

ASSISTANT MINORITY LEADER SHIRLEY SMITH



SENATE BILL 292

COMPREHENSIVE CHILD SUPPORT REFORM

In 2009, Senator Smith served on the fifth Ohio Child Support Guidelines Advisory Council, which is statutorily obligated under Ohio Revised Code 3119.024 to meet every four years and assist the Ohio Department of Jobs & Family Services in making recommendations to the General Assembly on improving Ohio's child support laws. While the Council has met its statutory obligations and earnestly issued its recommendations, the legislature has not adopted substantive reforms in nearly a decade.

Using [the Council's 2009 recommendations](#) and additional collaborative efforts with the ODJFS and the Ohio Child Support Directors Association, Senator Smith has introduced S.B. 292 to comprehensively reform Ohio's child support laws. Child support is an issue that touches thousands of Ohioans from all walks of life, and it is an issue which Senator Smith believes should be addressed with bipartisan support.

This document will help you and other Ohioans understand S.B. 292 and how it will improve child support in our state.

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Senate Bill 292: Comprehensive Child Support Reform

Update the Basic Child Support Schedule and Underlying Economic Assumptions

The Basic Child Support Schedule is a chart that measures parents' total income against the number of children under consideration for child support. As the starting point for all child support decisions, it is based on economic data related to the costs of raising children. Senate Bill 292 would update this schedule.

The schedule is written in the Ohio Revised Code, so only the General Assembly can change it with a law. The current schedule is based on price levels from 1992 and child-rearing data that was collected from between 1980 and 1986.

The updated schedule contained in S.B. 292 is based on current price levels. It also uses a methodology proposed by the U.S. Department of Agriculture that breaks down child-rearing data by category (i.e. housing, food, transportation, clothing, healthcare, childcare, education, and miscellaneous).

Most increases in the schedule are attributable to price increases since 1992. The chart below shows examples of likely increases that would result from a new Basic Child Support Schedule.

Note: As you will see, the Self Support Reserve Test at lower income levels and the Parenting Time Adjustment at all income levels will, in many circumstances, offset the increases in the new schedule.

Parenting Time Adjustment

The current model for child support assumes that the custodial parent bears all of the costs for raising a child. This assumption does not account for any expenses the non-custodial parent may have when spending time with the child, especially

when the court requires or grants such time.

In order to address this issue, S.B. 292 uses a two-fold approach to bring equity to parenting time when it is ordered by the court.

A parent with standard court-ordered parenting time will receive a standard 8.75% decrease in the support order.

When parenting time exceeds 40%, the child support obligation will be adjusted using a calculation developed by the Council. If a parent does not think that these adjustments are sufficient, he or she may ask the court for a deviation based on other facts and circumstances.

Using the same chart as before, we can show how these adjustments would work with the new Child Support Schedule.

Medical Support

The current worksheets make it difficult for parents to know how changes in their children's health insurance coverage will affect child support orders. Unfortunately, recent changes in Ohio law have created inconsistencies and complications statewide.

Senate Bill 292 fixes these problems by simplifying the "cash medical" calculation. The bill's new worksheets will produce one cash medical obligation that is paid in addition to the regular child support amount *only when health insurance is not provided.*

Why a Standard 8.75%?

Approximately 35% of child support payments is used to cover food, bed sheets, and other expenses that "travel" with the child.

Ohio's average parenting time order is 25%.

$$25\% \times 35\% = 8.75\%$$

For Example

A parent provides health insurance for his child as part of the child support order.

If that parent loses that insurance, the worksheet will already indicate how much the "cash-medical" payment should be. This amount will be added to the regular child support order.

Combined Income	Current Support Order	S.B. 292 Child Support Order After Parenting Time (PT) Adjustment			
		No Parenting Time	Standard 8.75% 1-39% PT	40% PT	45% PT
\$60,000	5,015	6,736 (+1,721)	5,426 (+411)	4,941 (-74)	2,470 (-2,545)
\$90,000	6,691	8,431 (+1,740)	6,785 (+94)	6,209 (-482)	3,105 (-3,586)
\$120,000	8,382	10,354 (+1,972)	8,371 (-11)	7,478 (-904)	3,739 (-4,643)

Assumptions

- Each order has 2 children
- 50/50 Income split
- No health insurance provided for the children
- No other costs or income adjustments
- Neither parent has other children

Senate Bill 292: Comprehensive Child Support Reform

Require Update of the Basic Child Support Schedule Every Four Years

In order to ensure that the Basic Child Support Schedule keeps pace with economic realities, S.B. 292 requires the Department of Jobs & Family Services to update it every four years using the most recent Consumer Price Index data, as determined by the U.S. Department of Labor and the Bureau of Labor Statistics.

Self Support Reserve

Sometimes a parent earns so little that he or she is living at or near poverty. They have little financial capacity to make child support payments. SB 292 creates a two-prong test to determine the parent's ability to meet the child support obligation and maintain a modicum of self-support.

Note: Willful unemployment in order to maintain a low Child Support order is not tolerated by judges or Child Support enforcement agencies. This bill will continue allowing judges and child support enforcement agencies to impute income to parents who try to earn less in order to pay less.

Increase the Minimum Support Order

The minimum child support order is set at \$50/month (\$600/year), despite inflation and other cost-of-living increases.

Senate Bill 292 increases this amount to \$80/month (\$960/year).

Local Tax & Work-Related Deductions

Senate Bill 292 removes local tax adjustments and work-related expenses as deductions on the child support worksheets in favor of a single "extraordinary work-related expense" deviation factor.

For Example

Parents who have felony convictions often find it difficult to gain employment at previous earning levels because of the stigma of having a criminal record.

S.B. 292 allows judges and agencies to consider this factor when considering the parent's earning capacity.

Imputing Income

When a court or agency imputes income to a parent, it attributes that parent with making a certain amount of money because of "voluntary unemployment" or "voluntary underemployment." This is when a parent actively tries to pay less child support by maintaining a smaller income.

Senate Bill 292 provides clarity to judges and agencies by enumerating specific conditions when income may not be imputed.

Processing Charge

There is currently confusion about whether the child support processing charge is supposed to be deducted from or added to the monthly payment.

Senate Bill 292 clarifies that this fee is to be added to the child support order after the order has been calculated using the worksheets.

Multiple Support Orders for the Same Family

Sometimes two parents have multiple children together, but each child is the subject of a separate child support case. These multiple cases may add up to be more than if all the children were considered in one proceeding.

Under S.B. 292, courts and agencies are required to ensure that the sum of all the individual support cases not be greater than if all the children were under one child support order.

Revising Deviations

Senate Bill 292 clarifies, refines, and expands the criteria a parent may request a court to consider when calculating a child support order. Based on the court's determination, the court may order a change to the amount of support determined in the worksheet.

Maintaining Deviations

When Child Support Enforcement Agencies review support orders, they have no authority to maintain deviations that a judge originally approved. This problem exists because the agencies currently have no statutory authority to maintain these deviations.

Senate Bill 292 requires agencies to continue court-ordered deviations. If a parent wants to change the deviations of their order, he or she can appeal directly to the court.

Income Credit Equity

Senate Bill 292 makes the income credit for other children in the parent's household more equitable. The legislation continues the credit at a reduced rate in order to balance the costs of raising another child with the fact that these costs are shared with another parent.

For example

Judges and courts may now disregard additional income earned from a second job or overtime if that work primarily supports a new or additional family.

They may also consider any special or unusual needs arising from the child's physical or psychological condition.

