Ohio Administrative Code

Rule 5101:12-50-55 Extradition of obligors.

Effective: July 1, 2016

(A) This rule describes the process that the child support enforcement agency (CSEA) with administrative responsibility shall use to request the governor of this state to extradite from another state an obligor who has been charged with criminal non-support in accordance with section 2919.21 of the Revised Code. This rule also describes the steps that a CSEA is required to take in response to a request from the governor of this state and the prosecutor in the county where the CSEA is located when a demand for extradition is received by the governor of this state from the governor of another state.

(B) For purposes of this rule, the following definitions apply:

(1) "Governor" means an individual performing the functions of the executive authority of a state.

(2) "State" has the same meaning as in division (Z) of section 3115.102 of the Revised Code.

(C) Extradition of an obligor to Ohio.

(1) When an obligor has been charged with criminal non-support in accordance with section 2919.21 of the Revised Code, the CSEA may consult the prosecutor in the county where the CSEA is located in order to determine whether a request should be sent to the governor of this state regarding the extradition of the obligor from the state where the obligor is found.

(2) In accordance with sections 3115.801 and 3115.802 of the Revised Code, the governor of this state may, upon receipt from a prosecutor of a request as described in paragraph (C) of this rule, demand that the governor of another state extradite to Ohio an obligor who is found in the other state.

(3) Before requesting the extradition of an obligor from the governor of another state, the governor of this state has the authority to require a prosecutor of this state to demonstrate that, at least sixty

days previously, a petition for support was initiated pursuant to the Uniform Interstate Family Support Act (UIFSA 2008), as defined in rule 5101:12-70-05 of the Administrative Code, or that such a petition would not be effective in enforcing the support order. When requested by the prosecutor, the CSEA shall prepare and submit a report to the prosecutor regarding the extradition of the obligor that contains either:

(a) A copy of a UIFSA petition filed at least sixty days prior to consulting with the prosecutor; or

(b) A statement from the CSEA establishing that a UIFSA petition would not be effective in the case where extradition is being requested.

(D) Surrender of an obligor found in Ohio to another state for extradition.

(1) In accordance with sections 3115.801 and 3115.802 of the Revised Code, the governor of this state has the authority, upon the demand of the governor in another state to surrender for extradition an obligor who is found in this state and who is criminally charged in the other state with having failed to pay support under a support order.

(2) Before surrendering an obligor for extradition to the governor of another state, the governor of this state has the authority to require a prosecutor of this state to investigate the demand and report whether a UIFSA petition has been initiated or that such petition would not be effective in enforcing the support order. When requested by the prosecutor, the CSEA shall immediately conduct an investigation of the case and prepare a report that contains either:

(a) A copy of a UIFSA petition filed at least sixty days prior to receipt of the demand; or

(b) A statement from the CSEA establishing that a UIFSA petition would not be effective in the case where extradition is being requested.

(E) After the governor receives the report described in paragraph (D)(2) of this rule, the governor has the authority to take one of the following actions:

(1) Submit the obligor to the other state for extradition;

(2) Delay honoring the demand for a reasonable time to permit initiation of a UIFSA petition; or

(3) Decline to honor the demand if a UIFSA petition is initiated and the obligor either prevails in the support action or is complying with the support order.