



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

---

**ON THE FOLLOWING MEASURE:**  
H.B. NO. 1504, RELATING TO CHILD SUPPORT.

**BEFORE THE:**  
HOUSE COMMITTEE ON HUMAN SERVICES

**DATE:** Tuesday, February 11, 2014                      **TIME:** 9:30 a.m.  
**LOCATION:** State Capitol, Room 329  
**TESTIFIER(S):** David M. Louie, Attorney General, or  
Garry L. Kemp, Administrator, Child Support Enforcement Agency

---

Chair Carroll and Members of the Committee:

The Department of the Attorney General opposes this bill.

The purpose of this bill is to require the family court to issue separate child support orders for each child and to automatically terminate child support when the obligee is no longer eligible to receive child support payments, as provided by law.

The Department of the Attorney General opposes this bill as the provision requiring the family court to issue separate child support orders for each child on page 1, lines 4 through 7, unnecessarily complicates the process. Child support is calculated by taking all the children of the parties into consideration. Issuing separate orders for each child will lead to confusion, especially for the many pro se parties who must prepare their own orders. This will also increase the number of errors in the orders where the child's name or the amount of the support is incorrect. There will be an increase in the cost to the parties to obtain copies of the orders.

The Child Support Enforcement Agency is required by federal law to maintain a case registry of all child support orders issued in the state of Hawaii. Requiring the family court to issue separate child support orders for each child will increase the time and effort expended by the agency to enter the orders into the agency's computer system and to report the information to the federal government. There will be delays in the agency's efforts to collect and enforce child support because of the increased number of orders that have to be processed. There will also be delays if the agency is not provided with all of the child support orders from the parties.

This provision will increase the time and effort expended by the family court to process documents being filed and could lead to delays in the parties receiving copies of the orders. The

family court can already issue separate orders for child support if and when the court determines that it is appropriate.

The Department of the Attorney General would have no opposition if the provision for separate child support orders on page 1, lines 4 through 7, was deleted and replaced by wording indicating that all child support orders are presumed to be per child unless specified otherwise.

The provision of this bill relating to the termination of child support on page 1, lines 8 through 11, is unnecessary. The term, “as provided by law”, on page 1, lines 9 and 10, is misleading because the terms specified in the child support order dictate when termination is appropriate.

The Department of the Attorney General respectfully requests that this bill be held in committee.

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

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.

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.

Currently, a parent who anticipates that his or her child support obligation is about to end can petition the CSEA 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 should go up—the correct amount of child support for one child is more than one-half the correct amount of child support for two children.

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. 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.

Finally, I 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.

**TESTIMONY OF THOMAS D. FARRELL**  
Regarding House Bill 1504, Relating to Child Support

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:

House Bill 1504 would require the family court to issue a separate child support order for each child. It also purports to automatically terminate child support payments for a child, as provided by law.

The first part is absolutely crazy, and the second part is unnecessary.

Typically, a divorce decree with a couple of kids and a child support proviso, reads something like this:

6. Child Support. Defendant (as the Payor/Obligor, referenced in this paragraph only as "Obligor") shall pay to Plaintiff as and for support, maintenance and education of the parties' two (2) minor children the sum of FIVE HUNDRED FORTY FOUR AND 50/100 DOLLARS (\$544.50) per child per month, for a total of ONE THOUSAND EIGHTY NINE AND NO/100 DOLLARS (\$1,089.00) per month. Said sum shall be payable in two (2) equal installments of \$544.50 each on the 5th and 20th day of each month, commencing on the 5th day of August 2013. Payments shall continue until each said child attains the age of 18 years or graduates from high school or discontinues high school whichever occurs last, subject to further order of the Court.

