

TUSCARAWAS COUNTY CHILD SUPPORT ENFORCEMENT AGENCY

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Traci A. Berry, Director

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House Civil Justice Committee
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Testimony of Traci Berry, Esq.
Director, Tuscarawas County CSEA
HB622

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and Members of the Committee, my name is Traci Berry and I am the Director of the Tuscarawas County Child Support Enforcement Agency (CSEA) and the Past President of the Ohio CSEA Directors' Association (OCDA). Thank you for the opportunity to provide written opponent testimony on HB 622 which seeks to retroactively suspend all child support obligations to March 9, 2020 for those child support payors who were adversely affected by the COVID 19 pandemic.

As the Director of Tuscarawas County Child Support Enforcement Agency and an attorney who has practiced family law in Ohio for over 20 years, I will address some of HB 622's legal deficiencies:

- Child support orders in Ohio are based upon an income shares model of guideline support where both parents' income is taken into consideration when issuing or modifying a child support order. HB 622 only addresses a loss or reduction of the payor's (obligor's) income

thereby bypassing the very nature of Ohio's child support calculation laws [see ORC 3119.01 et seq]

- Ohio law already provides for a modification of a child support order if either parent experiences a change of income resulting in a change of circumstances through the CSEA administrative process set forth in ORC 3119.60-.72 or via court pleading providing both parents due process and objection rights. HB 622 provides neither due process nor objection rights.
- HB 622 requires a CSEA to suspend a child support obligation of an obligor who as a result of the pandemic is “unable to fulfill” their child support obligation retroactively to March 2, 2020 by conducting an investigation and providing results to the Obligor that their child support order shall be suspended or continue. No definition is included for “unable to fulfill”, and no notice of the investigation nor its results are provided to the Obligee.
 - This section is contrary to 42 USC 654 which sets forth the mandatory requirements of a state's child support enforcement program plan. Specifically, 42 USC 654 (12)(A) and (B) requires an agency provide all parties notice of all proceedings in which child support obligations might be modified and requires a copy of any order modifying a support obligation be provided to all parties.
 - The retroactive nature of HB 622 violates 42 USC 666 (9)(C), which prohibits states from enacting laws to retroactively adjust a support amount or an arrearage due under the support order. The suspension required by HB 622 is a retroactive modification to \$0.00 which is prohibited.
- HB 622 further seeks to prohibit a child support enforcement agency from submitting an obligor to credit reporting for a defaulted child support order and intercepting federal tax refunds to apply to past-due child support. HB 622 fails to consider that for many families, tax refund intercepts are the only payment they may receive in a year and that many obligors count on the tax intercept to pay off any arrearage that may have accumulated.
 - CSEAs continue to submit reports to credit reporting agencies as obligors' arrearage may increase or decrease depending on payment. The prohibition HB 622 seeks

may harm the obligors it seeks to protect by not allowing a CSEA to report a positive change to the credit report.

- HB 622 prohibition of credit reporting is contrary to the requirement set forth in 42 USC 666 (7) requiring an agency to submit obligors to credit reporting.
- 42 USC 664 mandates states to submit obligors with assigned arrearage of more than \$150.00 or arrearage due the family of \$500.00 or more to the IRS for federal tax intercept and specifically prohibits states from enacting laws to the contrary.
- Lastly, HB 622 prohibits a court or agency from issuing new child support orders requiring any payment if the obligor lost a primary source of income due to the pandemic. This prohibition violates many established sections of Ohio law governing child support orders.
 - ORC 3105.21 and 3109.04 requires a court of common pleas to issue orders in a divorce or dissolution for the care and maintenance of minor children with support orders complying with the child support guidelines set forth in ORC 3119 et seq.
 - ORC 3111.80 requires a CSEA upon an IV-D application and request to establish a support order for a minor child in accordance with the Ohio child support guidelines.
 - ORC 2151.231 permits a juvenile court to issue support orders for relative care givers of a minor child who ask for child support and shall comply with the Ohio guidelines
 - ORC 3119.06 requires a court or agency who issues or modifies a support order to issue a minimum support order of \$80.00 per month absent specific criteria.
 - HB 622 applies to obligors who have “lost their primary source of income” due to the pandemic. This fails to address other sources of income used to calculate and collect child support for families. These sources include but are not limited to unemployment benefits, liquid assets, secondary and passive income sources as defined in ORC 3119.01.

In closing, the COVID-19 pandemic created unforeseen hardships on families. Both federal and Ohio child support laws ensure due process for all parties, carefully set out criteria for calculation

and enforcement of child support orders agencies must utilize in order to comply with federal requirements of the state plan necessary to secure TANF block grant funding. Ohio's child support program and its many state and county employees worked within these well- established laws during this pandemic, serving the one million children in our program..

HB 622, if enacted, strips due process rights from families and violates federal law, therefore we respectfully oppose HB 622.

Traci A Berry, Director
Tuscarawas County CSEA