



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

Office of Chief Public Defender

55 Farmington Avenue, 8th Floor
Hartford, Connecticut 06105
(860) 509-6405 Telephone
(860) 509-6495 Fax

Deborah Del Prete Sullivan

Legal Counsel, Director
deborah.d.sullivan@pds.ct.gov

Testimony of the Office of Chief Public Defender

Benedict R. Daigle, Assistant Public Defender

JUDICIARY COMMITTEE - MARCH 11, 2024

Raised House Bill No. 5420

AN ACT CONCERNING THE PROVISION OF CHILD SUPPORT TO CHILDREN UNDER THE AGE OF TWENTY-ONE

The Office of Chief Public Defender (OCPD) opposes the current version of *Raised H.B. 5420 (LCO 2656) An Act Concerning the Provision of Child Support to Children Under the Age of Twenty-One*, and respectfully requests that any extension of the standard duration of child support obligations not be the default but rather a possibility based on a hearing as to need.

This legislation would allow people to benefit from post-high-school child support without having to prove the existence of any clearly defined need. Instead, it would place the onus for post-high-school relief on obligors, many of whom would be ill-positioned to assess whether such motions would be valid and warranted.

By way of background, Public Defenders and Assigned Counsel (i.e., attorneys under contract with the Office of Chief Public Defender) represent obligors in child support contempt proceedings throughout Connecticut's Superior Courts, predominantly in the Family Support Magistrate Division. A court may appoint such counsel in a case when the court finds the obligor indigent and determines that the obligor faces potential incarceration (which incarceration is permissible as a measure to coerce the obligor's best efforts to comply with the court's orders). (For reference, see C.G.S. § 46b-231(m)(7) and Connecticut Practice Book Section 25-63.)

While section 1 lists conditions under which a court, upon motion, may modify, suspend, or terminate any child support order, the current language gives rise to two concerns. First, while the current standard duration reflects the understanding that, generally, children need support through their high school years, the legislation would extend the duration as a default and

without any requirement that need be shown. There are no parameters on *how* a dependent child reaches or doesn't reach one of the triggering conditions. For instance, nothing in the legislation would prevent a twenty-year-old from *choosing* to stay in the custodial party's home, unmarried and not self-supporting, and thus avoid the triggering conditions. This differs significantly from the established notion of children's need through high school, and the ability to benefit from child support by choice rather than need is contrary to the rationale for child support.

Second, in many of the cases in which this office provides representation, obligors do not have (and indeed, sometimes are prevented by custodial parties from having) contact with their children and knowledge of the goings on in their children's lives. Such distance often increases when the children gain additional independence after high school. Thus, obligors, through no fault of their own, and even despite their best efforts, may be unaware of whether the triggering conditions are met. As a result, they may be unable to file what would be entirely valid, warranted motions to modify, suspend, or terminate the orders. It becomes an issue of access to justice.

Of note, people who are indigent are less likely to have the means to (a) know or investigate whether the triggering conditions are met, and (b) file appropriate motions in court. And they are more likely to land in jail, having been found in willful noncompliance with child support orders. (Faced with the prospect of incarceration due to nonpayment, people of sufficient means generally tend to pay to show good faith and come into compliance, and thereby avoid that final coercive measure.) Public policy must be fair to these individuals, as well.

This office requests that the Committee take no action on this bill as drafted. We thank the Committee for its consideration and are ready to collaborate as appropriate on this legislation if the Committee wishes. Thank you.