obligations statewide. Ohio implemented guidelines in 1990. In July 1993, pursuant to Am Sub. S. B. 115 of the 120th General Assembly, the guidelines were revised and have not been changed since. The federal government requires the guidelines to be reviewed at least every four years.

In reviewing these guidelines, the Department of Human Services considers the needs of the child, other dependents, and the ability of the parents to pay. Ohio's guidelines are based on the Income Shares model, which is based on the premise that a child whose parents are not living together should receive the same proportion of support from each parent as if the family were intact.

The Shares model was developed through a grant funded by the federal office of child support and administered by the National Center for State Courts. Economic estimates of child rearing expenditures developed by Dr. David Betson of the University of Notre Dame were used to determine the child support schedule.

This bill, pursuant to this review requirement, implements the Ohio Child Support Guideline Advisory Council's approved recommendations. These recommendations include:

- Implement the federal support enforcement requirements enacted by the Balanced Budget Act of 1997;
- Change the term visitation and companionship with regard to parental rights to parenting time;
- Clarify what action a child support enforcement agency may take to collect a child support arrearage when someone is in the process of paying off the arrearage;
- Make changes to the law governing the requirement for health insurance coverage of children who are subjects of child support orders;
- Clarify that the CSEAs may order a mother, an alleged father, and child to submit to genetic testing to determine the existence of a parent and child relationship in cases in which there is a statutory presumption that a particular man is the father.

New Basic Child Support Schedule

Under current law, there is a basic child support schedule that all courts and CSEAs must use when calculating child support. The current schedule reflects estimations of how much it costs to raise a child. Basically, it uses the combined income of the parents and the number of children to determine the basic amount of support required in each case. Under this schedule, the established support amounts are based on a combined gross income range beginning at \$6,600 and ending at \$150,000. If the combined parental income is less than \$6,600 and more than \$150,000, the court or the CSEA is required to compute a child support obligation on a case-by-case basis.

The bill repeals the existing schedule and establishes a new schedule. Under the new schedule, the estimated amounts are increased to reflect in today's dollars what it generally costs to raise a child, depending on the combined gross income of the parents and the number of children. Thus, the new schedule support amounts are based upon combined gross income ranges, beginning with combined gross income between \$0 to \$8,400 and ending with a combined gross income of \$180,000. As a result of this change, the courts and the CSEAs are no longer required to estimate on a case-by-case basis support amounts for parents with income less than \$6,600. In cases with incomes between \$0 and \$8,400, the basic support amount imposed, irrespective of the number of children, is \$600.

For cases with incomes that exceed \$180,000, the CSEAs and the courts are still required to make a case-by-case estimate of the basic child support amount based on a prepared schedule. However, the bill does allow the courts and the CSEAs to deviate from an amount computed under the schedule and applicable worksheet for a combined income of \$180,000 or more. This can occur only if they determine it would be unjust or inappropriate and not in the best interest of the child, the obligee, or the obligor.

Basic Differences between the Current and Proposed Ohio Schedule of Basic Child Support Obligations

The differences that result from updating the data used to develop the economic tables include the following:

- The self-support reserve has been updated to reflect changes in the federal poverty guidelines for one person;
- Basic child support obligations for persons in the middle income group have increased.

The current and proposed support schedules incorporate a self-support reserve for low-income non-custodial parents. The current self-support reserve is set at \$6,810 net per year, which is equivalent to the 1992 federal poverty guideline for one person. The bill establishes the self-support reserve at \$7,740 net income per year, which reflects the 1996 federal poverty guideline for one person. The difference is \$930 per year.

The purpose of the self-support reserve is to provide a financial cushion for non-custodial parents with incomes at the poverty level, particularly those with annual gross incomes between \$6,000 and \$21,600. This reserve, built into the guidelines, allows a non-custodial parent in this income range to retain an amount of income equal to the federal poverty level, while still paying child support at a minimum level. The intention is to set a child support payment that does not create a hardship for the non-custodial parent; thereby creating an incentive to pay support regularly and on-time.