PROJECT SUMMARY/ ABSTRACT

Project Title: Asset Building for Financial Responsibility Program
Applicant Name: Ohio Office of Child Support
Address: 50 W. Town Street, Columbus, OH 43215, A5093
Contact Phone: 614-752-2649
E-Mail Address: Athena.Riley@JFS.Ohio.Gov
Web Site Address: <http://jfs.ohio.gov/ocs>

The Ohio Office of Child Support (OCS) and its primary partner, the Ohio Community Development Corporation (OCDC), (an Assets for Independence grantee), propose to develop a program with a two-pronged statewide and local approach that will improve the financial well-being of children across Ohio, with a particular focus on families living in urban poverty. The Ohio Commission on Fatherhood and the Ohio Practitioners' Network for Fathers and Families and the State Treasurer's Office will join OCS and OCDC in developing a statewide approach connecting low income non-custodial fathers to financial education and asset building programs offered by AFI grantees. The partners will cross train child support workers, fatherhood and family-serving practitioners, financial literacy providers and AFI staff on the child support system and its processes and the asset building services and tools available to low income families through the Assets for Independence program.

Asset building programs have been underutilized by low income non-custodial fathers in Ohio. These fathers are often struggling to maintain stable employment, pay their child support, and stay actively involved in the lives of their children, typically tend to be wary of traditional financial systems and government agencies. Fatherhood providers who have established trusting relationships with non-custodial fathers will be key to bridging the barrier between child support agencies, asset building grantees and the targeted population. The approach will include a statewide summit to launch the initiative, training offerings for collaborative partners across the state. The initiative will be promoted through traditional media (print and web-based) and innovative new media (social networking platforms, text messaging and mobile web applications).

OCS and OCDC will partner with child support agencies and asset building grantees in Cincinnati and Cleveland to implement the local approach. The need for financial stability and asset building services is particularly high in these two urban centers. Cleveland (where 42% of children live in poverty) and Cincinnati (where 36% of children live in poverty) have both consistently ranked among the top ten poorest cities in the country. Ohio is the only state in the union to have two cities among the top ten. The Cuyahoga and Hamilton County Child Support Enforcement Agencies (CSEAs) will target two groups of low income obligors 1. Those who are current on their child support payments and 2. Those who are in default on their child support orders and/or struggling with large arrearages. OCS and its partners will engage in a process and outcome evaluation of the program with these two groups of obligors against a number of objectives, including increased knowledge about and use of financial literacy and asset building services available in the community as well as child support order modifications and compromise and waiver of arrearages in targeted appropriate cases.



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High Level Summary of SB 292 Provisions

Update the Basic Child Support Schedule

Updates the basic child support schedule with current economic data using the USDA methodology for estimating actual expenditures. ODJFS is given rule-making authority to update the schedule every four years.

Parenting Time Adjustments

Creates a standard adjustment for those cases with standard parenting time orders (less than 40%) and a more significant adjustment for those cases that involve a larger percentage of parenting time (more than 40%).

Self Support Reserve

Creates a test to determine the non-custodial parent's ability to meet the support obligation and maintain their ability to support themselves.

Income Credits

- Expands the credit for other child support and/or spousal support obligations from the amount actually paid to the amount of the entire current obligation amount.
- Modifies the credit for other children in the parent's household that the parent has a duty to support to one-half of the federal income tax exemption for each child, without an offset of support paid.
- Removes the credit for local taxes.
- Removes the credit for work-related deductions and identifies the costs as a potential reason for a deviation from the presumptive child support obligation.

Minimum Child Support Orders

The statutory minimum child support order is adjusted to reflect an amount consistent with the increase in the federal poverty level, and CSEA's are authorized to issue minimum child support orders.

Redesign of the Worksheets

The worksheets have been redesigned for efficiency and clarity and to accommodate all the provisions in SB 292.

Cash Medical Support

Whenever possible, medical support obligations will be based on the parents' actual health insurance costs.

Administrative Review of Court Ordered Deviations

During the administrative review and adjustment of a child support order, the CSEA shall assume that the grounds for any previously granted deviations are ongoing and do not require an adjustment. Parties wishing to object to the findings may appeal directly to court.

Multiple Support Orders for the Same Family

When multiple child support orders exist for children of the same parents, the aggregate child support order amount should not exceed the amount that would have been ordered if all children had been addressed in the same child support order and at the same time.

Deviation Factors

Improves the application of deviations in child support cases by clarifying the existing deviation factors and simplifying the standard for granting a deviation.

Imputing Income

Clarifies what income should be excluded from the support calculation and under what circumstances the court or CSEA may not impute income to an individual.



Update the Basic Child Support Schedule

Current Law

The existing schedule was developed using a marginal cost approach, which involves comparing expenditures in two types of equally well-off families (one with children and the other without children) and deeming the difference to be child-rearing expenditures. The marginal cost approach has multiple flaws:

- There is an assumption that the spending-patterns of intact families are similar to those of non-intact families.
- Rather than assuming that couples without children change their spending habits once they have children, the existing model assumes that spending on "adult goods" is the same for couples with and without children.
- It does not allow child-rearing expenditures to be broken down into categories (e.g., housing, food, etc.).

Recommendation of the Council

The basic child support schedule should be updated with the most current economic data using the USDA methodology for estimating actual expenditures.

The updated basic child support schedule should be adopted into the Ohio Revised Code and ODJFS should be given rule-making authority to update the schedule every four years using US Department of Agriculture methodology.

Senate Bill 292

Updates the basic child support schedule with current economic data using the United States Department of Agriculture (USDA) methodology for estimating actual child rearing expenditures. Gives ODJFS rule-making authority to update the schedule every four years.

Methodology

The schedule in SB 292 is based on a quasi-accounting methodology adopted by the USDA that is based on actual child-rearing expenses that first measures the amount expended for each major expenditures category; then, sums those amounts to arrive at a total cost of child-rearing expenditures. Some economists believe the USDA's per capita approach can over-estimate housing expenses, so an adjustment for housing costs has been made. The adjusted formula suggests that the child's share of total housing expenditures in a two-parent, two-child household should be 15.531% instead of the per capita amount, which is 25.0%.

The average schedule increase between the existing schedule and the schedule in SB 292 is: 13% percent for one child; 27% for two children; 25% for three children; 27% for four children; 28% for five children; and 30% for six children. The actual order increase will be less once the obligor's income share of the combined obligation is calculated and the adjustment for the parenting time order is applied. About one-quarter of the increase in the schedule is attributable to the change in methodology used to estimate child-rearing costs. The remainder is due to increases in prices since the schedule was last updated.

Periodic Update by Rule

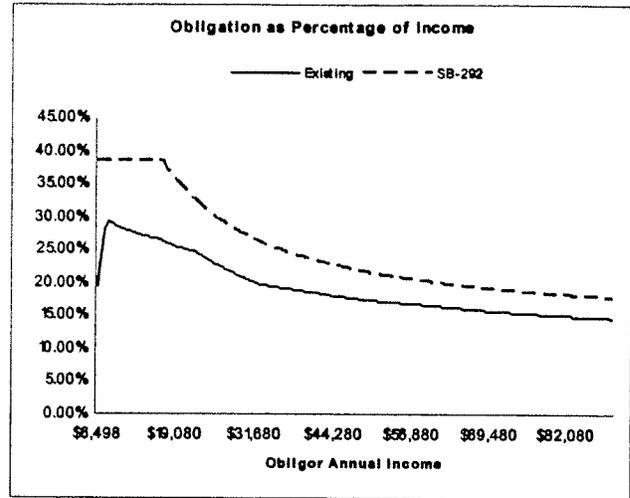
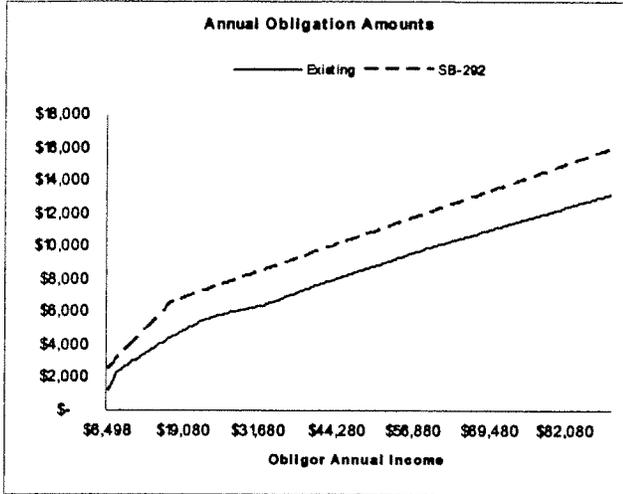
In accordance with federal regulations, ODJFS is required to review the basic child support schedule every four years to determine whether child support orders issued in accordance with the schedule and associated worksheets adequately provide for the needs of children. The proposed bill grants ODJFS the rule-making authority to update the basic child support schedule as part of the review. The rules are to be promulgated in accordance with Chapter 119 of the Revised Code and the methodology used to update the schedule is described in 3119.021.



