Ohio Child Support

The Gorilla in the Room

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By

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As the State of Ohio begins the required review process several disturbing things have come to light. The first and most critical of this is the composition of the review council. As it stands, this council fails greatly in meeting its statutory requirements for members.

When I received the list of Ohio Child Support Guideline Council members and what sectors they represent, I began questioning the inclusion of three members and have asked for additional information on those two of those three members. You will see why in my comments below.

The membership of the following I do not question as they are required by law.
Sarah Fields - Child Support Enforcement Agencies
Eric Johnson – Attorneys in DR Practice
Kim Newsom-Bridges – (Other persons) Head of CSEA Directors Association
Mike Smalz – (Other persons) Ohio Poverty Center
Senator Scott Oelslager (R)
Senator Shirley Smith (D)
Senator Dave Burke (R)
Representative Tracy Heard (D)
Representative Anne Gonzales (R)
Representative Dorothy Pelanda (R)

HOWEVER I do question these two members.
Steve Killpack (Obligors)
Phyllis Carlson-Riehm (Obligees)
Magistrate Serpil Ergun - DR or JV Courts (Cuyahoga Country DRC)

(ORC 3119.024) Is specific on who can be appointed to this Council.
Membership
Ohio law requires the Child Support Guidelines Advisory Council to consist of:
• Child support obligors
• Child support obligees
• Judges of courts of common pleas who have jurisdiction over domestic relations cases
• Attorneys whose practice includes a significant number of domestic relations cases
• Representatives of child support enforcement agencies
• Other persons interested in the welfare of children
• Three members of the Senate appointed by the President of the Senate (no more than 2 from the same party)
• Three members of the House of Representatives appointed by the Speaker of the House (no more than 2 from the same party)

I have asked for proof that **Steve Killpack**, **Phyllis Carlson-Riehm**, do fit the requirements of law.

To meet those requirements Steve Killpack would have to being paying child support and Ms. Carlson-Reihm would have to be receiving child support.

I have researched both of them.

As to Steve Killpack, I can find no court case or child support order. He is a married man that sits on the Ohio Fatherhood Commission. He does not meet the statutory requirements of having a place on this council.

With Ms. Carlson-Reihm, I find strong ties to ACTION OHIO Coalition For Battered Women. This does not meet the statutory requirements. I have not found a court case which indicates that she is an obligee.

With Magistrate Serpil Ergun, the statutory requirements are clear that this is to be a judge. While as magistrate may make many of the same decisions that a judge makes they are not accountable to the citizens. The rulings must be approved by a judge in the end.

This process will be done properly and fairly. The only way that we will get fair results are with a fair and balance review from the legally required members. Ohio Child Support is loaded with problems that need to be addressed and done so in a fair manner. All problems must be addressed comprehensively and with consideration of all factors not just an "across the board" raising of the rates thru new tables.

Brian Kessler has already admitted that Steve Killpack does not meet the requirement of being an obligor, Phyllis Carlson-Riehm does not meet the requirement of being an obligee and Magistrate Serpil Ergun does not meet the requirement of being judge. This raises major concern as to intentional attempts by Ohio Jobs and Family Services desire to gerrymander the process in an attempt to skew the 0results in their favor. With the legislative intent of ORC 3119.024 being to include all legal shareholders so that all parties' concerns are properly addressed, any recommendations made by this current panel must be ignored by the General Assembly until a proper review process with the proper membership can take must be ignored by the General Assembly until a proper review process with the proper membership can take place.

While I received a message that there were "corrections", I still have grave concerns in that the replacement Obligor has what I will term a "conflict of interest". In checking the Council's Web page it shows that Glenn A. Harris who appears to be associated with the Columbus Urban League was added and that Steve Killpack still remains. The Columbus Urban League is a grantee of the Ohio Fatherhood Commission which operates under ODJFS's Child Support Division. Instead of adding a strong voice for obligors, we added another "yes man" to CSEA.

Proof has yet to be provided that Phyllis Carlson-Riehm is an Obligee. An additional Obligee, Kimberle Hicks, has been added again with no proof of court orders that she is qualified.

While we finally have Judge Jeffrey Hooper, on the council the improperly appointed Magistrate Serpil Ergun remains.

Is it the intent to stack this so that no voice other than CSEA is heard on the concerns of the problems? This stacking of the deck appears to show that. If CSEA was concerned about fixing rather than continuing the problems they should welcome active participation of strong oppositional voices not "Yes Men". A panel of "Yes Men" will never solve anything as they will turn a blind eye to all outside concerns expressed. No unqualified panel member should remain on this panel even if a "qualified person" is added that does meet the statutory requirement.

Without the proper membership the concerns of the affected parties will never be addressed and proper Guidelines for the State of Ohio will never be enacted into law. I full recognized that Ohio Child Support Guidelines and Support Tables must be updated as they are years out of date. If the State of Ohio is to act in the best interests of all involved parties and the children of this state, those concerns must be addressed fully and I stress this must be done through a balanced review process.

Throughout the years I have read the recommendations of the past councils and numerous times the voices and concerns of both the obligors and obligees have fallen on deaf ears. As I go through this I will raise major issues and problems that have been presented to me by obligors and obliges across the state that have never been corrected and if we, as a state are truly concerned must be addressed now. It is my desire to come to comprehensive solution to the various problems of the all shareholders so that workable solutions can take place to protect, not only CSEA's concerns but those of the obligors and Obligees. Unless this process takes place properly we will see another battle between the concerned parties like took place with the introduction of SB292 during the 128th General Assembly when that bill failed to move forward. As it stands now the next General Assembly will have to face a similar battle and no corrections to the numerous problems will take place or be enacted. The State of Ohio cannot afford for that to happen.

