

As Introduced

**125th General Assembly
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H. B. No. 149

Representatives Fessler, Seitz, Williams, Gilb, Brinkman, Perry, Reidelbach

A B I L L

To amend sections 3119.60, 3119.61, 3119.68, 3119.74, 1
and 3119.79 and to enact sections 3119.77 and 2
3119.771 of the Revised Code to provide for the 3
modification of a child support order at the 4
request of a member of the uniformed services 5
called to emergency military service. 6

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

Section 1. That sections 3119.60, 3119.61, 3119.68, 3119.74, 7
and 3119.79 be amended and sections 3119.77 and 3119.771 of the 8
Revised Code be enacted to read as follows: 9

Sec. 3119.60. If a child support enforcement agency, 10
periodically or on request of an obligor or obligee, plans to 11
review a child support order in accordance with the rules adopted 12
pursuant to section 3119.76 of the Revised Code, pursuant to 13
section 3119.771 of the Revised Code, or otherwise plans to review 14
a child support order, it shall do all of the following prior to 15
formally beginning the review: 16

(A) Establish a date certain on which the review will 17
formally begin; 18

(B) At least forty-five days before formally beginning the 19
review, send the obligor and the obligee notice of the planned 20

review and of the date when the review will formally begin;	21
(C)(1) Request the obligor to provide the agency, no later than the scheduled date for formally beginning the review, with all of the following:	22
(a) A copy of the obligor's federal income tax return from the previous year;	23
(b) A copy of all pay stubs obtained by the obligor within the preceding six months;	24
(c) A copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligor within the preceding six months;	25
(d) A list of the group health insurance and health care policies, contracts, and plans available to the obligor and their costs;	26
(e) The current health insurance or health care policy, contract, or plan under which the obligor is enrolled and its cost;	27
(f) <u>If the agency plans to review the order pursuant to section 3119.771 of the Revised Code, a notarized letter from the obligor's commanding officer specifying the commencement date of the obligor's emergency military service and the monetary compensation for that service;</u>	28
(g) Any other information necessary to properly review the child support order.	29
(2) Request the obligee to provide the agency, no later than the scheduled date for formally beginning the review, with all of the following:	30
(a) A copy of the obligee's federal income tax return from the previous year;	31
(b) A copy of all pay stubs obtained by the obligee within	32

the preceding six months;	51
(c) A copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligee within the preceding six months;	52 53 54
(d) A list of the group health insurance and health care policies, contracts, and plans available to the obligee and their costs;	55 56 57
(e) The current health insurance or health care policy, contract, or plan under which the obligee is enrolled and its cost;	58 59 60
(f) Any other information necessary to properly review the child support order.	61 62
(D) Include in the notice sent pursuant to division (B) of this section, one of the following:	63 64
(1) If the child support order being reviewed is a court child support order, a notice that a willful failure to provide the documents and other information requested pursuant to division (C) of this section is contempt of court;	65 66 67 68
(2) If the child support order being reviewed is an administrative child support order, a notice that if either the obligor or obligee fails to comply with the request for information, the agency may bring an action under section 3119.72 of the Revised Code requesting that the court find the obligor and the obligee in contempt pursuant to section 2705.02 of the Revised Code.	69 70 71 72 73 74 75
Sec. 3119.61. (A) The child support enforcement agency shall review an administrative child support order on the date established pursuant to section 3119.60 of the Revised Code for formally beginning the review of the order. If the agency determines that a modification is necessary and in the best	76 77 78 79 80

~~interest of the child subject to the order, the~~ The agency shall 81
calculate the amount the obligor shall pay in accordance with 82
section 3119.021 of the Revised Code if the agency determines one 83
of the following: 84

(1) A modification is necessary and in the best interest of 85
the child subject to the order; 86

(2) Pursuant to a review conducted under section 3119.771 of 87
the Revised Code, the change in the obligor's income as a result 88
of being called to emergency military service is a change of 89
circumstances substantial enough to require a modification of the 90
child support amount. The 91

(B) The agency may not grant a deviation pursuant to section 92
3119.23 of the Revised Code from the guidelines set forth in 93
section 3119.021 of the Revised Code. If the agency can set the 94
child support the obligor is to pay without granting such a 95
deviation from the guidelines, the agency shall do the following: 96

