Connecticut Department of Social Services

Making a Difference

S246 #5

Testimony before the Judiciary Committee

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Deputy Commissioner for Programs
March 15, 2010

Good morning, Senator McDonald, Representative Lawlor, and members of the Judiciary Committee. My name is Claudette Beaulieu and I am the deputy commissioner for the Department of Social Services. I am here today to offer testimony on several bills, including two raised at the request of the department. I am accompanied by David Mulligan, our director of the Bureau of Child Support Enforcement in DSS.

Legislation Introduced at the Request of the Department

S.B. No. 368 (RAISED) AN ACT CONCERNING THE ESTABLISHMENT OF PATERNITY AND SUPPORT AND ENFORCEMENT OF ORDERS IN TITLE IV-D CHILD SUPPORT CASES

Thank you for raising this bill at the request of the department. This bill is a re-submittal of legislation that was before you last session and favorably reported out of Human Services and Judiciary. **This bill would improve ESTABLISHMENT of support orders in the following ways.**

FIRST, the bill would create a rebuttable presumption that the statutory standard of "neglect or refusal to support" as a pre-condition for a support order is satisfied in a Title IV-D case when there is an application for IV-D services or a grant of financial or medical assistance. The existing language occasionally has made order establishment problematic in cases in which a child support order is required due to the custodial party's participation in the child support program, but the noncustodial parent cannot be shown specifically to have "refused or neglected" to support. An order in accordance with the child support guidelines offers a measure of security for the family while ensuring the obligor's ability to pay is fully considered.

SECOND, the bill would establish a procedure for notifying the parties associated with a disapproved Agreement to Support, or "ATS" and docketing that agreement for a hearing on support. Under present law, there is no procedure for when a Family Support Magistrate disapproves an ATS. Therefore a support petition is usually necessary, which causes unnecessary delay in the support establishment process. The bill provides that the reason for disapproving an ATS will be stated in the record, and the clerk will schedule a hearing to determine appropriate support amounts and notify all parties of the hearing date.

THIRD, the bill would extend to married parents the 3-year limitation on retroactive arrears that presently applies when the child was born to unmarried parents.

Next, the bill would improve ENFORCEMENT in child support cases in three ways.

FIRST, it would grant specific authority for judicial marshals to execute child support capias mittimus orders in court facilities when the subject of the order is in the custody of the judicial marshal or within a courthouse where the judicial marshal provides security. This provision will increase the timely and expeditious service of such orders for the purpose of resolving child support matters and supporting judicial authority.

SECOND, the bill would authorize *electronic* service of income withholding orders, and clarify the term "issue" when applied to such orders. The provision allows service of income withholding by electronic means when the employer subject to the withholding order has agreed to accept withholdings electronically. It also clarifies the term "issue" in the context of electronic income withholding to mean transmission of the essential data by electronic means. Electronic service of income withholding will save state costs for mailing and printing the orders.

THIRD, the bill would expedite the ability of a child support obligor to challenge an income withholding order sent from another state directly to the obligor's employer. The process that presently exists is cumbersome for the obligor, as it requires full registration of the underlying support order. The new process would permit a hearing based on the obligor's claim and a copy of the withholding order, and permit the family support magistrate to obtain any other necessary documents from the sending state by means of the expedited procedures for securing evidence that are provided under UIFSA (Uniform Interstate Family Support Act).

I again thank the committee for raising this bill and I urge your favorable action so that we may serve Connecticut children needing child support in a more timely and more efficient manner.

S. B. No. 446 (RAISED) AN ACT CONCERNING CHILD SUPPORT ORDERS, ENFORCEMENT AND REPORTS

This is another bill introduced at the request of the department. The bill would improve the administration and operations of the IV-D program in the following ways:

Section 1. The Judicial Branch Problem Solving in Family Matters Committee identified the Department of Social Services disclosure rules as barriers preventing the Department of Correction (DOC) and the Court Support Services Division (CSSD) within the Judicial Branch from accurately identifying inmates and probationers with active IV-D child support cases. The committee determined that if such inmates and probationers could be identified in a timely manner, DOC and CSSD personnel could make available a number of existing resources that could significantly assist IV-D noncustodial parents in

increasing their ability to fulfill their duty of support. This section would authorize such information sharing between DSS, DOC and CSSD.

