

2013 SENATE HUMAN SERVICES

SB 2107

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

SB 2107

1/16/13

Recording Job Number: 17297

Conference Committee

Committee Clerk Signature:



Explanation or reason for introduction of bill/resolution:

Relating to child support and paternity, and to medical support.

Minutes:

You may make reference to "attached testimony."

Chairman Lee opens hearing on SB 2107.

Jim Fleming, Director of the Child Support Division of the Department of Human Services, testifies first in support of SB 2107.

See attached testimony #1.

(0:15:45) Senator Dever inquires about a reference to 5 years for a biological father the claim paternity.

Mr. Fleming states that he thinks this was in the old paternity act but not the new one, where now most of the time frames are 2 years.

(0:17:20) Senator Dever asks about the reference that says if a mother is married 9 months before the birth that the husband is presumed to be the father.

Mr. Fleming states that this is correct and explains different circumstances and challenges that come with this.

Mr. Fleming's testimony continues.

Chairman Lee opens the floor for questions from the committee.

(0:23:22) Senator Dever inquires about collection shortfall and asks for what the percentage of total collections would represent. **Mr. Fleming** responds by giving federal fiscal year numbers.

No further questions for Mr. Fleming and no more testimony in favor or opposition.
Chairman Lee closes hearing on SB 2107.

2013 SENATE STANDING COMMITTEE MINUTES

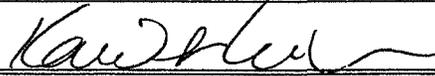
Senate Human Services Committee
Red River Room, State Capitol

SB 2107
1/21/13

Recording Job Number: 17469

Conference Committee

Committee Clerk Signature:



Explanation or reason for introduction of bill/resolution:

Relating to child support and paternity, and to medical support.

Minutes:

You may make reference to "attached testimony."

Committee discussion on SB 2107:

Committee briefly reviews Jim Fleming's testimony from the week before.

Senator Anderson moves Do Pass.

Senator Larsen seconds.

Roll call vote: 5-0, Do Pass.

Senator Lee carries Bill to the floor.

Date: 1/21/13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2107**

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Sen. Anderson Seconded By Sen. Larsen

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2107: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2107 was placed on the Eleventh order on the calendar.

2013 HOUSE HUMAN SERVICES

SB 2107

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2107
March 11, 2013
Job 19706

Conference Committee

Kristi Hetzler

Explanation or reason for introduction of bill/resolution:

Relating to child support and paternity; to medical support and provide an effective date.

Minutes:

Testimony 1

Chairman Weisz: Opened the hearing on SB 2107.

Jim Fleming, Director of Child Support Division of the DHS: Testified in support of the bill.
(See Testimony #1) 2:49

Chairman Weisz: Is there some federal guidelines that you are going by?

Fleming: There have been federal guidelines; the states can decide what that is. The existing law gives us rule making authority. 3:29 Continued with his testimony.

Rep. Laning: 9:27 In regards to your example would the mother keep paying the money with your proposal

Fleming: Once the offset is no longer permitted because the rears are paid off, then the income withholding would only occur.

Mr. Fleming: Continued testimony on section 4.

Chairman Weisz: 13:45 Would they still be required, if they voluntarily report, let's say it comes to a certain dollar amount, are they still be required to follow that provision?

Fleming: An employer that wants to report it before its paid out, then child support would have that option. We would prefer the employers wait until they know the specific numbers. 15:10 Continues with section 5. (17:25) sections 6, 7, and 8.

Chairman Weisz: Closes hearing.

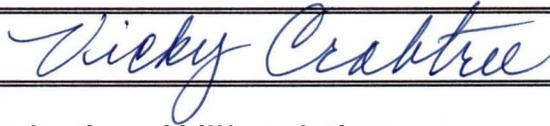
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

SB 2107
March 19, 2013
Job #20182

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to child support and paternity; to medical support and provide an effective date.

Minutes:

Chairman Weisz: Let's look at 2107. The language changed on the insurance should help. Before they said they had to provide it, but now it says they can include that as part of the child support determination.

Rep. Porter: On page 4, line 5; I question the need for the language, "of an amount yet to be determined". What could that possibly mean when anything over a \$1,000 you are mandated to report and anything less than a \$1,000 down to zero, you may report?

Chairman Weisz: His explanation was, this way the employer can report something he doesn't know that he is going to give.

Rep. Porter: I move a Do Pass.

Rep. Looyen: Second.

Rep. Porter: I think that Mr. Fleming and Ms. Siegel have done an excellent job in making this division an efficient and smooth running program and they get those checks to the kids that need them.

Rep. Silbernagel: Was there any consideration to lowering that amount to \$500?

Chairman Weisz: I think you needed a reasonable amount that said you give them a \$100 or \$500 bonus. It is not going to have any depreciable effect on the child support calculation.

ROLL CALL VOTE: 13 y 0 n 0 absent

MOTION CARRIED

Bill Carrier: Rep. Porter

Date: 3-19-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2107

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Porter Seconded By Rep. Looyen

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN		
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Porter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2107: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2107 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

SB 2107

Testimony
Senate Bill 2107 – Department Of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 16, 2013

Chairman Lee, members of the Senate Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to support Senate Bill 2107, which was introduced at the request of the Department.