Department of Job and Family Services

Impact of Updated Schedule

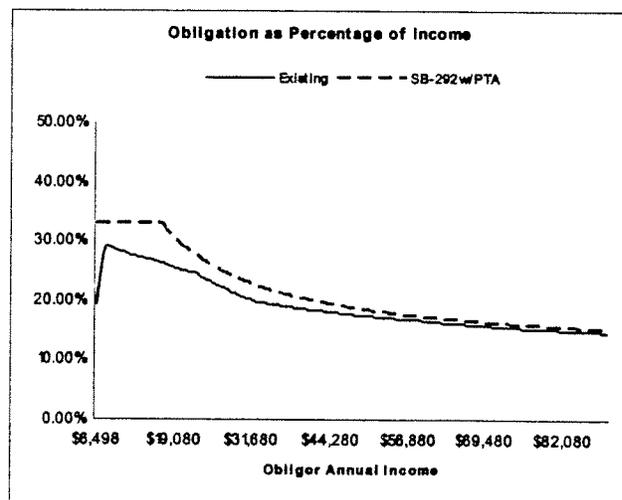
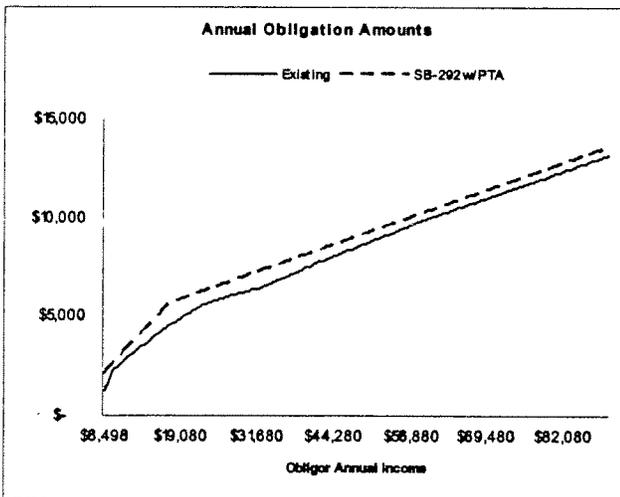
Existing Schedule and SB-292 Schedule 60% Income Share / 2 Children



About one-quarter of the increase from the existing schedule to the schedule in SB-292 is attributable to the change in methodology used to estimate child-rearing costs. The remainder is due to increases in prices since the schedule was last updated in 1992.

As indicated in the tables below, the relatively high percentage of income at the lowest income levels is mitigated by other provisions in the bill e.g. the self-support reserve and parenting time adjustments.

Existing Schedule and SB-292 Schedule w/ 8.75% Parenting Time Adjustment 60% Income Share / 2 Children

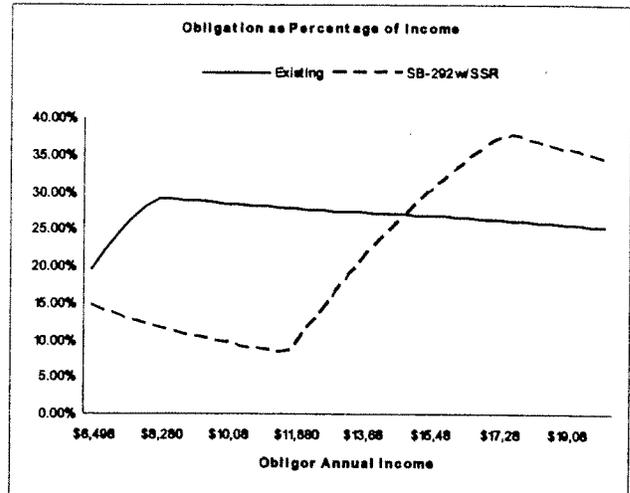
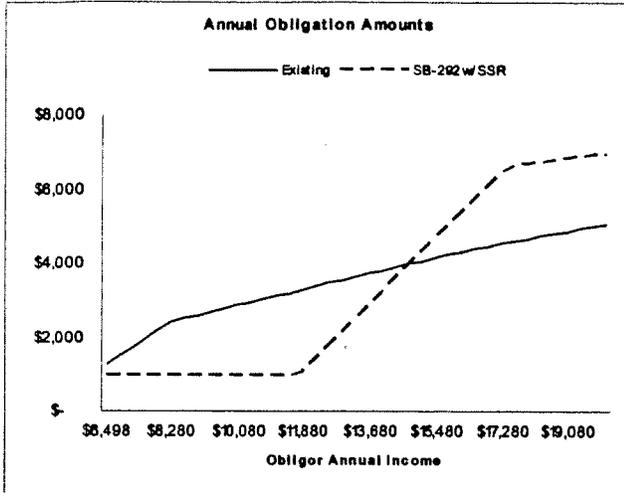


When a parent has court-ordered parenting time of less than 40%, the parent's obligation from schedule SB-292 is reduced by 8.75 % of the parents' combined obligation amount.



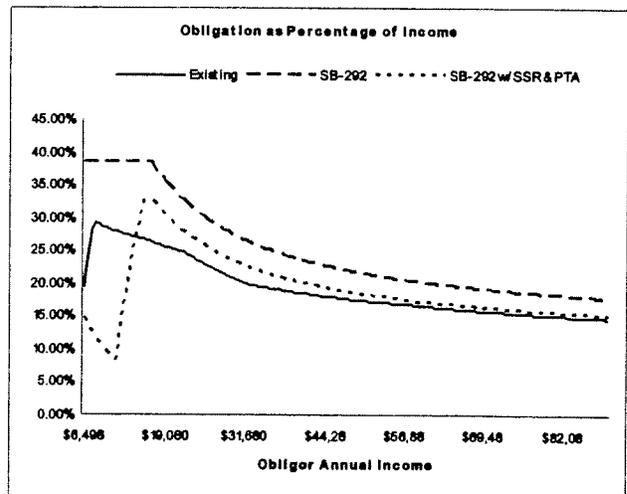
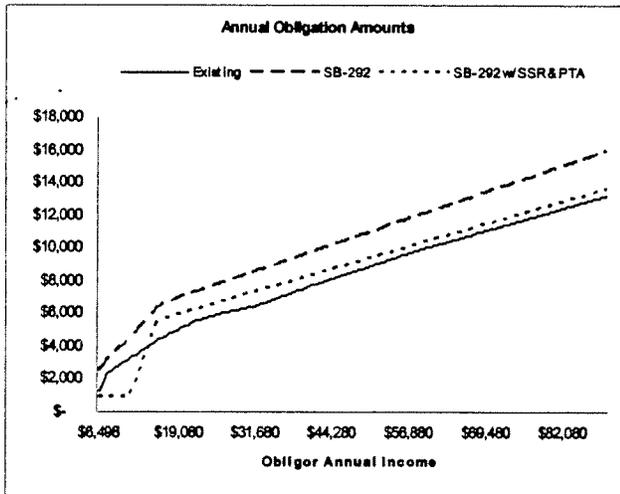
Department of Job and Family Services

Existing Schedule and SB-292 Schedule w/ Self-Support Reserve Adjustment
60% Income Share / 2 Children



The self-support reserve in SB 292 consists of two tests: Test A, which results in a minimum order amount; and Test B which ensures that the child support obligation will not drive a parent at or near the poverty level further into poverty.