Section 2 allows for the electronic submission of the annual child support self-assessment report. This is a cost saving measure that is consistent with the Governor's directive to avoid paper reports wherever possible. Many report recipients already accept electronic submittal in lieu of paper.

Sections 3, 6, 7 & 8 authorizes the court or family support magistrate to order support to the age of 21 for mentally or physically disabled children who reside with and are dependent on a parent for support. This provision will offer the same protection for children of unmarried parents as is now accorded to children whose parents are parties to a dissolution of marriage, legal separation or annulment proceeding.

Section 4 addresses cases where parents seek an order in Superior Court concerning the custody, care, education, visitation or support affecting that child prior to applying for IV-D services. Under present law, the court is not required to establish paternity at that time. Should the custodial parent later seek IV-D services, a finding of paternity would be required as a first step in providing child support services. This provision is not only important to the child and the parents, but is also a factor crucial to the State receiving Title IV-D performance incentive funds and avoiding financial penalties.

Section 5 provides the authority to enter past due support orders in cases involving dissolution of marriage, legal separation and annulment. This authority has been clear for many years for unmarried parents, but courts have not universally recognized similar authority in dissolution, separation and annulment cases. The provision ensures equitable treatment of children born to married or unmarried parents.

Section 9 deletes the provision for "enforcement" of custody and visitation agreements by family support magistrates. Removing enforcement authority from the statute sacrifices no public interest, since the authority is rarely, if ever, exercised. Moreover, such authority potentially jeopardizes federal financial participation levels in the IV-D program because enforcement of visitation is not a IV-D service.

Section 10 gives Support Enforcement Services the ability to acknowledge agreements for modified orders entered into by the parties to a support order. The provision is necessary to implement an expedited review and adjustment process for IV-D cases. Currently, the documents associated with this process must be acknowledged by a notary public. An expedited review and adjustment process will improve customer service and enhance judicial economy.

Section 11 & 12 would simplify the calculation of the amount of income subject to withholding for support. In general, consumers are protected from excessive wage garnishments to repay judgment debts by the federal Consumer Credit Protection Act (CCPA). The CCPA also applies to child support income withholding orders. Connecticut currently has an additional exemption of 85% of the first $145 of disposable earnings. The methodology utilized in Connecticut requires employers to make two

separate calculations to determine how much of a parent's income is available for withholding. Employers and support obligors are often confused by these calculations, requiring increased contact with IV-D staff to explain the various calculations. The elimination of the additional exemption will still offer parents the full protection of the CCPA (which all other New England states and New York use exclusively) while eliminating confusing and labor intensive calculations.

Sections 14 and 15 are purely technical changes recommended by LCO. Section 15 makes the law relative to IV-E referrals consistent with CGS 17b-77, which changed assignment of support rules for TFA cases under federal law, limiting the assignment to rights that accrue during the period of assistance, not to exceed total amount of assistance provided.

I thank the committee once again for raising this bill at our request and I urge your favorable action on it.

S.B. No. 449 (RAISED) AN ACT CONCERNING ANNUAL REVIEW OF CHILD SUPPORT ORDERS, A STUDY OF CHILD SUPPORT ENFORCEMENT MECHANISMS, AND CONTINUATION OF CHILD SUPPORT OBLIGATIONS AFTER PARENTAL RIGHTS ARE TERMINATED DUE TO SEXUAL ABUSE.

The Department of Social Services has serious concerns about this bill. First and foremost, the bill requires an annual review by the court of every child support order. An annual review of all child support orders in the state would be very costly--requiring a huge increase in personnel including family judges, family support magistrates, court clerks and monitors, judicial marshals to provide security at all the increased hearings, family relations staff for the superior court hearings, and support enforcement officers for the family support magistrate hearings. There are presently nearly 75,000 current support cases that would be eligible for this annual review in the IV-D caseload alone. This does not include cases where the parent only owes support on an arrearage; nor does it include all the non-IV-D cases ("private" cases, where the state is not providing any child support services. This kind of an influx in court hearings would severely strain the existing physical resources, even if additional judicial personnel were authorized and funded. It would also severely restrict the ability of the IV-D system to establish paternity and support orders due to the strain on judicial resources, leading to federal financial penalties and loss of incentive funding.

