



annual increase in expenditures of \$405,500 in FY 2001; the amounts for FY 2002 and future years likely will be somewhat smaller.

## Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2001	FY 2002	FUTURE YEARS
<b>Counties</b>			
Revenues	Potential gain or loss, likely minimal effect in either case	Potential gain or loss, likely minimal effect in either case	Potential gain or loss, likely minimal effect in either case
Expenditures	Indeterminate minimal effect	Indeterminate minimal effect	Indeterminate minimal effect

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Provisions of the bill may increase or decrease child support receipts, resulting in a gain or loss in county revenue generated from the two percent processing fee that courts and child support enforcement agencies (CSEAs) are required to charge obligors on all support payments. The net magnitude of the effect is expected to be minimal.
- Provisions of the bill may increase or decrease child support obligations, resulting in increases or decreases in county expenditures and CSEA workload associated with child support enforcement. The net effect is likely to be minimal.
- Provisions of the bill may result in an increase or decrease in the child support incentive funds any particular county will receive. The net effect is likely to be minimal. The total amount of incentive funds statewide will not change as a result of the bill.

---

## Detailed Fiscal Analysis

The bill proposes a number of largely procedural changes in Ohio's child support laws and recodifies sections of the Revised Code governing child support. These changes are the outgrowth of the March 1997 recommendations of the Ohio Child Support Guideline Advisory Council—a body convened by the Ohio Department of Job and Family Services (ODJFS) pursuant to federal and state statutory requirements—and include also a number of provisions necessary to implement the federal child support enforcement requirements enacted by the Balanced Budget Act of 1997, as well as other modifications requested by ODJFS.

Federal and state statutes require ODJFS and the Guideline Council to review the child support guidelines, used by courts and child support enforcement agency (CSEA) to determine the appropriate amount of child support that a non-custodial parent is obligated to pay a custodial parent when the family is no longer together, and to make recommendations to the General Assembly every four years. In reviewing these guidelines, ODJFS and the Guideline Council consider the needs of the child(ren) and other dependents and the ability of parents to pay. The guidelines were last revised in July 1993, pursuant to Am. Sub. S.B. 115 of the 120<sup>th</sup> General Assembly; the next Guidelines Council recommendations are anticipated by March 2001.

The 1996-1997 Guidelines Council recommended retaining the Income Shares model as the basis for Ohio's child support guidelines. The Income Shares model is based on the premise that a child whose parents are not living together should receive the same proportion of parental income that s/he would have received if the parents lived together, and has been the basis for the guidelines since their inception. At the core of Ohio's child support guidelines are two tools prescribed in current statute at ORC 3113.215:

1. The basic child support schedule. This is a schedule or table that courts and CSEAs must use when calculating the amount of child support. It reflects estimations of how much it costs to raise a child and uses the combined income of the parents and the number of children to determine the basic amount of child support required in each case. The bill does not change the content of the schedule, but revises certain rules governing when it is applied.
2. Child support worksheets. These are two worksheets, one of which must be completed whenever child support amounts are being calculated, on which information on each parent is collected and calculations made, in conjunction with the basic child support schedule. Which sheet is used depends upon the type of support order being developed: one worksheet is for use in sole custody or shared parenting orders, the other for use in split custody orders. The bill revises both worksheets to clarify how income is to be calculated and adjusted, reflecting changes included elsewhere in the substitute bill.

### *Factors affecting the fiscal impact of child support legislation*

In general, child support legislation can affect direct fiscal consequences to state or local governments through four mechanisms:

