

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

- If spousal support payments were made directly to the obligee, then the counties would not be able to collect the 2% administrative fee on those support orders and would therefore experience a loss of revenue. For the months of March and April, the total statewide administrative fee collections for spousal support only cases were around \$140,000 for each month. (This amount fluctuates each month depending on the total amount of collections for spousal support only payments.) Some of the loss may be regained if an obligor defaults on the direct payments and is then required to make future payments through JFS. The potential loss for 2002, 2003, and subsequent years would be approximately \$0 to \$1.68 million annually. The administrative fee is disbursed to the county with jurisdiction over the support order. Therefore, any loss of such revenue will vary from county to county depending on the number and the amount of spousal support orders each county has jurisdiction over for which courts permit direct payments to obligees.
- Child support enforcement agencies could experience a decrease in expenditures since they would not be responsible for monitoring compliance of spousal support payments made directly to the obligee or for investigating an obligor who is in default.
- The bill authorizes, but does not require, CSEAs to take additional action to collect arrearage amounts for orders issued before March 22, 2001, unless the obligee and obligor agree in writing that the additional actions be limited to interception of any federal or state income tax refund owed by the obligor. It is, therefore, possible that CSEAs could incur additional costs associated with taking the additional actions authorized by the bill.
- The bill provides the 20 percent arrearage amount be rebuttably presumed rather than allow for a showing of "good cause." The bill could slightly increase the length of a hearing so as to allow an obligor to present evidence to refute the 20 percent presumption. The fiscal impact of lengthening hearings would likely be minimal.

Detailed Fiscal Analysis

Direct Payment of Spousal Support

The bill authorizes a court that issues or modifies a spousal support order or grants or modifies a decree of dissolution of marriage incorporating a separation agreement that provides for spousal support, to permit the direct payment of spousal support to the obligee, instead of payment through the Department of Job and Family Services (JFS), if the obligor have no minor children born as a result of a marriage and the obligee has not assigned the support amounts to the JFS under certain law related to public assistance.

If spousal support payments were made directly to the obligee, then the orders would not be processed through Ohio Child Support Payment Central. The contract between JFS and Bank One for processing support payments is based on the number of transactions. Under the bill, there would be fewer transactions and therefore a decrease in expenditures. Since costs for administration of support payments are paid from more than the GRF, other state funds would also be affected. In addition, counties would not be able to collect the 2% administrative fee on those support orders and would therefore experience a loss of revenue. For the months of March and April, the total statewide administrative fee collections for spousal support only cases were around \$140,000 for each month. This amount fluctuates each month depending on the total amount of collections for spousal support only payments. The potential loss for 2002, 2003, and subsequent years would be approximately \$0 to \$1.68 million annually. The administrative fee is disbursed to the county with jurisdiction over the support order. Therefore, any loss of such revenue will vary from county to county depending on the number and the amount of spousal support orders each county has jurisdiction over for which courts permit direct payments to obligees. The loss of revenue is potential for the following reasons:

- (1) If the court has reason to believe that it is in the best interest of the parties to order payment through JFS, the court may order payment through JFS in cases that involve spousal support only. The counties would not lose the 2% administrative fee for those cases.
- (2) Some of the loss may be regained if an obligor defaults on the direct payments and is then required to make future payments through JFS. (See ***Defaults on Direct Payments of Spousal Support*** below.)

Record of Payment

The bill also requires that support payments made directly to the obligee be made as a check, money order, or in any other form that establishes a clear record of payment.

Default on Direct Payment of Spousal Support

If the court permits an obligor to make spousal support payments directly to the obligee and the obligor is in default in making the support payments, the court, upon motion of the obligee or on its own

motion, may rescind the permission granted for direct payment. After rescission, the court is to determine the amount of arrearages and order the obligor to make to the Office of Child Support in JFS any spousal support that are in arrears and any future spousal support payments. If the court orders arrears and future spousal support payments through JFS, then current law relative to collection, withholding, or deduction of the obligor's spousal support payments applies.

Under current law, the child support enforcement agency (CSEA) is the entity that identifies the default, takes action to investigate, and if necessary, imposes withholding or deduction requirements on the obligor. Under the bill, the court or the obligee may make a motion for the court to act if the obligor is in default. The provision of the bill that authorizes the court to rescind its grant of direct payment may cause an increase in the amount of court time and cost spent on such matters.

Additionally, CSEAs would not incur the administrative costs of monitoring compliance with a support order and the costs of investigating an obligor who is in default unless, an obligor defaults, the court orders that payment be made through JFS, and the obligor continues to be in default.

Child Support Arrearage Payments

Under current law, there are several actions that CSEAs may take to collect an arrearage amount owed under a child support order. The actions are limited to orders issued on or after March 22, 2001 (the effective date of Am. Sub. S.B. 180 of the 123rd General Assembly). The bill removes the limitation on actions to orders issued on or after March 22, 2001. However, if the obligee and obligor agree in writing that the additional actions be limited to interception of any federal or state income tax refund owed by the obligor, then the CSEA is limited to that additional method of collection. This provision authorizes, but does not require, CSEAs to take additional action to collect arrearage amounts for orders issued before March 22, 2001. It is, therefore, possible that CSEAs could incur additional costs associated with taking the additional actions authorized by the bill.

Current law requires that a withholding or deduction notice for the payment of child support or an order to collect current support and any arrearage owed, include an amount, for payment on the arrearage equal to 20 percent of the amount ordered for current support. However, the arrearage payment could be reduced to less than 20 percent if the obligor could show good cause that a lesser amount be collected. The bill provides the 20 percent arrearage amount be rebuttably presumed (which is a presumption that may be rebutted by evidence) rather than allow for a showing of "good cause" (which was linked to the maximum amount permitted to be withheld from the obligor under the Consumer Credit Protection Act). In addition, the bill adds a provision allowing a court or administrative hearing officer to consider evidence of household expenditures, income variables, extraordinary health care issues and other reasons for a deviation from the 20% presumption. Currently, once a support amount is determined, an obligor can request a hearing if the obligor wishes to refute whether the individual is the correct person to pay support and/or arrearage, the total amount of an arrearage, and the payment schedule recommended by the CSEA. The bill could slightly increase the length of a hearing so as to allow an obligor to present evidence to refute the 20 percent presumption. The fiscal impact of lengthening hearings would likely be minimal.