Existing Schedule and SB-292 Schedule w/ Both Adjustments
60% Income Share / 2 Children



The combination of the adjustment for parenting time and the protection of the self-support reserve help to mitigate the increase in the schedule.

Amends Revised Code Sections 3119.021; and 3119.04

Stakeholder Impact

Parents

- Orders will more accurately reflect the cost of raising a child, while other provisions of SB 292 will help to offset some of the actual or perceived increase.
- Updated poverty levels benefits low income parents.

Courts

- Reduces the number of objections and enforcement related hearings because orders will more accurately reflect an obligor's ability to pay and obligation amounts will reflect current price levels.

CSEA's

- Reduces the number of enforcement related actions because orders will more accurately reflect an obligor's ability to pay and obligation amounts will reflect current price levels.

Stated Opposition

The increase in the schedule could negatively impact both courts and CSEA's as obligee seek to modify their child support order and obligors struggle to meet the increased demands. **Source:** Judicial Conference

The impact of increasing the tables during trying economic times is self-evident; but the need for a basic child support schedule which relies on current economic data is ever-present. The longer the schedule goes without being updated the larger the increase will be once it is updated.

The fact that the schedule has been updated is not in and of itself a reason for a modification of the child support order. Parents are entitled to a review every three years and in order to have a review sooner than that, they must meet one of the reasons for a modification prescribed in rule.

When ODJFS updates the schedule it should update income levels to ensure that price increases keep pace with increases in salaries. **Source:** Fathers' Rights Advocates

SB 292 should be amended to clarify that the child support obligations and income levels should be increased at the same rate.

Anticipated Opposition

Significant opposition to the update of the schedule is expected.

Frequently Asked Question(s)

1. Will all existing child support orders be updated with the new obligation amounts?

No. The amount a party to an existing is ordered to pay can only change based on a review and adjustment of the order. Only orders that are established or modified after the bill becomes effective would be based on the new obligation amounts.

2. May either parent request a review and adjustment of the child support order?

Yes, either parent may request that the CSEA conduct an administrative review and adjustment of the order. If a parent's request to for an administrative review and adjustment is denied, the parent is entitled to a state hearing; if the review is conducted and the parent is unhappy with the outcome, they are entitled to object.

Parents are regularly informed by their CSEA that they may request a review after thirty-six months or sooner, if the parent provides evidence of any of the following:

- *The parent has been unemployed or laid off for 30 consecutive days or longer through no fault of their own.*
- *The parent has become unemployed due to a plant closing or mass layoff.*
- *The parent is permanently disabled.*
- *The child support order was for a reduced or minimum amount based on the obligor being unemployed or underemployed and the obligor is now employed or more gainfully employed.*
- *One of the parents has experienced a 30% increase or decrease in gross income for a period of at least 6 months which can reasonably be expected to continue for an extended period of time.*
- *The parent that is the obligor is a member of the uniformed services and have been called to active military service for a period of more than 30 days or a temporary support order adjustment has been issued and your term of active military service has ended.*

For a complete list of reasons to initiate a review, parents should contact their CSEA.

3. Is it true that it can take 6 months or longer to complete the review?

The time it takes to conduct a review depends upon the facts and circumstances of each case: Before a review can be conducted, both parents must be located and provide information to the CSEA; if either party fails to cooperate with the CSEA the process may be extended. Similarly, when a review has been conducted each party has a right to object to the CSEA's findings, which can also extend the process.

Nevertheless, in all cases where a review is actually conducted, the change to the order will be retroactive to the month immediately following the month that the review was conducted. Thus, if a review is conducted in January 2011 and objections and other procedural issues delay the final adoption of the change to November 2011, the change will be retroactive to February 2011 and arrears that accrued during that period will be adjusted accordingly.

4. Under the existing schedule, as prices change, so will a parent's income and therefore so will the child support obligation; won't this account for any possible change to the cost of raising a child?

The fact that child support obligations change with income doesn't address whether the obligation adequately provides for the needs of the child(ren). The more appropriate question is: Does a family making \$50,000 in 2010 pay the same, more, or less to raise a child than a family making \$50,000 did in 1992? If the existing schedule is not updated, Ohio will be making the assumption that a family making \$50,000 in 2010 can purchase the exact same goods and services at the exact same price as did a family making \$50,000 in 1992. In fact, the economist hired by the 2009 Child Support Guidelines Advisory Council reviewed economic data and concluded that, due to price increases since 1992, it costs more for a family making \$50,000 in 2010 to buy the same goods and services that a family making \$50,000 could purchase in 1992.

SB 292 addresses the core elements of the child support obligation: How do we reliably measure what families spend their money on and how much do those things cost? By adopting the US Department of Agriculture (USDA) methodology for estimating child-rearing expenditures, adjusted to current price levels, SB 292 ensures that child support obligations are based on the best and most current economic data.

Moreover, both federal and state law require that the schedule of child support obligations be reviewed every four years for the very reason of ensuring that child support obligations adequately provide for the needs of the children. Federal law specifically requires the state to consider "economic data on the cost of raising children". Were it sufficient to establish a schedule twenty years ago and assume that subsequent economic pressures on salaries would account for price changes; or even to assume that the cost of raising children does not change over four years time (let alone twenty), there would be no need for the mandatory review.

5. What has been done to mitigate the increase in the table amounts?

The first prong of the self-support reserve test protects low-income obligors that are at or below poverty level; the second prong continues to protect low-income obligors by reducing the obligation until the obligor's income is such that payment of support would not push the parent into poverty.

The expansion of the income credits for child support and spousal support will offset increase by reducing the income of the parent obligated to pay child or spousal support.

The standard parenting time adjustment is for 8.75% of the combined obligation, therefore each case with a standard parenting time order will see an immediate 8.75% decrease in the amount on the schedule. Not only does this provision of SB 292 mitigate the increase in obligations, it incentivizes parents to obtain and exercise court ordered parenting time.

The expansion of the income credit for child support is significant. ODJFS expects that the change will increase the credit by about 18% on average. Likewise, the expansion of the credit for other children in the home will help to offset the increases.

The increase in obligation amounts must also be viewed in context with the increase in prices that custodial parents have had to absorb since the schedule was last updated. SB 292 contains common sense protections from the initial impact of the increase, but the economic reality is that obligations have not kept pace with the actual cost of raising a child.

6. Why are the obligation amounts in SB 292 a flat percentage of income at the lowest income levels?

According to the economist that developed the schedule, below the annual combined income of \$28,800 a constant percentage of income is applied to arrive at the schedule amounts. Above this income level, the percent of income devoted to child-rearing expenditures decreases as income increases. This is because families devote less of their income to child-rearing expenditures as their income increases.

7. If 25% of the table increase is caused by the change in methodology, why not leave the methodology alone and simply increase to current price levels?



Department of Job and Family Services

The current methodology uses a marginal cost approach that compares expenditures in two types of equally well-off families (one with children and the other without children) and deeming the difference to be child-rearing expenditures. The are problems with the marginal cost approach: (1) There is an assumption that the spending-patterns of intact families are similar to those of non-intact families. There is, however, no evidence demonstrating the similarity. (2) Rather than assuming that couples without children change their spending habits once they have children, the current methodology assumes that spending on "adult goods" is the same for couples with and without children. (3) There is an assumption that there is additional income available when a child is added to the family: additional income that would raise the family's presumed standard of living to what it would be without children.