1. Administrative costs borne by the State (ODJFS) and counties (courts and/or CSEAs). These are the administrative costs associated with establishing paternity, establishing and enforcing administrative support orders and court orders for child support. With the exception of the costs associated with genetic testing, expenditures in these areas earn federal reimbursement at 66 percent; the federal share for genetic testing expenditures is 90 percent.
2. County revenue from the processing charge assessed on all child support payments. ORC 2301.35 requires courts and CSEAs that issue or modify a support order to charge a processing fee of two percent of the support payment to be collected under the order or \$1 per month, whichever is greater. These revenues — collected from obligors — can be significant; in Butler County, for example, the processing fee accounts for approximately \$700,000 of the \$6 million budget of the CSEA.
3. Recovery of public assistance funds expended on behalf of obligees or children. Current law permits the State to recover the cost of public assistance paid to obligees or children up to the amount of the child support order. Child support receipts in these cases are returned to the State General Revenue Fund (GRF).
4. Child support incentive funds. Ohio receives federal incentives for meeting each of five performance standards by which Washington measures child support enforcement across the states: paternity establishment, support order enforcement, collections on current support, collections on arrears, and cost effectiveness. (While the paternity establishment and cost effectiveness indicators apply to the universe of child support in Ohio, the other three indicators measure performance in cases subject to Title IV-D of the Social Security Act, those in which the child is or has received public assistance.) These federal incentive funds, plus \$2.2 million in state GRF appropriated as incentives, are distributed to the CSEAs according to a methodology established in Ohio Administrative Code 5101:1-29-04, as authorized in ORC 5101.23. Each CSEA's total maximum incentive amount is determined by its contribution — based on its amount of child support collections — to the total amount of federal incentives earned by the State as a whole, less the federal incentives retained by the State, plus the CSEA's share of state incentive funds. How much of that maximum the CSEA can earn depends upon its performance outcomes in each of the five indicators (each of which accounts for a percentage of the total maximum incentive available to the CSEA).

### *Effect of changes proposed in the bill*

While direct changes in these four mechanisms will result in a fiscal impact, other proposed changes in law may indirectly affect these four mechanisms by influencing other factors including the

amount of child support owed and collected in Title IV-D cases, and the total amount of child support collected by the court or CSEA from all obligors.

The bill proposes changes, which tend to increase, decrease or both increase and decrease, the factors affecting the four mechanisms by which state and local governments experience fiscal effects in the area of child support. These changes are outlined below, with a parenthetical comment suggesting the likely *discreet* effect of each change:

*Changes affecting the calculation of support*

- Requires that the case-by-case support obligation determination for parents with combined gross incomes in excess of \$150,000 must result in an obligation not less than the obligation that would have been computed using the schedule and appropriate worksheet at the schedule's maximum gross income of \$150,000. (Potential increase in receipts.)
- Requires that retroactive support be calculated using the basic child support schedule, worksheet, and laws in effect and the parents' income for the retroactive period. (Uncertain net effect.)
- Prohibits courts and CSEAs from determining a parent receiving means-tested public assistance benefits to be voluntarily un- or under-employed or to impute income to that parent, unless not doing so would be unjust, inappropriate or not in the best interests of the child. (Uncertain net effect.)
- Eliminates the provision that courts or CSEAs deduct child support received for children not party to the support order from the parent's gross income. (Potential increase in receipts.)
- Permits courts to consider "any other relevant factor" when deviating from the schedule amounts as long as the court includes specifics of the basis for the deviation. (Uncertain net effect.)
- Specifically excludes veterans' benefits that are not means-tested but have not been distributed to the veteran beneficiary from the definition of "gross income." (Uncertain net effect.)
- Changes the treatment of non-means-tested benefits that are paid to a child or on behalf of a child due to death, disability or retirement of a parent; instead of adjusting the calculation of gross income by the amount of such benefits, the worksheets now provide for the adjustment of the obligated amount of support of the parent required to pay support, if that parent is receiving such benefits. (Uncertain net effect.)
- Changes the definition of "ordinary and necessary business expenses" to include depreciation expenses of business equipment — rather than of replacement business equipment. (Uncertain net effect.)
- Makes several changes to the definition of "potential income," increasing the criteria used to determine that income. (Potential increase in receipts.)
- Changes the guidance concerning the determination of which parent may claim children as dependents for federal income tax purposes. (Uncertain net effect.)
- Changes the termination of a support order applying to multiple children when one of those children reaches the age of majority by requiring the agency administering the order to divide the support amount due annually and monthly by the total number of

children subject of the order and subtract the amount due for the child for whom the order should be terminated, with the resulting amounts included as the agency's recommended support amount due annually and monthly under a revised support order. (Potential decrease in administrative costs; uncertain net effect on receipts.)

