

# Child Support and Social Security

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Social Security for the Family Law Practitioner  
Akron Bar Association Family Law Section Meeting  
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# Summit County CSEA

Approximately **14%** of obligors receive Social Security benefits



**1,886** unique obligors receive DIB (Title II)

**2,028** unique obligors receive SSI (Title XVI)

**416** unique obligors receive both

**\$280K** collected on a monthly basis from Social Security



# Calculating Child Support INCOME- SSI

SSI benefits EXCLUDED from definition of “Gross Income” under ORC 3119.01(C)(12)(a).

Prohibited from Imputing Income pursuant to ORC 3119.05(I)(1).

Unless other actual income exists, “Income” calculation for the parent receiving SSI = \$0.00.



# Determining Child Support OBLIGATION- SSI

OPTION 1: ORC 3119.06(A) establish a minimum support

In re J.H., 2020-Ohio-576– min order permitted. BUT plain error review.

*Cf:* Morris v. Morris, 2003-Ohio-5598– SSI only income prohibits use of min order

OPTION 2: An amount less than \$80 pursuant to ORC 3119.06(A) based upon medically verified or documented physical or mental disability.

When the SSI recipient does not have other actual income, CSEA typically sets \$0.00 orders for SSI recipients.



# ENFORCING Child Support Obligations-- SSI

CSEAs cannot issue income withholding orders against SSI benefits

SSI funds retain their SSI status once deposited into a bank account. CSEAs are thus prohibited from seizing SSI funds out of a bank account through the Financial Institution Data Match program.



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# Calculating Child Support INCOME– DIB

- DIB INCLUDED in the definition of “Gross Income” under ORC 3119.01(C)(12).
- If child receives Derivative Benefit due to parent’s disability, annual amount of Derivative Benefit should be added back into the calculation of income for the disabled parent. *Huff v. Huff, 2003-Ohio-1304 (9<sup>th</sup> Dist).*
- Income for the parent receiving DIB = Annual DIB + Child’s Annual Derivative Benefit(if applicable) + any other actual income.



# Calculating Child Support INCOME– DIB, continued

- Prohibited from Imputing Income pursuant to ORC 3119.05(I)(2) if the parent is receiving DIB.
  
- Enter annual amount of DIB on Line 5 of the Guidelines Calculation: “Annual income from workers’ compensation, disability insurance or social security disability/retirement benefits.”



# Calculating Child Support CREDIT for Derivative Benefit

## Line 20

- Derivative Benefit– gives parent credit if child receives non-means-tested benefits resulting from the Social Security or Veterans' benefits claim of the parent
- Annual amount of derivative benefit entered in Line 20.
- Dollar-for-Dollar credit against the disabled parent's support obligation
- If derivative credit is greater than annual support obligation, support order is \$0.00.





# ENFORCING Child Support Obligations-- DIB



- Past due support (arrears) can be seized from the obligor's lump sum DIB payment, up to the total past due balance.
- CSEA can issue an income withholding orders to withhold support from monthly DIB payments.



# Derivative Benefit Lump Sum Payments

Can a lump sum derivative payment be credited against a past due support balance that accrued during the period of disability?

Williams v. Williams, 2000-Ohio-375

Can an obligee be ordered to repay an obligor if the obligor pays the support obligation during a period of disability, and then the child/custodial parent receives a lump sum derivative payment?

Filon v. Green, 2006-Ohio-4868 (9<sup>th</sup> Dist)

*Cf* Hamilton v. Reynolds, 2013-Ohio-5660 (3<sup>rd</sup> Dist)



# Child's SSI benefits

- NOT included in the child support calculation
- Can the Child's SSI be used to deviate the child support obligation?
  - Parents, to the extent that they are able, have an obligation to support their minor children. In situations where a child is eligible to receive SSI, these benefits are intended to supplement the parents' support obligation, not to reduce it. Consequently, we find that supplemental security income benefits received by a disabled child do not constitute a financial resource of the child pursuant to R.C. 3113.215(B)(3)(f) for purposes of justifying a trial court's deviation from the basic child support schedule.

Paton v. Paton, 2001-Ohio-291, 91 Ohio St. 3d 94, 97, 742 N.E.2d 619, 622



# Thank You!

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# Imputing Prohibited 3119.05(I)(1) for SSI

Unless it would be unjust or inappropriate and therefore not in the best interests of the child, a court or agency **shall not** determine a parent to be voluntarily unemployed or underemployed and shall not impute income to that parent if any of the following conditions exist:

- (1) The parent is receiving recurring monetary income from **means-tested public assistance** benefits, including cash assistance payments under the Ohio works first program established under Chapter 5107. of the Revised Code, general assistance under former Chapter 5113. of the Revised Code, **supplemental security income**, or means-tested veterans' benefits;



# Imputing Prohibited 3119.05(I)(2) for DIB

Unless it would be unjust or inappropriate and therefore not in the best interests of the child, a court or agency **shall not** determine a parent to be voluntarily unemployed or underemployed and shall not impute income to that parent if any of the following conditions exist:

- (2) The parent is approved for **social security disability insurance benefits** because of a mental or physical disability, or the court or agency determines that the parent is unable to work based on medical documentation that includes a physician's diagnosis and a physician's opinion regarding the parent's mental or physical disability and inability to work.



# Minimum Orders ORC 3119.06

- (A) Except as otherwise provided in this section, in any action in which a court or a child support enforcement agency issues or modifies a child support order or in any other proceeding in which a court or agency determines the amount of child support to be paid pursuant to a child support order, the court or agency shall issue a minimum child support order requiring the obligor to pay a minimum of eighty dollars a month for all the children subject to that order. The court or agency, in its discretion and in appropriate circumstances, may issue a minimum child support order of less than eighty dollars a month or issue an order not requiring the obligor to pay any child support amount. The circumstances under which a court or agency may issue such an order include the nonresidential parent's medically verified or documented physical or mental disability or institutionalization in a facility for persons with a mental illness or any other circumstances considered appropriate by the court or agency.
- If a court or agency issues a minimum child support obligation pursuant to this section and the obligor under the support order is the recipient of means-tested public assistance, as described in [division \(C\)\(12\)\(a\) of section 3119.01 of the Revised Code](#), any unpaid amounts of support due under the support order shall accrue as arrearages from month to month, and the obligor's current obligation to pay the support due under the support order is suspended during any period of time that the obligor is receiving means-tested public assistance and is complying with any seek work orders issued pursuant to [section 3121.03 of the Revised Code](#). The court, obligee, and child support enforcement agency shall not enforce the obligation of the obligor to pay the amount of support due under the support order while the obligor is receiving means-tested public assistance and is complying with any seek work orders issued pursuant to [section 3121.03 of the Revised Code](#).
- (B) As used in this section, “means-tested public assistance” includes cash assistance payments under the Ohio works first program established under Chapter 5107. of the Revised Code, financial assistance under the disability financial assistance program established under Chapter 5115. of the Revised Code, supplemental security income, or means-tested veterans' benefits.

