

IN THE COURT OF COMMON PLEAS, JUVENILE DIVISION, GEAUGA COUNTY, OHIO  
Judge Timothy J. Grendell

Information Sheet  
Child Support

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**WARNING**

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

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Parental Duty to Support Minor Children.

With a few exceptions, both parents of a minor child have a duty to support that child at least until the child attains the age of 18 years.<sup>1</sup> The exceptions will be explained below. The minor child support duty includes adoptive parents, unmarried biological parents, and married but separated parents. However, a biological parent has a duty to support his or her minor child only if the parent and child relationship has been established according to law.<sup>2</sup> This information sheet primarily discusses the unmarried parent's duty to support a minor child.

Determination of Child Support by Juvenile Court.

The legally enforceable duty to support a minor child arises when a court order or an administrative order determines the amount of child support that is owed by a unmarried parent, typically the noncustodial parent.<sup>3</sup> A juvenile court is authorized to order, modify, terminate, and enforce child support in any legal proceeding involving the children where a party has requested such action.<sup>4</sup> The following apply when a court determines, modifies, terminates, or enforces a child support order:

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<sup>1</sup> R.C. 3119.86, 3119.861, and 3119.862.

<sup>2</sup> R.C. 3103.031. Also see the Information Sheet – “Determining Paternity.”

<sup>3</sup> If a grandparent or other person has legal custody of a minor child, then both parents may be ordered to pay child support.

<sup>4</sup> R.C. 3109.05. The court must follow all of the provisions in Chapters 3119, 3121, 3123, and 3125 when determining or modifying a child support order.

- Mandatory Guidelines. When determining or modifying a court child support order, the Judge shall calculate the amount of the Obligor's child support obligation in accordance with the basic child support schedule, the applicable worksheet, and other provisions of the Revised Code (the "Guidelines").<sup>5</sup> There are two different child support computation worksheets, depending upon whether there is split parental rights and responsibilities. When calculating the child support order in accordance with the Guidelines, there are many other factors that the Judge may consider.<sup>6</sup>

Despite the Guidelines, the Judge shall at least order minimum child support of \$80 per month, but in certain circumstances the Court may order a lesser amount or not require any payment, for example if the Obligor is the recipient of "means-tested" public assistance, such as under the Ohio works first program, supplemental social security, or means-tested veteran benefits.<sup>7</sup>

The Judge will order both parents to supply the Judge with documents and detailed information regarding their current and past income and expenses, which will allow the Judge to verify information and determine child support in accordance with the Guidelines.<sup>8</sup> It is critically important that you provide the Judge with accurate and complete information that is requested and provide all documents requested.

- Income. Child support is fundamentally determined based upon the "income" of a parent. "Income" means for a parent who is: (1) employed to full capacity, the gross income of the parent; or (2) unemployed or underemployed, the sum of the gross income of the parent and any "potential income" of the parent.
  - Gross Income. "Gross Income" is defined in R.C. 3119.01(C)(12) and includes many different sources of income, such as wages, tips, certain forms of disability benefits, severance pay, and retirement benefits. However, certain forms of income are excluded as also listed in R.C. 3119.01(C)(12), such as "means-tested" benefits, non-recurring income flow, certain veteran benefits, etc.
  - Potential Income. "Potential Income" is defined in R.C. 3119.01(C)(17) and includes two forms of "imputed" income. For a parent who is unemployed or underemployed, the Judge may impute income when determining the child support based upon a number of factors set forth in R.C. 3119.01(C)(17). The factors that the Court may consider when deciding whether to impute income are:
    - The parent's prior employment experience;
    - The parent's education;
    - The parent's physical and mental disabilities, if any;
    - The availability of employment in the geographic area in which the parent resides;

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<sup>5</sup> See R.C. 3119.02 through 3119.24

<sup>6</sup> See R.C. 3119.05 for a description of those factors. If you would like to calculate an estimate of the child support amount, then see the child support calculator on the CSEA website at:  
<https://ohiochildsupportcalculator.ohio.gov/pages/calculator.html?p=step4>.

<sup>7</sup> R.C. 3119.06

<sup>8</sup> R.C. 3119.68

- The prevailing wage and salary levels in the geographic area in which the parent resides;
- The parent's special skills and training;
- Whether there is evidence that the parent has the ability to earn the imputed income;
- The minor child's age and special needs;
- The parent's increased earning capacity because of experience;
- The parent's decreased earning capacity because of a felony conviction; and
- Any other relevant factor.

However, the Court will not impute income in a number of circumstances, which are listed in R.C. 3119.05(I), including a parent who is receiving "means-tested" public assistance, the parent is incarcerated, or the parent suffers from physical or mental disability, etc.

- Who Should Pay Child Support?

- If one parent is granted legal custody,<sup>9</sup> the child support order will be issued only for the noncustodial parent. The child support obligation of the residential and custodial parent is presumed to be spent on the minor children.<sup>10</sup>
- If the parents have split parental rights and responsibilities, the child support obligations of the parents shall be offset, and the court shall issue a child support order requiring the parent with the larger child support obligation to pay the net amount pursuant to the child support order.<sup>11</sup>
- If neither parent is the residential parent, the court may order one or both parents to pay child support to the legal custodian of the children.<sup>12</sup>

- Deviation from Guidelines.<sup>13</sup>

- Generally. The child support that is determined in accordance with the Guidelines is presumed to be correct.<sup>14</sup> Nevertheless, the Judge may order an amount of child support that deviates from the child support that would otherwise result from only using the Guidelines if the Judge determines that the amount calculated pursuant to the Guidelines would be unjust or inappropriate and therefore not be in the best interest of the child.<sup>15</sup> The Revised Code sets forth the factors the Judge must consider when deciding whether

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<sup>9</sup> R.C. 2151.011(A)(21) - "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