#### *Changes affecting arrearages*

- Requires arrearage amounts collected with each payment of current support to equal at least 20 percent of the current support amount, unless for good cause shown a lesser amount. (Uncertain net effect.)
- Specifies that the termination of a support order does not diminish the authority of a court or CSEA to issue withholding or deduction notices or to otherwise collect the arrearage. (Uncertain net effect.)

#### *Administrative process changes*

- Permits either an obligee or obligor who has failed to request of a CSEA an administrative hearing concerning a revised order amount within 14 days, to still request the administrative hearing. (Potential increase in administrative costs; uncertain net effect on receipts.)
- Requires CSEAs to register administrative support orders in a retrieval system it may develop or to register administrative support orders with the clerk of the county common pleas court. (Potential increase in administrative costs; uncertain net effect on receipts.)
- Eliminates the requirement that a CSEA send the child support order to the employer when it sends a notice regarding enrollment in new health insurance coverage in instances when the obligor has changed jobs. (Potential decrease in administrative costs; uncertain net effect on receipts.)
- Requires ODJFS to adopt standard forms for notices that a CSEA is required to send notifying a new employer of its requirement to enroll an obligor or obligee in required health insurance coverage. (Uncertain net effect on administrative costs and receipts.)
- Eliminates the option to pay child support in a lump sum or with an annuity in cases in which a court or CSEA issues a support order based on a presumption of paternity or on a not-yet-finalized paternity acknowledgement. (Uncertain net effect.)
- Requires a CSEA, in the absence of a notice of a reason for termination from an obligor, to conduct an investigation if it believes there may be a reason to terminate the order. (Uncertain net effect on administrative costs.)
- Eliminates a change in the "physical custody" of the child as a reason for which a child support order should terminate. (Uncertain net effect.)
- Permits CSEAs 20 days from receipt of a notice from a residential parent, other person with custody, or from the obligor identifying the reason for terminating the order, to investigate the reason for termination, rather than the current requirement in statute for an immediate investigation. (Potential decrease in administrative costs; uncertain net effect on receipts.)

- Specifies that when an obligor or obligee challenges the conclusions of a CSEA support order termination conclusion, the CSEA must conduct an administrative hearing of which both the obligor and obligee are notified. (This may involve only a shift of administrative costs within a county, from the CSEA to the county common pleas court, as the current practice in at least some counties is for the CSEA to refer the parties to the court for a hearing on the status of the order.)
- Requires the Office of Child Support in the Department of Job and Family Services to work with the Tax Commissioner to collect overpaid child support from state income tax refunds payable to obligees in the same manner as currently applies to overdue child support intercepted from state tax refunds payable to obligors. (Uncertain net effect.)

#### *Parentage changes*

- Eliminates all requirements regarding CSEA paternity compliance units and plans. (Potential decrease in administrative costs.)
- Makes various changes affecting presumption of paternity, including eliminating certain conditions of presumption in current law. (Uncertain net effect.)
- Eliminates the requirement that when a court determines parentage a judgment directs the father to pay reasonable expenses of the mother's pregnancy and confinement, and instead permits the court to impose those costs against the appropriate party at the request of a party. (Uncertain net effect.)

#### *Changes pursuant to the Uniform Interstate Family Support Act (UIFSA)*

- Makes certain changes concerning the modification of Ohio support orders by other states.
- Provides that current and past income may be verified by electronic means also.
- Requires courts issuing or modifying a support order to assess penalty interest for default support amounts if it finds that the default was willful.

#### *Changes pursuant to the Balanced Budget Act of 1997*

- Provides that the Department of Job and Family Services (ODJFS) is not required to charge an application fee (of up to \$25 as determined by rule) for furnishing Title IV-D services to persons exempted by federal law, including participants in Ohio Works First, persons receiving foster care maintenance or adoption subsidies, Medicaid or Food Stamp benefits.
- Requires ODJFS to use the Federal Parent Locator Service to locate parents for any purpose under the child support enforcement program, including enforcing parenting time orders.

LBO cannot estimate the precise magnitude of the fiscal effect of each proposed change, especially as it often would depend on the application of the change in each particular child support case; however, based on interviews with representatives of the ODJFS Office of Child Support, the Ohio Child Support Enforcement Director's Association, and of county CSEAs, LBO anticipates the net effect of the various changes will likely be minimal.

