

Testimony
House Bill No. 1443
House Human Services Committee
Representative Robin Weisz, Chairman
January 23, 2023

Chairman Weisz and members of the House Human Services Committee, I am Jim Fleming with the Child Support Section of the Department of Health and Human Services (Department). I appear before you in opposition to House Bill 1443.

The Department does not oppose House Bill 1443 because it wants child support obligations to be as high as possible. A child support obligation that exceeds a parent's ability to earn income will go unpaid, which frustrates the custodial parent and creates unproductive work for the Department. Rather, the Department opposes House Bill 1443 because it would overlook income that is available to many parents to help support their children.

The presumptively correct amounts of support in the child support guidelines are intended to come close to the amount that the parent would spend to support the child if the parent and child lived in the same household. Every four years during the quadrennial review of the guidelines, the Guidelines Advisory Committee uses Census and United States Department of Agriculture data to confirm the appropriateness of the amounts in the guidelines.

In many occupations, overtime is regularly earned by parents. Indeed, some parents actively search for positions where they can be scheduled to work overtime for three weeks in a row and take the fourth week off.

For a child who still lives with the parent, the full amount of income earned by the parent is used to meet the expenses of the child's household. There should not be a different rule when the child and parent do not live together.

A parent who owes child support and works overtime still benefits from the additional work. A parent with a net monthly income after taxes of \$3,000 will owe 19.7% of that income in child support for one child. Net monthly income of \$4,000 will yield a child support obligation of 18.7%, and net monthly income of \$5,000 will yield an obligation of 18.1%. In other words, under the current child support guidelines, more than 80% of every extra dollar of income in overtime is kept by the parent and not owed in additional child support.

The child support guidelines use recent past earnings to project future income. This committee recognized in 2009 that inconsistent sources of income should not be considered, and at that time adopted the current exception for atypical overtime wages and nonrecurring bonuses.

The median amount of child support owed in orders for one child is currently \$387 per month, which frequently covers less than half of the cost of raising the child. The Department feels that the child support amounts in the current guidelines are appropriate, if not bordering on being too low. We suggest shielding 100% of a parent's regular and consistent overtime from being included in a child support calculation will negatively impact children who need support from both parents.

The bill also includes a provision requiring the guidelines to provide a procedure for courts to determine an updated amount if the obligor

parent becomes unemployed. Court procedures are set by state law or court rule and not by the child support guidelines, which are administrative rules. There are several statutes in chapter 14-09 that already provide procedures for amending a child support obligation when the parent's income changes. A significant amount of the Department's legal resources is committed to reviewing obligations and pursuing adjustments from the court. In fact, although the federal minimum standard is three years, the Department reviews all orders at 18-month intervals upon request. The proposed language, if enacted, would not change what is happening today when a parent becomes unemployed.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.