

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

**125th General Assembly**

**Regular Session**

**2003-2004**

**Sub. H. B. No. 149**

**Representatives Fessler, Seitz, Williams, Gilb, Brinkman, Perry, Reidelbach,  
Walcher, Book, Harwood, Hollister, Mason, S. Smith, Widowfield,  
Willamowski, Barrett, Beatty, Blasdel, Brown, Buehrer, Carmichael, Cates,  
Chandler, Cirelli, Clancy, Collier, Daniels, DeBose, Distel, Domenick,  
C. Evans, D. Evans, Faber, Flowers, Gibbs, Grendell, Hagan, Hoops, Hughes,  
Jerse, Jolivette, Kearns, Kilbane, Latta, Martin, McGregor, Miller, Oelslager,  
Olman, Otterman, T. Patton, Price, Schaffer, Schmidt, Schneider, Seaver,  
Setzer, Skindell, D. Stewart, J. Stewart, Sykes, Taylor, Trakas, Wagner,  
Webster, White, Wolpert, Yates, Young  
Senator Stivers**

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**A B I L L**

To amend sections 3119.60, 3119.61, 3119.71, and 1  
3119.74 and to enact sections 3119.77, 3119.771, 2  
3119.772, and 3119.773 of the Revised Code to 3  
provide for review of a child support order at the 4  
request of a member of the uniformed services 5  
called to active military service. 6

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

**Section 1.** That sections 3119.60, 3119.61, 3119.71, and 7  
3119.74 be amended and sections 3119.77, 3119.771, 3119.772, and 8  
3119.773 of the 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 or otherwise plans 13  
to review a child support order, it shall do all of the following 14  
prior to formally beginning the review: 15

(A) Establish a date certain on which the review will 16  
formally begin; 17

(B) ~~At~~ Except as otherwise provided in section 3119.771 of 18  
the Revised Code, at least forty-five days before formally 19  
beginning the review, send the obligor and the obligee notice of 20  
the planned review and of the date when the review will formally 21  
begin; 22

(C)(1) Request the obligor to provide the agency, no later 23  
than the scheduled date for formally beginning the review, with 24  
all of the following: 25

(a) A copy of the obligor's federal income tax return from 26  
the previous year; 27

(b) A copy of all pay stubs obtained by the obligor within 28  
the preceding six months; 29

(c) A copy of all other records evidencing the receipt of any 30  
other salary, wages, or compensation by the obligor within the 31  
preceding six months; 32

(d) A list of the group health insurance and health care 33  
policies, contracts, and plans available to the obligor and their 34  
costs; 35

(e) The current health insurance or health care policy, 36  
contract, or plan under which the obligor is enrolled and its 37  
cost; 38

(f) If the obligor is a member of the uniformed services and 39  
is on active military duty, a copy of the obligor's Internal 40  
Revenue Service form W-2, "Wage and Tax Statement," and a copy of 41

a statement detailing the obligor's earnings and leave with the 42  
uniformed services; 43

(g) Any other information necessary to properly review the 44  
child support order. 45

(2) Request the obligee to provide the agency, no later than 46  
the scheduled date for formally beginning the review, with all of 47  
the following: 48

(a) A copy of the obligee's federal income tax return from 49  
the previous year; 50

(b) A copy of all pay stubs obtained by the obligee within 51  
the preceding six months; 52

(c) A copy of all other records evidencing the receipt of any 53  
other salary, wages, or compensation by the obligee within the 54  
preceding six months; 55

(d) A list of the group health insurance and health care 56  
policies, contracts, and plans, including the tricare program 57  
offered by the United States department of defense, available to 58  
the obligee and their costs; 59

(e) The current health insurance or health care policy, 60  
contract, or plan under which the obligee is enrolled and its 61  
cost; 62

(f) Any other information necessary to properly review the 63  
child support order. 64

(D) Include in the notice sent pursuant to division (B) of 65  
this section, one of the following: 66

(1) If the child support order being reviewed is a court 67  
child support order, a notice that a willful failure to provide 68  
the documents and other information requested pursuant to division 69  
(C) of this section is contempt of court; 70

(2) If the child support order being reviewed is an 71

administrative child support order, a notice that if either the 72  
obligor or obligee fails to comply with the request for 73  
information, the agency may bring an action under section 3119.72 74  
of the Revised Code requesting that the court find the obligor and 75  
the obligee in contempt pursuant to section 2705.02 of the Revised 76  
Code. 77

