

AN ACT

To amend sections 3119.961, 3123.21, and 3123.22 and to enact section 3121.441 of the Revised Code to give courts authority to permit direct payment of spousal support in cases involving no minor children, instead of requiring payment through the Department of Job and Family Services, to clarify the court of common pleas' jurisdiction in a motion for relief from a final judgment or administrative determination of parentage or related child support, to modify the amount of a child support payment that is for an arrearage, and to modify the procedures a child support enforcement agency may take to collect an arrearage.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3119.961, 3123.21, and 3123.22 be amended and section 3121.441 of the Revised Code be enacted to read as follows:

Sec. 3119.961. (A) Notwithstanding the provisions to the contrary in ~~civil rule~~ Civil Rule 60(B) and in accordance with this section, a person may file a motion for relief from a final judgment, court order, or administrative determination or order that determines that the person or a male minor referred to in division (B) of section 3109.19 of the Revised Code is the father of a child or from a child support order under which the person or male minor is the obligor. The Except as otherwise provided in this section, the person shall file the motion in the juvenile division of the court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code of common pleas of the county in which the original judgment, court order, administrative determination or order, or child support order was made, except that, if or issued or in the division of the court of common pleas of the county that has jurisdiction involving the administrative determination or order. If the determination of paternity is an acknowledgment of paternity that has become final under section 2151.232,

3111.25, or 3111.821 of the Revised Code or former section 3111.211 or 5101.314 of the Revised Code, the person shall file the motion in the juvenile court or other court with jurisdiction of the county in which the person or the child who is the subject of the acknowledgment resides.

(B) On the motion of any adverse party or on its own motion, the court in which an action is brought under this section may transfer the action to the county in which an adverse party resides when it appears to the court that the location of the original venue presents a hardship for that adverse party.

Sec. 3121.441. (A) Notwithstanding the provisions of this chapter, Chapters 3119., 3123., and 3125., and sections 3770.071 and 5107.20 of the Revised Code providing for the office of child support in the department of job and family services to collect, withhold, or deduct spousal support, when a court pursuant to section 3105.18 or 3105.65 of the Revised Code issues or modifies an order requiring an obligor to pay spousal support or grants or modifies a decree of dissolution of marriage incorporating a separation agreement that provides for spousal support, or at any time after the issuance, granting, or modification of an order or decree of that type, the court may permit the obligor to make the spousal support payments directly to the obligee instead of to the office if the obligee and the obligor have no minor children born as a result of their marriage and the obligee has not assigned the spousal support amounts to the department pursuant to section 5101.59 or 5107.20 of the Revised Code.

(B) A court that permits an obligor to make spousal support payments directly to the obligee pursuant to division (A) of this section shall order the obligor to make the spousal support payments as a check, as a money order, or in any other form that establishes a clear record of payment.

(C) If a court permits an obligor to make spousal support payments directly to an obligee pursuant to division (A) of this section and the obligor is in default in making any spousal support payment to the obligee, the court, upon motion of the obligee or on its own motion, may rescind the permission granted under that division. After the rescission, the court shall determine the amount of arrearages in the spousal support payments and order the obligor to make to the office of child support in the department of job and family services any spousal support payments that are in arrears and any future spousal support payments. Upon the issuance of the order of the court under this division, the provisions of this chapter, Chapters 3119., 3123., and 3125., and sections 3770.071 and 5107.20 of the Revised Code apply with respect to the collection, withholding, or deduction of the obligor's spousal support payments that are the subject of that order of the

court.

Sec. 3123.21. ~~(A)~~ A withholding or deduction notice described in section 3121.03 of the Revised Code or an order to collect current support due under a support order and any arrearage owed by the obligor under a support order pertaining to the same child or spouse shall ~~require~~ be rebuttably presumed to provide that the arrearage amount collected with each payment of current support equal at least twenty per cent of the current support payment ~~unless, for good cause shown, a lesser arrearage amount is required to be collected.~~

~~For purposes of this section, "good cause" includes a change in the obligor's circumstances that would make payment of current support and payment of the arrearage in an amount equal to at least twenty per cent of the current support payment a hardship on the obligor. "Good cause" exists if the amount of each current support payment and arrearage amount would exceed the maximum amount permitted to be withheld from the obligor under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b).~~

(B) A court or administrative hearing officer may consider evidence of household expenditures, income variables, extraordinary health care issues, and other reasons for a deviation from the twenty per cent presumption.

Sec. 3123.22. Except as otherwise provided in this section, if an obligor is paying off an arrearage owed under a support order pursuant to a withholding or deduction notice or order issued under section 3121.03 of the Revised Code, a support order newly issued or modified, or any other order issued to collect the arrearage, the child support enforcement agency administering the notice or order may also ~~do~~ take any action, including, but not limited to, any of the following to collect any arrearage amount that has not yet been collected under the notice or order, unless the obligee and obligor agree in a writing signed by the obligee and obligor and approved by the court by journal entry that the additional actions be limited to the actions provided for in division (C) of this section:

(A) Issue one or more withholding or deduction notices under section 3121.03 of the Revised Code;

(B) Collect pursuant to section 3121.12 of the Revised Code a lump sum payment owed to the obligor;

(C) Collect pursuant to sections 3123.81 to 3123.823 of the Revised Code any federal or state income tax refund owed to the obligor;

(D) Issue a withdrawal directive pursuant to sections 3123.24 to 3123.38 of the Revised Code;

(E) Obtain administrative offset pursuant to section 3123.85 of the

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Revised Code.

~~This section applies only to support orders issued on or after the effective date of this section under which arrearages have arisen on or after that date.~~

SECTION 2. That existing sections 3119.961, 3123.21, and 3123.22 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____