As you proceed, you will see that I have broken down several elements that must be considered during this review process. Unless full and balance consideration is given to each of these problems we will never come to a consensus on a solution.

The Tables

I have taken the time to study both the tables as presented by Policy Studies and the FDA used to create the tables used for SB292 and they are greatly flawed. By admission these tables are based on extremely flawed data and do not specifically address the needs and concerns of the citizens of Ohio.

Ohio's original tables were based on data that is nationally generated. By doing this the tables have been unduly influenced by higher costs of living in other states. The current tables presented and those used in SB292 are based on regional data which again unduly influences the numbers used. I did some general research comparing the relative cost of living between similarly sized cities, with what should be comparable costs of living. In general I find that the overall cost of living in Ohio is significantly lower. By failing to address this major flaw that exists within the current and the recommended tables, the State of Ohio is currently using and has had tables recommended that will overstate the perceived cost of raising a child within this state. Also of concern is the fact that the no study has ever been done to determine the true cost of raising a child within a single head of household family. The same

recommended tables of both Policy Studies and the FDA are based on intact families. That factor also skews the numbers used to create the tables for the state as well as other states. Frankly there is no excuse for the disregard of these factors by the state and the end effect on every shareholder. To the best of my knowledge no attempts have ever been made to find a party to do these tables properly based on state specific data by the State of Ohio, instead we have relied on what can be an extremely flawed "low bidder" process instead of a best bidder basis that can meet the specific needs of creating tables that are appropriate.

To state this simply, flawed data produces flawed results that hurt children, obligors and obligees. Raising this can only been done also by parties that know and have the concerns of all parties, not statutorily deficient parties as we currently have in place.

In reviewing the information that I was able to garner in researching the cost of living within comparable cities throughout the region of states that have been used in the past to develop past and the recommended tables that have been previously presented I have been able to come up with what should be good examples of how outside areas unduly skew Ohio's tables in an upwards manner.

Large Cities

Cleveland	vs	Chicago	+25%
Columbus	vs		+21%
Cincinnati	vs		+23%
Cleveland	vs	Detroit	-05%
Columbus	vs		-08%
Cincinnati	vs		-07%
Cleveland	vs	Indianapolis	+07%
Columbus	vs		+04%
Cincinnati	vs		+05%
Cleveland	vs	Aurora, Il	+18%
Columbus	vs		+14%
Cincinnati	vs		+15%
Cleveland	vs	Milwaukee	+03%
Columbus	vs		-01%
Cincinnati	vs		00%

Average **+07.6%**

Medium Cities

Akron	vs	Fort Wayne	+08%
Toledo	vs		+05%
Dayton	vs		+08%
Akron	vs	Adrian, Mi	+05%
Toledo	vs		+02%
Dayton	vs		+05%
Akron	vs	Urbana, Il	+17%
Toledo	vs		+14%
Dayton	vs		+17%
Akron	vs	South Bend	+06%
Toledo	vs		+03%
Dayton	vs		+06%
Akron	vs	Green Bay	+14%
Toledo	vs		+10%
Dayton	vs		+14%
Akron	vs	Warren, MI	+02%
Toledo	vs		-01%
Dayton	vs		+02%
Akron	vs	Springfield, IL	+13%
Toledo	vs		+10%
Dayton	vs		+13%

Average **+08.9%**

Combined Average **+07.89%**

In reviewing these comparisons it become abundantly clear that the relative cost of living in Ohio is significantly lower and the use of this flawed data in their presentations by Policy Studies and the FDA artificially inflate the current and proposed tables of this state. Until proper study of influencing economic factors is done, Ohio will continue to operate with flawed tables that over state the true cost of raising a child with our borders.

R. Mark Rogers has previously worked with the State of Georgia to develop the tables that they are using. His data is based on state specific data not National averages that we are currently using or

regional data which is contained in both Policy Studies previous recommendation and the FDA data that was used to create the tables used in 129th - SB292. He is capable of doing and creating tables that are based on data that is state of Ohio specific. The use of this data, if allowed to be developed would be in following with what I call best bidder processes not simply low bidder and would contain the state specific data that should create good working tables for the State of Ohio that are true to family situations within Ohio.

The Need for a Full Audit

These sloppy procedures have lead to two known lawsuits against Child Support Enforcement, one thru the Court of Claims and the other in Federal Courts in the South District. The Court of Claims case was dismissed but was claiming repeated and poor accounting of payments. The case in Federal Court is currently still ongoing and is in part based on poor accounting by a county agency which in turn lead to the jailing of a father when the county admitted to him that they did not know what he owed. This same county told this father to come "audit his own account". He is not the only one to hear these words and admissions that a county agency does not know what an Obligor owes. We have had presented to us cases within Cuyahoga, Clermont, Warren, Defiance, Summit and Trumbull Counties where the local agency have admitted that they do not know what is owed.

Personally I have reviewed audit data from individuals and have found extremely troubling results. Because I hold strict confidentiality with people that I talk with I will not name individuals but I will name the Counties involved. I will briefly describe the situations and what I have seen.

Warren County – Father has a prosperous business where he makes good money and pays his support religiously and in fact is ahead by all accounts until the extreme changes to Ohio's economy see him lose his two biggest customers greatly cutting his income. Contempt proceeding are brought for "non-payment" and his attempts to modify the orders based on the significant changes that exist are repeatedly denied. When Father asks what he owes the county agency says that they do not know and can't tell him. He is told to come in and "audit his own account". Despite proving that the agency does not know what he owes in court (a CSEA Accountant could not do simple math under oath [8 x 8 = 64]) he is jailed for non-payment. This father has internal emails admitting that the agency does not know what he owes and that they know of his work turn down yet decide to file multiple contempt charges and jail him. In the end the father's figures were correct yet that fact was never admitted by the county.

