

18 Ohio Dom. Rel. J. 87

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Legislative Report

House Bill 136 has been adopted by the General Assembly and signed by the Governor. It was effective on May 17, 2006. The Act permits a parentage action to be filed directly with the juvenile court of the county in which the child resides, along with other changes in the parentage statutes, and allows interest to accrue on a child support arrearage after judgment is rendered.

Current R.C. § 3111.38 currently provides that, at the request of a person,¹ the child support enforcement agency (CSEA) shall determine the existence or non-existence of a parent and child relationship between an alleged father and the child. This is prior to filing a parentage action with the juvenile court.² House Bill 136 adds two exceptions to the rule that the administrative parentage determination must precede a parentage action in juvenile court.

First, new R.C. § 3111.381(B) permits an action to be brought by the child's mother, without requesting an administrative determination, if the child's mother brings the action "in order to request an order to determine the allocation of parental rights and responsibilities, the payment of all or any part of the reasonable expenses of the mother's pregnancy and confinement, or support of the child." In that case, the clerk of court is required to forward a copy of the complaint to the child support enforcement agency of the county in which the complaint is filed.

Second, new R.C. § 3111.381(C) provides that an action may be brought by the putative father if he brings the action "in order to request an order to determine the allocation of parental rights and responsibilities." As above, the clerk of court must forward a copy of the complaint to the CSEA.

In both instances, the actions must be brought in the county in which the child resides. Current law providing that a probate court has jurisdiction over proceedings pertaining to the existence or nonexistence of a parent-child relationship when the alleged father is deceased, or that a common pleas court has jurisdiction when there is an action for divorce, dissolution of marriage, legal separation or an action for child support and health care,³ are unaffected by House Bill 136.

New R.C. § 3109.043 provides that, in any action pertaining to the allocation of parental rights and responsibilities, "when requested in the complaint, answer, or counterclaim, or by motion served with the pleading, upon satisfactory proof by affidavit ... the court, without oral hearing and for good cause shown, may make a temporary order regarding the allocation of parental rights and responsibilities for the care of the child while the action is pending." The new section further permits the court, in the event that a parent and child relationship has not already been established pursuant to R.C. § 3111.02, to consider in the making of an order for parenting time, visitation rights, or temporary custody to the putative father that he is named on the birth record of the child, that the child has the putative father's last name, or that a "clear pattern of a parent and child relationship between the child and the putative father exists."

H.B. 136 also amends R.C. § 3111.07(A) to remove the child support enforcement agency as a necessary party when the party who initiates the action is a recipient of public assistance or if the responsibility for the collection of support has been assumed by the agency under Title IV-D of the Social Security Act. The amended section provides that the CSEA shall be given notice of the action pursuant to the Civil Rules and an opportunity to be heard.

The Act also addresses the issue of interest on child support arrearages.

Prior R.C. § 3123.171 provides that interest may be charged on child support arrearages owed pursuant to a default only as provided by R.C. § 3123.17, which states that the court may assess interest if the court determines that the default was willful. In such cases, the interest assessed is from the date the court specifies as the date of the default to the date that the court issues the new support order and computed at the rate specified in R.C. § 1343.03.⁴ Amended R.C. § 3123.171 provides that, when a court renders a money judgment for child support pursuant to a motion for lump sum judgment, interest shall accrue on the arrearage "unless the court finds that it would be inequitable to assess interest." Such interest shall accrue from the date of the judgment until a date certain set for the payment of the judgment. The rate is still determined in accordance with R.C. § 1343.03. A court may assess interest on a child support arrearage prior to judgment pursuant to R.C. § 3123.17. In interest is not assessed pursuant to R.C. § 3123.171, the court shall make findings of the reasons for not assessing interest.

Footnotes

- 1 Pursuant to R.C. § 3111.04(A) the following persons may request an administrative determination or bring an action to determine parentage: the child, or the child's representative; the child's mother, or her representative; the man alleged to be the father, or his representative; the man alleging himself to be the father; or a child support agency in the county where the child resides if the child's mother is a recipient of Title IV-D assistance or services.
- 2 R.C. § 3118.381(A).
- 3 Such actions are pursuant to R.C. § 2151.231 or R.C. § 2151.232.
- 4 R.C. § 3123.17(A)(2).

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18 OHDRJ 87

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