

TESTIMONY IN SUPPORT OF HOUSE BILL 651
“Child Support-Incarcerated Obligor-Suspension of Payment and Accrual of Arrearages”

Hearing of the House Judiciary Committee, March 1, 2012
Maryland General Assembly
Senator Joseph F. Vallario, Chairman

Dear Chairman and Members of the House Judiciary Committee:

Thank you for the opportunity to present testimony in support of House Bill 651. My name is Maria Martirano and I am a third year law student in the University of Baltimore Civil Advocacy Clinic. The Clinic regularly represents low-income Maryland citizens in litigation, including individuals who pay and receive child support. HB 651 will benefit both custodial and non-custodial parents, the children, and the state, and we therefore support the bill on behalf of our clients.

HB 651 Facilitates Application of Existing Law

Under current Maryland law, the intent is for child support orders to be modified as the obligor’s ability to pay changes. However, most noncustodial parents who are incarcerated are unaware or unable to initiate the necessary court ordered modifications. HB 651 facilitates existing law by providing the Child Support Enforcement Administration with the needed administrative authority to carry out the intent of the Maryland child support guidelines statute and adjust child support orders when noncustodial parents are unable to pay due to incarceration.

Without this bill, if child support accrues during extended periods of incarceration – despite the inability to pay and child support guidelines indicating the child support should be suspended – the court can’t retroactively modify child support in order to to rectify the situation after release from imprisonment. The result can be tens of thousands in unmanageable child support arrearages that should not have accrued, harming custodial and noncustodial parents, children, and the state.

HB 651 Benefits Children, Custodial parents and Non-custodial Parents, and the State

Benefit to Children: Legislative analysis of a very similar California Bill described the fiscal effect that “suspending child support orders encourages incarcerated noncustodial parents to resume paying child support upon their release,” and therefore can “result in an increase in the amount of child support that is successfully collected.” In addition to increasing the potential of successful support collections, the bill can help improve the relationship and involvement between noncustodial parents and their children in cases where such involvement is appropriate.

Benefit to Custodial Parents: Preventing the accumulation of arrears during incarceration is beneficial for the custodial parent because the noncustodial parent is more likely to pay child support upon release from incarceration if they are not burdened by unmanageable arrears. This would also help foster a positive relationship between the custodial and noncustodial parent.

Benefit to Noncustodial Parents: Upon release from incarceration, the obligor often confronts multiple employment barriers including limited education and criminal backgrounds, and preventing accumulation of arrears makes re-entry into society more successful. The crippling debt caused by accrual of child support arrears during incarceration strains the relationship with the custodial parent and harms the obligor's relationship with the child. Also, many obligors are unable to manage the arrearages and often have no choice but to retreat to the underground economy, many becoming homeless or forced back into a life of crime and return to prison.

Benefit to State: HB 651 saves the state money. If child support arrears don't accrue and create unmanageable arrearages during incarceration, obligors will more likely to successfully find and keep work upon release from incarceration, more likely to pay taxes, less likely to end up back in prison, and more likely to pay child support – and therefore custodial parents will be less likely to need public assistance.

HB 651 Follows Federal Policy Suggestions

According to The Office of Child Support Enforcement, the modification of child support payment when an obligor is incarcerated reflects federal policy goals because this improves the outcomes of child support enforcement and encourages successful re-entry into society upon release.

Protections within HB 651 that Promote Accuracy

HB 651 has several eligibility requirements, which promotes accuracy in application. For example, the requirements specify that the obligor's imprisonment sentence is over 18 months, the custodial parent is provided with notice and the ability to object, and the child support is not suspended if the obligor has other resources from which to make payments. Further, the bill provides for the reinstatement of child support accrual after release from incarceration.

Contacts: Maria Martirano, Rule 16 Student Attorney
Daniel Hatcher, Associate Professor of Law and Supervising Attorney
University of Baltimore School of Law Civil Advocacy Clinic
40 West Chase Street, Baltimore, MD 21201
(410) 837-5706; maria.martirano@ubalt.edu, dhatcher@ubalt.edu