



State Representatives
Susan Manchester & Allison Russo
Sponsor Testimony for House Bill 83
February 18, 2021

Good morning, Chairman Manchester, Vice Chairman Cutrona, Ranking Member Liston, and Members of the Committee. Thank you for the opportunity to testify in support of House Bill 83, which makes changes to child support laws regarding caretakers (see **Figure 1**).

Current Ohio law is set up for a child support order between two parents—with one parent being the primary custodian and the other parent paying child support. However, a growing number of cases over the last decade involve a scenario where neither of the parents are caring for the child, and a third-party caretaker is instead. This scenario could arise from a formal custody action, or more frequently, from an informal custody change, which can include kinship placement. This rise in cases has been exacerbated by crises such as the opioid epidemic. Many of these third-party caretakers find themselves caring for a child on limited resources when child support could help address the basic needs of the child in their care.

While some caretakers have been able to receive child support, others are shut out of the process. Currently, there is no clear and consistent legal path for third-party caretakers to obtain the child support they need to raise the child. H.B. 83 establishes processes and timeframes for situations when a child is in the custody of a third-party caretaker, as well as addresses the child support order when the child returns to the custody of a parent or goes with a subsequent caretaker.

Our legislation creates a consistent process across the state for Child Support Enforcement Agencies (CSEAs) to address the potential establishment or redirection of support for caretakers using processes already in place for parents. H.B. 83 provides notice and an opportunity for both parents and the third-party caretaker to be heard prior to any changes to the child support order. **The intent is for the child support to follow the child, enabling funds to reach the person who is providing the primary care for that child.**

I would now like to turn it over to Representative Russo, my joint sponsor on this important legislation, to go over the details of the legislation.

As my colleague stated earlier, H.B. 83 establishes a clear, consistent process across the state for Child Support Enforcement Agencies, or CSEAs, to investigate the potential establishment and/or redirection of child support in cases involving third-party caretakers. There is a critical need for such legislation: as of 2021, there were over 123,000 cases involving caretaker relatives in Ohio's child support system, and the caseload only continues to rise.

Currently, families, agencies, and courts cobble together solutions for child support with varied results. Some caretakers are able to receive child support, while others are shut out of the process due to the lack of a clearly defined legal path for obtaining it. Part of this lack of clarity is a result of the differing interpretations of O.R.C. 3119.07, which provides guidance to courts and CSEAs as to which child support worksheet to utilize when setting up a support order. O.R.C. 3119.07 gives guidance for:

- How the non-residential parent pays the residential parent
- Split custody between parents
- If neither parent is the residential parent and legal custodian, both parents shall pay the third-party who is legal custodian *notwithstanding* 3111.01-19
- And 2151.231 allows someone with whom the child resides who is not a legal custodian to bring an action

Some courts across the state interpret O.R.C. 3119.07 as a prohibition against establishing a support order to a third-party caretaker who is *not* a legal custodian. (This includes relatives who received placement of the child through a kinship placement by Job and Family Services.) The case *Tuscarawas Cty. Child Services Enforcement Agency v. Sanders*, which took place in the 5th District Court of Appeals in 2003, helped establish this legal standard with its decision. Many counties in the 5th District Court of Appeals, as well as several in the 3rd District Court of Appeals, follow the interpretation set by this decision. As a result, CSEAs in these counties cannot assist these caretakers until they obtain legal custody, which may not be logically or financially feasible for various reasons.

In contrast, many other courts in Ohio will allow for redirection of support to third-party caretakers absent legal custody. Some of these courts will also establish an order against the former custodial parent. These differences have resulted in inconsistent treatment across the state for cases with similar facts, which is why HB 83 is necessary.

Specifically, the bill language in H.B. 83 does a number of things:

- It defines the term "caretaker"
- It clarifies that O.R.C. 3119.07 applies to *all* third-parties with primary care of a child, not just a subset of legal custodians
- It provides for an investigation to take place by the CSEA to determine if the third-party has standing as a defined caretaker to request a support order, allowing

for both the caretaker and parents to have notice and opportunity to be heard on the issue

- It allows the CSEA, once it has determined that the third-party has standing as a caretaker with no objection, to proceed with establishing a support order for both parents to pay the caretaker pursuant to O.R.C. 3111.01-19 or, if a support order already exists, to redirect the child support payments to the recognized caretaker
- It sets a process to follow any time the CSEA is notified of a change with regard to the child, parents, and caretaker
- It provides a paper trail for agencies and courts with regard to where the child is residing
- And it creates a consistent process to be used by all CSEAs

Importantly, by establishing a clear, consistent process for CSEAs to follow across the state, H.B. 83 allows child support to follow the child, enabling funds to reach the person who is providing primary care.

Chairman Manchester, Vice Chair Cutrona, Ranking Member Liston, and members of the House Families, Aging and Human Services Committee: thank you for your time and the opportunity to testify. Representative Manchester and I are happy to answer any additional questions the committee might have. Thank you.

Figure 1. House Bill 83 Changes Versus Current Law

