



SB 2022

Measure Title: RELATING TO CHILD SUPPORT.

Report Title: Child Support; Adult Child; College

Description: Requires that all child support payments go directly to an adult child if the adult child is presently enrolled as a full-time student in, or has been accepted into and plans to attend as a full-time student for the next semester, a post-high school university, college, or vocational school.

Companion: [HB1505](#)

Package: None

Current Referral: HMS, JDL

Introducer(s): HEE



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Human Services
Thursday, February 13, 2014 at 1:15pm, Conference Room 016
by Jan Javinar
Interim Associate Vice President for Student Affairs
University of Hawai'i

SB 2022 – RELATING TO CHILD SUPPORT

Chair Suzanne Chun Oakland, Vice Chair Josh Green, and members of the committee on Human Services:

This bill involves child support payments to an adult child either pursuing or plans to attend post-secondary education on a full-time basis. SB 2022 impacts the University from an enrollment verification standpoint.

The University has in place, a process for students to verify their enrollment in order to fulfill the proposed requirements contained in the bill. As such, the University neither opposes nor supports these bills. Instead, the University stands ready to assist the Child Support Enforcement Agency, students, and their parents in the enrollment verification process.

Thank you for the opportunity to offer testimony on SB 2022.

FROM: John W. Schmidtke, Jr.
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RE: Testimony in Opposition to SB2022

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 SB2022.

First, this bill will remove CSEA from the collection process for adult children. My understanding is that federal law precludes CSEA from being involved in direct payments to adult children. CSEA should be asked about this.

Second, the statute provides for the support of adult children yet this provision will make it harder for those adult children to collect. Who will be responsible for enforcing the support order? Will a child have standing in a divorce/paternity/administrative hearing to go after a delinquent parent? Do we want that?

Third, this bill only affects divorce cases. Child support orders also issue from paternity cases and administrative actions.

Fourth, the statute removes the discretion of the court to allow the "custodial parent" to collect child support for a child who needs help managing money, paying bills, etc. The bill has no leeway for support of an adult disabled child who must live at home while attending school or vocational training.

Fifth, the bill does not define "adult child." What happens with an 18 year old who is a junior in high school? What happens with a 16 year old who is in college or a vocational school?

Sixth, what obligation does the former or current custodial parent have to pay child support to the adult child? Currently, the custodial parent "pays" his or her share of the monthly support by paying for the room, board, and other expenses of the child who is living with him or her. Suppose the total child support for a child is \$1,000 according to line 13 of the Child Support Guidelines Worksheet ("CSGW"). Suppose that the father is the custodial parent and his income is exactly the same as the mother's income. Each parent would owe \$500 per month in child support but only the mother would write a monthly check for that amount. What happens when the child becomes an adult (once that term is defined)? Does the father have to pay his \$500 to the child and then collect it back for room, board, utilities, etc.?

Seventh, many people think that child support payments for an adult child should stop completely. They ask why a divorced parent has to pay for an adult child while a married parent can stop paying for a child after high school. If there really were a problem with child support going to adult children, the statutes and administrative rules would change for every child support case—administrative, paternity, and divorce. Stopping child support for all adult children would (1) treat parents equally, whether married or not; (2) treat children equally, whether of intact or split families; (3) ease the workload on CSEA because it would not need to track whether a child qualifies for support after the child is an “adult”; and (4) reduce litigation in Family Court. A bill of this sort would go against the long-standing policies and practices in Hawaii but it would solve whatever the “problem” this bill seeks to correct better than the bill currently being proposed.

Eighth, if this bill becomes law, the family court and CSEA will be inundated when almost every parent with a support order for a child under age 22 files papers to be relieved of the responsibilities imposed by their current order. At a time when our family court and CSEA are already overworked and underfunded, should we be giving them more work to do?

Finally, I ask what “problem” is the proposed bill trying to fix? Are adult children complaining that the child support is going to the custodial parent? Are custodial parents complaining about collecting money to pay for their adult child’s education or training? Or are parents with an obligation to support an adult child looking for a way around that? In 30 years of practice, I have never had an adult child complain nor a custodial parent gripe about the way child support has been paid. Only the person paying child support for an adult child complains and only that person will benefit if this bill becomes law.

Thank you for the opportunity to testify in opposition to SB2022.

TO: Senator Suzanne Chun Oakland, Chair
Senator Josh Green, Vice-Chair
Senate Committee on Human Services

FROM: Jessi L.K. Hall
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HEARING DATE: February 13, 2014 at 1:15 p.m.

RE: Testimony in Opposition to SB2022

Good day Senator Chun Oakland, Senator Green, and members of the Committee. My name is Jessi Hall. I am an attorney who concentrates my practice 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 SB2022.

Although I can agree with the general concept of child support being paid directly to an adult child instead of the “custodial” parent the Bill as written could cause unexpected consequences.

First, this Bill only addresses child support in divorce cases. Based on the number of cases filed each year, I would not be surprised that half (if not more) of the current child support orders involve paternity cases. Passage of this Bill would create a conflicting and potentially discriminating system.

Second, the Bill does not seem to take into consideration when an adult child continues to live with the “custodial” parent. The purpose of child support is to pay for the child’s living expenses. If the adult child continues to reside with the “custodial” parent in their home, then it is the “custodial” parent who needs to be paid not the child. The Bill provides no leeway for such situations or for a situation in which the adult child is disabled. It would make no sense to pay support directly to a disabled adult child. The current law allows the Family Court the discretion to determine to whom child support will be paid. If a “responsible” parent disagrees with the child support being paid to the “custodial” parent they may make that request with the Family Court, as is currently done.

Third, if the obligor parent fails to make payment, this Bill would require the adult child to go after the “responsible” parent to enforce payment. In such instances this will put the adult child in a very difficult situation. In most of the cases that I have been privy to, the adult child does not want to take an adverse action (especially legal action) against their parent as they know it will strain their relationship. It also creates an opportunity for a

“responsible” parent to take advantage of a situation if they know that their child will not pursue an adverse action against them. The only person to lose in this situation would be the adult child for whom child support is meant to benefit.

Thank you for the opportunity to testify in opposition to SB2022.