



DEPARTMENT OF JOB AND FAMILY SERVICES

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Ohio House of Representatives
Community & Family Advancement Committee
Sarah E. Fields, Proponent
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House Bill 366

Good afternoon Chairman Ginter, Vice-Chairman LaTourette, Ranking Member Boyd, and Members of the Community & Family Advancement Committee. My name is Sarah Fields. I am an Assistant Director with the Montgomery County Department of Job & Family Services and Administrator of the Montgomery County Child Support Enforcement Agency. I am an attorney with over fifteen years of child support experience and have served on the last three Ohio Child Support Guidelines Councils. In addition to being the Child Support Administrator in Montgomery County, I have worked as an Administrative Hearing Officer and chaired a state-wide committee charged with training and accrediting Administrative Hearing Officers. These hearing officers are responsible for calculating support orders day in and day out. I can confidently say that I am very familiar with Ohio's current Guidelines methodology. I am thankful for the opportunity to talk with you today about this vital and cohesive legislation that will modernize Ohio's Child Support Guidelines and allow our child support program to more holistically serve Ohio families.

You have heard the testimony of David Fleischman, explaining the underlying economics and philosophy of the proposed update to our methodology. In addition, you just listened to my colleague Rod Hamilton testify to the long-standing issues and well-known challenges this legislation attempts to address. I'd like to take a few minutes to review some of the specific proposals contained in the legislation. I will endeavor to tame my policy-wonkish tendencies and to keep my remarks focused on the bigger picture, but I do think it is important to talk briefly about how these provisions, that might seem minor to some, will make a real difference in the lives of children involved in the child support program. I encourage you to review my written testimony as it is more comprehensive and further illustrates why these solutions are interdependent and should be adopted as a cohesive piece of legislation. Today, I hope to highlight and summarize the most crucial solutions this legislation offers to longstanding challenges in the calculation of child support.

Changes to the economic tables: In addition to testimony that you've already heard, I wanted to point out that the updates to our methodology correct an error that exists in our current methodology. This error is around the issue of income available for child support at the low-income level, as parents were permitted to report expenditures for their children that were purchased on credit, thereby over-inflating the available income they had for child support. This has resulted in child support orders on low-income individuals that are beyond their ability to pay. This error has been corrected in HB366

Changes to the Day Care Cost Sharing Cap: Currently there is no cap on the non-custodial parent’s share of the day care costs that are paid by custodial parents. House Bill 366 establishes a per-child day care maximum credit amount based on the bi-annual Office of Children & Families Market Study. This mandatory study looks at the actual costs of child care across Ohio. This amount is a cap for the purposes of the calculation only, and not a limit on what a parent can choose to pay for child care. The current methodology can create an unaffordable obligation where the child care portion of the child support amount equals, or even exceeds, the base obligation amount, creating an impossible burden on the payor. House Bill 366 also includes a provision that allows a court to deviate upward from this cap if they feel it is the best interest of the child. This would allow a court to address cases on an individual basis where child care costs may justifiably exceed the cap amount.

Changes on the Health Insurance Coverage: Current federal laws require the parent with the tax dependency exemption to ensure that insurance is provided for his/her minor children or face federal tax penalties for failure to provide health insurance coverage. Federal law also provides that a custodial parent is the default recipient of the tax exemption. Under current Ohio law, the non-custodial parent is often identified as the “health insurance obligor” rather than the custodial parent. Therefore, the non-custodial parent is obligated to provide coverage while the custodial parent is subject to the federal tax penalty if coverage is not provided. This may result in many custodial parents being levied with a federal tax penalty if the non-custodial parent is ordered to provide health insurance, but fails or refuses to do so.

HB 366 will change this dynamic, by creating a rebuttable presumption that the custodial parent will be designated as the presumed health insurance obligor who is required to secure coverage. This presumption can be rebutted if, for example, the non-custodial parent is currently providing health insurance at the time the child support order is being established, or can provide evidence of comprehensive, stable, and reasonably priced insurance. These changes more accurately reflect families’ practical needs while making it simpler to comply with tax requirements.

In addition, this legislation will slightly change how the parent providing health insurance will receive credit for the costs associated with that coverage. Currently, those costs are divided proportionally between the parties then credited or deducted from the child support obligation. This can be confusing for the parties to understand and somewhat minimizes the actual expense of health insurance. In HB 366, the total out-of-pocket costs associated with providing health insurance will simply be deducted from the parent’s income before the child support obligation is calculated. This better reflects the reality that the dollars spent on providing insurance for the child are not actually available for child support.

Changes to Cash Medical Support: Ohio law, in compliance with federal regulations, currently imposes a conditional cash medical support obligation in addition to the child support obligation. This payment is made to the custodial parent unless their child is receiving Medicaid benefits. When the child is receiving Medicaid benefits, that cash medical obligation is assigned to ODJFS. This obligation, under current law, is intended to be a substitute for a health insurance premium and is meant to stand in the place of health insurance when the child is not covered by private insurance as ordered. The cash medical support is a standardized estimate of health insurance costs and not based on actual premium cost expended by the family. Therefore in every child support case, courts, agencies, and attorneys must calculate two conditional orders; one when insurance is provided and one when it is not provided and cash medical is to be paid. These order amounts “flip” and change based upon whether the child has private insurance at any given time. This makes the calculation of

child support unnecessarily complex and accounts for more than two pages of calculations in our current worksheet. It also is very difficult for the average parent to understand. Further, the administration of this current system is burdensome not only for local child support agencies, but also for Ohio's employers who are inundated with notices relating to insurance and withholding.