As a side note, this same best interest standard as applied by the county CSEA has now alienated both his children from him and allowed his son to slip from a "A" student to almost total failure and truancy problems.

Clermont County – Mother and Father divorce and enter into an agreed entry on the amount of child support that will be paid until the last of their three children is emancipated. As this is entered as an agreed entry between the parents modification of this amount would require a filing within court. Not in Clermont, where during the emancipation process they disregard the agreed entry, raise the man's support to 400% of his agreed amount and claim that this is not an error when challenged. That is

challenged in an administrative hearing, where proof of error was refused by the hearing officer and by the court where it was also refused by the court when the flawed procedures of the agency are raised.

While this first challenge is still ongoing, the man's second daughter is emancipated; support order is raised again during the administrative process and challenged at administrative hearing. I attended this hearing to represent the man. His ex-wife admitted to having never filed for a modification of the original agreed entry amount and the hearing officer refused all evidence of error on the county's part at that hearing and basically ended the hearing without hearing the proof. Much of the evidence of error came from Clermont County CSEA's own Procedural Manual. This man is now back in Court for the second time fighting for corrections on errors made that never should have happened. The amount of money spent here has been a waste caused by a simple keystroke error by a clerk or case worker.

Even by Clermont's faulty findings this man's account is not properly being credited. While they are garnishing this man's pay for $790.67 per month, $382.34 is what they claim to be the current order and the balance is supposed to go to his arrears, the printed sheets show only $4.72 going to arrears and the money collected as going to the family directly as a pass-thru order. No credit is made at any time to an error generated arrearage or have attempts to correct this mistake ever been made.

Within this case we have receive confirmation from the father that there do exist serious accounting errors within his account. This gentleman made a call to the Clermont County CSEA to inquire what his balance was. He was told that the information shown on the State Web Portal was incorrect and that his actual owed amount was substantially lower that what was shown. With both informational system supposedly sharing the same information this raises a very serious concern as to errors not only with this county but with information contained within the State of Ohio system.

Cuyahoga County – Two very different and yet similar cases with this agency's control.

Father #1 is told that he owes support for his now emancipated daughter and it is paid monthly by the father. No DNA was ever done to support the order and father said "if she is my daughter I will support her". CSEA enters that as his admission of paternity and starts collecting without an order of the court. In reviewing the payment history of this case I find faithful payments made in a timely manner on a non-title IV-D account, in other words this was a pass thru order. The glaring error that caught my eye was a $23,000 check that was noted to have been sent to the mother. That same check is later noted as returned/refused/never cashed but is never back credited to the father's account. Now please explain to me why this father is paying on an account that now should have a $23,000 positive balance for a 25 year old daughter yet the agency is still pressuring this father for money every month.

Father #2 – Father has 3 different child support orders under three different SETS numbers. One payment amount is set and it is supposed to be divided equaling between the three accounts. Father receives notice that he is being brought to court to answer contempt claims against him for one of the accounts. Father explains this to the hearing magistrate and CSEA is asked to explain as is the county assistant prosecutor. CSEA admits that they do not know how much he owes on each of the accounts or what has or has not been credited to each of the three SETS numbers. County prosecutor tells the father that is it the father's responsibility to prove that the payment history is correct or not correct. As of

today, county has failed to present the accounting for all three accounts so that all payments made can be verified by the father. Yet the contempt charge still hangs over this man as well as a criminal non-support charge that the prosecutor brought forth without evidence that the accounting was correct in the first place. When the numerous accounting errors were pointed out and that CSEA has admitted that they did not know what was owed on each account, the prosecutor told the father, "It is your responsibility to prove that the accounting is wrong." That smacks of the guilty until proven innocent approach that we shunned long ago in this country.

How many more has this happened to across the state?

Some will say that these are limited and unusual circumstances but there are many more just like this that exists throughout the State of Ohio. I don't call these unusual but typical of the failures of the counties to act in a manner that protects the best interest of both the obligors and obligees. I have also had women that were supposed to be receiving child support tell me that they never received their support, or that they were charged "fees" which were and could never be explained on their accounts. I had an obligee come forward to tell how she never received any support money that was due her and when the news media became involved all that they could say was "We missed the order." You missed the order? No, what was done was the county and the state endangered a child.

These are the tip of the iceberg and proof that this system must be audited from the top to the bottom and every order examined to assure that all information is correct, correctly entered, all funds accounted for. Ohio CSEA has failed too many children and too many parents with this haphazard approach that has no direct oversight by the responsible agency, Ohio Department of Jobs and Family Services.

Flaws Within Current Practices

Throughout the past years I have been approached by many parents, both Obligors and Obligees that have raised significant concerns about inconsistencies within the manner in which the various counties address child support orders. Many of these concerns come from processes as they are handled by the individual counties during the Administrative review processes, during the mandatory review, emancipation processes and through the administrative modification process. Unfortunately Ohio CSEA does not follow a business model of "identify and correct" when it comes to many of the internal processes and complaints that exist like normal businesses. If a retail business operated by the same manner they would lose their entire following quickly and be forced to close. Many of the solutions to these flaws are easily correctable but until they are raised and addressed will place parties under duress when they are in need of help because off their own economic situations. Unless these issues are spelled out and corrected, Ohio's processes will remained significantly flawed.