**Sec. 3119.61.** The child support enforcement agency shall 78  
review an administrative child support order on the date 79  
established pursuant to section 3119.60 of the Revised Code for 80  
formally beginning the review of the order. If the agency 81  
determines that a modification is necessary and in the best 82  
interest of the child subject to the order, the agency shall 83  
calculate the amount the obligor shall pay in accordance with 84  
section 3119.021 of the Revised Code. The agency may not grant a 85  
deviation pursuant to section 3119.23 of the Revised Code from the 86  
guidelines set forth in section 3119.021 of the Revised Code. If 87  
the agency can set the child support the obligor is to pay without 88  
granting such a deviation from the guidelines, the agency shall do 89  
the following: 90

(A) Give the obligor and obligee notice of the revised amount 91  
of child support to be paid under the administrative child support 92  
order, of their right to request an administrative hearing on the 93  
revised child support amount, of the procedures and time deadlines 94  
for requesting the hearing, and that the agency will modify the 95  
administrative child support order to include the revised child 96  
support amount unless the obligor or obligee requests an 97  
administrative hearing on the revised amount no later than thirty 98  
days after receipt of the notice under this division; 99

(B) If neither the obligor nor obligee timely requests an 100  
administrative hearing on the revised amount of child support, 101  
modify the administrative child support order to include the 102

revised child support amount;	103
(C) If the obligor or obligee timely requests an	104
administrative hearing on the revised amount of child support, do	105
all of the following:	106
(1) Schedule a hearing on the issue;	107
(2) Give the obligor and obligee notice of the date, time,	108
and location of the hearing;	109
(3) Conduct the hearing in accordance with the rules adopted	110
under section 3119.76 of the Revised Code;	111
(4) Redetermine at the hearing a revised amount of child	112
support to be paid under the administrative child support order;	113
(5) Modify the order to include the revised amount of child	114
support;	115
(6) Give notice to the obligor and obligee of the amount of	116
child support to be paid under the order and that the obligor and	117
obligee may object to the modified order by initiating an action	118
under section 2151.231 of the Revised Code in the juvenile court	119
or other court with jurisdiction under section 2101.022 or 2301.03	120
of the Revised Code of the county in which the mother, the father,	121
the child, or the guardian or custodian of the child reside.	122
<u>If Except as otherwise provided in section 3119.772 of the</u>	123
<u>Revised Code, if</u> the agency modifies an existing administrative	124
child support order, the modification shall relate back to the	125
first day of the month following the date certain on which the	126
review began under section 3119.60 of the Revised Code.	127
If the agency cannot set the amount of child support the	128
obligor will pay under the administrative child support order	129
without granting a deviation pursuant to section 3119.23 of the	130
Revised Code, the agency shall bring an action under section	131
2151.231 of the Revised Code on behalf of the person who requested	132

that the agency review the existing administrative order or, if no 133  
one requested the review, on behalf of the obligee, in the 134  
juvenile court or other court with jurisdiction under section 135  
2101.022 or 2301.03 of the Revised Code of the county in which the 136  
agency is located requesting that the court issue a child support 137  
order. 138

**Sec. 3119.71.** ~~If~~ Except as otherwise provided in section 139  
3119.772 of the Revised Code: 140

(A) If the obligor or obligee does not request a court 141  
hearing on the revised child support amount determined by the 142  
child support enforcement agency and filed with the court pursuant 143  
to section 3119.63 of the Revised Code and the court modifies the 144  
order to include the revised amount pursuant to section 3119.65 of 145  
the Revised Code, the modification shall relate back to the first 146  
day of the month following the date certain on which the review of 147  
the court child support order began pursuant to division (A) of 148  
section 3119.60 of the Revised Code. ~~If~~ 149

(B) If the obligor or obligee requests a court hearing on the 150  
revised child support amount and the court, after conducting a 151  
hearing, modifies the court child support amount under the order, 152  
the modification shall relate back to the first day of the month 153  
following the date on which the review of the court child support 154  
order began pursuant to division (A) of section 3119.60 of the 155  
Revised Code. 156

**Sec. 3119.74.** In addition to administrative reviews conducted 157  
pursuant to sections 3119.60 to 3119.63 and section 3119.771 of 158  
the Revised Code, a child support enforcement agency may conduct 159  
administrative reviews of support orders to do the following: 160