~~(A)~~(1) Give the obligor and obligee notice of the revised 97
amount of child support to be paid under the administrative child 98
support order, of their right to request an administrative hearing 99
on the revised child support amount, of the procedures and time 100
deadlines for requesting the hearing, and that the agency will 101
modify the administrative child support order to include the 102
revised child support amount unless the obligor or obligee 103
requests an administrative hearing on the revised amount no later 104
than thirty days after receipt of the notice under this division; 105

~~(B)~~(2) If neither the obligor nor obligee timely requests an 106
administrative hearing on the revised amount of child support, 107
modify the administrative child support order to include the 108
revised child support amount; 109

~~(C)~~(3) If the obligor or obligee timely requests an 110

administrative hearing on the revised amount of child support, do	111
all of the following:	112
(1) (a) Schedule a hearing on the issue;	113
(2) (b) Give the obligor and obligee notice of the date, time, and location of the hearing;	114 115
(3) (c) Conduct the hearing in accordance with the rules adopted under section 3119.76 of the Revised Code;	116 117
(4) (d) Redetermine at the hearing a revised amount of child support to be paid under the administrative child support order;	118 119
(5) (e) Modify the order to include the revised amount of child support;	120 121
(6) (f) Give notice to the obligor and obligee of the amount of child support to be paid under the order and that the obligor and obligee may object to the modified order by initiating an action under section 2151.231 of the Revised Code in the juvenile court or other court with jurisdiction under section 2101.022 or 2301.03 of the Revised Code of the county in which the mother, the father, the child, or the guardian or custodian of the child reside.	122 123 124 125 126 127 128 129
(C) If the agency modifies an existing administrative child support order, the modification shall relate back to the first day of the month following the date certain on which the review began under section 3119.60 of the Revised Code.	130 131 132 133
(D) If the agency cannot set the amount of child support the obligor will pay under the administrative child support order without granting a deviation pursuant to section 3119.23 of the Revised Code, the agency shall bring an action under section 2151.231 of the Revised Code on behalf of the person who requested that the agency review the existing administrative order or, if no one requested the review, on behalf of the obligee, in the	134 135 136 137 138 139 140

juvenile court or other court with jurisdiction under section 141
2101.022 or 2301.03 of the Revised Code of the county in which the 142
agency is located requesting that the court issue a child support 143
order. 144

Sec. 3119.68. A court required to schedule and conduct a 145
hearing pursuant to section 3119.66 of the Revised Code shall do 146
both of the following if the obligor or obligee failed to provide 147
any of the items described in divisions (A)(1) to (5) and (B)(1) 148
to (5) of this section: 149

(A) Order the obligor to provide the court with all of the 150
following: 151

(1) A copy of the obligor's federal income tax return from 152
the previous year; 153

(2) A copy of all pay stubs obtained by the obligor within 154
the preceding six months; 155

(3) A copy of all other records evidencing the receipt of any 156
other salary, wages, or compensation by the obligor within the 157
preceding six months; 158

(4) A list of the group health insurance and health care 159
policies, contracts, and plans available to the obligor and their 160
costs; 161

(5) The current health insurance or health care policy, 162
contract, or plan under which the obligor is enrolled and its 163
cost; 164

(6) If the court child support order was reviewed and 165
modified pursuant to section 3119.771 of the Revised Code, a 166
notarized letter from the obligor's commanding officer specifying 167
the commencement date of the obligor's emergency military service 168
and the monetary compensation for that service. 169

(B) Order the obligee to provide the court with all of the 170

following:	171
(1) A copy of the obligee's federal income tax return from the previous year;	172 173
(2) A copy of all pay stubs obtained by the obligee within the preceding six months;	174 175
(3) A copy of all other records evidencing the receipt of any other salary, wages, or compensation by the obligee within the preceding six months;	176 177 178
(4) A list of the group health insurance and health care policies, contracts, and plans available to the obligee and their costs;	179 180 181
(5) The current health insurance or health care policy, contract, or plan under which the obligee is enrolled and its cost.	182 183 184
Sec. 3119.74. In addition to administrative reviews conducted pursuant to sections 3119.60 to 3119.63 <u>and section 3119.771</u> of the Revised Code, a child support enforcement agency may conduct administrative reviews of support orders to do the following:	185 186 187 188 189
(A) Obtain voluntary notices or court orders under section 3121.03 of the Revised Code;	190 191
(B) Correct any errors in the amount of any arrearage owed by an obligor.	192 193
The agency shall notify the obligor and obligee of the time, date, and location of the administrative review at least fourteen days before the hearing is held.	194 195 196
<u>Sec. 3119.77.</u> (A) <u>As used in this section and section 3119.771 of the Revised Code:</u>	197 198