Strict criteria is the only method of solving many of these problems. Throughout the past year we have been receiving copies of the various County Child Support Procedural Manuals from across the state. In reviewing them there exist many inconsistencies that leave openings and allow for broad interpretation

of procedures. One must keep in mind that Child Support Collection is mandated by Federal law. The States set those laws for local statewide procedure and then we allow the individual counties to administer the process. While Ohio CSEA does have a "Procedural Manual", it does not specify all situations leaving the criteria open for individual counties to proceed at their own discretion. One county will approach a process in one manner and another will approach that same process differently producing different results. The speed with which many processes take place is never specifically spelled out and in some cases the end results conflict with processes that if they had gone before a court are handled differently.

To apply simple language to this inconsistency would be to flat out say that it is sloppy workmanship with little to no quality assurance. I will make numerous suggestions that will correct the flawed practices and outline specifically the problems that have been presented. Keep in mind because of the fact that I have not been allowed direct input with this Council, I am basing my statement from previous Task force Recommendations, Reports that have been made available and the last introduced bill introduced that died a quick and thankful death due to its many flaws, a fate that will happen to any child support bill that is introduced without our input. Going to public meetings will not cut it as far as voicing concerns as those concerns have always been brushed off as just someone that is unhappy with the results they have been handed by the courts.

I am drawing the line in the sand now as to whether we fix the problems or continue them. Governor Kasich made a statement, which I will hold him to, during his first State of the State address. He told us that if we knew of a problem that we should speak up and we would fix it. I am speaking up and I am presenting easy and very workable solutions on how to fix it.

The Problems and the Solutions

As I go thru this list of problems and solutions I am going to make references to SB292 which all indications are that CSEA would like to have reintroduced. That piece of legislation was greatly flawed and was well short of any solution to the numerous problems that exist within Ohio law and the procedures that pertain to Ohio Child Support. Like I have done with SB144 I will always back up what I say and why we need to make a particular change. I do not believe in haphazard approaches to problems and believe that if one is going to fix a problem one must do it thoroughly.

The Tables

Solving this is more complex than "raising the tables" as some would like us to believe.

As stated before the child support tables for Ohio must be set according to State of Ohio Specific economic data and with a quick review of information from the region that has been included with the tables developed for SB292, it is clear that these tables have produced inflated and flawed results. By using these tables as have in the past been presented by Policy Studies and the FDA tables that were used in SB292 we will harm more people and force more parents on to already overtaxed welfare assistance programs. By doing this we place a greater burden on the State of Ohio for the expenses of

raising children than on the parents of those children and cause of welfare rolls to swell at a time when we should be doing everything we can do to shrink them. .

As presented with SB292 and with consideration to pother changes that were suggested child support rates would have increased by 20–27 % depending on where within the tables a parent fell. While these increases would have benefited the obligees and purportedly benefited the children, one needs ask what is benefit to anyone when increases are such a burden on one that it appears to intentionally impoverish another. One must consider that the original intent of child support was to assure that the child had the same standard of living within both households, not to reward a household while punishing another. Until tables are developed that produce reliable data as to the cost of raising a child within the State of Ohio we will have a flawed processes that fails everyone involved.

Automatic Changes to the Tables

This may be one of the scariest proposals that has ever been floated by any Council in the past. While language was contained within SB292 that allowed for ODJFS to adjust the tables on their own review in replacement of having a four year review council it causes even greater problems for the State of Ohio. Simply raising the tables based on non-defined and often mysterious economic data can be self inflationary. One only need look at the problems caused to Ohio's businesses by our Constitutional Amendment which automatically raises the minimum wage based on cost of living adjustments. While a benefit to anyone that is working for minimum wage, anyone working at a higher rate of pay is often short changed by an employer because of increases that they are forced by law to comply with. Frankly as Ohio's businesses struggle during these difficult economic times they are not giving employees the raises that they did when business thrived. By raising child support table automatically any obligor would experience an automatic increase that they may not have offset by with a wage increase.

Also of concern is a possible conflict that comes from this with the Federal requirements that states hold reviews of their child support guidelines every four years. With automatic increases in place and no review panel of any type in existence, I can foresee a strong possibility that the State of Ohio could lose what money is received through Federal Incentives intended to assist with the administrative costs associated with the collection of child support and TANF reimbursements. That alone could cost the State of Ohio millions of dollars, money that this State and counties have become accustomed to receiving to assist in defraying costs associated with Title IV-D. We are already hearing of problems that the Affordable Health Care Act will cause the State of Ohio in the future in higher costs that we cannot afford. While I personally feel that we should only receive these child support incentives for TANF reimbursement cases the federal "chip-in", while it does not cover all costs related to child support does assist somewhat.

Administrative Review Processes

Three Year Review – OAC 5101:12-60-05.1 and The Automatic Adjustment.

Over looked with an increase of tables is the problems that will be caused to those with existing orders. As the processes stands now every country CSEA agency is required to do a periodic administrative review of every existing child support order at least every three years.

Within The current administrative rules for review, I find nothing that will prevent the county agencies from doing those reviews at an earlier time. The simple raising of the tables by the amount that was presented within SB292 will cause existing orders to fall within the allowable range for increase by Administrative Review and not by the higher standard that falls when one takes such an issue to Court of "Substantial Change of Circumstance". The lower standard of review will encourage many to use the Administrative process to gain a financial advantage with little to no need for an increase to support the child.

With nothing to prevent the county agencies from doing the "Three Year Review" on their own in a move to simply up their grab of Federal incentive moneys. This becomes for many the equivalents of finding out that the bank raised a car payment that they had agreed and become used to paying simply because they wanted to. In many cases this would cause obligors undue hardships and may even throw those that are on the borderline into a range where they are now qualified for benefits. This raises the concern for a true and effective method of child support reserve that I will discuss later.