(A) Obtain voluntary notices or court orders under section 162

3121.03 of the Revised Code;	163
(B) Correct any errors in the amount of any arrearage owed by an obligor.	164 165
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.	166 167 168
<u>Sec. 3119.77. (A) As used in this section and sections 3119.771, 3119.772, and 3119.773 of the Revised Code:</u>	169 170
<u>(1) "Active military service" means the performance of active military duty by a member of the uniformed services for a period of more than thirty days.</u>	171 172 173
<u>(2) "Uniformed services" means any reserve components of the armed forces of the United States or the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.</u>	174 175 176 177
<u>(B) An obligor who is called to active 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 the child support enforcement agency administering the order.</u>	178 179 180 181 182
<u>(C) An obligor who makes a request under division (B) of this section must indicate that the reason for the modification is the obligor's active military service and provide with the request any orders or other appropriate documentation specifying the commencement date of the obligor's active military service and the monthly monetary compensation for that service. The obligor also shall submit documentation on all other outside income.</u>	183 184 185 186 187 188 189
<u>(D) The obligor may provide the child support enforcement agency with a military power of attorney executed pursuant to 10 U.S.C. 10446 designating another individual to act in the</u>	190 191 192

administrative review and modification on behalf of the obligor. 193  
By designating another individual to so act on behalf of the 194  
obligor, the obligor waives any right of an appearance and any 195  
right to request a stay of the action or proceeding. 196

**Sec. 3119.771.** (A) A child support enforcement agency that 197  
receives a request for review and modification of a child support 198  
order pursuant to section 3119.77 of the Revised Code shall send 199  
to the obligor and obligee, not later than three business days 200  
after receipt of the request, notice of the review and of the date 201  
it will begin. The child support enforcement agency shall complete 202  
an administrative review in accordance with sections 3119.60 to 203  
3119.63 of the Revised Code. The agency shall consider the 204  
obligor's call to active military service as a change of 205  
circumstances substantial enough to require a review of the child 206  
support amount. 207

(B) On receipt of a military power of attorney from an 208  
obligor designating another individual to act for the obligor, the 209  
child support enforcement agency shall allow the individual to act 210  
on the obligor's behalf during the agency's review of the order 211  
and shall provide the other individual with any notices required 212  
to be given under sections 3119.60 to 3119.63 of the Revised Code, 213  
including the notice sent pursuant to division (A) of this 214  
section. If, with respect to the review of a court child support 215  
order under section 3119.63 of the Revised Code, the obligor or 216  
obligee requests a court hearing, the court shall provide the 217  
individual acting on behalf of the obligor with any notices 218  
required to be given under sections 3119.67 to 3119.69 of the 219  
Revised Code. The individual acting on behalf of the obligor may 220  
not assert any right to a stay under the Soldiers' and Sailors' 221  
Civil Relief Act of 1940, 50 App. U.S.C. 501. 222

(C) If, after the obligor provides written notice of the date 223



of termination of the obligor's active military service pursuant 224  
to section 3119.773 of the Revised Code, the obligor provides the 225  
child support enforcement agency with written documentation 226  
sufficient to establish that the obligor's employer has violated 227  
the Uniformed Services Employment and Reemployment Rights Act, 38 228  
U.S.C. 4301 to 4333, with regards to the obligor, the child 229  
support enforcement agency shall consider this change of 230  
circumstance substantial enough to require a review of the 231  
obligor's amount of support to be paid under the child support 232  
order. 233

Sec. 3119.772. If a child support enforcement agency modifies 234  
an administrative child support order, or a court modifies a court 235  
child support order, based on an administrative review conducted 236  
pursuant to section 3119.771 of the Revised Code, the modification 237  
shall relate back to the later of the date the child support 238  
enforcement agency sent notice of the review pursuant to division 239  
(A) of section 3119.771 of the Revised Code or the first day of 240  
the month in which the obligor's active military service begins. 241  
The agency or court shall include a provision in the modified 242  
order stating that, except as otherwise provided in division (C) 243  
of section 3119.771 of the Revised Code, the modification will 244  
terminate and the prior amount of support be reinstated as of the 245  
first day of the month following the date that the obligor's 246  
active military service ends. 247

Sec. 3119.773. If the amount to be paid under a child support 248  
order is modified pursuant to an administrative review conducted 249  
pursuant to section 3119.771 of the Revised Code, the obligor 250  
shall provide written notice of the date of termination of the 251  
obligor's active military service to the child support enforcement 252  
agency administering the order not later than the last day of the 253  
month in which the service ends. 254

**Section 2.** That existing sections 3119.60, 3119.61, 3119.71, 255  
and 3119.74 of the Revised Code are hereby repealed. 256

**Section 3.** The General Assembly hereby requests the Supreme 257  
Court of Ohio to adopt a rule to provide that child support 258  
hearings for an obligor or obligee who is a member of the Ohio 259  
organized militia be expedited when the court receives notice that 260  
the obligor or obligee has requested a child support hearing. 261