



HB 338 – Child Support Orders for Children over 18 with a Disability
Sponsor Testimony
Representatives Andrea White and Bride Rose Sweeney

Chair Hillyer, Vice Chair Mathews, Ranking Member Galonski, and members of Civil Justice Committee, thank you for allowing us to come and testify on House Bill 338 – legislation that will help ensure consistency around the state for how courts award child support in divorce cases for children with disabilities who are beyond the age of 18 and unable to support themselves.

Currently in Ohio, when parents of a child with a mental or physical disability get divorced prior to the child turning 18, there is clear legal guidance and consistent practice in Ohio with child support being granted up to and beyond the age of 18 based on R.C. §3119.86. However, there is a difference in legal interpretation in some courts in Ohio regarding initiating child support when parents of a child with a mental or physical disability who is over the age of 18 get a divorce. House Bill 338 seeks to clarify any confusion regarding R.C. §3119.86 and **a court’s ability to establish and modify an initial award of child support for a child with disabilities after that child has turned 18.**

Under current law, there are only certain circumstances in which child support may continue to be paid beyond the child’s 18th birthday, subject to judicial approval. One of those reasons, according to R.C. §3119.86 (A)(1), provides for the case of a child with mental or physical disabilities: “The duty of support to a child imposed pursuant to a court child support order shall continue beyond the child’s eighteenth birthday only under the following circumstances: (a) The child is mentally or physically disabled and is incapable of supporting or maintaining himself or herself...”

Additionally, a 1984 Ohio Supreme Court case, *Castle v. Castle*, confirmed an ongoing duty of support beyond a child’s age of majority if the child was unable to support themselves because of mental or physical disabilities that existed before attaining the age of majority. A trial court may award ongoing child support in a divorce situation for a child who is disabled under the definition in *Castle*. However, there is a conflict in the appellate districts’ rulings on four different cases regarding whether child support can be ordered **for the first time** if the child with disabilities is over the age 18 at the time of the divorce.

The idea for what we believe is an easy technical language fix was first discussed during the last General Assembly as House Bill 83 was being considered. The concept came up in discussions again this spring as that bill was included in the budget through House Bill 33. It’s time to clarify this law so that children and those entering young adulthood with disabilities who are unable to support themselves can receive the support they need when their parents divorce.

The Ohio State Bar Association, the Ohio Judicial Conference and the Ohio Child Support Enforcement Agency Directors Association (OCDA) all worked to help draft this language and are supportive of this bill. You will hear from some of their members during proponent testimony. At this point, we are unaware of any opponents to this proposal.

Again, this bill will clarify the law on child support for children with disabilities in this limited circumstance and allow courts to award critical financial support regardless of their age at the time of their parents' divorce. By doing this, we create an environment that allows some of the most vulnerable citizens in this state to receive the critical care and support they need.

Chair Hillyer, Vice Chair Mathews, Ranking Member Galonski, and members of the Civil Justice Committee, thank you again for allowing us to testify and we are happy to answer any questions you may have.