Attitude Adjustments

There is a time and a place where Administrative Review is proper but too often with the lack of strict rules this process is ripe for abuse. There are fixes that are easy but much of this comes from the attitude that exists within the workers of the county agencies. Unlike members of the General Assembly I have talked with Obligors, Obligees and workers from county agencies thru the years. Constantly I am hearing comments Obligees that the caseworker will not call me back or that it takes days to get a call back if they do happen. Obligors, even ones that are current, tell of attitudes from caseworkers that they are treated like a "deadbeat" for calling to ask a question. If a business worked on these levels of "customer Service" they would not last.

One of the most striking comments on this attitude came from a CSEA Attorney in a private conversation. In speaking about the attitude of his own agency he referred to his office as "***filled with man hating bitches***". His words, not mine. This not acceptable in business and should not be acceptable from any employee of any state or county agency. Yet complaints are laughed off like "so what". It is time that a new attitude and approach is taken and we must adopt a business model and provide customer service with a smile. There must be a complaint resolution process developed that works. Should an employee continue to exhibit biased and lack of responsiveness to questions they should be put through "sensitivity training" no different than is done with those that that show other types of inappropriate behavior; should the behavior patterns continue disciplinary action must be taken not

limited to suspension or dismissal. These changes can be implemented with little to no cost by every county throughout the State of Ohio and I predict will result in higher collections that benefit all.

Administrative Review – Unemployment

While the ability to ask for an Administrative review because of unemployment exists within the State of Ohio the process takes entirely too long. In many cases this review process takes so long that the requesting party has gone back to work or has built large arrearage totals that will cause problems with licensing that may well prevent the ability to return to the workforce. While aware of their support obligations, they are not familiar with the ability to ask that they receive a reduction because of this major change of circumstance within their lives administratively.

ODJFS uses the new employment hire reports to continue or track down obligors when they are hired. Why is the same tracking not used when a new unemployment claim is filed? By doing this the agency would be able to generate a letter to obligor indicating that the Administrative review process is available to them. By making this known and known quickly many will be able to avoid arrearage amounts that will hamper employment possibilities down the road and legal problems that will cost them even more that they do not have.

At present this reviews are taking and by procedure, allowed to take 180 days to process. This is much too slow especially in light of the fact that all information of employment, orders and such are readily available on intranet systems. At worst case, all information should be available to make the determination within days by electronic and/or phone not the currently acceptable 6 months. This process should take no more than 20 days from start to finish in these situations.

As information is verified that the obligor is unemployed and eligible for the reduction, the poundage fee of 2% should be suspended until the party returns to full time employment. New hire reports that are required at the time of hiring will trigger that appropriate report that systematically allowing for automatic review of this information. While this may seem like a lot of extra work, in the end the State will save money by reducing the burden of prosecution for not paying child support in a timely manner. Again this reversing process should take no more than 20 days to complete. Having personally used the software that most court throughout the State of Ohio use in making original determinations in the amount of support paid total CSEA agency employee time involvement should be less than 1 ½ hours on time for both processes.

Parenting Time Adjustment

While recommended during the last review the language within SB292 was greatly flawed. While the language allowed for adjustments, it capped the adjustment at 40% parenting time and it still remained at the discretion of the Courts as to if that adjustment would actually be made. These adjustments must be automatic and deviations from these adjustments should be supported by a complete finding of facts and conclusion of law by the Courts. While many do not have orders that have equalized time between the parents the best formula to use should be based on actual time with child per order. This is simple in execution with the software that is in use as there is a feature that allows for the adjustment built in.

This spreads the cost of raising the child to both parties and allows for less State Involvement. A parent that has their child at a 50% time level spends more on direct support than a parent that spend less time for one reason or another. This will reduce State and County involvement in collections of pass thru orders and will reduce costs to employers that are burdened with garnishments of employees with orders.

One thing that we must be mindful of is by adding a parenting time adjustment for future orders, while that will assist those moving forward, we are forgetting about the current orders. For many the burden of returning to Court for such an adjustment that should have been granted from the start of their order will be too great of an expense to seek. While Ohio currently does not permit CSEA to deviate from current orders of the court, we must make this option available through the Administrative Review process if it is our intent to change the tables to correct for the changing times. We have damaged many parents and families already by not including a parenting time adjustment in their court orders that should have been considered by the Courts when the original orders were entered.

As I have pointed out previously the current most popular software in use by the Courts and agencies has the adjustment as a built in feature. Doing this during review places no undue burden on the Agencies and will benefit all parties involved.

