



Ohio Association of Domestic Relations Judges

House Civil Justice Committee
Judge Dana Preisse
Proponent Testimony on House Bill 338
April 2, 2024

Chair Hillyer, Vice Chair Mathews, Ranking Member Isaacsohn and members of the House Civil Justice Committee, I thank you for this opportunity to submit proponent testimony for House Bill 338 on behalf of the Ohio Association of Domestic Relations Judges.

I am Judge Dana Preisse. I served on the Franklin County Domestic Relations and Juvenile bench for 25 years before retiring in December 2022. I continue to serve as a private judge. During my tenure on the bench, I presided over 50,000 divorces and dissolutions including cases in which the children of the parties had serious disabilities. I served as Administrative Judge in our court for seven years. I was President of the Ohio Association of Domestic Relations Judges (OADRJ) and have been an active member of the Association for decades. I served for over 10 years on the board of directors for the Center for Family Safety and Healing at Nationwide Children's Hospital, and I established the first drug court in Franklin County: Family Recovery Court for substance-dependent parents who lost or were at risk of losing custody of their children to the state. Prior to my judicial service, I was in private practice for 11 years.

Currently, domestic relations courts across the state have inconsistent authority regarding the courts' ability to grant an initial order of child support for disabled children over the age of 18. These children are often called "Castle Children," in the family law community, after the Supreme Court of Ohio's 1984 decision *Castle v. Castle*, 15 Ohio St. 3d 279, which ruled that the parents' duty to support their minor children may continue beyond the age of majority if the children are unable to support themselves because of serious mental or physical disabilities which existed before attaining the age of majority. Castle Children may require significant lifelong support from their parents. Often one parent may need to reduce work hours or stop working to address the needs of the child, resulting in the child's primary caregiver having a lower income or no income. This income disparity may necessitate a support order if the parents divorce.

In *Castle*, the Supreme Court held that domestic relations court may continue or modify support payments to disabled children beyond age 18, but the Supreme Court did not rule whether domestic relations courts have authority to issue an initial order of support for disabled adult children. Without clear guidance, Ohio's appellate courts have taken different interpretations. Ohio's Seventh District Court of Appeals ruled in *Abbas v. Abbas*, (1998) 128 Ohio App. 3d 513, that in granting

custody of a 25-year-old child to the child's mother, the trial court "was essentially asserting" that the child had not reached the age of majority. Therefore, the trial court maintained continuing jurisdiction over the child and could order child support payments pursuant to *Castle*.

The Tenth District disagreed in *Geygan v. Geygan*, 2012 Ohio 1965, which ruled that in enacting R.C. 3119.86, the General Assembly considered the question of child support for adult children with disabilities and chose to incorporate the words "continue" and "beyond," thus disallowing an initial order for an adult child despite their disability. These are just two of the conflicting interpretations of *Castle* and the corresponding statutes in the Ohio Revised Code.

The OADRJ supports H.B. 338 to resolve this appellate court dispute, provide uniformity, and clarify the law to allow domestic courts to grant an initial order of child support for qualifying disabled adult children over the age of 18. Uniformity will allow all Ohio Castle Children to be treated similarly and help parents with Castle Children who move from one appellate district to another to maintain their support order. Domestic relations judges will maintain discretion to review the sufficiency of the disability claim and whether it necessitates a support order. The courts will also determine whether the child support order will impact the ability of the disabled adult child to receive other benefits, such as Medicaid and Supplemental Security Income (SSI). This will allow courts to have the authority to order support for disabled adult children when warranted by the facts of the case.

Thank you for the opportunity to submit testimony in support of H.B. 338. We thank the sponsors, Representative White and Representative Sweeney, for introducing this legislation. I would be happy to answer any questions you may have.