<sup>10</sup> R.C. 3119.07(A)

<sup>11</sup> R.C. 3119.07(B)

<sup>12</sup> R.C. 3119.07(C)

<sup>13</sup> See R.C. 3119.22 and 3119.23

<sup>14</sup> R.C. 3119.03

<sup>15</sup> R.C. 3119.22

to deviate from the Guidelines.<sup>16</sup> If the Court deviates from the Guidelines, the Court must enter into the Court's journal:

- the amount of child support resulting from the Guidelines;
  - the applicable worksheet;
  - its determination that the amount under the Guidelines would be unjust or inappropriate and therefore is not in the child's best interest; and
  - Findings of fact supporting the deviation.
- Factors. The factors that the Court may consider when deciding to deviate from the Guidelines are listed in R.C. 3119.23, including:
  - Extended parenting time, extraordinary travel costs;
  - Financial resources of the child;
  - Disparity of income and resources of the parents;
  - Benefits of a parent from remarriage;
  - In-kind contributions, such as lessons, sports equipment, schooling;
  - Educational opportunities for a child;
  - Extraordinary childcare costs; and
  - Costs related to reunification efforts in child abuse, neglect, dependency cases.
- Effect of Parenting Time. If the parenting time given to the Obligor equals or exceeds 90 overnights, then the child support determined under the Guidelines is reduced by 10 percent. Moreover, if the parenting time exceeds 90 overnights, then the Court may order a deviation from the standard amount of child support determined under the Guidelines, in addition to the 10 percent reduction. If parenting time equals or exceeds 147 overnights per year, and the Court does not grant a deviation, then the Court will specify in its order the facts that are the basis for its decision not to deviate. Finally, upon request of the residential parent, the Court may reduce that adjustment if the Obligor fails to exercise the court-ordered parenting time without just cause.<sup>17</sup>
- Shared Parenting Order.<sup>18</sup> When the Court issues a shared parenting order, the Court shall order child support according to the Guidelines. However, the Court may deviate as explained above if the result of applying the Guidelines would be unjust or inappropriate and therefore not in the child's best interest. Additionally, the Court may deviate for "extraordinary circumstances of the parents."<sup>19</sup>

Only a court has the authority to deviate from the Guidelines. When the Child Support Enforcement Agency (CSEA) determines the child support by administrative order, as explained below, CSEA has no authority to deviate from the Guidelines. However, as explained below, when CSEA makes a subsequent adjustment to a child support order that was deviated by the Court, CSEA may use the same formula of deviation used by the Court when determining the new modified amount of child support.

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<sup>16</sup> See R.C. 3119.23 for a list of those factors.

<sup>17</sup> R.C. 3119.051

<sup>18</sup> R.C. 3119.24

<sup>19</sup> See R.C. 3119.24(B)

- Health Care for Children.

- Uninsured Health Care Costs. When the Court determines a child support order, in addition to the basic child support order under the Guidelines, the Court will determine the parent responsible for the children's health care. To the extent that the children are not covered by private health insurance, both parents are liable for those health care expenses not so covered, according to a formula established by the Court.<sup>20</sup>
- Health Insurance Coverage. When the Court determines a child support order, the Court will determine which parent will provide health insurance coverage for the children. Except as otherwise provided below, the Court will order the parent who is not required to pay child support (the "Obligee"), typically the residential parent, to provide the health insurance coverage.<sup>21</sup>

However, the Court may order the Obligor (the noncustodial parent) to provide health insurance coverage if:

- The Obligor already has health insurance coverage for the children at a reasonable cost;
- The Obligor already has health insurance coverage for the children at an unreasonable cost but volunteers to provide such insurance;<sup>22</sup>
- The Obligor can provide health insurance coverage for the children at a reasonable cost through an employer or other source; or
- The custodian is a nonparent or an agency.

If private health insurance coverage is not available at a reasonable cost to either the residential parent or the Obligor, then the Court will order the residential parent to provide such coverage within 30 days after it becomes available at a reasonable cost and to inform CSEA when obtained.<sup>23</sup> If private health insurance coverage becomes available to Obligor at a reasonable cost, then the Obligor must inform CSEA and may seek a modification of the child support order

While generally the Court may not order either parent to obtain private health insurance if the cost is unreasonable, the Court may order either parent to obtain and maintain private health insurance for the children when the cost is unreasonable if: (1) such order is in the children's best interest, and (2) the cost does not impose an undue burden upon either parent.<sup>24</sup>

"Reasonable cost" means that the cost of private health insurance to the person required to provide health insurance coverage for the children who are the subject of the child support order does not exceed an amount equal to five per cent of the annual income of

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<sup>20</sup> R.C. 3119.30(A)

<sup>21</sup> R.C. 3119.30(B)

<sup>22</sup> R.C. 3119.302(A)(2)

<sup>23</sup> R.C. 3119.30(B)(2)

<sup>24</sup> R.C. 3119.302(A)(2)(b)

that person. The cost of health insurance is an amount equal to the difference in cost between self-only and family coverage.<sup>25</sup>