The USDA approach can be described as a quasi-accounting method that first measures the amount expended for each major expenditures category (e.g., housing, food); then, sums those amounts to arrive at a total cost of child-rearing expenditures. The USDA has also estimated equivalence scales to determine how those expenditures vary when there is only one child and when there are three or more children. These equivalence scales essentially recognize that the cost of the second child is less than the cost of the first child and the cost of the third child is less than the second child.

8. Some economists believe the USDA methodology over-estimates housing costs. Does the schedule in SB-292 account for the over-estimation?

Yes. Some economists and studies suggest that the USDA estimates overstate actual child-rearing expenditures for housing. Because the housing expenditures comprise the largest share of family budgets this could lead to a large upward bias. In order to address this concern, the housing expenditures have been adjusted by applying an equivalence formula developed by the National Research Council. The formula suggests that the child's share of total housing expenditures in a two-parent, two-child household should be 15.531% instead of the per capita amount, which is 25.0%.



Standard Parenting Time Adjustment

Current Law

A parent with court-ordered parenting time may request a deviation from the presumed obligation.

Recommendation of the Council

The noncustodial parent should retain a portion of the annual obligation when exercising court ordered parenting time. There should be a standard adjustment for those cases with standard parenting time orders and a more significant adjustment for those cases that involve a shared parenting order.

Senate Bill 292

Reduces the annual obligation of a noncustodial parent with a standard parenting time order (less than 40% of the time available) by 8.75% of the total annual obligation. The credit allows the parent to retain a portion of the annual obligation proportionate to the amount of time the child is in that person's household.

Methodology

The 8.75% credit is based on economic data that shows about 35% of the annual child support obligation is to cover variable expenditures and that the average standard parenting time order is for 25% of the time ($25\% \times 35\% = 8.75\%$).

Amends/Creates Revised Code Sections

3119.01; and 3119.051

Stakeholder Impact

Parents

- Allows the non-custodial parent to retain a portion of support proportionate to the amount of time the child is in the home.
- Incentivizes parents to obtain and exercise court ordered parenting time

Courts

None

CSEA's

None

Stated Opposition

The shared parenting adjustment in SB 292 will encourage litigation over the exercising of parenting time. **Source:** Judicial Conference

Based on the recommendation of the Council, the provisions of 3119.051(B)(1) in SB 292 should be amended to ensure that the initiation of an administrative review and adjustment of a child support order earlier than three years after most recent support order based on the noncustodial parent failing to comply with court ordered parenting time without just cause is applied only in those cases where there was a standard parenting time adjustment.

Anticipated Opposition

None

Frequently Asked Question(s)

1. How is the percentage of parenting time calculated?

SB 292 does not address this issue.

2. Why 8.75%?

The 8.75% credit is based on economic data that shows about 35% of the annual child support obligation is to cover variable expenditures and that the average standard parenting time order is for 25% of the time ($25\% \times 35\% = 8.75\%$).



Shared Parenting Time Adjustment

Current Law

An underlying assumption built into the basic child support schedule is that the child is constantly in the custodial parent's household and that all costs for raising the child are assumed by the custodial parent. Variable costs (such as food and shelter) which follow the child from household to household and increase proportional to the amount of time the child is in the household of the noncustodial parent, are not considered. Thus, the noncustodial parent should pay a reduced annual child support obligation to cover the costs associated with exercising court-ordered parenting time. In accordance with section 3119.24 of the Revised Code, the court may grant a deviation from the presumed obligation based on the time the child is in the parent's household.

Recommendation of the Council

The noncustodial parent should retain a portion of the annual obligation when exercising court ordered parenting time. There should be a standard adjustment for those cases with standard parenting time orders and a more significant adjustment for those cases that involve a shared parenting order.

Senate Bill 292

When parenting time is equal to or exceeds 40%, the annual obligation is adjusted in order to make it more reflective of the actual cost of having a child in two separate households. An obligation for each parent is calculated and the parent with the higher obligation pays support with an offset of the other parent's obligation. Netting the obligations allows the noncustodial parent to retain a portion of the annual obligation that is proportionate to the extraordinary amount of time the child is in that person's household.

In order to account for the increased fixed costs associated with having a child in two households, the total annual obligation is multiplied by a factor of 1.65. When there is less than a 50/50 split of parenting time, the obligation of the parent with less than 50% parenting time is increased by 2% for every 1% of parenting time less than 50%.

After calculating child support obligations for each parent, the larger obligation is offset by the smaller obligation and the parent with the larger obligation pays that much in child support. Thus, when parenting time, incomes, and expenses are equal, no support is ordered.

Amends/Creates Revised Code Sections

3119.01; 3119.051; and 3119.24

Stakeholder Impact

Parents

- Obligations more accurately reflect the increase in fixed costs associated with having the child in two homes.

Courts

- For the first time, courts will be faced with litigation about the precise allocation of parenting time in order to effect the amount of the child support obligation. Current Ohio law allocates parenting time without requiring a precise statement of parenting time shares.

CSEA's

- None

Stated Opposition

An automatic adjustment based on a fixed measure of parenting time will encourage parents and attorneys to advocate more parenting time as a way of maximizing the credit. Judges routinely deviate under current law in extraordinary circumstances when it is in the best interest of the child. The shared parenting time adjustment in SB 292 diminishes judicial discretion in favor of a mandatory adjustment. **Source:** Judicial Conference

The shared parenting adjustment in SB 292 will encourage litigation over the exercising of parenting time. **Source:** Judicial Conference

The 1.65 multiplier and adjustment to the obligation for orders where parenting time is not split 50/50, when combined with disparate income shares, can lead to anomalous child support obligations.

Introducing parenting time into an income shares model can and will lead to unexpected results, such as, a parent with 60% of the parenting time paying child support.

The Council should implement a methodology that ignores income shares and explicitly ties expenses to a precise parenting time allocation. **Source:** Fathers' Rights Advocates



Department of Job and Family Services

The Council believed that the data regarding the relationship between the exercise of parenting time and actual expenditures available during its deliberations was insufficient to substantiate this action. Judicial concerns regarding the impact of requiring a precise allocation of parenting time were not raised during the Council's deliberations but are nevertheless relevant to consideration of this objection.

Anticipated Opposition

Significant opposition to the shared parenting credit is expected from the courts and some fathers' rights groups, but from opposing perspectives (the courts wanting more judicial discretion and less precision about parenting time allocation; fathers' rights wanting less judicial discretion and more precision about parenting allocation and the effect on the allocation on the obligation).

Frequently Asked Question(s)

1. How is the percentage of parenting time calculated?

SB 292 does not address this issue.

2. Why is the combined obligation increased by a factor of 1.65?

The schedule of child support obligations assumes that all fixed costs are assumed by the custodial parent. However, when a parent has extraordinary parenting time, that parent begins to assume fixed costs as well. The intent of the multiplier is to recognize the additional costs by increasing the total combined obligation.

3. If parents have equal (50/50) parenting time, will child support be ordered?

When parents have equal parenting time, equal income, and equal expenses (health care and child care), the worksheets will result in neither parent being ordered to pay support. When parents have equal parenting time, but their incomes or expenses are unequal, the worksheets will result in one of the parents being ordered to pay support. The parent with a larger share of the income will be ordered to pay and that parent's obligation will be offset by the other parent's obligation. As the discrepancy in income shares increases, the amount of the offset decreases and the parent with the larger income share will be ordered to pay the difference.



Self-Support Reserve

Current Law

There is no self-support reserve test per se under current law, only a minimum obligation amount built into the basic child support schedule at low income levels. When the combined income of the parents is less than 125% of the (1992) federal poverty level, the child support obligation from the schedule is for the minimum amount.

