

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

ON THE FOLLOWING MEASURE:
S.B. NO. 2022, RELATING TO CHILD SUPPORT.

BEFORE THE:

SENATE COMMITTEE ON HUMAN SERVICES

DATE: Thursday, February 13, 2014 **TIME:** 1:15 p.m.
LOCATION: State Capitol, Room 016
TESTIFIER(S): David M. Louie, Attorney General, or
Garry L. Kemp, Administrator, Child Support Enforcement Agency

Chair Chun Oakland and Members of the Committee:

The Department of the Attorney General opposes this bill.

The purpose of this bill is to require any child support payment for an adult child be made directly to the 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." Page 3, lines 13-16.

The Department of the Attorney General opposes this bill for the following reasons:

1. The Hawaii family court can already issue orders that provide for child support to be paid directly to an adult child in those situations where the court determines that it is appropriate. This measure would take away the court's ability to make that determination.
2. In many cases the adult child continues to reside with the payee parent while pursuing his or her post-high school education. There has been no change in the living arrangement from the time the child was a minor and the payee parent continues to incur costs associated with the adult child living at home. By taking the child support away from the payee parent and giving it to the adult child, this measure increases the burden on the payee parent.
3. Federal law does not allow for the Child Support Enforcement Agency to enforce child support paid directly to a child. If the payor parent does not make payments to the adult child, the adult child's only recourse is to take appropriate action through the family court. That is, the adult child would have to file a motion to intervene in the adult child's parents' divorce, separation, or paternity case so that he or she can become a party to the case. After becoming a party to his or her parent's case, the adult child would then need to file a motion to enforce the

child support order. When child support payments are required to be made to the payee parent, the agency may be authorized to take enforcement action and all federal and state enforcement remedies available to the agency may be utilized.

4. Currently, the CSEA's computer system is designed to pay child support to the custodial parent and not directly to the child. To redesign the agency's computer system to be able to make payments to an adult child would require that the agency incur costs that have not been budgeted for. Because federal law does not authorize the agency to enforce child support paid directly to a child, the change to the agency's computer system will have to be funded one hundred percent by state funds. It would also require that the agency maintain separate records to account for the time spent on these activities in order to ensure that federal funds were not being used improperly.

5. Because there are similar provisions for the support of an adult child in sections 576E-14(f) and 584-18(b), Hawaii Revised Statutes, there will be conflicting requirements depending upon how the child support order was issued if this bill is passed as currently written.

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

Senate Committee on Human Services (HMS)

DATE: Thursday, February 13, 2014

TIME: 1:15 pm

PLACE: Conference Room 016

Testimony of Chris Lethem in Strong Support of **SB2022**

Child Support Payments Directed to Adult Children.

Dear Chair Senator Chun-Oakland and members of HMS,

Thank you for the opportunity to testify in strong support. I am support of payments being paid directly to adult children attending college. Currently adult children of divorce have no mechanism to assure that child support payments meant for their benefit are being spent on their needs. By requiring payments go directly to them, they can be assured that those funds can be used for expenses they are incurring as students.

There is also the issue of accountability of the student to the parent. The obliging parent would then should know if the child is completing the courses they registered for and how they are advancing academically. This is the nature of the relationship that married parents have with their children. CSEA is only interested in being able to ensure payment is made, but gives no consideration to ensuring that payment is warranted. Many child support orders are made direct between parents without the engagement of CSEA so there is precedent for such a structure.

Forcing a parent to pay such continuing child support also assumes that this is the only money or resource that a non-custodial parent would provide for their children. However, many parents also provide additional housing funds, vehicles and participate in getting loans for their children.

Do not the children of divorce parents have access to all the federal grants and loans that children of married families are eligible to apply for? I believe they are. Aren't children of divorce also capable of working part-time and being financially

responsible for their education just like children of married families who don't have the financial wherewithal to pay for college?

Of course where the child is no longer living at home and attending college out of state or where the student is no longer living with the custodial parent, I would suggest that it is unfair that only the obliging parent be the parent providing support. It would seem inequitable that only one parent is being forced to provide support while the custodial parent gets a free ride by no longer having any legal financial obligation to provide support for the child.

Interestingly, the legal financial obligation of married parents who have children is only until the age of 18. Once a child turns 18 years of age, the financial obligation of those parents is done. Parents who are divorced however, continue to have a legal obligation to provide funds until the age of 23 so long as the child remains in school. This would seem that we have created a 2 class system with one set of rules for married parents and another for divorced parents.

