



Sub. H.B. 136*

126th General Assembly
(As Reported by H. Juvenile and Family Law)

Reps. Gilb, Hood, McGregor, Allen, Harwood

BILL SUMMARY

- Allows a parentage action for child support to be filed directly with the juvenile court in certain circumstances.
- Replaces a provision requiring a child support enforcement agency to be made a party to a parentage action in certain circumstances with a provision that requires the child support enforcement agency, in the county where a parentage action is filed, to always be notified of the action and be given an opportunity to be heard in the action.
- Allows interest to accrue on a child support arrearage after judgment is rendered to a date certain at a specified rate of interest.

CONTENT AND OPERATION

Determination of paternity

The bill

Current law requires a person seeking to determine the parentage of a child to file a request for a child support enforcement agency (CSEA) administrative parentage determination *prior* to filing a parentage action with the juvenile court (R.C. 3111.38 and 3111.381). The bill adds two exceptions to this general rule. In the following circumstances, the court of appropriate jurisdiction may determine the parentage of a child without an administrative determination from the CSEA:

* *This analysis was prepared before the report of the House Juvenile and Family Law Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

(1) A child's mother may go directly to the court to determine parentage if she is also requesting an order to determine allocation of parental rights and responsibilities,¹ reasonable expenses of the mother's pregnancy and hospitalization, or child support.

(2) The putative father may go directly to the court to determine parentage if he is requesting an order to allocate parental rights and responsibilities.

In either case, the clerk of the court must send a copy of the complaint to the CSEA of that county. If a court, while determining the parentage of a child in the above circumstances, requests help from the CSEA, the court must complete a Title IV-D application and send it to the CSEA. (R.C. 3111.381(B), (C), and (D).)

The bill also eliminates a provision requiring the CSEA of the county in which the child resides to be made a party to the action if (1) the person who initiates the action is a recipient of medical or disability assistance or Ohio Works First or (2) the CSEA is responsible under Title IV-D of the Social Security Act for the collection of support for the child who is the subject of the action. Instead, the bill requires that the CSEA of the county in which the parentage action is brought always to be notified of the juvenile court action and be given an opportunity to be heard during the proceedings. (R.C. 3111.07(A).)

Current law--administrative determination

Current Ohio law requires certain persons who seek to clarify the parentage of a child² to file a request with a CSEA to make an administrative parentage determination *prior* to filing a parentage action with the juvenile court. The person seeking the administrative determination must file a request with the CSEA of the county in which the child or the guardian or legal custodian of the child resides. However, if the alleged father is deceased or involved in an action for divorce, dissolution of marriage, legal separation, or child support, the court with jurisdiction over that case retains jurisdiction in determining parentage. (R.C. 3111.38 and 3111.381.)

¹ *Allocation of parental rights and responsibilities is the determination of who has custody of a child.*

² *Only the following persons may request an administrative determination or bring an action to determine parentage: (1) the child, or the child's representative, (2) the child's mother, or her representative, (3) the man alleged to be the father, or his representative, (4) the man alleging himself to be the father, or (4) a child support enforcement agency in the county where the child resides if the child's mother is a recipient of Title IV-D assistance or services (R.C. 3111.04(A)).*

Upon the request for an administrative determination of parentage, the CSEA will issue an order requiring the child, mother, and alleged father to submit to genetic tests (R.C. 3111.41). Once the CSEA receives the results of the genetic tests, an officer of the CSEA will issue an administrative order stating whether the alleged father of the child is the natural father of the child (R.C. 3111.46). The mother, alleged father, and guardian or legal custodian of the child may object to the administrative order by filing an action in the juvenile court (or other court with jurisdiction) in the county where the officer of the CSEA is employed within 30 days of the issuance of the administrative order (R.C. 3111.49). The CSEA, in certain circumstances, or a man alleging to be the natural father of the child may also file an action in the juvenile court (R.C. 3111.04). If an action is not filed within 30 days, the administrative order is final and enforceable (R.C. 3111.49). If the CSEA issues an administrative order determining the existence of a parent and child relationship, the CSEA will schedule an administrative hearing to determine the amount and method of child support payments and the method of providing for the child's health care. Upon completion of the hearing, the CSEA may issue an additional administrative order requiring payments of child support and provision for the child's health care. (R.C. 3111.80 and 3111.81.)

Current law--judicial determination

If an action is brought to the juvenile court (or other court with jurisdiction) to object to the administrative determination of parentage, the following persons must be involved in the parentage action, be notified of the action, and be given opportunity to speak at the proceedings: (1) the natural mother, (2) any man statutorily presumed to be the father, or (3) any man alleged to be the natural father. The child must also be involved in the action, unless a party can show cause for not including that child in the action.³ Additionally, the CSEA where the child resides must be made a party to the parentage action if (1) the person who initiates the action is a recipient of medical or disability assistance or Ohio Works First or (2) the CSEA is responsible under Title IV-D of the Social Security Act for the collection of support for the child who is the subject of the parentage action.⁴ The Department of Job and Family Services, or another public agency or

³ *If the administrative determination is brought to the juvenile court, the alleged father is required to pay child support until the court determines if the alleged father is the natural father of the child. At that point, the administrative support order is terminated and, if the alleged father is determined to be the father, replaced with a judicial support order. (R.C. 3111.111.)*

⁴ *If any of these parties are not subject to the jurisdiction of the court, the court must notify the party of the parentage action and allow that party to be involved in the action (R.C. 3111.07).*

department, may intervene in the action to collect or recover support, if that agency or department currently or previously provided support to the child involved in the action.⁵ (R.C. 3111.07.)

The court may order the child, the child's mother, the alleged father, and any other relevant defendant to submit to genetic tests, if not already completed by the CSEA or ascertained from the Bureau of Criminal Identification and Investigation DNA database (R.C. 3111.09). During the parentage action, testimony may be heard and evidence may be presented, and upon determination of parentage, the court may issue an order or judgment (R.C. 3111.12 and 3111.13). Generally, the order or judgment may contain provisions regarding (1) the duty of child support, (2) the payment of all or any part of the expenses of the mother's pregnancy and hospitalization, (3) the furnishing of bond or other security for the payment of the judgment, and (4) any other matter in the best interest of the child (R.C. 3111.13(C)). The issuance of an order or judgment determining parentage is final and enforceable by the mother, the child, the public authority furnishing certain expenses for the child or during the action, or a person or private agency that has furnished any of the similar expenses (R.C. 3111.13(A) and 3113.15(A)). Willful failure to obey the order or judgment is a civil contempt of court, punishable by fine or imprisonment (R.C. 3111.15(C) and 2705.05(A)).

Interest on child support arrearages

The bill

The bill requires interest to accrue on a child support arrearage unless the court finds that assessing interest would be inequitable. Interest accrues from the date the judgment is rendered to a date certain set for payment of the judgment at a rate set at the time of judgment. The bill also allows the court to continue to determine whether to assess interest on a child support arrearage from the date the court determines the payment went into default to the date the court issues a new order requiring the payment of child support, *if the court determines the default was willful*. If interest is not assessed, the court must explain the reasons in the journal. (R.C. 3123.171.)

Current law

Under current Ohio law, if the juvenile court determines that a person is in default under a child support order, the court must issue a new order to pay child support. The court may assess interest on a child support arrearage from the date of default to the date the court issues the new order. The court may assess this

⁵ *The court may align the parties involved in the action (R.C. 3111.07).*

interest *only if the court determines the default was willful* (R.C. 3123.17(A) and 3123.171).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-15-05	p. 319
Reported, H. Juvenile & Family Law	---	---

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