Recommendation of the Council

There should be a test to determine the noncustodial parent's ability to meet the support obligation and maintain their ability to support themselves. When the obligor's gross income is at or below the federal poverty level, the child support obligation should be adjusted downward.

Senate Bill 292

Ensures that support orders are not set too high relative to a low income obligor's ability to pay which contributes to child support arrears and may drive the obligor closer or further into poverty. Ensures that low income families are not disproportionately impacted by the proposed changes to the schedule of child support obligations.

Annual Income Less Than 100% of the Federal Poverty Level

An obligor with gross income of less than 100% FPL (currently \$10,830) will be ordered to pay the minimum annual amount of \$960.

Annual Income Greater Than 100% of the Federal Poverty Level

If the child support obligation, when subtracted from the obligor's gross income, would reduce the obligor's income to below 100% of the federal poverty level, the child support obligation is reduced. The reduction to the obligation is calculated in the Self-Support Reserve Addendum.

Amends/Creates Revised Code Sections

3119.01; 3119.041; and 3119.23

Stakeholder Impact

Parents

- Ensures that a child support order accurately reflect a parent's ability to pay, encourages payment of current support, and reduces the likelihood of default.

Courts

- Reduces the number of objections and enforcement related hearings because orders will more accurately reflect an obligor's ability to pay.

CSEA's

- Reduces the number of objections and enforcement related actions because orders will more accurately reflect an obligor's ability to pay.

Stated Opposition

None

Anticipated Opposition

None

Frequently Asked Question(s)

1. Why aren't low income obligees protected by the self-support reserve?

SB 292 includes a new deviation factor to provide the court with the option of granting a deviation when the self-support reserve would have a disproportionate impact on the custodial parent's household income.

2. What is the self-support reserve maximum?

The self-support reserve maximum represents the maximum amount (child support + cash medical support) a parent may be ordered to pay without triggering the self-support reserve.



Income Credits

Current Law

A parent's income is reduced by:

- The amount actually paid towards any pre-existing child support or spousal support obligation;
- The amount of the federal tax exemption for other children in the parent's home that the parent has a duty to support (subject to an offset for child support received);
- The amount of local income taxes paid; and
- The amount of mandatory work-related deductions.

Recommendation of the Council

The ambiguity in current law regarding the crediting for other child support obligations does not benefit either parent and the Council could not conceive of a system which would bring equity to the process. Therefore, the Council recommends removing the credit altogether and addressing the duty of support for other children by extending the federal exemption to all children for whom there is a duty of support.

The adjustment for local taxes has a negligible effect on the final obligation and should be removed.

Work-related deductions should be extraordinary in nature and should be identified as a potential reason for a deviation from the presumptive child support obligation.

Senate Bill 292

- Expands the credit for other support obligations to include the amount of any pre-existing current child support or current spousal support obligation.
- Expands the credit for other children in the parent's home that the parent has a duty to support by eliminating the offset for child support received.
- Removes the credit for local income taxes.
- Removes the credit for mandatory work-related deductions and makes it a factor for deviation.

Amends Revised Code Sections

3119.05; and 3119.23

Stakeholder Impact

Parents

- Providing credit for support owed ensures that prospective orders accurately reflect a parent's ability to pay and that the portion of the parent's income owed on a pre-existing case is available to that case.
- The expanded credit for other children in the home better reflects the original intent of the credit, which is to acknowledge certain costs the parent assumes by having another child in the home.
- The credit for local income taxes had a negligible effect and proved difficult to substantiate.

Courts

- Reduces the number of objections and enforcement related hearings because orders will more accurately reflect an obligor's ability to pay.
- No longer required to review proof of child support paid, only the obligation amount(s).
- Simplifies the preparation of the worksheets.

CSEA's

- No longer required to review proof of child support paid, only the obligation amount(s).
- Simplifies the preparation of the worksheets.
- Reduces the number of enforcement related actions because orders will more accurately reflect an obligor's ability to pay.



Stated Opposition

The credit for child support and spousal support owed (as opposed to paid): gives the appearance that the other parent is "paying" for other dependents and incidentally rewards a parent if they fail to meet the obligation they have received credit for. **Source:** Ohio CSEA Directors' Association Legislative Committee

SB 292 ensures that once a portion of a parent's income is encumbered by one court order the income may not be encumbered to a different court order. A parent's failure to pay towards an existing ordered obligation is only exacerbated by overstating the income available to the parent on future orders. The result is that the parent already struggling to pay on an existing order, will have a new order that exceeds his or her ability to pay.

The failure to pay towards an existing obligation should be handled by appropriate enforcement of that obligation, not by overstating the obligor's ability to pay on future cases and simultaneously diminishing the ability to pay on both.

Some of the provisions regarding income credits in SB 292 are substantively different than the provisions recommended by the Council.

While the intent of the Council was to bring equity in the allocation of income credits, the reduction and removal of credits recommended by the Council could have the effect of overstating an individuals actual ability to pay all of their support obligations.

Anticipated Opposition

ODJFS had discussions with OCDA regarding the change from paid to owed and worked closely with OCDA on the modification to the credit for other children in the home.

Frequently Asked Question(s)

1. Why remove the offset of child support paid for other children in the home?

The intent of the credit is to recognize costs the parent must absorb by having a child in the home: The costs exist regardless of how much child support received and the child support received is not intended to offset those costs.

2. Given the increase in the table amounts, why remove the credit for local income taxes or mandatory work-related deductions?

The credit for local income taxes has a negligible effect and the information was difficult to collect and verify. The credit for mandatory work-related deductions was ambiguous and subject to interpretation; adding it as a deviation factor means the costs can still be taken under consideration only after the party articulates the impact of the deductions on his or her income.



Minimum Child Support Orders

Current Law

The existing minimum child support order is equal to an annual obligation of \$600, which is based upon the poverty level in 1992. A child support enforcement agency (CSEA) must issue an order for support based solely on the outcome of the guidelines, even if the amount is less than the minimum order amount.

Recommendation of the Council

The statutory minimum child support order should be adjusted to reflect an amount consistent with the increase in the federal poverty level, and CSEA's should be authorized to issue minimum child support orders.

Senate Bill 292

Increases the statutory minimum child support order to \$960 annually, which is consistent with the increase in the federal poverty level since 1992. Authorizes CSEA's to issue child support orders for the minimum amount, even when the outcome of the guidelines is less than that amount.

Amends/Creates Revised Code Sections

3119.06

Stakeholder Impact

Parents

- Child support obligations will more accurately reflect each parent's ability to pay.

Courts

- Brings parity to orders issued administratively to those issued judicially.

CSEA's

- Brings parity to orders issued administratively to those issued judicially.

Stated Opposition

None

Anticipated Opposition

None

Frequently Asked Question(s)

1. Why extend the ability to issue minimum orders to the child support enforcement agency?

Under current law, a child support enforcement agency is limited to issuing an order for the result of the guidelines, even if that amount is less than the minimum support order.



Redesign of the Worksheets

Current Law

The current child support worksheets produce three ordered payments: two ordered child support payments (one that is only paid when health insurance is provided with a credit for that cost, the other that is only paid when it is not provided) and one cash medical support payment. The worksheets do not contain anything resembling a self-support reserve test or parenting time adjustment.

Recommendation of the Council

The 2009 Child Support Guidelines Advisory Council recommended the creation of the self-support reserve test and parenting time adjustments but did not address the technical processes that must be carried out within the worksheets to implement them.

Senate Bill 292

The worksheets in SB 292 incorporate each of the amended or new provisions of SB 292.

