

**As Reported by the Senate Judiciary--Civil Justice Committee**

**124th General Assembly**

**Regular Session**

**2001-2002**

**Sub. H. B. No. 208**

**REPRESENTATIVES Raga, Willamowski, Grendell, Manning, Jones, Latta, DePiero, Seitz, Allen, Barrett, Carano, Beatty, DeWine, Gilb, Niehaus, Fessler, Flowers, Hughes, Key, Kilbane, Woodard, Barnes, Hagan, Evans, Latell, Patton, Husted, Williams, Schmidt, Buehrer, Roman, Faber, Young, Aslanides, Flannery, White, Collier, Peterson, Coates, Webster, Perry, Cirelli, S. Smith, G. Smith, Widowfield, Strahorn, Reidelbach, Hollister, D. Miller, R. Miller, Bocchieri, Sferra, Otterman, Womer Benjamin, Salerno**  
**SENATOR Jacobson**

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**A B I L L**

To amend sections 3119.961, 3123.21, and 3123.22 and 1  
to enact section 3121.441 of the Revised Code to 2  
give courts authority to permit direct payment of 3  
spousal support in cases involving no minor 4  
children, instead of requiring payment through the 5  
Department of Job and Family Services, to clarify 6  
the court of common pleas' jurisdiction in a motion 7  
for relief from a final judgment or administrative 8  
determination of parentage or related child 9  
support, to modify the amount of a child support 10  
payment that is for an arrearage, and to modify the 11  
procedures a child support enforcement agency may 12  
take to collect an arrearage. 13

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3119.961, 3123.21, and 3123.22 be 14

amended and section 3121.441 of the Revised Code be enacted to 15  
read as follows: 16

**Sec. 3119.961.** (A) Notwithstanding the provisions to the 17  
contrary in ~~civil rule~~ Civil Rule 60(B) and in accordance with 18  
this section, a person may file a motion for relief from a final 19  
judgment, court order, or administrative determination or order 20  
that determines that the person or a male minor referred to in 21  
division (B) of section 3109.19 of the Revised Code is the father 22  
of a child or from a child support order under which the person or 23  
male minor is the obligor. ~~The~~ Except as otherwise provided in 24  
this section, the person shall file the motion in the juvenile 25  
division of the court or other court with jurisdiction under 26  
section 2101.022 or 2301.03 of the Revised Code of common pleas of 27  
the county in which the original judgment, court order, 28  
~~administrative determination or order,~~ or child support order was 29  
made, ~~except that, if~~ or issued or in the division of the court of 30  
common pleas of the county that has jurisdiction involving the 31  
administrative determination or order. If the determination of 32  
paternity is an acknowledgment of paternity that has become final 33  
under section 2151.232, 3111.25, or 3111.821 of the Revised Code 34  
or former section 3111.211 or 5101.314 of the Revised Code, the 35  
person shall file the motion in the juvenile court or other court 36  
with jurisdiction of the county in which the person or the child 37  
who is the subject of the acknowledgment resides. 38

(B) On the motion of any adverse party or on its own motion, 39  
the court in which an action is brought under this section may 40  
transfer the action to the county in which an adverse party 41  
resides when it appears to the court that the location of the 42  
original venue presents a hardship for that adverse party. 43

**Sec. 3121.441.** (A) Notwithstanding the provisions of this 44

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.

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(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.

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(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.,

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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.

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**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.~~

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~~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).~~

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(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.

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**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

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arrearage, the child support enforcement agency administering the 107  
notice or order may also ~~do~~ take any action, including, but not 108  
limited to, any of the following to collect any arrearage amount 109  
that has not yet been collected under the notice or order, unless 110  
the obligee and obligor agree in a writing signed by the obligee 111  
and obligor and approved by the court by journal entry that the 112  
additional actions be limited to the actions provided for in 113  
division (C) of this section: 114

(A) Issue one or more withholding or deduction notices under 115  
section 3121.03 of the Revised Code; 116

(B) Collect pursuant to section 3121.12 of the Revised Code a 117  
lump sum payment owed to the obligor; 118

(C) Collect pursuant to sections 3123.81 to 3123.823 of the 119  
Revised Code any federal or state income tax refund owed to the 120  
obligor; 121

(D) Issue a withdrawal directive pursuant to sections 3123.24 122  
to 3123.38 of the Revised Code; 123

(E) Obtain administrative offset pursuant to section 3123.85 124  
of the Revised Code. 125

~~This section applies only to support orders issued on or 126  
after the effective date of this section under which arrearages 127  
have arisen on or after that date.~~ 128

**Section 2.** That existing sections 3119.961, 3123.21, and 129  
3123.22 of the Revised Code are hereby repealed. 130