- Cash Medical Support. The Court's child support order will include a cash medical support amount that is intended to cover some of the uninsured medical expenses, which is calculated under the Guidelines and based upon a formula created by the director of Job and Family Services, and which considers the number of children and the parents' income.<sup>26</sup> Of course, the cash medical amount included in the child support order is subject to deviation by the Court as explained above.
- Extraordinary Medical Expenses. "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed the total cash medical support amount owed by the parents during that year. When the Court issues a child support order, the Court will provide a formula in the order allocating extraordinary medical expenses between the parties.<sup>27</sup> If the court child support order, including the provision for private health insurance coverage or cash medical support is not sufficient to meet all of the uninsured medical needs of the minor children, then a parent may file a motion with the Court that issued the order, requesting a modification of the child support required to be paid under the order because that amount does not adequately cover the extraordinary uninsured medical needs of the child.<sup>28</sup> Once again, only a court has the authority to deviate from the Guidelines regarding such medical needs. When CSEA determines the child support, as explained below, CSEA has no authority to deviate from the Guidelines regarding such medical needs.
- Designation of Federal Child Tax Credit. Whenever the Judge issues, modifies, reviews, or otherwise reconsiders a court child support order, the Judge may designate which parent may claim the federal child tax credit for the minor children who are the subject of the court child support order. CSEA does not have authority to determine who may claim the federal child tax credit when CSEA issues an administrative child support order.
- Parenting Time. Whenever the Judge issues a child custody, the Judge typically will include in that order specific provisions regarding parenting time (visitation rights).<sup>29</sup> In our Court, the Judge is likely to establish parenting time using the "Standard Parenting Time Schedule" provided for in Local Juvenile Rule 23. Only a court has the authority to determine parenting time. When CSEA determines the child support, CSEA has no authority to determine parenting time.<sup>30</sup>
- Interference with Parenting Time. The duty to pay child support and the right to parenting time are independent of each other.<sup>31</sup> If you have a duty to pay child support, you cannot refuse to pay the child support just because the other parent interferes with your parenting time. If the other parent denies or interferes with your parenting time, then you may file a motion with the Court seeking (i) enforcement of your parenting time, (ii) modification of the parenting time, or (iii) possibly a change of custody, establishing you as the residential parent.

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<sup>25</sup> R.C. 3119.29(G)

<sup>26</sup> R.C. 3119.302 and 3119.303

<sup>27</sup> R.C. 3119.05(F) and 3119.32(D)

<sup>28</sup> R.C. 3119.49 and 3119.50

<sup>29</sup> R.C. 3119.08

<sup>30</sup> See Information Sheet - "Allocation of Parental Rights and Responsibilities."

<sup>31</sup> R.C. 3119.09 and 3109(D)

**Note:** If you want the Judge to modify or enforce an order of parenting time (visitation), then consider using and filing with the Court form GC Juv 032 (Motion for Change of Parenting Time), together with (1) GC Juv 034 (Parent History Affidavit) and (2) GC JF 7.0 (Instructions for Service).

- Payments must be paid to CSEA. When the Judge issues a child support order, that order will order the Obligor to pay the child support to CSEA, and not directly to the other parent.<sup>32</sup> In addition to the child support payment, you will pay CSEA a two percent processing charge. Any payments made directly to the other parent will be deemed to be a gift.<sup>33</sup> If you pay child support to the residential parent before the court issues a child support order, you should retain evidence of all such payments (such as a cancelled check). Avoid paying cash without receiving a receipt acknowledging the payment. At the Hearing, you should request that the Judge give you credit for all such pre-hearing support payments.
- Failure to Pay Child Support. If you fail to pay child support, then the Judge may find you in contempt of court, and in addition to any other fine or remedy, the Judge may order you to pay the other parent's attorney fees.<sup>34</sup> Moreover, the Judge may order that you serve jail time.
- Modification of Court Child Support Order. After issuing a child support order, the Judge may modify the child support order upon a party filing a motion to modify the court child support order. Unlike CSEA, the Court will not automatically notify you of a right to ask the Court to reconsider a court child support order. When a motion is filed, the Judge must perform the recalculation based primarily upon the Guidelines and in accordance with R.C. 3119.79. If the difference between the current child support order and the recalculated amount is more than 10 percent, then the Judge will consider that difference to be a substantial change in circumstances that justifies a modification. Another reason for a modification is if the Obligor was ordered to provide private health insurance coverage and since that order the Obligor is no longer able to provide such coverage. Upon the filing of a motion to modify the private health insurance coverage obligation, the Judge may order CSEA to investigate the matter.<sup>35</sup>

While a modification proceeding is pending, the Judge may issue a temporary order that modifies an Obligor's duty to pay a child support payment until a final order is entered concerning the complaint or motion for modification.<sup>36</sup>

**Note:** A "complaint" must be filed if there is no legal proceeding in this Court regarding the minor child, including a legal proceeding that has been closed. Otherwise, a "motion" is filed to bring the current matter to the Court's attention.

Except as permitted in the preceding paragraph, the Judge may not retroactively modify an Obligor's duty to pay a delinquent child support payment.<sup>37</sup>

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<sup>32</sup> R.C. 3109.05(A)(2)

<sup>33</sup> R.C. 3121.45

<sup>34</sup> R.C. 3109.05(C) and 3119.56

<sup>35</sup> R.C. 3119.46, 3119.47, and 3119.48

<sup>36</sup> R.C. 3119.84

<sup>37</sup> R.C. 3119.83

**Note:** If you want the Judge to modify a child support order, then consider using and filing with the Court form GC Juv 015 (Motion for Modification of Child Support), together (1) GC JF 7.0 (Instructions for Service), and (2) a filing fee deposit.

- Termination of Court Child Support Order. The duty to pay a court child support order does not automatically terminate upon the occurrence of an event that justifies its termination, such as a child attaining the age of 18 years.<sup>38</sup> It only terminates upon a court order or administrative order (described below). The residential parent, the legal custodian of a child for whom a child support order is issued, or the person who otherwise has custody of a child for whom a child support order is issued, immediately shall notify the Court, and the Obligor under a child support order may notify, the child support enforcement agency administering the child support order of any reason for which the child support order should terminate. With respect to a court child support order, a willful failure to notify the agency as required by this division is contempt of court.<sup>39</sup>

Events that justify the termination of a court child support order by a court include:<sup>40</sup>

- The child attains age 18 if the child no longer attends an accredited high school on a full-time basis and the child support order requires support to continue past age 18 only if the child continuously attends such a high school after attaining age 18;
- The child ceases to attend an accredited high school on a full-time basis after attaining the age 18, if the child support order requires support to continue past the age 18 only if the child continuously attends such a high school after attaining that age;
- A termination condition specified in the court child support order has been met for a child who reaches 19 years of age;
- The child's death;
- The child's marriage;
- The child's emancipation;
- The child's enlistment in the armed services;
- The child's deportation;
- Change of legal custody of the child;
- The child's adoption (the probate court will notify CSEA of the adoption);<sup>41</sup>

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<sup>38</sup> R.C. 3119.36 gives a court or CSEA the authority to continue to collect any overpayment or underpayment (arrear) of child support, except to the extent that they are waived or compromised by a court or administrative order.