*Financial institution data match (FIDM)*

The Personal Responsibility and Work Opportunity Act of 1996 (PRWORA) requires all states and territories that operate approved Child Support Enforcement plans to enter into agreements with financial institutions that doing business in their state. The purpose of these agreements is to identify accounts, through a quarterly data match, belonging to parents who are delinquent in their child support obligation. Public Law 105-200, the Child Support Performance and Incentive Act of 1998 (CISPIA) modified PRWORA to better facilitate the data match for multi-state financial institutions (MSFIs), authorizing the federal Office of Child Support Enforcement to act as the conduit between the states and MSFIs in the development and implementation of a centralized quarterly data match program for the collection of child support delinquencies.

Currently, the Revised Code requires the Department of Job and Family Services to enter into an agreement with at least one financial institution doing business in Ohio to provide access to certain account information for the purposes of establishing, modifying or enforcing support orders, but makes no mention of arrangements with MSFIs. ORC also requires ODJFS to reimburse the institution for “the actual reasonable costs” of providing such information; currently, and presumably under the bill also, financial institutions withhold a fee of \$5 from the obligor’s income for this purpose. The bill expands the financial institution data match (FIDM) requirement to include not only financial institutions doing business in Ohio, but also those doing business in other states. The bill specifies that the ODJFS Office of Child Support:

- may contract on its own in the case of financial institutions doing business in Ohio;
- may join an “alliance of states” for the purpose of participating in the FIDM program defined in the Child Support Performance and Incentive Act of 1998 and for entering into agreements with financial institutions doing business in Ohio;
- must enter into an agreement with the federal Office of Child Support Enforcement in the case of financial institutions doing business in other states, as required by CSPIA.

ODJFS has explored participating in a multi-state alliance with 14 other states contracting through a single, California-based vendor (Tier Technologies, Inc.) for implementation of the FIDM requirements with institutions doing business in only one state. On June 19, 2000, the State Controlling Board approved a waiver of competitive selection request for ODJFS to enter into a contract with Tier Technologies in the amount of \$405,542. ODJFS anticipates the renewal of this particular contract through FY2003 for a total cost of \$1.09 million. The annual cost projections, by year and fund source, are shown in the following table:

<b>ODJFS FIDM Contract Cost by Year and Fund Source</b>				
	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>Total by Share</b>
<b>State Share GRF)</b>	\$137,884	\$117,028	\$117,028	\$371,941
<b>Federal Share (Fund 397)</b>	\$267,658	\$227,171	\$227,171	\$722,000
<b>Total by Fiscal Year</b>	\$405,542	\$344,199	\$344,199	\$1,093,941

FIDM expenditures earn federal reimbursement at a rate of 66 percent (\$722,000), with a net anticipated General Revenue Fund (GRF) cost of approximately \$371,000 over three years. In the State Fiscal Highlights table on page 1, this effect is shown as an annual gain in revenue of \$268,000 in Fund 397 (the federal reimbursement) and an annual increase in GRF expenditures of \$405,333 (the total annual expenditure through a GRF appropriation line), for fiscal year 2000; the amounts are slightly smaller in later years.

When financial records are matched with state child support records, the financial institution that is a party to the FIDM agreement “freezes and seizes” the assets of the obligor that it holds. As a result, payments on child support orders are likely to increase. To date, ODJFS has participated in at least one FIDM with an institution doing business in both Ohio and other states; incomplete information received by LBO suggests that more than \$500,000 in receipts were collected through FIDM in 1999.

Any increase in payments carries the potential for two distinct fiscal effects. First, counties will experience a gain in revenue earned from the two percent charge levied on all support payments. Second, the State may experience a gain in GRF revenue associated with the recovery of public assistance moneys expended on behalf obligees and their children. An increase in payments as a result of FIDM is not likely to significantly affect the recovery of public assistance funds, as it is unlikely that many obligors in such cases will have out-of-state bank accounts. However, to the extent of the increase in receipts on support orders in which the obligee is, or — during the period the order has been in effect — has, received public assistance, a gain in GRF revenue will occur.

*LSC fiscal staff: Maria E. Seaman, Budget Analyst*

*Eric J. Karolak, Budget Analyst*

*\\Budget\_office\isis\_vol1.lbo\FN123\SB0180EN.doc*