



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

H.B. NO. 1504, H.D. 1, RELATING TO CHILD SUPPORT.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 25, 2014 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Garry L. Kemp, Administrator, Child Support Enforcement Agency

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purpose of this bill is to create a presumption that the child support provision in family court orders are to be on a per child basis unless ordered otherwise and to automatically terminate child support when the obligee is no longer eligible to receive child support payments.

First, the Department notes that the title of the new section 571- on page 1, line 4, should be amended because the bill no longer addresses the issue of "separate order". The title should read:

"§571- Child support; per child presumption; automatic termination."

Second, the new subsection (b) on page 1, lines 7 through 10, is unnecessary. Child support is already deemed to be automatically terminated when a condition for termination specified in the order is met. It is the order that determines whether the obligee is eligible to receive continued child support. If the Committee amends the bill to delete subsection (b), the title above should be revised to read:

"§571- Child support; per child presumption."

Third, the amendment to section 576E-14(a) on page 1, line 13, seems to preclude a parent from being able to file a request for suspension, termination, or modification of the child support provisions with the Child Support Enforcement Agency if the new section 571- applies. It is unclear whether this amendment is intended to apply to the new subsection (a) or subsection (b). However in either case, the Department believes that this amendment should be deleted and parents be allowed to file appropriate requests with the Child Support Enforcement Agency.

The Department respectfully requests that Committee consider the recommended amendments if this bill is passed.

Testimony in favor of H.B. NO. **1504**

Committee on Judiciary
Tuesday February 25, 2014, 2:00 PM.
State Capitol CR 325

Dear Chair Rhoads and committee members,

I am writing in strong support of HB1504 to designate child support orders separately per child. The way it stands currently is that when there are multiple children involved, the court issues a single, lumped child support order for all children, and this set amount continues even after a child reaches over the age limit to be eligible for child support. Thus, the non-custodial parent is stuck paying the full amount until the youngest child reaches 18 and all child support obligation ends. This seems like a glaring oversight in the system, and certainly unfair.

We know that often times, siblings can have a large age difference. This can mean that the non-custodial parent can be overpaying child support for many years, for children that have already matured into adults and may not even be around to receive any benefits. Should it really be necessary to make a dispute in family court to have the obligation readjusted to the correct amount of actual children? I think the court often forgets that non-custodial parents have struggles too. For them, the relief can be much needed. In my opinion, this is the only way that makes sense, and how it should've been from the beginning.

Please vote in favor of HB1504. Thank you for reading this testimony.

Christopher Ching

FROM: John W. Schmidtke, Jr.
john@schmidtkelaw.com
(808) 599-4100 x 101

RE: Testimony in Opposition to HB1504

My name is John Schmidtke. I have practiced exclusively in the field of family law since 1983. I served as the chair of the executive committee of the Child Support Guidelines Committee that revised the state's Child Support Guidelines ("CSGs") in 2010. I am the vice-chair of the Child Support Guidelines Committee that is currently working on updating the CSGs for 2014.

I submit this written testimony in opposition to HB1504. Some of my testimony was given previously.

Child support is not calculated on a per capita basis. The CSGs recognize an economy of scale so that the amount of child support for two children is not twice the amount for one child. Child support for three children is not three times the amount of child support for one child.

HB1504 would require the CSGs to be rewritten (an enormous task) and would require the Child Support Guidelines Worksheet ("CSGW")—the basic tool for calculating child support in the state—to be redone (another enormous task).

In addition, the paperwork, filing, and service of multiple documents related to the same family will increase the cost to the public, to the CSEA, and to the judiciary. The chances of a mistake increase any time multiple documents are submitted to address the same basic issue. Many orders are done by unrepresented parties. Most people will wonder why they have to submit the same form for each child. At a time when the cost of legal services limits many people's access to justice, HB1504 will be increasing the expense of obtaining child support.

The bill will treat families with child support orders in the future differently from families with existing child support orders. That will make enforcement and compliance more difficult without any corresponding benefit to the children receiving the support.

Finally, I again ask what "problem" is the proposed bill trying to fix? I cannot think of a case in thirty years where it mattered that there was only one child support order.

Thank you for the opportunity to testify in opposition to HB1504.