<sup>39</sup> R.C. 3119.87

<sup>40</sup> See R.C. 3119.88 provides a few events that justify termination of a court child support order.

<sup>41</sup> See R.C. 3107.20.



- The obligor's death;
- The grandparent to whom support is being paid or a grandparent who is paying support reports that the grandparent's support order should terminate as a result of one of the events described in division (D) of section [3109.19](#) of the Revised Code;
- Marriage of the obligor under a child support order to the obligee, if the obligor and obligee reside together with the child.

**Additionally, there are two Key Points to consider:**<sup>42</sup>

1. Unlike a CSEA child support order, regarding a court-ordered child support order for a child who is (i) mentally or physically disabled, or (ii) is incapable of maintaining oneself, the court-ordered child support order will continue after that child attains 18 years until the Court determines that the child is (i) no longer mentally or physically disabled, or (ii) capable of maintaining oneself.
2. Unlike a CSEA child support order, the Court may also terminate a child support order for any other appropriate reasons brought to the attention of the Court, unless otherwise prohibited by law. An example may be that the parents have reunited and live together with the minor children.

If you file a motion with the Court to terminate a child support order, then you should request that the Judge also determine the amount of any overpayment of child support or underpayment (arrears) of child support, and then make provision regarding the repayment of any overpayment, and the waiver or a payment plan for any arrears. If the court child support order covers more than one minor child, and if other minor children do not qualify for a termination event, then your motion to terminate child support should request that the Judge modify the court child support order to accommodate the remaining minor children.

If you have a court child support order, you may contact CSEA to terminate your court child support order, rather than file a motion for termination with the Court.

**Note:** If you want the Judge to terminate a child support order as to one or more of the minor children, then consider using and filing with the Court form GC Juv 017 (Motion to Terminate Child Support), together (1) GC JF 7.0 (Instructions for Service), and (2) a filing fee deposit.<sup>43</sup>

- Arrears. When the Court or CSEA orders the termination of a court child support order, that order does not affect or relieve the Obligor's duty to pay arrears (meaning past-due child support payments). If you file a motion to terminate child support, then you should request that the Judge determine the amount of any arrears and determine whether the arrears is waived or provide for a repayment schedule for any arrears. Before filing your motion, you should contact CSEA to verify the amount of the arrears and request that CSEA deliver to you a certified copy of the arrearage calculation.

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<sup>42</sup> Review R.C. 3119.88(B).

<sup>43</sup> If you have a financial difficulty in paying a filing fee, the Help Center may be able to assist. You may prepare and file an Indigency Application and the required financial affidavit.

If the parents agree that any arrears or overpayments should be waived, then the Judge may waive any arrears or overpayment obligations,<sup>44</sup> except that if one of the parents is a recipient of public assistance for support (such as Ohio works first benefits) or for health care (such as Medicaid), which benefits the children, then the Judge may not waive any arrears that CSEA has permanently assigned to the state of Ohio. CSEA has a process to obtain a waiver or compromise of such assigned arrears – see below.

**Note:** If you want the Judge to waive a child support arrearage, then consider using and filing with the Court form GC Juv 017A (Motion to Waiver Child Support), together (1) GC JF 7.0 (Instructions for Service), and (2) a filing fee deposit.

- Split Parental Rights and Responsibilities. When the Judge has ordered split parental rights and responsibilities, the Judge will use a special Guideline to calculate the child support obligations.<sup>45</sup>
- Temporary Support Order. If a party files a complaint or motion with the Court to determine paternity, then the Judge, on the Judge's own motion or on the motion of either party, may issue a temporary child support order pursuant to Guidelines requiring the alleged father to pay child support to the natural mother or the guardian or legal custodian of the child. That order shall remain in effect until the Judge issues a final order in the action, which determines the existence or nonexistence of a father and child relationship.<sup>46</sup> If the Judge determines that the alleged father is not the natural father of the child, then the Judge may order the person to whom the temporary support was paid under that order to repay the alleged father all amounts paid for child support under the temporary order.<sup>47</sup>
- Criminal Act. Ohio criminal law provides that no person, by using physical harassment or threats of violence against another person, shall interfere with the other person's initiation or continuance of, or attempt to prevent the other person from initiating or continuing, an action to issue or modify a child support order.<sup>48</sup> Whoever violates that statute is guilty of interfering with an action to issue or modify a child support order, which is a misdemeanor of the first degree. If the offender previously has been convicted of, or plead guilty to, a violation of that statute, then that person can be charged with and convicted of a felony of the fifth degree.<sup>49</sup>
- Limitation of Power to Determine Child Support. The juvenile court may not determine child support for a minor child if the parents are: (1) married, (2) unmarried but another court has previously determined child support for the child (such as a domestic relations court resulting from a prior marriage), or (3) there is a pending action in another court regarding child support for a minor child.<sup>50</sup>

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<sup>44</sup> See *Byrd v. Knuckles*, 120 Ohio St.3d 428 (2008), 900 N.E.2d 164, 2008-Ohio-6318; *Nelson v. Nelson*, 65 Ohio App.3d 800, 585 N.E.2d 502 (11<sup>th</sup> Dist. 1990); and *Sweeney v. Sweeney*, 63 N.E.3d 542 (8<sup>th</sup> App. Dist. 2016), 2016-Ohio-1384.

