

National Parents Organization Proposed Amendments to SB 125

National Parents Organization (NPO) has provided a detailed analysis of Senate Bill 125. (It is available on our website [here](#)¹ and referred to below as ‘the NPO Report’.) NPO’s criteria for evaluating proposed legislation are derived from the organization’s primary focus, which is to advance children’s best interest by promoting equal shared parenting when parents live apart and fair economic arrangements for both parents. There are important respects in which SB 125 contributes to this goal. However, for reasons outlined in the NPO Report, the bill’s treatment of parenting time—both the standard parenting time adjustment (STPA) and the deviation for extended parenting time—is inappropriate. SB 125’s approach to the division of child support funds based on parenting time will discourage true shared parenting and treat parents engaged in this practice—which research has shown is best for children in most cases—unfairly.

The concerns outlined in the NPO Report make it impossible for NPO to support SB 125 in its current form. While an approach to child support that is truly positive for shared parenting would require substantial re-writing of the bill, there are targeted amendments that could improve SB 125 significantly. We outline the NPO-proposed amendments to SB 125 below.

Correcting the Mathematical Error

As indicated in the NPO Report, given the methodology that has been endorsed by every Ohio Child Support Guidelines Advisory Council since 2005, SB 125 contains what can only be described as an elementary mathematical error in the way it calculates the Standard Parenting Time Adjustment (SPTA). The methodology estimates the expenses that move with the child by supposing that standard parenting time for a child support obligor is 30% of the child’s time and that 35% of the child support funds move with the child. Multiplying these numbers gives a 10.5% estimate of the amount of the *combined* child support obligation that the methodology credits the obligor for direct expenses on the children. (As noted in the NPO Report, this methodology severely underestimates the direct child-related expenses of the obligor, by treating the two parents’ *duplicated* expenses unequally—considering those in the obligee’s household a *shared* expense and those in the obligor’s household the sole responsibility of that parent.)

Given that methodology, the SPTA should be 10.5% of the combined child support obligation. The 2009, 2013, and 2017 Ohio Child Support Guidelines Advisory Councils Reports all recommend basing the SPTA on the *combined* child support obligation.² (Without explanation, though, the 2017 recommendations reduce the adjustment to 10% when the methodology implies a 10.5% downward adjustment.)

To correct that mathematical error, National Parents Organization urges the following amendment to SB 125.

¹ Web address: [https://www.nationalparentsorganization.org/docs/NPO_Response_to_Ohio_SB_125_\(Final\).pdf](https://www.nationalparentsorganization.org/docs/NPO_Response_to_Ohio_SB_125_(Final).pdf).

² See: *Report to the General Assembly, Ohio's Child Support Guidelines* (2009), p. 63; *2013 Child Support Guidelines Review Report to the General Assembly* (2013), p. 14; and *2017 Child Support Guidelines Review Report to the General Assembly* (2017), p. 15. Note, though, that the 2009 and 2013 reports assumed standard parenting time of only 25% which resulted in a recommended adjustment of 8.75% but it was, appropriately, calculated from the *combined* child support obligation. Because of changes in local parenting time rules, the 2017 Council assumed 30% parenting time for the obligor. (There is no explanation offered for why 8.75% was not rounded up to 9% in the 2019 and 2013 reports but 10.5% was rounded down to 10% in the 2017 report.)

NPO Proposed Amendment #1

Sec. 3119.051. (A) Except as otherwise provided in this section, a court or child support enforcement agency calculating the amount to be paid by the obligor under a child support order shall reduce by ten-and-one-half per cent ~~the amount of the annual individual support obligation for the parent or parents of the combined child support obligation of both parents~~ when a court has issued or is issuing a court-ordered parenting time order that equals or exceeds ninety overnights per year. This reduction may be in addition to the other deviations and reductions.

Inappropriate Baseline, Failure to Provide Due Process, and Unequal Treatment

With respect to whether a parent has standing to change a Standard Parenting Time Adjustment, SB 125 treats the two parents in radically dissimilar ways. And, furthermore, it fails to explicitly require even a minimum of due process. §3119.051(B) provides that:

“At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise court-ordered parenting time” (lines 1350-1353).

This causes three problems. We address them with three separate proposed amendments, each incorporating the amendment of the previous proposal.

The first problem is that the baseline is an improper one. If an obligor is, without just cause, failing to exercise all of the court-ordered parenting time, but is, nevertheless, exercising parenting time in excess of the 90 overnights that the SPTA assumes, there is no justification for eliminating the STPA. National Parents Organization urges the following amendment to correct this error.

NPO Proposed Amendment #2a

3119.051. (B). At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise ~~court-ordered~~ parenting time on a schedule that would result in at least 90 overnights per year.

The second problem is that there is absolutely no provision for due process before a court makes this determination and eliminates the SPTA. To correct this problem and the previous one, NPO urges the following amendment.

NPO Proposed Amendment #2b

3119.051. (B). At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise ~~court-ordered~~ parenting time on a schedule that would result in at least 90 overnights per year.

