

HB1540 Relating to Attorney Fees  
Committee on Human Services  
February 10, 9:30 AM  
In support

Dear Chairs and Members,

My name is Chris Ching and I am a strong supporter of this bill. HB1540 will truly help reduce any abuse of the child support system by attorneys and any of those who stand to gain anything from said abuse. To itemize the attorney fees will help in two distinct ways.

One is that there will not be any room for attorneys to add additional fees for their clients that are not sanctioned by the courts. While this may not be so much a prevalent occurrence, there have been and will be cases of this abuse. This way, there is a clear and empirical itemization of the fees that can pertain to the child support order to help prevent any injustices.

Secondly the amendment will clarify the jurisdiction of the court in the enforcement of the attorney's portion of the support order. I believe that the violation of payments to an attorney should not count against a father or mother making child support payments as it does not affect the wellbeing of the child. In fact it does quite the opposite in the way of the child's wellbeing by enforcing additional payments that do not help the child and only add stress to the supporter. It should be between the client and attorney on payments. In my opinion the courts should not have a say in how and when fees are to be paid.

Please support parents of divorce by passing this bill and help end the unfair usage of this loophole in the system and further the wellbeing of children that receive support.

Christopher Ching

House Committee on Human Services

Tuesday, January 28, 2014 9:30 AM, State Capitol CR 329

Testimony of Marilyn M Moore in Strong Support

Relating to Child Support Enforcement

Dear Chair Mele Carroll and members of HUS,

Thank you for the opportunity to testify in support of HB1540. I am in strong support of requiring the Court to itemize and separately designate to the extent practicable, that portion of any awarded attorney's fees that are attributable to the matter of the support and maintenance of a child. The non-custodial, financially responsible parent should always be able to understand fully the extent and reason for all monies being required in support of the support child.

Thank you for this opportunity to testify.

**TESTIMONY OF THOMAS D. FARRELL**  
Regarding House Bill 1540, Relating to Child Support Enforcement

Committee on Human Services  
Rep. Mele Carroll, Chair  
Tuesday, February 11, 2014; 9:30 a.m.  
Conference Room 329, State Capitol

Dear Representative Carroll and Members of the Committee:

This bill purports to require child support orders to itemize the amount of the attorney's fees awarded and prohibits the Child Support Enforcement Agency from enforcing the attorney's fees portion of the order. It also requires the family court judge to attempt to allocate how much of an attorney's fees award is attributable to a child support issue litigated in the case.

Having sought and obtained probably thousands of child support orders over the past nineteen years, I am completely mystified as to why this bill is needed.

Generally, child support orders don't have an attorney's fees award. When they do, you will find a *Divorce Decree* or *Paternity Judgment*, with child support provisions, lots of other provisions on other topics, and also an attorney's fees award. Sometimes you also find them in a post divorce or post paternity order, typically where one party has failed to do something previously ordered and the court is imposing attorney's fees as a sanction. The child support and the attorney's fees provisions are always distinct, and I have never known the Child Support Enforcement Agency to enforce an award of attorney's fees on behalf of (or against) one of my clients. I have to go collect that on my own.

I can also tell you that it is completely impractical to attempt to figure out how much of an award of attorney's fees is attributable to a particular topic. If you prepare for and try a family court case with multiple issues such as custody, visitation, support, and property division, how do you allocate how much time you charged your client on the child support issue? It's just impossible.

Perhaps CSEA Director Gary Kemp can shed some light on this topic, but as I said, I am at a complete loss to understand this, and therefore I suggest you hold the bill.

Mahalo for the opportunity to testify this morning.

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TO: Representative Mele Carroll, Chair  
Representative Bertrand Kobayashi, Vice-Chair  
House Committee on Human Services

FROM: Jessi L.K. Hall  
E-Mail: [jhall@coatesandfrey.com](mailto:jhall@coatesandfrey.com)  
Phone: 524-4854

HEARING DATE: January 28, 2014 at 9:30 p.m.

RE: Testimony in Opposition to HB1540

Good day Representative Carroll, Representative Kobayashi, and members of the Committee. My name is Jessi Hall. I am an attorney whose practice is concentrated in Family Law. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I am here today to testify against HB1540.

In my nearly 15 years of practicing Family Law, I have never come across a situation in which this Bill would apply. Anytime that there has been an award of attorneys' fees it has been by an order separate from the determination of child support. I do not see why this Bill is necessary.

If the purpose of the Bill is to prevent an award of attorneys' fees in the enforcement of a child support order then that would be an injustice. In enforcement actions, a party must use their own money to try and collect child support arrears that are due to them. Assuming that party can afford the legal expense and time to chase the delinquent parent for the child support, he/she should be reimbursed for the legal fees expended. Otherwise, the delinquent party "wins" by making the cost to collect child support greater than the benefit of the child support ultimately collected. Leaving the collecting party in no better, and sometimes a worse position than they would have been if they did not attempt to collect. I cannot imagine that this would be an acceptable reason for this Bill to proceed.

As stated above, for either of the above reasons in which this Bill may have been introduced, neither reason affords a positive basis for this Bill to proceed further. Thank you for the opportunity to testify in opposition to HB1540.

**LATE**

House Committee on Human Services (HUS)

Tuesday, 02-11-14 9:30AM in House conference room 329.

**Testimony of Chris Lethem in Strong Support of HB 1540**

Requires Orders of Support to itemize the amount of the attorney's fees and prohibits the Child Support Enforcement Agency from enforcing the attorney's fees portion of the order

Dear Chair Mele Carroll and members of HUS,

Thank you for the opportunity to testify in support of HB 1540.

This bill requires that attorney fees be itemized and not treated as part of the child support order. Allowing CSEA to collect attorney fees as child support allows attorneys to rack up big bills and then use the clout and power of the CSEA to collect on their behalf. This is really subsidizing the attorney's livelihood. Requesting that attorneys be responsible for the collection of their fees without comingling them is just and fair. And such collection efforts should not be subsidized by the state.

Thank you again for hearing this bill.

Chris Lethem