<sup>45</sup> R.C. 3119.07 and 3119.023

<sup>46</sup> R.C. 3111.13

<sup>47</sup> R.C. 3111.111

<sup>48</sup> R.C. 2919.231

<sup>49</sup> R.C. 2919.231(B)

<sup>50</sup> R.C. 2151.233

- Child Support Order of Another Court. Ohio has enacted a version of the “Uniform Interstate Family Support Act.”<sup>51</sup> If a juvenile court of another state has issued a child support order, then generally this Court cannot modify or terminate that child support order unless (1) both parents no longer live in that state, or (2) both parents agree to transfer jurisdiction to this Court. You should seek legal advice from a family-law attorney if you desire to modify or terminate a child support order issued by another state.

#### Determination of Child Support by CSEA.<sup>52</sup>

In addition to a court ordering child support, the Geauga County Department of Job and Family Services (“CSEA”), which is located at 12480 Ravenwood Drive, Chardon, Ohio 44024 (the “CSEA Office”), has authority to determine both child support and paternity (and thus establish a father and child relationship).<sup>53</sup> Typically, when CSEA establishes the father and child relationship, CSEA will also determine the father’s child support obligation. However, when CSEA determines the father’s child support obligation, CSEA may not grant the father any custody rights or parenting time rights. Only a court can determine custody and parenting time. Regarding the determination, modification, termination, and enforcement of a child support order, CSEA is not only bound by the applicable provisions of the Ohio Revised Code, but also the Ohio Administrative Code. The following apply when CSEA determines, modifies, terminates, or enforces an administrative child support order:

- Mandatory Guidelines, No Deviation. Similar to a court, CSEA must determine child support using the Guidelines.<sup>54</sup> You should study the factors set forth in the Ohio Administrative Code, which CSEA must use in determining child support.<sup>55</sup> With one exception that is explained below, unlike a court, and with one exception explained below if CSEA is modifying court-ordered child support, CSEA has no authority to deviate from the Guidelines.<sup>56</sup>
- Reasonable Assumptions.<sup>57</sup> If you fail to supply CSEA with documentation needed for CSEA to determine child support in accordance with the Guidelines, then CSEA may make reasonable assumptions regarding the required information. You may rebut those assumptions with documentary evidence during the objection stage.
- Private Health Insurance Coverage. Similar to a court, CSEA must determine the person or persons responsible for providing private health insurance coverage for the minor children to the extent available.<sup>58</sup>
- Uninsured Medical Expenses.<sup>59</sup> In addition to determining the duty to provide private health insurance coverage for the children, in accordance with R.C. 3119.30 and R.C. 3119.32, in any action or proceeding in which the CSEA is issuing or modifying a child support order, the CSEA shall order or recommend the medical support provision for the shared responsibility of uncovered healthcare expenses.

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<sup>51</sup> Carefully review R.C. Chapter 3115.

<sup>52</sup> See R.C. 3111.80 through R.C. 3111.84

<sup>53</sup> See Information Sheet – “Determination of Paternity.”

<sup>54</sup> R.C. 3119.02 and Ohio Adm.Code 5101:12-45-10

<sup>55</sup> Ohio Adm.Code 5101:12-45-10(B)

<sup>56</sup> R.C. 3119.03 only permits a court to deviate from the Guidelines. See also Ohio Adm.Code 5101:12-45-10(B).

<sup>57</sup> R.C. 3111.80 and R.C. 3119.60

<sup>58</sup> Ohio Adm.Code 5101:12-47-02

<sup>59</sup> Ohio Adm.Code 5101:12-47-02(F)

- Adequacy of Medical Support. While a court may include in the child support order a special provision or deviation to cover the child's extraordinary uninsured medical needs if the child support order is inadequate to meet those needs, CSEA has no authority to deviate from the Guidelines regarding those medical needs.
- Right to Object. If you disagree with the CSEA child support order, then you may file a complaint (or motion if a court proceeding is pending) with the Court objecting to that order, provided that you file the complaint or motion within 14 days after the issuance of that CSEA order.<sup>60</sup> One reason for objecting may be that there should be a deviation from the Guidelines in your child support order. The CSEA child support order remains effective during the objection process unless you request, and the court grants a "stay order."

**Note:** If you want the Judge to modify the CSEA child support order, then consider using and filing with the Court form GC Juv 018 (Complaint/Motion – Objection to Administrative Order). If filed as a complaint (which is required if no proceeding is pending before the Court), then file the complaint together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit. If filed as a motion, then file the Motion together with (1) GC JF 7.0 (Instructions for Service) and (2) a filing fee deposit.

- Parenting Time. CSEA has no authority to determine parenting time (visitation rights) for the noncustodial parent. Only a court can make that determination.

**Note:** If you want the Judge to grant you parenting time, then if no court proceeding exists regarding your minor children, consider using and filing with the Court form GC Juv 001 (Complaint for Allocation of Parental Rights and Responsibilities for Care of Child(ren) and Parenting Time), together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit.

- Payments must be paid to CSEA. Whether determined by a court or by CSEA, the Obligor shall pay the child support to CSEA, and not directly to the other parent.<sup>61</sup> Any payments made directly to the other parent will be deemed a gift.<sup>62</sup> Unlike a proceeding before a court, if you pay child support to the custodial parent before the administrative hearing date to determine child support, CSEA cannot and will not give you any credit for such child support payments.
- Modification of Child Support Order. Thirty-six months after the date of the most recent order, regardless of whether it is a court child support order or a CSEA child support order, CSEA will deliver a notice to all parties that a party can request a review of the child support order. If you decide to request a review you must follow the requirements set forth in that notice. CSEA will recalculate the child support order based upon the Guidelines and any additional information supplied by the parties.