(1) Prior to reaching a determination that the obligor is, without just cause, not exercising the required amount of parenting time, a court shall notify the obligor and hold a hearing if the obligor contests the allegation.

Finally, while §3119.051(B) provides relief for an obligee when the obligor is not exercising the appropriate amount of time, it does not provide a similar remedy for the obligor when the obligee is, without just cause, not exercising court-ordered parenting time and this results in the obligor having responsibility for the children in excess of 90 overnights when the court had ordered less parenting time. To address all three of the problems with this section of the bill, NPO urges the following, comprehensive amendment.

NPO Proposed Amendment #2c

3119.051. (B). (1) At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise ~~court-ordered~~ parenting time on a schedule that would result in at least 90 overnights per year.

(2) When a court order has not included a standard parenting time adjustment because the court ordered parenting time was below the standard level, at the request of the obligor, a court may institute a standard parenting time adjustment under division (A) of this section if the obligee has, without just cause, failed to exercise court-ordered parenting time which has resulted in the obligor exercising parenting time that would result in at least 90 overnights per year.

(3) Prior to reaching a determination that the obligor or obligee is, without just cause, not exercising the required amount of parenting time, a court shall notify the parent alleged not to be exercising the expected parenting time and hold a hearing if that parent contests the allegation.

Vague and Misleading Guidelines for Extended Parenting Time

SB 125 provisions for handling extended parenting time (more than 40.7%) are both vague and misleading. §3119.231 provides:

“If court-ordered parenting time is equal to or exceeds one hundred forty-seven overnights per year, the court shall consider a substantial deviation. If the court does not grant a substantial deviation from that amount, it shall specify in the order the facts that are the basis for the court’s decision” (lines 1489-1493).

The bill does not, though, give any indication of what constitutes a “substantial deviation.” Furthermore, by speaking only of a deviation from the obligor’s child support obligation, it misleadingly suggests that the deviation should be based on that amount, alone. However, just as the standard parenting adjustment should be based on the combined obligation, so should the “substantial deviation” for extended parenting time.

This problem, and many others in the bill could have been avoided if the Ohio Child Support Guidelines Advisory Council had chosen to pursue an approach to parenting time adjustments that are finely adjusted to the actual parenting time. This is how Arizona and Michigan approach these issues and, in doing so, avoid many of the problems that SB 125 would enact into law. Such an approach would, as noted in the NPO Report, avoid the undesirable cliff effects that are present in SB 125—cliff effects that will encourage disputes over meaningless differences in parenting schedules.

This sort of correction of the SB 125, while desirable, would require an entire rewriting of the provisions of the bill for parenting time adjustments. As an approach to ameliorating the problems with SB 125 with respect to extended parenting time, NPO urges the following amendment.

NPO Proposed Amendment #3

Sec. 3119.231. In determining whether to grant a deviation pursuant to section 3119.22 of the Revised Code for the reason set forth in division (C) of section 3119.23 of the Revised Code, the court shall recognize that expenses for the children are incurred in both households and shall apply the following deviation:

If court-ordered parenting time is equal to or exceeds one hundred forty-seven overnights per year, the court shall consider a substantial deviation based on the combined child support obligation of both parents and seeking to apportion child support funds between the households in proportion to the expected child-related expenses in each household. If the court does not grant a substantial deviation from that amount, it shall specify in the order the facts that are the basis for the court’s decision.

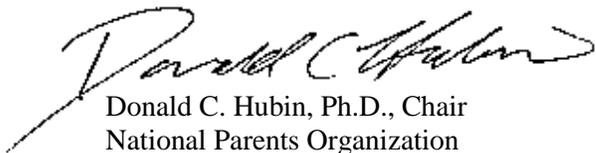
Such a change would remind the court that the entire purpose of child support is to ensure that the combined child support obligation of the two parents is to be divided between the parents' households in such a way as to meet the anticipated child-related expenses incurred by each parent.

Conclusion

The 2017 Child Support Guidelines Advisory Council and the Ohio Department of Job and Family Services have addressed several important flaws in our current child support statutes. However, they missed a terrific opportunity to modernize Ohio's child support laws in a way that will address the increasing need to accommodate true shared parenting arrangements appropriately. Decades of social science research show that, when parents live apart, roughly equal shared parenting is in the best interest of the children in most cases. The State of Ohio should be encouraging true shared parenting arrangements. Unfortunately, the cliff effects that SB 125 would enact into law will not promote shared parenting and will, in fact, encourage senseless disputes over meaningless differences in parenting schedules.

A pro-child, pro-shared parenting child support bill would address parenting time adjustments very differently from the approach in SB 125. National Parents Organization will continue to work for modifications in Ohio's child support laws so as to encourage shared parenting and treat both parents' relationship with the children as equally important. While SB 125 does not represent such an approach, the above NPO recommended amendments to SB 125 will ameliorate some the detrimental impacts of the approach that the 2017 CSGAC and JFS have chosen for dealing with parenting time issues.

Respectfully,



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