Perhaps married parents should also be obligated to provide for the college education of their children as well. At least the rules regarding the funding of a college education should be uniform for all parents regardless of their marital status. Otherwise, aren't we creating a society where based upon marital status of a parent, it is just assumed that they are only useful for money and nothing else.

LATE

TESTIMONY
OF
Thomas Goob

SUPPORTING SB 2022 WITH PROPOSED AMENDMENT: Relating to Child Support

TO THE SENATE
COMMITTEE ON HUMAN SERVICES

February 13, 1:15 pm
Conference Room 016

Chair Suzanne Chun Oakland and Members of the Committee on Human Services:

I am Thomas Goob, a married father living in a blended family with five children, four of which my wife and I have full custody of. I am here today to present testimony in support of SB 2022, with proposed amendments.

By way of introduction, I would like to start off by saying my wife and I are strong supporters of post-secondary education. I personally have a bachelor's degree and two master degrees and my wife also has a bachelor's degree. I have also been a part-time lecturer at Honolulu Community College for over 10 years, so education is very important to us! My wife and I encourage and want to support all of our children to pursue post-secondary education. Unfortunately, not all parents have the same belief/values.

Currently in Hawaii when a child reaches the age of majority and pursues post-secondary education on a full-time basis child support payments continue until the adult child reaches the age of 23. **However, the payments still go directly to the custodial parent and not the adult child. This occurs even if the custodial parent is incarcerated, found to be unfit, or in an inpatient drug rehabilitation program.** Here are the potential problems with payments going to the custodial parent and not the adult child:

First, there is no way to ensure that the support is getting to the adult child to help them with their education.

Second, it is possible that the custodial parent could be making their adult child attend post-secondary education to continue to receive the support benefit, even though the adult child has no interest in and/or the ability to successfully complete education at that level.

Third, the non-custodial parent may already be obligated to pay 50% or more of a child's post-secondary education. If the child is attending school on the mainland and not living with the

“custodial” parent, does it seem right that the support goes to the custodial parent living here in Hawaii while the non-custodial parent is paying the larger college expense?

Fourth, the child is now an “adult child”. Should they not start learning how to budget and manage their finances? And if they are not a child why does the Child Support Enforcement Agency still need to be involved?

PROPOSED AMENDMENT:

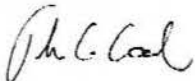
The bill should include provisions to include paternity cases and administrative actions, not just divorce cases.

CONCLUSION

In closing, although well intended and the most liberal in the Country, there are many problems, potential loop holes, and opportunities for abuse with Hawaii’s child support guidelines regarding support beyond the age of majority that need to be fixed. States have varying rules regarding this issue and if this bill is passed, Hawaii would not be the first State to allow payments to go directly to the adult child. I have attached and provided detailed information on the various State rules.

Thank you for your time today. Should you have any questions or need clarification, please don’t hesitate to contact me at 258-8024.

Sincerely,

A handwritten signature in cursive script, appearing to read "Th. G. Goob".

Thomas Goob

ATTACHMENT

Child Support beyond the Age of Majority for Postsecondary Support

States who do not allow	States that allow with stipulations	States that require
Alaska	Colorado	Hawaii
Arizona	Connecticut	Indiana
Arkansas	Georgia	Illinois
California	Maryland	Iowa
Delaware	Michigan	Massachusetts
District of Columbia	Minnesota	Mississippi
Florida	Montana	Missouri
Idaho	North Carolina	New Hampshire
Kansas	North Dakota	New Jersey
Kentucky	Utah	New York
Louisiana	Virginia	Oregon
Maine		South Carolina
Nebraska		Washington
New Mexico		
Nevada		
Oklahoma		
Ohio		
Pennsylvania*		
Rhode Island		
South Dakota		
Tennessee		
Texas		
Vermont		
West Virginia		
Wyoming		
Wisconsin		

*NOTE: In 1995 Supreme Court of Pennsylvania found statute requiring post-secondary educational support unconstitutional. *Curtis v. Kline*. (<http://members.peak.org/~jedwards/penn.htm>)

For detailed information on the above State's rules visit:

<http://www.dshs.wa.gov/pdf/esa/dcs/lawsonpostsec.pdf>

<http://www.ncsl.org/research/human-services/termination-of-support-college-support.aspx>