Currently, every child support case involving public assistance (TFA) is automatically reviewed every three years by Support Enforcement and a court hearing is scheduled if modification criteria are met.

Moreover, any party to a child support order currently has the right to a court review by filing a motion for modification of their order. In addition, any party to a IV-D child support order may request an administrative review of their order every three years or whenever there is a substantial change of circumstances.

Regarding section 12, the department feels that it unnecessary to create a new task force for the purpose of studying child support mechanisms in other states. Perhaps a more appropriate venue for such a study would be the Legislative Program, Review and Investigations Committee. This information is already readily available through the federal Office of Child Support Enforcement and shared through regular publications, online resources, and professional conferences.

Additional Legislation Impacting the Department

H.B. No. 5246 (RAISED) AN ACT CONCERNING DISTRIBUTION OF THE MARRIAGE LICENSE SURCHARGE AND CHANGES TO THE LANDLORD AND TENANT STATUTES TO BENEFIT VICTIMS OF DOMESTIC VIOLENCE

This bill seeks to have Marriage License Surcharge (MLS) funds allocated by DSS for domestic violence shelter services to be distributed to recipient agencies by October 15, annually. It also seeks to eliminate the funds retained by DSS, OPM or DPH for administrative purposes.

We interpret the language distribute such funds to require the department to issue all funds available in the MLS account annually. However, pursuant to an agreement negotiated between the department and CCADV in July 2009, the parties agreed that a 20% reserve would be maintained: 10% for quality/system improvement and 10% for emergency needs. Furthermore, this account has been used in the past to advance payments to DV shelters in cases there was a delay in federal funding. If the fund is entirely depleted in October of each year there will be nothing available to assist shelters with cash flow problems.

We have attached the letter that outlines the agreement between CCADV and the department. We feel that this agreement satisfies the needs and concerns of both parties. We recommend that these parameters be taken into consideration as the bill the moves forward.

STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

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July 29, 2009

Erika Tindill, Esq.
Executive Director
Connecticut Coalition Against Domestic Violence
90 Pitkin Street
East Hartford CT 06108

Dear Ms. Tindill:

Thank you for meeting with me and my staff on July 22, 2009 regarding surplus dollars accrued from the Marriage License Surcharge (MLS). Please find below a summary of the discussion:

Surplus dollars accrued from MLS are available to the Domestic Violence (DV) Shelters during State Fiscal Year 2010. This funding shall be dispersed according to the following parameters:

1. A reserve of these surplus funds will be maintained:
   (a) 10% for Quality/System Improvement ; and
   (b) 10% for an Emergency Fund for Domestic Violence Shelters.

   The Department of Social Services (DSS) will meet with the Connecticut Coalition for Domestic Violence to determine a maximum threshold amount for the Emergency Fund and determine a mechanism to disperse accruals above this amount.

2. The remaining 80%, based upon the June 30, 2009 MLS surplus account balance of $1,007,016, will be dispersed to DV Shelters and Host Homes upon shelter submission and DSS review and approval of spending proposals.

3. A Host Home will receive half of the allocation that will be extended to a DV Shelter.

4. These funds will be dispersed through amendments to DV Shelters' and Host Home's existing DSS contracts. These contracts will set forth how these dollars may be spent.

5. DSS will approve shelter proposals to fund "one-time" items using MLS funds. Initiatives, projects, and/or items that would require ongoing funding cannot be purchased using these dollars.

6. DSS will, within available resources, allocate accrued surplus dollars from the MLS to the DV service providers during future state fiscal years, at contract renewal, using the same parameters outlined above for the current surplus (i.e., disperse 80% to DV Shelters and Host Homes, reserve 10% for System Improvement, and reserve 10% Emergency Fund for Domestic Violence Shelters).

Should there be any questions regarding the above, please do not hesitate to let me know. My staff and I look forward to working with you and the DV community to support the timely distribution and implementation of these funds.

Sincerely,

Claudette J. Beaulieu
Deputy Commissioner

CJB/dl

cc: Michael P. Starkowski, Commissioner
Pamela A. Giannini, Director, ACSW
Dorian J. Long, Manager, Social Work Services