The effect of lowering the child support payments for low-income, non-custodial parents was a major concern expressed during the process of enacting Am. Sub. S.B. 115 of the 120th General Assembly. The effect it would have on ADC-child support collections was of particular concern.

Thus, S. B. 115 required the Department of Human Services (HUM) and the Office of Budget and Management (OBM) to conduct a study of the impact on the General Revenue Fund of implementing the self-support reserve. If the study concluded that implementation of this reserve would have a negative impact on the GRF, HUM and OBM were to inform the Controlling Board of this and to recommend to the Board that its implementation be delayed.

According to the mandated study conducted by the Ohio State University School of Public Policy Management, the long term impact of implementing the self-support reserve is \$4.1 million dollar per year reduction in the amount of ADC-child support collections, which are used to offset ADC payments. (The study results are based upon a statistical sample of ten counties.) Consequently, the amount of child support collected on behalf of ADC clients that is assigned to the state would correspondingly decrease, thus requiring GRF dollars to make up the loss.

However, the Department of Human Services recommended the delay of the implementation of the self-support reserve until July 1, 1995. As part of its budget recommendation for the 1995-1997 biennium, the department requested additional GRF funding (400-503 ADC) to offset the impact of the reserve.

The self support reserve has not had the financial impact that was anticipated by the study. According to a spokesperson with the Department of Human Services, the total child support collections have far exceeded expectations. Thus, the impact of the support reserve on the General Revenue Fund has not been \$4.1 million annually. Therefore, LBO assumes that there will be no negative impact of the change in the self-support reserve. When parents' combined gross annual income reaches \$15,000, the reduction is no longer felt.

The bill does increase the child support obligations for the middle income group. This increase is due to the increase in net income of this group due to changes created by 1993 federal tax reform. Simply put, the group has more disposable income; thereby it is assumed it can provide more financial support for its children.

Parenting Time Calculation

The bill requires the courts and the CSEAs calculating the child support obligation to adjust the obligation by the amount of parenting time the noncustodial parent is to have with the children. The court must use the adjustment table provided in the bill and its new worksheet applicable to sole and shared parenting custody situations.

The bill establishes a parenting time adjustment percentage based on the number of overnights that a child spends with the noncustodial parent. The ranges begin with a range of from 0 to 5 overnights with a corresponding adjustment percentage of 0 percent and end with a range of 181 or more overnights with a corresponding adjustment percentage of 40 percent. The adjustment percentage is 0 percent until the children spend 39 or more nights with the noncustodial parent.

Once the court or the CSEA determines the applicable adjustment percentage, they must multiply it by the basic combined child support obligation. Then, the court or CSEA subtracts this result from the previously calculated support obligation to determine the annual obligation. The bill does allow deviation from the annual obligation for shared parenting orders. After the

application of the adjustment, the bill allows for deviation in situations where the amount of time the children spend with each parent is not adequately provided for by the adjustment.

The bill requires cooperation between the courts and the CSEAs whenever a CSEA recalculates or redetermines the amount to be paid under a child support that complies with the parenting time adjustment. However, the bill provides the following exceptions to the adjustment:

- the support may be increased if the calculated adjustment to a child support order plus the amount of the obligee's income fall below the official poverty guideline; or
- The adjustment can be eliminated in situations where the noncustodial parent has failed to exercise 25 percent or more of the time granted under a parenting time order.

The bill also limits the application of the adjustment on existing child support orders. According to the bill, child support orders issued prior to the effective date of the bill may be modified by the parenting time adjustment only if all of the following apply:

- The noncustodial parent is in compliance with a parenting time order with respect to the children subject to the child support order;
- The noncustodial parent is current in child support payments; and
- The adjustment would reduce the current support obligation by more than 10 percent.

Parenting Adjustment Time Calculations Impacts on the CSEAs

The county child support enforcement agencies are concerned that there could be a significant increase in the number of noncustodial parents requesting to adjust child support orders to accommodate the parenting time adjustment. The CSEAs are also concerned that custodial parents will be seeking to have such adjustments discontinued because the noncustodial parent is violating the visitation orders. The CSEAs maintain that such a process will not be a one-time occurrence, but a continual one, in which the CSEAs will be monitoring or "policing" a court-ordered visitation schedule.