HB 366 redefines the cash medical support obligation. The cash medical obligation will be a payment toward ordinary uninsured medical expenses, and will not be a conditional substitute for paying insurance premiums. HB 366 will require each parent to contribute to the cost of ordinary medical expenses, with the child support obligor paying a cash medical obligation as part of the overall child support obligation. We will no longer have two conditional amounts of child support, as there will be one bottom-line support amount, which will include the cash medical obligation.

The proposed cash medical support is derived from the US Department of Health & Human Service Medical Expenditure Panel Survey and is split by the parent's income shares. Since the payment is intended to cover ordinary expenses, it will be a significantly lower amount than our current cash medical orders. This new system prevents significant overpayment or underpayment of cash medical support obligations that currently occur due to delays in discovering insurance changes, as the payment of cash medical will no longer be tied to whether insurance is being provided. Instead, it will be ordered and payable in every case. As with the child support obligation, the cash medical support obligation is paid by the non-custodial parent, and the custodial parent's portion is presumed to be spent in the household, and therefore not payable to the other parent. The new cash medical obligation is still assignable if the child is receiving Medicaid benefits, but the child support obligation does not change based upon the availability of insurance so order amounts no longer "flip". This is not only better and more transparent for families, but will greatly increase efficiencies at the local agencies and reduce some of the burden placed upon employers.

Changes to Multiple Family Orders: Currently two credits exist in our guideline calculation to account for children from other relationships. Parties receive a credit for the amount of child support paid for other children and/or they receive a credit for other biological or adopted children in their household. The issues that are encountered with the current credits are numerous: One issue is that the amount of credit parties receive for support paid varies among courts. Some courts give credit only for support that is actually paid (which is what the statute says), while others give credit for all the support that is ordered to be paid, regardless of actual payments made. Some courts will include payments made on any arrearages, while others do not. This results in vastly different orders for obligors depending on the court in which he or she appears.

A second issue is that the credit for support paid results in a "first-in-time" effect, where the first child/ren of an obligor to obtain an order generally receives the largest child support order. This occurs because the obligor receives a credit in subsequent child support calculations for support order already established, thus diminishing the child support order for the other children. With regard to the credit for a parent's other children living in that parent's household, the credit is currently calculated by multiplying the number of children times the federal tax exemption, less any child support received by that parent. Many obligors complain that they are subsidizing the other parent's additional children where no support is being paid for those children, or where both parents of the other children reside in the same household.

This legislation will provide a standard income deduction for children not subject to the current order in every multiple family order. Each parent will receive a credit against their income for the number of children to whom they owe a duty of support. The new method uses the current income of each parent and finds the total basic obligation for each parent for all of that parent's children. This is calculated separately for each parent

using his or her income only and his or her total children. That credit is then factored into the support calculation based upon the total number of children each parent has not subject to the current order. Having a unified, standardized credit will insure that all children of the same parent are treated equally and no support obligations are decreased or inflated based upon support paid or not paid by future or past partners.

Changes to allow for Parenting Time Adjustments: You will likely hear from opponents regarding these provisions of HB366. To be clear, this bill does not create parenting time orders nor does it propose any changes concerning the court's discretion to establish parenting time. Parenting time is an important issue, but this is not a parenting time bill. House Bill 366 only addresses the child support credits that should be allowed when the court has already decided parenting time.

There is a pervasive myth that the current Ohio guidelines already account for parenting time. Again, this is untrue--there is no parenting time adjustment contained in the current Ohio child support guidelines methodology. Ohio's current methodology shifts all the costs and child support resources to one home, regardless of any ordered parenting time, absent a child support deviation. HB 366 will provide for a parenting time adjustment to reflect the cost of necessary household expenditures for a parent who is exercising parenting time. This is done through two methods:

The first method grants a standard parenting time credit equal to 10% of the obligor's child support amount when the parent has parenting time ordered under a local standard model. Opponents to this method argue that this credit should just be built into the guidelines and would therefore be automatic in every case. However, building a credit into the worksheet as proposed in House Bill 366 provides transparency and allows both parents to see that parenting time is actually accounted for and recognized economically in their support calculation. It also does not unfairly award the credit in cases in which parenting time is not ordered, which includes the thousands of administrative child support orders established at CSEAs every year.

The second method creates an expanded deviation standard in cases of extended parenting time (equal or nearly equal time). Under this second method, a court (not a child support agency) is required to consider a substantial deviation to address the support each parent is providing while the child is in their home. The courts will retain full discretion and may choose not to grant a deviation, but this new method would require that the court explain their reasoning in an order.

Ultimately, the changes that I have just highlighted are a powerful and cohesive approach to weaknesses in our current child support guidelines methodology. As others have and will point out, they are all pivotal gears working together to better the lives of Ohio families.

Again, I thank you for the opportunity to testify on House Bill 366. I sincerely thank you for taking up this bill and all its related complications, and I will be happy to answer any questions.