In compliance with Section 571-52.3 of the Hawaii Revised Statutes, all payments for child support shall be payable to and made through the Child Support Enforcement Agency ("CSEA"), P.O. Box 1860, Honolulu, Hawaii 96805-1860, and shall be made pursuant to the Order for Income Withholding which shall be filed concurrently herewith. For so long as said Obligor shall owe child support, whenever Obligor changes employment, Obligor shall promptly so advise Payee and the CSEA in writing, indicating the name and address of the new employer and Obligor's new current gross monthly income from all sources. In the event that there is any change in either party's employment status or hourly wage, then the party having the change shall immediately notify the other party and CSEA. When called upon to determine that Obligor's obligation of child support for a child has terminated, CSEA and Obligor's employer may accept a written declaration signed under penalty of perjury by both

---

Divorce ♦ Paternity ♦ Custody ♦ Child Support ♦ TROs ♦ Arbitration  
*also handling national security cases involving revocation or denial of security clearances*

---

700 Bishop Street, Suite 2000, Honolulu, Hawaii 96813  
Telephone 808.535.8468 ♦ Fax 808.585.9568 ♦ on the web at: [www.farrell-hawaii.com](http://www.farrell-hawaii.com)

parties, and any affected adult child, to that effect, and a further order of the Family Court shall not be required.

The Child Support Enforcement Agency is hereby made a party for the limited issue of child support.

Both parents acknowledge that they have a continuing duty of support and that said duty of support for each child shall further continue uninterrupted so long as each said child continues his education post high school on a full-time basis at an accredited college or university, or in a vocational or trade school, and shall continue until said child's graduation or attainment of the age of 23 years, whichever event shall first occur. Any duty of support after the age of 18 or graduation from high school shall be deemed satisfied by compliance with the paragraph entitled "Higher Education Expenses" as specifically set forth below.

All of the foregoing shall be subject to further order of the Court.

If I read HB1540 correctly, you will now require everyone going through a divorce with children to have a separate document for each child establishing child support. This will add another layer of complication for people who can't afford an attorney and have to do their own divorces, and it will make divorce more expensive for those who choose to be represented, but now have to pay for additional documents to be produced and processed through the family court. This solves what problem?

Regarding the termination of child support, CSEA already has procedures in place as a child approaches age 18 to determine if child support should continue or terminate. In cases where an obligor thinks his child support should terminate and where CSEA hasn't done it, he can apply to CSEA for termination or file a motion in the family court.

I grant you that the entire rationale of paying child support post-majority is questionable, but this bill does not address that, and we should have that discussion another day.

Mahalo for the opportunity to testify this morning.

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 HB1504

Good day Representative Carroll, Representative Kobayashi, 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 against HB1504.

This Bill would require 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 if this 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 can 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 opposition to HB1504.

Testimony in favor of H.B. NO. 1504

Committee on Human Services  
Monday, February 11, 2014, 9:30 AM.  
State Capitol CR 329

Dear Chair Carroll 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



House Committee on Human Services

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

Testimony of Marilyn M Moore in Strong Support

Separation of Child Support Orders

Dear Chair Mele Carroll and members of HUS,

Thank you for the opportunity to testify in support of HB1504. I am in strong support of requiring separate orders for each child. Attorneys are and have been writing child support orders as a "Summary Child Support Order". 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 child support order written as individual orders, 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.

**LATE**

**kobayashi1-Joni**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 10, 2014 11:27 PM  
**To:** HUS testimony  
**Cc:** acthalmann@gmail.com  
**Subject:** \*Submitted testimony for HB1504 on Feb 11, 2014 09:30AM\*

**HB1504**

Submitted on: 2/10/2014  
Testimony for HUS on Feb 11, 2014 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
alison thalman	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**LATE**

**kobayashi1-Joni**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 10, 2014 6:48 PM  
**To:** HUS testimony  
**Cc:** britkm59@gmail.com  
**Subject:** Submitted testimony for HB1504 on Feb 11, 2014 09:30AM

**HB1504**

Submitted on: 2/10/2014

Testimony for HUS on Feb 11, 2014 09:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Britney T-M	Individual	Support	No

Comments: In gross child support orders are abused by attorneys and are not fair for parents who have to pay child support.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**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 1504**

Requires the family court to issue a separate child support order for each child. Automatically terminates child support payments for a child, as provided by law.

Dear Chair Mele Carroll and members of HUS,

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;