Amends/Creates Revised Code Sections

3119.01; 3119.022; 3119.023; 3119.024; 3119.025; 3119.026; 3119.024; 3119.03; 3119.76; and 3119.79

Stakeholder Impact

Parents

- The credit for non-means tested benefits paid to the child is extended to the cash medical support obligation.
- The inclusion of formulas on the worksheets removes ambiguity as to how obligations are calculated. The formulas also serve to increase the readability and reliability of the worksheets.
- The addenda prevent needless calculations and/or calculations from being done multiple times.

Courts

- The inclusion of formulas on the worksheets removes ambiguity as to how obligations are calculated. The formulas also serve to increase the readability and reliability of the worksheets.
- The addenda prevent needless calculations and/or calculations from being done multiple times.

CSEA's

- The inclusion of formulas on the worksheets removes ambiguity as to how obligations are calculated. The formulas also serve to increase the readability and reliability of the worksheets.
- The addenda prevent needless calculations and/or calculations from being done multiple times.

Stated Opposition

The worksheets are too complicated. **Source:** Judicial Conference and Ohio CSEA Directors' Association Legislative Committee

The child support worksheets in SB 292 are the simplest method to accomplish the complicated task of documenting the combined income of parents (in light of relevant facts and circumstances) that are not in the same household and applying the law to those facts and arrive at a single child support obligation.

There is a certain level of complexity to be expected from a child support worksheet that must be used to calculate an obligation of parents with a combined income of \$10,830 all the way up to \$250,000. Any worksheet will involve the collection of financial information from parents (income and expenses); adjusting the financial information based on particular facts and circumstances and Ohio law; calculating a combined child support obligation; adjusting the obligation based on particular facts and circumstances and Ohio law; and finally arriving at a single obligation to be paid by one of the parties.

The worksheets in SB 292 accomplish these goals, accommodate the other provisions of SB 292, and will lead to expected outcomes, regardless of the simplicity or complexity of the underlying facts and circumstances. The worksheets in SB 292 also resolve issues related to the calculation of cash medical support that were the unintended consequences of the most recent update of the guidelines worksheets (2008).



Anticipated Opposition

ODJFS has discussed the necessity of the redesign with the Judicial Conference and OCDA. ODJFS worked through several sample worksheets with the OCDA Legislative Committee and at the conclusion OCDA seemed amenable to the redesign.

Frequently Asked Question(s)

1. Why can't the current worksheets be modified to include provisions of SB 292?

There have been attempts to incorporate the provisions of SB-292 into the existing worksheets, but all have failed. The three-ordered payments that result from current cash medical methodology combined with the self-support reserve have proven especially difficult to reconcile.

2. Why are there more worksheets?

Provisions of SB-292 are incorporated into the existing worksheets concept by "normalizing" them: all income collection and obligation information in the Child Support Worksheet; a single a Supplement that contains a unique set of calculations is used depending on the allocation of parenting time and/or parental rights; and an addendum is completed only if specific criteria have been met (the parent fails the self-support reserve test or the child receives non-means tested benefits).

3. Why is there a reference to veterans' benefits as income?

The verbiage change to the worksheet is for clarity and consistency and is not indicative of a change to the type of veterans' benefits that are counted as gross income. Any veterans' benefits that were previously excluded from the gross income calculation remain excluded and any benefits previously included remain included. The definition of gross income can be found in section 3119.01 of the Revised Code.

4. Isn't there a credit for non-means tested benefits on the existing worksheets?

The credit has been modified and is included in the Non-Means Tested Benefits Addendum in SB-292. The Addendum improves upon current law by ensuring that the child support and cash medical support obligations are reduced appropriately.

5. Why are there formulas on the worksheet?

Inclusion of the formulas removes ambiguity and will help to de-mystify the calculations.



Cash Medical Support

Current Law

Federal law requires that the cost of health care for children be incorporated into any support obligation. To accomplish this, Ohio's child support guidelines produce three ordered payments: two ordered child support payments (one that is only paid when health insurance is provided with a credit for that cost, the other that is only paid when it is not provided) and one cash medical support payment. Cash medical support is only actually paid when health insurance is not provided for the child. Implementation of this policy (which began in Summer 2008) has proven challenging for all concerned largely because of the complexity resulting from the three obligation amounts.

Recommendation of the Council

Medical support obligations should be based on a separate schedule of medical support obligations which are based on USDA estimates for health care expenditures.

Senate Bill 292

Modifies existing cash medical provisions in Ohio law:

- The methodology for calculating cash medical will result in two ordered payments (one for child support, and one for cash medical support).
- The calculation of the cash medical support obligation is no longer based on cost estimates, but actual cost data provided by the parties.
- The cash medical support obligation is equal to the obligor's marginal, out-of-pocket cost of providing health insurance.
- A definition for "cash medical support" is provided in order to specify what specific costs the payment is intended to cover. The definition also ensures that the obligation is given the same considerations as child support, where appropriate.
- A number of technical corrections identified as necessary during the implementation of cash medical support beginning in the Summer of 2008.

Amends Revised Code Sections

3119.01; 3119.022; 3119.023; 3119.05; 3119.29; 3119.30; 3119.302; 3119.303; 3119.31; and 3119.32

Stakeholder Impact

Parents

- The worksheets are simplified and the resulting obligations are easier to understand.
- A consistent amount is deducted from the obligor's earnings when health insurance changes.
- The costs considered in the worksheet reflect parents' actual costs.

Courts

- The worksheets are simplified and the resulting obligations are easier to understand.

CSEA's

- The worksheets are simplified and the resulting obligations are easier to understand.
- Reduces the number of wage withholding notices issued by the CSEA.

Stated Opposition

The provisions regarding cash medical support in SB 292 are substantively different than the provisions recommended by the Council. **Source:** Ohio CSEA Director's Association Legislative Committee

Although the Council intended to simplify the current process by adopting a methodology that will produce only two ordered payments, the recommendation of the Council will actually result in three ordered payments: one for child support, one for the ongoing monthly health care costs other than insurance (estimated uninsured expenses); and another to cover the costs of health insurance premiums when health insurance is not provided by the obligor (estimated health insurance expenses). The method recommended by the Council would be costly to implement and difficult to administer. Moreover, neither the Council nor ODJFS has been able to make the cash methodology recommended by the Council function in a child support worksheet in conjunction with the self-support reserve and parenting time adjustments.



Department of Job and Family Services

Anticipated Opposition

ODJFS discussed the cash medical methodology with OCDA on multiple occasions.

Frequently Asked Question(s)

1. Why not estimate health care costs as was recommended by the 2009 Child Support Guidelines Advisory Council?
The recommendation of the Council did not eliminate the need to collect actual health insurance cost data from the parents, as that information is essential in determining whether or not the parent will be ordered to provide health insurance. It is counterintuitive to favor cost estimates when actual expense data is available and relevant.
2. Cash medical started in the Summer of 2008, why change it now?
Implementation of cash medical has proved to be more difficult than expected. The calculation of the amount and the "flipping" between obligations have especially been problematic. The cash methodology in SB 292 will simplify the process of establishing and enforcing cash medical obligations.



Administrative Review of Court Ordered Deviations

Current Law

When a deviation has been granted by a court in accordance with section 3119.23 of the Revised Code and that order later becomes subject to the administrative review and adjustment process, the child support enforcement agency (CSEA) conducting the review is not permitted to continue the deviation, even when the underlying facts which led to the deviation have not changed.

Recommendation of the Council

During an administrative review and adjustment of a child support order, the CSEA agency should assume that the grounds for any previously granted deviations are ongoing and do not require an adjustment. Parties wishing to object to the findings may appeal directly to the court.

Senate Bill 292

Requires a CSEA conducting an administrative review and adjustment to include in its recommendation the monetary deviation contained in the most recent court order. Either of the parties may object directly to court if they disagree with the inclusion of the court-ordered deviation.

Prohibits the CSEA from including the court-ordered deviation in its recommendation if the CSEA cannot clearly determine the specific monetary or percentage value of the deviation. The redesigned child support worksheet in SB 292 contains fields for the court to specify the dollar amount of any deviation.

