



*The Judiciary, State of Hawai‘i*

**Testimony to the Senate Committee on Human Services**

Senator Josh Green, Chair  
Senator Stanley Chang, Vice Chair

Monday, February 12, 2018 at 3:00 pm  
State Capitol, Conference Room 16

By

Catherine H. Remigio  
Senior Judge, Deputy Chief Judge  
Family Court of the First Circuit

---

**Bill No. and Title:** Senate Bill No. 2749, Relating to Child Support Guidelines.

**Purpose:** Amends the child support guidelines requirements to provide for more opportunity for the public to be involved in the review of the guidelines and to require consideration of additional factors relating to the situation of the parents.

**Judiciary's Position:**

The Judiciary respectfully opposes this Bill in its current form, and submits proposed modifications to address our concerns. We note that the modifications proposed herein will still allow the Agency to be in compliance with the Federal Rules.

As written, the Bill removes judicial discretion to determine appropriate child support on a case by case basis. Page 3, lines 9-11 provide that "[I]ncarceration may not be treated as voluntary unemployment in establishing or modifying an order of support." This appears to place an absolute prohibition on imputing income for all incarcerated parents, and is contrary to current state law. The Child Support Guidelines provide (page 20, Section V.J.3) that a court may impute income for unemployed or underemployed individuals, but must consider the reasons for the condition first.



Senate Bill No. 2749, Relating to Child Support Guidelines  
Senate Committee on Human Services  
Monday, February 12, 2018 at 3:00 p.m.  
Page 2

The Bill also places a burden on the Judiciary to gather economic data and analyze various child support payment characteristics. Page 4, lines 10-19, requires the Family Court to consider labor market data "by occupation and skill level for the state and local job markets." The Judiciary does not have the staff (economists or statisticians) necessary to gather this information.

This section also requires the court to consider "factors that influence employment rates ... and impacts compliance with an order of support." Page 5, lines 3-5, states that the Court must provide "a comparison of payments on child support orders by case characteristics." The only agency that collects and keeps track of child support payments is the Child Support Enforcement Agency. The Judiciary does not collect or keep track of child support payments.

Furthermore, our courts decide issues involving allegations of non-payment of child support. If we collected and tracked child support payments, we would be precluded from deciding these cases as we could potentially be called to testify as witnesses.

Page 5, line 10-13 states that we should ensure that deviations are limited. This does not take into account the vast income differences in the parties who appear before us and purports to remove our discretion to determine appropriate child support on a case by case basis.

Finally, the Bill provides no funding for added positions necessary to perform these mandated functions that are outside of our primary function.

In an effort to address the Judiciary's and the Child Support Enforcement Agency's concerns, we respectfully propose the following modifications to the Bill:

1. On page 3, line 11: Add the following language: "Imputation of income based on other factors will still apply to incarcerated individuals."
2. On page 4, line 10: the line should read: "Consider economic data, as provided by Agency."
3. On page 4, line 20: the line should read: "Analyze case data, as provided by the Agency, gathered through sampling or other ...".
4. On page 5, between lines 9 and 10, add the following sentence: "Whenever the Family Court imputes income or deviates from the child support guidelines, it shall note the same, including the amount of imputation and deviation, in all Income Withholding Orders provided to the Child Support Enforcement Agency for collection."



Senate Bill No. 2749, Relating to Child Support Guidelines  
Senate Committee on Human Services  
Monday, February 12, 2018 at 3:00 p.m.  
Page 3

With these modifications, the Judiciary would respectfully support the Bill, as amended.

Thank you for the opportunity to provide testimony in this matter.