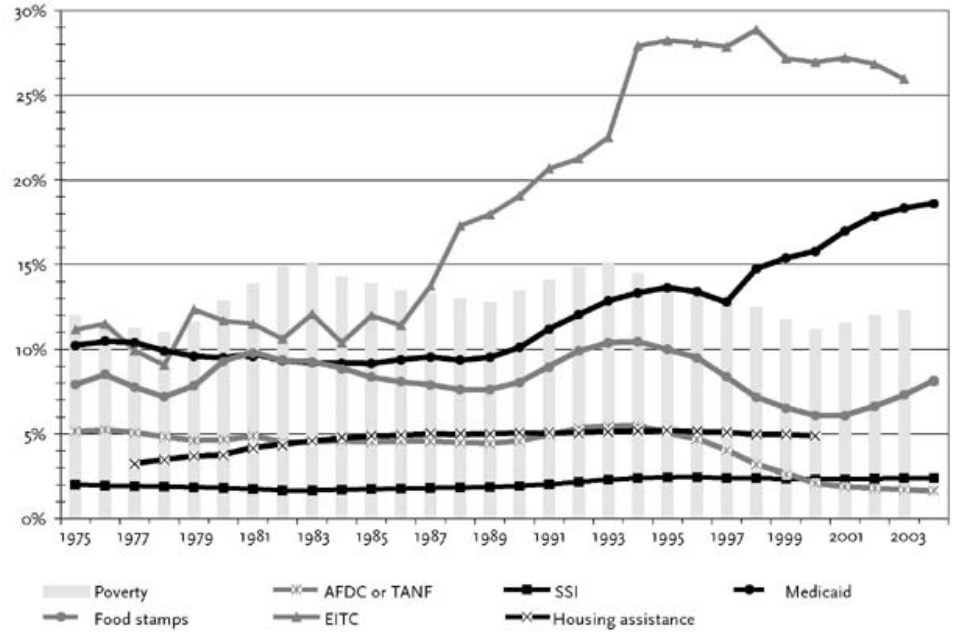
Child Support Reserve

One of the most often talked about and nothing done about issues with current child support. We must instill a reserve base that assures that we never so bury a person in responsibilities that cause them to be an addition burden on the State or place them in a state of permanent poverty. The purpose of Child Support is to balance the economic factors with household in such a manner as to assure that the child has a balance lifestyle within the homes of both parents. To explain the effect on Ohio families, impoverishing one parent while enhancing the economic lifestyle of the other parent harms that child and does more financial harm to the State of Ohio than good. Since child support cash pass through amounts are tax free transfers of the actual availability of cash received is higher than that of someone that earned the same amount of money.

One case that comes to mind as an example is that of a young man in Cincinnati. His support is paid on time every month and without complaint as he works a full time schedule plus. His soon to be ex-wife is drawing over $48,000 of tax free income while she sits and does not work. Only one of the children that she has borne is of an age where they are not in school. As any working person would say, “Nice gig, where do I signup?” That is the equivalent of the disposable income from a $70,000 an actual job.

One must question why the Courts and State of Ohio have not taken to issuing “Seek Work” style orders to assure that both the mother and the father are actively participating to the financial burdens associated with the raising of a child. This overall attitude that often prevails with the Courts that a custodial parent should be allowed to sit at home without working reeks of a throwback to the ***Tender Years Doctrine*** which had us believing that only a Mother could raise a child. Times have changed greatly since those days as the number of women entering the workforce has increased to levels that now nearly match those of their male counter parts.

In 1975, only two out of every five mothers with a child under age 6 held a paid job, currently, 70.5 percent of women with children are in the labor force. Yet the growth of government assistance has



increased tremendously. One must wonder of this mindset of placing the financial burden on one party makes sense any more while we reward the stay at home just because we can. We make daycare vouchers available yet don't take the opportunity to spread the cost of raising the child between the parents by making them join the workforce, yet provide monetary assistance with housing, medical and food so that we help the poor. The chart above shows the massive increases that have taken place since 1975 and with the coming problems of the Affordable Health Care Act this will only get worse for the State. Even with the State of Ohio opting to allow the Federal Government run the exchange within Ohio.

The issuing of seek work orders will become increasingly important in the cases of the unmarried parents. It may just be my perception but this is the area where we likely have the highest TANF recovering costs and expenditures. While the federal rules on Welfare may no longer require parties to attempt to seek work to continue their benefits, I see no reason why we cannot enforce this as our own method of controlling costs that are likely to spiral in the coming years.

Common sense would tell us that if we are to control costs and create a true child support reserve that we assure that no parent's available income drops below the level at which one become eligible for benefits. The problem has perplexed this state and others for years and remains unsolved. I am saying apply a common sense and established point that is well accepted as the norm. That may not be a popular answer to this problem but it is a reality that we have for too long allowed some parents to skate of their responsibilities while choosing to impoverish so that do and continue to work only to have that reward transferred to another.

Parenting Time Adjustment and the Three Year Review

If we are to bring in the parenting time adjustment, which is a long overdue process that should have been in place years ago, must make adjustment automatically to child support orders that were previously issued. While we have had the ability to request adjustments thru the courts those were always discretionary and often were not granted. This has created a situation for many parents where they have their children under their care 50% of the time and yet are still paying child support at archaic levels as though they are only seeing them every other weekends. This adjustment to old orders is no burden on the county agencies as they do their normal review process. As I have pointed out before the software that is available and popularly in use allows for this to be done with a simple click during the input process.

While some counties will claim that they don't see the custody portion of the orders this is a falsity often spewed out of laziness and sloppy work as there is not possible method of inputting data within the system without knowing how the custody order is written because of the use of two different child support forms that are in use because of different types of custody that Ohio's ORC 3109.04 allows. Doing so now after having possibly over charged an obligor is only fair and proper as it creates judicial economy by keeping these adjustments form landing before the courts in a protracted litigation.

The same methods must be applied at all administrative adjustments, be they by the normal and required three review or by party request.

Definition and Consistency Needed

There remains nothing any more frustrating than to ask a question and get a different answer in multiple places and this is often a major problem with child support. Ask on county and get their answer, ask the state and get a different answer, read the law and the administrative code and find either no answer or one that is not consistent with actions of an individual county.

First of these problems comes with at what point doing the adjustment take place with an administrative adjustment specifically in regards done when one seeks a modification due to unemployment. One county agency will make the changes retroactive back to the point at which the review process was started and another will do nothing until their determination is made. This not consistent with the practices that fall within the courts as those orders are retroactive back to the point at which that original motion was filed.