According to a spokesperson with the Department of Human Services, although the parenting time adjustment may increase the workload of the CSEAs, it will significantly enhance their performance outcomes. It is assumed that the noncustodial parents will be more motivated to pay child support in a more timely fashion. As a direct result, it is expected that the overall performance outcomes of CSEAs will increase. With the increased performance outcomes of the CSEAs, greater performance incentives will be earned by the CSEAs.

Income Definition Changes

Gross Income

In determining the amount of child support to be paid under a child support order, courts and CSEAs are required to make calculations using the basic child support schedule and applicable worksheet. These calculations must be made based upon the income of the parents. Current law includes definitions to be used in making the determination of what is and is not income. Thus, income means one of the following:

- the gross income of the parent who is employed to full capacity; or
- the sum of the gross income plus any “potential income” of the parent who is unemployed or underemployed.

The bill modifies certain specified types of income listed under the definition of gross income as follows:

- Social Security benefits, including retirement, disability, and survivor benefits that are not means tested;
- Veterans benefits that are not means tested and that are in the possession of the veteran who is the beneficiary;
- Spousal support actually received from any person.

The bill modifies the list of items excluded from the definition of gross income to specifically exclude the following:

- Means tested veterans benefits and any other government assistance for which eligibility is determined on the basis of income or assets;
- Veterans’ benefits that are not means tested, but have not been distributed to the veteran beneficiary and are in the possession of the United States Department of Veterans’ Affairs or the Veterans; administration; and
- Adoption assistance and foster care maintenance payments made under Title IV-E of the Social Security.

The aforementioned definitional changes provide definitional clarity and do not have significant fiscal impact.

Potential Income

Under current law, potential income means certain types of imputed income which the courts or the CSEAs determine the parent would have earned if fully employed as determined from the parent’s employment potential and probable earnings based on the parent’s work history, the parent’s occupational qualifications, prevailing job opportunities, and salary levels in the community in which the parent resides.

The bill redefines imputed income that the court or CSEA determines the parent would have earned if fully employed as determined by the following criteria:

- the parent’s prior employment experience;
- the parent’s education;
- the parent’s physical and mental disabilities, if any;
- the availability of employment in the geographic area which the parent resides;
- the prevailing wage and salary levels in the geographic area which the parent resides;
- the parent’s special skills and training;
- whether there is evidence that the parent has the ability to earn the imputed income;
- the age and special needs of the child for whom child support is being calculated;
- the parent’s increased earning capacity because of age or experience;
- reasonable child care costs for the child for which the child support is being calculated; and
- any other relevant factor.

The changes made to the definition of imputed income affect the income levels used to determine the child support payment of a noncustodial parent whose family is receiving public assistance. In this instance, the public assistance received by the custodial parent is determined to be income when establishing the level of child support. By doing this, it lowers the noncustodial parent's child support obligation. Since what the obligee receives as public assistance is counted as "imputed income," and Ohio uses an income shares model to establish the child support payment, the noncustodial parent's child support contribution is lowered. Counting public assistance as imputed income is designed to encourage such custodial parents to get off public assistance.

Health Insurance Coverage

Under current law, administrative and court child support orders are required to contain provisions addressing the health care insurance for the children who are the subject of a child support order. The administrative or court order may require the noncustodial parent, the custodial parent, or both to provide health insurance coverage.

If a parent who has been ordered to provide such coverage fails to do so; a CSEA must notify a court of this failure. The court must then order the employer of the parent required to provide coverage to take whatever action necessary to enroll the parent and the child in health care insurance plan. The employer must submit a copy of the child support order for health care coverage to the insurer.

Copies of the court ordered child support health care coverage must be sent to the noncustodial parent, the custodial parent, and the employer by ordinary mail. Copies of administrative orders pertaining to health care coverage are to be sent by the CSEA to the very same parties.

Administrative Issues

The bill eliminates the duty of the CSEA to send certain copies of orders. It also eliminates the court's responsibility to send copies of court child support orders. In these instances notices concerning such orders will suffice. The net effect of these changes could provide administrative savings to the CSEAs and the courts.

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