House Judiciary Committee

Tuesday, February 25, 2014 2:00 PM, State Capitol CR 325

Testimony of Marilyn M Moore in Strong Support

Separation of Child Support Orders

Dear Chair Karl Rhoads, Vice Chair Sharon Har and members of JUD ,

Thank you for the opportunity to testify in support of HB1504. I am in strong support of requiring all child support orders to be presumed to apply on a per child basis. Attorneys are and have been writing child support orders as a "Summary Child Support Order" without the obliging parent understanding what the order infers. Therefore, custodial parents continue to receive child support for the full amount of the order, regardless of the status of individual children in multiple-children families.

Whereas, financially responsible, non-custodial parents receive no financial relief, as the children reach the age of majority, it unfairly forces them to continue paying more than they should. Most of these parents, because of onerous child support payments, have not yet adequately funded their retirement and will eventually become much more dependent on government services in the their later years.

For example: a custodial parent of three children has child support of \$150.00 per month per child for a total of \$450.00. Even though the oldest child has turned 18 and is no longer eligible for child support, the support order isn't modified from the \$450.00 dollars to \$300.00. The order for \$450.00 is unmodified to reflect the change. The original child support amount will only change once the last child is no longer eligible for child support.

By having all child support orders written on a per child basis, attorneys and CSEA will no longer be able to abuse unsuspecting parents who are not sophisticated enough to understand that how an attorney writes up a child support order unfairly makes a difference in their financial liability.

Thank you for this opportunity to offer my testimony.

MARILYN M MOORE

TO: Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice-Chair
House Committee on Judiciary

FROM: Jessi L.K. Hall
E-Mail: jhall@coatesandfrey.com
Phone: 524-4854

HEARING DATE: February 25, 2014 at 2:00 p.m.

RE: Testimony in Support of HB1504, HD1

Good day Representative Rhoads, Representative Har, and members of the Committee. My name is Jessi Hall. I am an attorney whose practice concentrates 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 in support of HB1504, HD1.

I support the Bill as it has been amended as it clarifies child support awards without requiring additional paperwork. For informational purposes below are the reasons I had opposed the original version of the Bill.

The prior draft of the Bill would required the Child Support Guidelines to be rewritten which in and of itself would be an enormous task and would require the Child Support Guidelines Worksheet (“CSGW”)—the basic tool for calculating child support in this state, to be redone (another enormous task).

The way that the current CSGW works, child support is not calculated on a per capita basis. The CSGWs recognize an economy of scale so that the amount of child support for two children is not twice the amount for one child. Child support for three children is not three times the amount of child support for one child. According to the American Bar Association Family Law Quarterly (Fall 2013) there is no state whose child support calculation calculates the support based one child at a time.

Further, the amount of paperwork required by the prior draft Bill were enacted would make it very difficult not only for Pro Se litigants, but also for employers who are expected to enforce these orders. It would be required that there be an order for every child which would require two additional documents per child, when the same thing could be done with just two documents for the entire family. Large employers (to include the State of Hawaii) would be overwhelmed with the sheer volume of documents and imputation.

Currently, a parent who anticipates that his/her child support obligation is about to end can petition the Child Support Enforcement Agency or the Family Court for relief. When done properly, at that time, a new CSGW should be completed and new orders entered because the correct amount of child support for the remaining dependent children would be dependent on the parties' incomes at that time.

Thank you for the opportunity to testify in support of HB1504, HD1.

House Judiciary Committee

Tuesday, 02-25-14 2:00PM in House conference room 325

Testimony of Chris Lethem in Strong Support of **HB1504**

Provides that child support orders are presumed to apply on a per child basis.

Dear Chair Karl Rhoads and members of JUD,

Thank you for the opportunity to testify in support of HB 1504. "In Gross" child support orders are a new invention of the CSEA. They are used against clients are either not present when a child support order wasn't written or against those who don't understand the intent of such an order. There isn't any language in the HRS that provides for such an order, yet CSEA is enforcing them anyway.

It seems that CSEA is more focused on growing increasing its funding for state and federal funds. This seems to override decency and compassion for too often poor parents, who have little or no means to pay the obligations that have been put upon them.

I would also request a modification to the language regarding Section §576D-7 (a)(2) to address another inequity in the language that can be abused by the court. Many parents lost their jobs or had to take much lower paying jobs than we previously had; when the economy turned down.

Please remove the language 576D-7 (a)(2) from

"The earning potential" to actual earnings" reasonable necessities, and borrowing capacity of both parents;