Common sense again tells us that all modifications must use the same point and be consistent with the practices that are used with the Courts yet they are not. No definitive answer is found in either the State of Ohio procedural manual or in the individual county manual that I have reviewed at this point. The practices of the individual counties must be consistent with those of the court and the point at which the adjust of the order starts must be at the time of initial request. By setting a consistent starting point for all administrative modifications we will be encouraging the county agencies to act quickly to complete these processes rather than taking the protracted 180 day schedule that they often follow

now. That provides no help to any party that comes in asking for help due to economic hardships created through no fault of their own.

Substantially in Arrears

Something that no one every wants to here but it does and can happen. While best practices exist that do prevent aggressive collection efforts when the arrearages occur at the beginning of an order due to the retroactive nature this term like many used within family law in the State of Ohio is wide open to interpretation and comes with a definition that is varied as the order becomes further from that original click of time.

While practices currently seem to lean towards a person making a single payment within a 6 month period as being substantially in compliance this is still little help to someone that is struggling to make ends meet because they have not received money due from a court issued order. While Federal and Oho law sets a monetary level at which aggressive actions such as license suspensions may begin, a party with a law court ordered amount may never reach that amount while having never paid a dine of support for years. Conversely a person with a high court ordered amount could fall within those bounds within a very short period of time.

As I said practices currently lean toward the use and allowance of a single payment within a six month period to remain substantially current with an order. If we are truly concerned with the assuring that every child receives the support that they have been ordered to receive then we must, as with other suggestions I have made which will speed up the processes, bring this down to a more clearly defined period of 4 full payments within a 12 month period. This will work and be acceptable should we also shorten the periods up for administrative reviews as previously stated, especially for those that are requiring review because of unemployment situations. While this may not find favor with some of the true deadbeats that do exist, it is a policy change that will bring consistency and is right for the children of this state.

Additional 20% Charge Towards Arrears

Again we have an area that is inconsistent in application across the state much of the inconsistency coming from the aforementioned failure to have a clear definition of what is substantially in arrears and what can be viewed as overly aggressive agency policies that result from that lack of definition. There also raises a question of law that must be addresses within the application of this as it may be in conflict with Ohio's ORC 1343.01 which controls allowable interest rates within the state. The conflict of law comes in that some have used this as a compounding factor and adding these additional charges that originally had the intent of speeding up the collection of arrears as additional charges to the accounts. While Ohio interest rate is supposed to be set using the federal short-term rate the argument could be used as to whether these are short or long term as the length of the actual child support order would affect where it falls within the acceptable federal guidelines.

We have some agencies that will not apply this 20% arrearage addition to accounts until the account has reached a point of being substantially in arrears and others, such as Hamilton County that will add as

soon as an account is at point of having missed a single payment. Much of this falling with a failure of the law and administrative codes of the state to define what is substantially in arrears as I have pointed out before. When one county agency takes an extremely aggressive stance and another takes a lackadaisical approach with some and overly aggressive with others, we have mayhem on every level of this application.

Definition must be added to the law so that there is a clear process for the benefit of both the obligor and the obligee. Stories have come forth of agencies that claim that they don't even pursue obligors because they don't feel like they can collect. Are they even adding the arrearage fees to these accounts in the hope of someday collecting?

Hearings On Errors

When an agency does an administrative adjustment and possible errors are called into question and challenged the processes in place do allow for those errors to be brought into question before an administrative hearing officer. Too often the hearing officer will side with their own agencies instead of doing a thorough job of investigating the allegations of error. That is and should be unacceptable, to not only the obligors but the obligees and the heads of these individual agencies.

To give case on point here. The aforementioned father from Clermont County was given notice that they would be doing the normal administrative review when his daughter turned 18 and had graduated for high school there by reaching the emancipation point and the point at which she was to be removed from the existing child support order. He and his ex-wife had an agreed entry that was entered by the Court as to what his child support payment would be after their divorce was final. That agreed amount would remain constant until all three of their daughters had become emancipated.

Clermont County CSEA decides that they will disregard the agreed entry and changed his child support amount administratively. The administrative decision was objected to and a hearing was held on what was an error of the agency. At that hearing the hearing officer denied the presentation of the evidence that this was an agreed entry amount that had been approved by the Court and refused to correct the error claiming "we don't see those orders".

When he contacted us for advice, I inquired of CSEA at the State of Ohio as to whether this was allowable under written procedure and was told that it could not be found. I was advised to check the Clermont County Procedural Manual and still found no authority to change an agreed entry during the emancipation process.

This forced this issue before the Court and that issue is still open to this day nearly two years later.

Compounding this problem his second daughter has now been emancipated and again Clermont County did not correct the first errors and this time added insult to injury by not reducing his payment but by leaving it at the incorrect "new" amount claiming that this additional charge was to pay off his arrears that were created by the error of the agency.

Again a hearing was requested to object to this error and this time I attended. I laid out a specific timeline during questioning of the mother before the hearing officer and again pointed out that the agency had made an error during this emancipation as well as the first. When I attempted to present the sections of the agencies manual that deal with emancipation for the officer to support his decision, the hearing officer again refused the evidence to show this error and cut the hearing off at 6 minutes stating that the agency had made no error.

If there exists no written policy that allows for an agreed entry of the court to be changed by an agency and the agency is not allowed by administrative rule or law to add a deviation on their own, then I want someone to explain why this agency has done this.

This matter is again before the Court and is still open while this father has not had his waged garnished for amounts that are presently at four times his agreed entry amount. The matter still remains open as the Court has yet to issue a decision that can be taken to the Court of Appeals for correction.

We question how many others within Clermont County have had their agreed entry amounts changed administratively.