In some situations, a party may request that CSEA review and modify a child support order before the passage of 36 months using CSEA form "Request for an Administrative Review of

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<sup>60</sup> R.C. 3111.84

<sup>61</sup> R.C. 3109.05(A)(2)

<sup>62</sup> R.C. 3121.45

the Child Support Order.”<sup>63</sup> Those situations are outlined in the Administrative Review of the Child Support Order and in Ohio Adm.Code 5101:12-60-05.1(E).<sup>64</sup> Examples include recent unemployment, permanent disability, incarceration, etc. Ohio Adm.Code 5101:12-60-05.2 has special provisions for certain military members.

If the child support order is issued by the Court, then you may decide to have the Judge consider a modification of that order rather than CSEA. In that case you must file a motion to modify child support with the Court. You might consider having the Judge decide the modification of the current court child support order that deviates from the Guidelines. With one exception, CSEA may not consider any deviations from the Guidelines. The exception is that if: (i) the child support order to be modified was issued by a court, (ii) that order deviated from the Guidelines, and (iii) CSEA can determine the monetary or percentage value of that deviation, then CSEA may apply that monetary or percentage value to the modification of the child support order.<sup>65</sup>

**Note:** If you want the Judge to modify the court child support order rather than CSEA, then consider using and filing with the Court form GC Juv 015 (Motion for Modification of Child Support), together with (1) GC JF 7.0 (Instructions for Service), and (2) a filing fee deposit.

If you decide to file a motion with the Court to modify the child support order, then CSEA may not proceed with an administrative review unless the Judge dismisses the motion.<sup>66</sup>

If, during the CSEA review process of a court child support order, a party does not submit the required information, then CSEA will notify the Court and that party may be held in contempt of court.<sup>67</sup> Likewise, if the order is a CSEA child support order, then CSEA may request that the Judge issue an order requiring the defaulting party to supply the required information. The failure to comply with that order may result in that party being held in contempt of court.<sup>68</sup>

After CSEA completes the review process, if the current order is a court child support order, then CSEA will issue to all parties an “Administrative Adjustment Recommendation” (JFS 07724)(the “CSEA Recommendation”).<sup>69</sup>

- Court-ordered Child Support. If the current support order is a court child support order, then CSEA will deliver the CSEA Recommendation (JFS 07724) to the Court for inclusion in a revised court child support order unless a party files a request for an administrative adjustment hearing no later than 14 days after receipt of the CSEA Recommendation.<sup>70</sup>
  - No Deviation. Except as provided in the next paragraph, if you disagree with the CSEA Recommendation, then you must request an administrative

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<sup>63</sup> See form JFS 01849

<sup>64</sup> The review process is governed by R.C. 3119.60, 3119.61, and 3119.63; and Ohio Adm.Code 5101:12-60-50.1, 5101:12-60-50.2, 5101:12-60-50.3, 5101:12-60-50.4, 5101:12-60-50.5, and 5101:12-60-50.6.

<sup>65</sup> R.C. 3119.63(B)

<sup>66</sup> Ohio Adm.Code 5101:12-60-05.1(G)

<sup>67</sup> R.C. 3119.72(A)

<sup>68</sup> R.C. 3119.72(B)

<sup>69</sup> Ohio Adm.Code 5101:12-60-05.4(D)

<sup>70</sup> Ohio Adm.Code 5101:12-60-05.5(A)

adjustment hearing within 14 days after receipt of the CSEA Recommendation, rather than file an objection with the Court.<sup>71</sup>

- Deviation. If the court child support order contains a deviation from the Guidelines or you intend to request a deviation, then you should consider filing a complaint or motion with the Court requesting a review of the CSEA Recommendation within 14 days after receipt of the CSEA Recommendation, without first requesting an administrative adjustment hearing.<sup>72</sup> Please note, however, that if a prior court child support order provided for a deviation, and if the manner of calculating the deviation is apparent in that court order, then CSEA may apply that deviation when revising a prior court child support order.

**Note:** If you want to object to the CSEA Recommendation and the court child support order contains a deviation from the Guidelines or you intend to request a deviation, then consider using and filing with the Court form GC Juv 018 (Complaint/Motion – Objection to Administrative Order). If filed as a complaint (which is required if no proceeding is pending before the Court), then file the complaint together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit. If filed as a Motion, then file the Motion together with (1) GC JF 7.0 (Instructions for Service) and (2) a filing fee deposit.

- CSEA-ordered Child Support. If the current order is a CSEA child support order, then any party may request CSEA to reconsider the CSEA Recommendation by filing a request for an administrative adjustment hearing within 14 days after receipt of the “Administrative Adjustment Recommendation” (JFS 07724).<sup>73</sup>
- Objection to Administrative Adjustment Hearing Decision. If you timely request an administrative adjustment hearing, whether it results from a court child support order or a CSEA child support order, then CSEA will reconsider the Administrative Adjustment Recommendation and follow the process set forth in Ohio Adm.Code 5101:12-60-05.6.<sup>74</sup> Upon completion of the review, CSEA will deliver to the parties a decision in the form of an “Administrative Adjustment Hearing Decision” (JFS 07770).
  - If the current order is a court child support order, then you may object by filing a motion with the Court requesting a review of the Administrative Adjustment Hearing Decision, provided that you file the motion within 14 days after receipt of that decision.<sup>75</sup>
  - If the current order is a CSEA child support order, then a party may file a complaint with the Court under R.C. 2151.231, requesting that the Judge determine child support.<sup>76</sup>

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<sup>71</sup> Ohio Adm.Code 5101:12-60-05.5(A)

<sup>72</sup> R.C. 3119.63(D) and Ohio Adm.Code 5101:12-60-05.6(B)(1)

<sup>73</sup> R.C. 3119.61(A) and Ohio Adm.Code 5101:12-60-05.6(B)(2)

<sup>74</sup> See Ohio Adm.Code 5101:12-60-05.6, which explains the process for reconsideration of the CSEA Recommendation.