(1) "Emergency military service" means the performance of active military duty by a member of the uniformed services for a period of more than thirty days in a time of war or emergency. 199
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(2) "Uniformed services" means the armed forces of the United States or any reserve components of those forces, the Ohio organized militia when engaged in full-time national guard duty, and any other category of persons designated by the president in time of war or emergency. 202
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(B) An obligor who is called to emergency military service in the uniformed services may request a review of a child support order for the purpose of modification of the amount of support required under the order. The request must be submitted to one of the following: 207
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(1) If the order is a court child support order, the court that issued the order or the child support enforcement agency administering the order; 212
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(2) If the order is an administrative child support order, the child support enforcement agency administering the order. 215
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Sec. 3119.771. (A) A child support enforcement agency that receives a request for review and modification of a child support order pursuant to section 3119.77 of the Revised Code shall complete an administrative review in accordance with sections 3119.60 to 3119.63 of the Revised Code. The change in the obligor's income as a result of being called to emergency military service shall be considered by the agency as a change of circumstances substantial enough to require a modification of the child support amount. 217
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(B) A court that receives a request for review and modification of a child support order pursuant to section 3119.77 of the Revised Code shall review the order in accordance with 226
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section 3119.79 of the Revised Code.

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Sec. 3119.79. (A)(1) If an obligor or obligee under a child support order requests that the court modify the amount of support required to be paid pursuant to the child support order, the court shall recalculate the amount of support that would be required to be paid under the child support order in accordance with the schedule and the applicable worksheet through the line establishing the actual annual obligation. ~~¶~~ Except as provided in division (A)(2) of this section, if that amount as recalculated is more than ten per cent greater than or more than ten per cent less than the amount of child support required to be paid pursuant to the existing child support order, the deviation from the recalculated amount that would be required to be paid under the schedule and the applicable worksheet shall be considered by the court as a change of circumstance substantial enough to require a modification of the child support amount.

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(2) If an obligor requests that the court modify the amount of support required to be paid under a child support order pursuant to a request under section 3119.77 of the Revised Code, the court shall recalculate the amount of support that would be required to be paid under the order in accordance with the schedule and the applicable worksheet through the line establishing the actual annual obligation. The change in the obligor's income as a result of being called to emergency military service shall be considered by the court as a change of circumstance substantial enough to require a modification of the child support amount.

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(B) In determining the recalculated support amount that would be required to be paid under the child support order ~~for purposes of determining whether that recalculated amount is more than ten per cent greater than or more than ten per cent less than the~~

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~~amount of child support required to be paid pursuant to the~~ 260
~~existing child support order pursuant to division (A)(1) or (2) of~~ 261
~~this section~~, the court shall consider, in addition to all other 262
factors required by law to be considered, the cost of health 263
insurance the obligor, the obligee, or both the obligor and the 264
obligee have been ordered to obtain for the children specified in 265
the order. Additionally, if an obligor or obligee under a child 266
support order requests that the court modify the support amount 267
required to be paid pursuant to the child support order and if the 268
court determines that the amount of support does not adequately 269
meet the medical needs of the child, the inadequate coverage shall 270
be considered by the court as a change of circumstance that is 271
substantial enough to require a modification of the amount of the 272
child support order. 273

(C) If the court determines that the amount of child support 274
required to be paid under the child support order should be 275
changed due to a substantial change of circumstances that was not 276
contemplated at the time of the issuance of the original child 277
support order or the last modification of the child support order, 278
the court shall modify the amount of child support required to be 279
paid under the child support order to comply with the schedule and 280
the applicable worksheet through the line establishing the actual 281
annual obligation, unless the court determines that the amount 282
calculated pursuant to the basic child support schedule and 283
pursuant to the applicable worksheet would be unjust or 284
inappropriate and would not be in the best interest of the child 285
and enters in the journal the figure, determination, and findings 286
specified in section 3119.22 of the Revised Code. 287

Section 2. That existing sections 3119.60, 3119.61, 3119.68, 288
3119.74, and 3119.79 of the Revised Code are hereby repealed. 289