As a solution the hearing officer should being doing the equivalent of a finding of facts and conclusion of law to support as to whether or not the agency has made an error not just taking this misguided assumption that the agency is correct. Doing this would allow for the easy correction of these errors by the agency and would prevent the matters from landing within the courts costing both parents and the courts time and money.

Before anyone thinks that this is an isolated case, Summit, Cuyahoga, Defiance, Lucas, Warren, Trumbull and Stark Counties have also reported problems of this nature and they have not all come from obligors. Correcting this procedure will save the State of Ohio and the individual counties money through judicial economy.

Extraordinary Household Incomes

To explain this problem we must go to the original intent of child support. That original intent was to assure that the child enjoyed a similar lifestyle while they spent time with each parent. The problem comes when the divorced parent marries someone that earns a much larger income and that is not considered with the award of child support.

To explain this we need to look at situation where one party, after a divorce, marries someone that earns enough income that one of the parents does not have to work outside of the home. The two divorced parents may have had nearly equal incomes while married and at the time of the divorce and the original support order but because of a change that has happened within their life now no longer needs to work because of the earning of a spouse or live-in partner. Because the parent no longer works often their income for child support worksheet purposes is reduced to zero or an imputed amount equivalent to minimum wage. This shifts the burden of support on the other parent that is subject to that order through no fault of their own.

To correct this we must add this as a factor for deviation. While some will claim that the "other relevant factors" clause is sufficient to have this considered, it frankly is not. It must be spelled out and added as a factor to assure that the living situation for both households is somewhat balanced.

The Self Employed

The calculation of support orders for the self employed has long been a point of contention. Ohio's use of the gross receipts method for the self employed fails to account for normal business expenses incurred by those that have chosen this path of employment. By using "gross" receipts we fail to account for the normal federally tax deductions that are allowed. The Self employed are saddled with many expenses that are not borne by those working for another such as gas, insurance and higher tax rates in Social Security. While some will say that this opens a loophole for possible abuse that production of tax returns which normally occur during the divorce process will show a much different tail. Few business people are willing to risk their livelihood by "cheating" on their taxes when the IRS is concerned.

Using a "net" figure of income will more closely reflect that disposable income that is available to those that are self employed. Adjustment can be made during the calculation of support orders to compensate for the extra taxes that occur. Business community stirrings are already coming that the Affordable Healthcare Act will have more employers choosing to place current salaried employees on a "contract basis" to avoid some of the burden that the mandates within this legislation will place on their companies as companies trim employment rolls to come in under the penalty levels. We need to be well ahead of this trend in the calculation of child support as shifts are made statewide in how our citizens are working.

More than sufficient documentation takes place now to assure that those that will be following this path in the future are above board in their reporting of income. As pass compensations are shifted from companies to their contract employees, we as a state must recognize these changes as well to assure that we do not over burden parents.

Conclusions and Priorities

Few that sit on the review board know the actual problems that exist within the State of Ohio save Representative Pelanda and other than her first hand experiences with clients it is doubtful that she knows the true extent. This system has been screwed up from the beginning in many ways and while a few corrections have been made some co-called corrections have caused more problems rather than solving them over the past twenty years.

To correct this and protect not only the parents, children and the State of Ohio is going to take some work but it can be done with simple language in some areas and major work in others. Auditing the entire system is a major cost but it is one thing that will benefit the most. We cannot have systems showing one amount in one place and a different amount in another when they are supposedly "talking"

with each other and supposedly sharing information. Dave Yost has done an excellent job protecting the State of Ohio as well as his staff and needs to make this a priority in the near future.

On a legislative side, we need to prioritize what we fix first and do that with a goal of statewide consistency. While I have addressed many of the problems and presented solutions we must start with the following in this order:

1. Correct guideline tables that reflect the true cost of raising a child within the State of Ohio, not the national averages or regional averages that are currently in use or have been proposed. Garbage in, garbage out is not going to solve the problems that will be coming in the near future because of missteps by our Federal Legislators.
2. A true child support reserve based on numbers that we are currently using to set benefit levels within the state. We should not be using our own law to force a parent into an impoverished condition.
3. Consistency from county to county through one clearly structured Procedural Manual that does not leave the areas open that I have mentioned. That manual must be consistent with practices that take place within the courts of this state.
4. Speed to the system must pick up. There is no excuse for processes to take up to 180 days in this age of computers and the internet and intranet. Information technology systems are in place and the affective use will speed up so many of the slow processes that we have that are causing many of the problems.
5. A true and accurate parenting time adjustment that is mandatory not discretionary and all old orders must be granted the same once brought for review. This must be done to recognize the fact that parenting with near or equal custody provide more in direct support of their children, a fact often missed by many due to false claims that parents that want this are only seeking to "get out" of paying support.
6. Immediate corrections to the membership of this review council. A room full of "Yes Men" will not correct the problems are they will only do want they think the "boss" wants to hear. Adding more member with conflicts and allowing those that should not by law be on the review council to remain is contrary to Ohio law and smacks into the face of the law's original intent of a fair and balanced review. Until that happens I will encourage all legislators to reject any reports generated by this council.
7. Point by point corrections to the problems that has been made throughout this report must be addressed before any new law can be crafted. I personally stand at the ready to assist in any proposed changed and any of you that supported or took the time to review SB144 or HB253 can see that I was thorough with that legislation which should have been passed during this past General Assembly.

I ask that you not take my suggestions lightly as are too often done during these reviews. It is time that we correct the problem rather than letting it continue to grow more expensive for the State of Ohio and the families involved. We have an opportunity to correct twenty years of mistakes but bad legislation will not do it. The time to make those corrections is now.