Amends Revised Code Sections

3119.022 and 3119.63

Stakeholder Impact

Parents

- Stops parents from having to object to court simply to re-establish an existing deviation.

Courts

- Reduces the number of objections to administrative recommendations.
- Maintains consistency of court orders and ensures that an artificial "expiration date" is not imposed upon the court's finding.
- Requires the courts issuing orders and attorneys preparing the worksheets to ensure that specific dollar amounts are clearly specified.

CSEA's

- Requires CSEA to have access to the existing court order as part of the administrative review and adjustment.

Stated Opposition

None

Anticipated Opposition

None

Frequently Asked Question(s)

1. How will the child support enforcement agency know the monetary value of a deviation?

The redesigned worksheets in SB-292 have a field for the court to specify the monetary value of the deviation.



Multiple Support Orders for the Same Family

Current Law

Currently, parties may request a review and adjustment of an administrative child support order to consolidate children of the same parents for whom a duty of support has been established into a single administrative child support order that is in compliance with the guidelines. The provision does not extend to the establishment of administrative or court child support orders.

Recommendation of the Council

When multiple child support orders exist for children of the same parents, the aggregate child support order amount should not exceed the amount that would have been ordered if all children had been addressed in the same child support order and at the same time.

Senate Bill 292

Requires the court or child support enforcement agency (CSEA) to ensure that when multiple child support orders exist for children of the same parents, the total of all support orders for children of the same parents does not exceed the amount of support that would have been ordered if all children were addressed in one judicial or administrative proceeding.

Amends/Creates Revised Code Sections

3119.05

Stakeholder Impact

Parents

- Will lead to more equitable results when the parents have other common children subject to different child support orders.

Courts

- The court must rely on the parties of the order to provide information about any pre-existing orders if that information is not otherwise available.

CSEA's

- The CSEA must rely on the parties of the order to provide information about any pre-existing orders if that information is not otherwise available.

Stated Opposition

None

Anticipated Opposition

None

Frequently Asked Question(s)

1. How will the parties know to tell the court or agency about the pre-existing order?
As parties to the current order and existing orders, the parents are the primary source of information. Given the credit for other obligations in SB-292, the parties should be providing the information about all pre-existing support orders.
2. Why not require the court or child support enforcement agency to combine all the existing orders into a single order?
Jurisdictional issues would be a significant barrier.



Deviation Factors

Current Law

If, after considering the deviation factors set forth in section 3119.23 of the Revised Code, the court determines that the annual obligation drawn from the child support schedule would be unjust or inappropriate and would not be in the best interest of the child, the court may deviate from the annual obligation amount drawn from the schedule.

A court may grant a deviation from the presumed obligation based on the obligor obtaining additional employment after a child support order is issued in order to support a second family.

Recommendation of the Council

Improve the application of deviations in child support cases by clarifying the existing deviation factors and simplifying the standard for granting a deviation.

Senate Bill 292

Clarifies the standard for deviating from the presumptive obligation: If the court finds the presumptive child support amount is unjust or inappropriate, then the presumptive obligation is inherently not in the best interest of the child and the court may grant a deviation.

Revises the deviation factors for clarity. Highlights:

- The deviation factor relating to secondary income has been removed (*see section re: imputing income*)
- A new factor based on postsecondary educational expenses paid for by a parent has been added.
- A new factor based on the costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in abuse, neglect, or dependency cases has been added.
- A new factor based on the obligee's gross income is equal to or less than one hundred per cent of the federal poverty level has been added.

Removes the deviation factor based on the obligor obtaining additional employment and inserts new language in section 3119.05 of the Revised Code which would permit, under appropriate circumstances, a court or child support enforcement agency to disregard income earned from overtime or additional employment when the income was generated primarily to support new or additional family member(s).

Amends Revised Code Sections

3119.05; 3119.22; and 3119.23

Stakeholder Impact

Parents

- The deviation factors are more easily understood and correspond to legitimate factors that are not otherwise considered within the worksheets.

Courts

- Clear standards assist attorneys preparing worksheets and courts that must apply them.

CSEA's

- None

Stated Opposition

None

Anticipated Opposition

None

Frequently Asked Question(s)

1. Were there any substantial changes to the deviation factors?

With the exception of the new factors, the changes were for clarity or in conjunction with other provisions of the bill (mandatory work-related deductions, self-support reserve, etc.).

Imputing Income

Current Law

A court or child support enforcement agency (CSEA) must impute income to a parent found to be voluntarily unemployed or underemployed, unless imputing income would be unjust or inappropriate. There is no definition or guidance for a court or CSEA to follow when determining if a parent is unemployed or underemployed.

Recommendation of the Council

Clarify what income should be excluded from the support calculation and under what circumstances the court or child support enforcement agency (CSEA) may not impute income to an individual.

Senate Bill 292

Provides guidance for a court or CSEA to follow by defining certain conditions that would prohibit the court or CSEA from finding a parent to be voluntarily unemployed or underemployed an imputing income, unless not imputing income would be unjust or inappropriate. Conditions that would prohibit the imputation of income include:

- If the parent is receiving recurring monetary income from means-tested public assistance benefits.
- If the parent is approved for Social Security Disability benefits due to his or her own mental or physical disability.
- If, based on medical documentation, the court or CSEA determines that the parent is unable to work.
- If the parent has made continuous and diligent efforts to find and accept employment.
- If complying with court-ordered family reunification efforts in a child abuse, neglect, or dependency proceeding, limits the parent's earning ability.
- If the parent is incarcerated or institutionalized for 12 months or more with no other available assets, unless the parent is incarcerated for an offense relating to the abuse or neglect of a child who is the subject of the support order or any offense under Title XXIX of the Revised Code against the obligee or a child who is the subject of the support order.

Amends Revised Code Sections

3119.01; and 3119.05

Stakeholder Impact

Parents

- Child support obligations will more accurately reflect each parent's ability to pay.

Courts

- Provides guidance to the court.

CSEA's

- Provides guidance to the CSEA.

Stated Opposition

The rebuttable presumption shifts the burden from the parent to the court or agency to prove that imputing income would be unjust or inappropriate. **Source:** Ohio CSEA Directors' Association Legislative Committee

The existing statute provides no guidance for a court or CSEA to determine if a parent is unemployed or underemployed. The provisions of SB 292 provide specific criteria for determining whether or not income should be imputed to a parent.

Anticipated Opposition

None

Frequently Asked Question(s)

1. Why shift the burden of proving that imputing income would be unjust or inappropriate from the parent to the court or child support enforcement agency?

The burden is shifted away from the parent only in certain prescribed circumstances and in all likelihood, the court or child support enforcement agency would not have imputed income in those circumstances under current law.

2. Does this mean that parents that choose to make less than what they are capable of making or parents that commit crimes will be rewarded with reduced child support obligations?

The intent is not to reward parents making for willfully earning less than what they are capable of earning and the courts and CSEA's will be able to impute income to the parent when that occurs. The intent is to ensure that child support obligations accurately reflect a parent's ability to pay.

OCF MEETINGS 2011 - THURSDAY		SUBCOMMITTEE MEETINGS 2011 - WEDNESDAY	
January			19-Jan
February	3-Feb		
March			9-Mar
April	7-Apr		
May			18-May
June	2-Jun		
July			
August			24-Aug
September	8-Sep		
October			19-Oct
November	3-Nov		
December			

LAZ A601 10:00 am to 12:00 pm	RIFFE 12th Floor Conference Room 10:30 am to 11:30 am
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Lazarus Building
50 West Town Street
6th Floor Rm A601
Columbus, OH 43215

Riffe Building
77 South High Street
12th Floor Conference Room
Columbus, OH 43215