<sup>75</sup> Ohio Adm.Code 5101:12-60-05.6(M)(1)

<sup>76</sup> R.C. 2151.231 and Ohio Adm.Code 5101:12-60-05.6(M)(2)

**Note:** If you want the Judge to modify the CSEA Administrative Adjustment Hearing Decision, which modified a court child support order or a CSEA child support order, then consider using and filing with the Court form GC Juv 018 (Complaint/Motion – Objection to Administrative Order). If filed as a complaint (which is required if no proceeding is pending before the Court), then file the complaint together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit. If filed as a Motion, then file the Motion together with (1) GC JF 7.0 (Instructions for Service) and (2) a filing fee deposit.

- Active Military Service.<sup>77</sup> There are unique provisions that apply to Obligor who are active military service. After being called to duty, the Obligor may request a review of a child support order before 36 months has expired since the last child support order. The Obligor must provide to CSEA his or her military orders and other appropriate documentation. The Obligor may deliver to CSEA a copy of a military power of attorney. If the child support order is modified, the Obligor must deliver to CSEA a copy of the date of termination of active military service not later than the last day of the month in which military service ends.<sup>78</sup>
- Termination of Child Support. CSEA may terminate both a court child support order and a CSEA child support order.<sup>79</sup> As noted above, (i) the residential parent and (ii) legal custodian of a child for whom a child support order is issued or the person who otherwise has custody of a child for whom a child support order is issued, shall immediately notify, and the Obligor under a child support order may notify the child support enforcement agency administering the child support order of any reason for which the child support order should terminate. With respect to a court child support order, a willful failure to notify the agency as required by this division is contempt of court.<sup>80</sup>

The termination events that justify a termination of a child support order are:

- The child attains 18 years if the child no longer attends an accredited high school on a full-time basis and the child support order requires support to continue past 18 years only if the child continuously attends such a high school after attaining 18 years;
- The child ceases to attend an accredited high school on a full-time basis after attaining 18 years, if the child support order requires support to continue past 18 years only if the child continuously attends such a high school after attaining 18 years;
- A termination condition specified in the court child support order has been met for a child who attains 19 years;
- The child's death;
- The child's marriage;
- The child's emancipation;

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<sup>77</sup> See R.C. 3119.77 through 3119.773 and Ohio Adm.Code 5101:12-60-05.1(E)(13).

<sup>78</sup> R.C. 3119.88(A).

<sup>79</sup> See generally Ohio Adm.Code 5101:12-60-50 for CSEA rules regarding termination of support.

<sup>80</sup> R.C. 3119.87

- The child's enlistment in the armed services;
- The child's deportation;
- Change of legal custody of the child;
- The child's adoption;
- The Obligor's death;
- The grandparent to whom support is being paid or a grandparent who is paying support reports that the grandparent's support order should terminate as a result of one of the events described in R.C. 3109.19(D);
- Marriage of the Obligor under a child support order to the Obligee, if the Obligor and Obligee reside together with the child.

**KEY POINT:** Unlike CSEA, the Court may terminate a child support order for any other appropriate reasons brought to the attention of the Court, unless otherwise prohibited by law.<sup>81</sup> An example is that the parents have reunited and live together with the minor children.

Upon receipt of a notice of such event, CSEA will investigate to determine if the termination event has occurred.<sup>82</sup> If CSEA determines that the court child support order should be terminated, then CSEA will issue findings and recommendations, which include whether:

- a termination event has occurred (or is expected to occur);
- other minor children are subject to the child support order (in which case CSEA will recalculate the child support order as to the other minor children);
- the Obligor owes arrears; and
- whether overpayments have been made.

CSEA will deliver its findings and recommendations to the parties. If you disagree with the CSEA findings and recommendations, you may request an administrative termination hearing so long as you file with CSEA a request for such hearing within 14 days following receipt of the CSEA findings and recommendations.<sup>83</sup> CSEA will then schedule and hold an administrative termination hearing.<sup>84</sup>

If you timely request an administrative termination hearing, then after the hearing is held CSEA will issue an administrative hearing decision and deliver a copy to all parties. If you disagree with the CSEA administrative hearing decision, then you may object to that decision by filing a complaint or motion with the Court so long as that complaint or motion is filed within

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<sup>81</sup> R.C. 3119.88(B)

<sup>82</sup> R.C. 3119.89. See Ohio Adm.Code 5101:12-60-50.1 for CSEA rules regarding an administrative termination investigation.

<sup>83</sup> R.C. 3119.90(B)(4)

<sup>84</sup> See generally Ohio Adm.Code 5101:12-60-50.2 for CSEA rules regarding an Administrative Termination Hearing.



14 days after the CSEA administrative hearing decision.<sup>85</sup> Upon receipt of the complaint or motion, the Judge will set the matter for hearing and make a final determination.<sup>86</sup> If you do not timely file the complaint or motion, then CSEA will prepare and deliver to the Court an order that incorporates the administrative hearing decision and the findings and recommendations.<sup>87</sup>

**Note:** If you want the Judge to review the CSEA termination decision, then consider using and filing with the Court form GC Juv 018 (Complaint/Motion – Objection to Administrative Order). If filed as a complaint (which is required if no proceeding is pending before the Court), then file the complaint together with (1) GC JF 1.0 (Jurisdiction Affidavit), (2) GC JF 7.0 (Instructions for Service), and (3) a filing fee deposit. If filed as a Motion, then file the Motion together with (1) GC JF 7.0 (Instructions for Service) and (2) a filing fee deposit.

During the time period that CSEA or the Judge are determining whether to terminate the court order child support, the Obligor still has a duty to pay child support to CSEA. However, CSEA may issue an administrative order to impound the child support payments so that if the court child support order is terminated, then those child support payments will be repaid to the Obligor, subject to any arrears that are owed.<sup>88</sup> However, if one of the parents is a recipient of public assistance for support (such as Ohio works first benefits) or for health care (such as Medicaid), then CSEA will assist the Obligor to recover overpayments of child support made to the government.

If upon termination of child support the Obligor has an arrearage of unpaid child support, then the Obligor may apply to CSEA to establish a payment plan for that arrearage.<sup>89</sup>

- **Waiver or Compromise of Arrears.**<sup>90</sup> If CSEA has made a permanent assignment of arrears to the state of Ohio, then the parties cannot voluntarily waive or compromise the payment of arrears without the assistance of CSEA.<sup>91</sup> The CSEA Office has established procedures to handle a request for waiver or compromise of permanently assigned arrears.<sup>92</sup> The waiver or compromise of arrears is a negotiation between CSEA and the Obligor. The consent or involvement of the Obligor (the residential parent) is not required. The Obligor can initiate the negotiation by filing a request with CSEA.<sup>93</sup> After the negotiation is completed, CSEA may deny the request or prepare an agreed entry setting forth the settlement terms. The CSEA Office has authority to agree upon a settlement of any amount less than \$5,000, otherwise the CSEA Office must refer the matter to the State Office of Child Support.

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<sup>85</sup> R.C. 3119.91 and Ohio Adm.Code 5101:12-60-50.2(B)(1)(b)

<sup>86</sup> R.C. 3119.92

<sup>87</sup> Ohio Adm.Code 5101:12-60-50.2(B)(1)(b)

<sup>88</sup> R.C. 3119.94 and Ohio Adm.Code 5101:12-60-50.1

<sup>89</sup> R.C. 3123.14

<sup>90</sup> This process is known as “Reduction of Permanently Assigned Arrears.”

<sup>91</sup> See Ohio Adm.Code 5101:12-60-70 for the administrative process to reduce permanently assigned arrears.

<sup>92</sup> See Ohio Adm.Code 5101:12-60-70.1

<sup>93</sup> Ohio Adm.Code 5101:12-60-70.2(C)

**Nonparent's Rights to Child Support Payments.** The law provides a nonparent, with whom a minor child resides, with certain rights to be paid child support, which include the following:

**Nonparent has Legal Custody by Court Order.** The Nonparent, who has legal custody by court order, has two options.

- **First.** A nonparent may obtain a child support order by filing a motion with the Court for a child support order.

**Note:** If you have legal custody of a minor child by court order and you want the Judge to grant you a child support order, then consider using and filing with the Court form GC Juv 016B (Motion for Child Support) together with (1) GC JF 5.0 (Disclosure of Confidential Child Information), (2) GC JF 5.1 (Identity of Necessary Parties), (3) GC JF 1.0 (Jurisdiction Affidavit), (4) GC JF 7.0 (Instructions for Service), and (5) a possibly a filing fee.
- **Second.** The nonparent may file an application for Title IV-D services with the Child Support Enforcement Agency (CSEA) in the county where the Caretaker resides.
- **Nonparent is the "Caretaker" of a Minor.** Even if the nonparent does not have legal custody of a minor child by court order, if the nonparent is a "Caretaker" of a minor child, as defined by R.C. 3119.01(C)(1), then that Caretaker may file an application for Title IV-D services to obtain an administrative order for child support.<sup>94</sup> A nonparent meets the definition of Caretaker if:
  - A minor child has resided with the nonparent for at least 30 consecutive days and is the primary caregiver of that minor child;
  - The nonparent is receiving public assistance on behalf of a minor child;
  - The nonparent has legal custody of a minor child, not necessarily by reason of a court order, but by rather reason of a (1) Residential Grandparent Power of Attorney,<sup>95</sup> or (2) Caretaker Authorization Affidavit,<sup>96</sup> which have been prepared and signed in accordance with law. See the discussion above regarding those two documents, which are only available to a grandparent.

**Brief Overview of the Process.**

- **Filing.** The process is started by the Caretaker filing an application for IV-D services with the CSEA in the county where the Caretaker resides – not the county that administers a current child support order.<sup>97</sup> If a child support order is administered in another county, then the CSEA that receives the filing is likely to transfer the case to the CSEA that is handling the current child support order.

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<sup>94</sup> Geauga County Child Support Enforcement Agency, 12611 Ravenwood Dr., Suite 150, PO Box 309, Chardon, OH 44024-9009, Phone: (440) 285-9141.

<sup>95</sup> R.C. 3109.51 through 3109.61

<sup>96</sup> R.C. 3109.65 through 3109.74

<sup>97</sup> R.C. 3119.951

- Investigation. CSEA must conduct an investigation to determine whether the Caretaker does, in fact, meet the statutory definition of a “caretaker” as defined in R.C. 3119.01(C)(1). It may be a challenge for a Caretaker who relies solely upon the definition of a minor child and who has resided with the Caretaker for at least 30 consecutive days and is the primary caregiver of that minor child, particularly if there are no supporting documents.
- Paternity. If there is a question regarding the father, CSEA will handle that question, typically based upon genetic testing. The Caretaker may authorize genetic testing on behalf of the child.<sup>98</sup>
- Right of Objection.<sup>99</sup> If the Caretaker is unsatisfied with the CSEA child support order or a CSEA recommendation, then the Caretaker may object to that administrative order by filing an action in court under R.C. 2151.231; provided that the objection must be filed not later than 14 days after notice of the order, or issuance of the recommendation, as the case may be.
- See generally R.C. 3119.953 through R.C. 3119.9535.

**LEGAL PRACTICE IN THE JUVENILE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.**

**IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT’S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY JUVENILE, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.**

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<sup>98</sup> R.C. 3111.041

<sup>99</sup> R.C. 3119.9517