Sections One and Nine

With the sponsorship of Senator Dever and other legislators, legislation was passed in 2007 giving the Child Support Division (Child Support) authority to adopt administrative rules regarding the obligation of parents to provide medical support for their children. Committee Chairman Lee was one of two legislators who served on a medical support advisory committee to develop recommendations for the administrative rules. Shortly before the advisory committee finished its work in 2010, Congress enacted the Affordable Care Act (ACA), and Child Support has been waiting since that time for updated federal program requirements. Following the United States Supreme Court decision regarding the ACA, and the election of 2012, we believe it is likely that the new program requirements will be issued before the Legislature next convenes in 2015.

Since we are unsure what the federal program requirements will be, the proposed changes provide the flexibility that may be needed to appropriately address the requirements in the rulemaking process.

State law would continue to require that each child support order include a provision for the child's health insurance coverage or other medical support. In addition, although a repeal of section 14-09-08.15 regarding reasonable cost of health insurance is proposed in Section Nine, proposed language in Section One would require that the administrative rules include a reasonable cost standard that considers the income of the obligated parent and the cost of coverage.

Section Two

This section is proposed to clarify that the legal standing of Child Support exists whenever a parent applies for services under Title IV-D of the Social Security Act, and is not limited to times when a review of the child support obligation is requested under section 14-09-08.9 or when enforcement of an order for dependent health insurance is requested under section 14-09-08.13.

Section Three

The law proposed to be amended in this section of the bill was enacted in 2003 to regulate, and often prohibit, the offset of debts owed between the parents as a method of paying child support.

Historically, offsetting current child support owed by an obligor parent with debts owed to the obligor by the child's other parent has been prohibited. Such an offset poses a risk of depriving the child of funds needed to purchase groceries and other necessities, even if an equal amount of money is owed to the obligor by the child's other parent for child support arrears or other debts. However, even though an offset of

current support with arrears or other debts is currently prohibited, it would be very practical to enter a credit on a parent's payment ledger instead of requiring the parent to make an actual payment through the State Disbursement Unit (which would often require income withholding to the parent's employer). The key is for an offset to be quickly and easily discontinued if the current custodian of the child needs the funds because of a reduction in income, or if the child begins receiving public assistance and the right to support becomes assigned to the State.

This area may be best explained in the following examples:

Example A: Mom and Dad divorce, with Mom being ordered to pay \$300 per month in child support to Dad on Child's behalf and Dad being required to pay \$300 per month in spousal support to Mom. Both obligations are subject to immediate income withholding and are required to be paid through the State Disbursement Unit.

Example B: Mom had primary residential responsibility of Child and Dad failed to pay child support, resulting in an arrearage of \$3,000 owed to Mom. Later, primary residential responsibility of the Child was changed by the court from Mom to Dad. Mom now owes \$300 per month in child support to Dad on Child's behalf, and is subject to immediate income withholding. At the time of the change in residential responsibility, Dad owes \$3,000 in arrears and is ordered to pay \$300 per month through income withholding toward the arrears. Both obligations are required to be paid through the State Disbursement Unit.

A judicial offset in the examples above would be time-consuming and expensive for the parents to obtain, but Child Support believes that its current administrative offset authority for arrears could be expanded to include a simple, administrative process where the offset of current child support can occur unless an actual payment is requested by either parent. An administrative offset can be discontinued as requested by one of the parents or if the support becomes assigned to the State, and reactivated upon request of the parents or discontinuation of the assignment.

Through the other proposed law changes in this section, we hope to clarify the law in terms of when offsets are prohibited or permitted.

Section Four

The reporting of lump sum payments by employers or other income payers is a helpful way to obtain a collection toward child support arrears. A lump sum payment of \$1,000 or more to an obligor who owes past-due support and is subject to income withholding must be reported by the income payer to Child Support. The income payer must hold at least one-half of the payment for 30 days or until it receives written direction from Child Support, whichever occurs first. However, it is unclear whether the requirements in the statute apply when a lump sum payment of less than \$1,000 is voluntarily reported by an income payer. In addition, an income payer sometimes reports an anticipated lump sum payment, but does not yet know whether the amount will be high enough for the statute to apply. The amendments in this section will clarify the process and make sure that a reported lump sum, no matter what the amount, is not paid in full to the obligor until Child Support has an opportunity to

review the case and decide whether to intercept the withheld portion of the payment.

Section Five

The law proposed to be amended in Section Five is from the Uniform Parentage Act (UPA). Child Support recommends that the two-year challenge period in the uniform law be adopted. When the UPA was adopted in 2005, the challenge period in prior law was one year, and Child Support suggested that the shorter period had been workable and should not be extended to two years. However, the exception for fraud or material mistake of fact in prior law was more forgiving than in the UPA. The amendment will give legal fathers more time to obtain genetic tests after they have signed an acknowledgment of paternity (which includes a specific waiver of the right to genetic tests) but later have reason to doubt whether they are the child's father. If this change is adopted, Child Support will work with the Vital Records Division to revise the voluntary paternity acknowledgment form accordingly.

Sections Six, Seven, and Eight

These sections need to be amended to comply with new federal mandates for new hire reporting. Our understanding is that federal law was changed to improve the unemployment insurance program, which is authorized by current law to receive new hire data.

Assuming the changes in these sections are adopted, Child Support will conduct outreach to employers similar to what has been done for new employer mandates in previous sessions. When the law was changed

effective January 1, 2012, to require new hire reports to include a health insurance indicator and to require large employers to submit their new hire reports electronically, Child Support conducted extensive outreach before and after the effective date of the new law. We are pleased to report that 91.23 percent of new hire reports in 2012 were received electronically (peaking at 94.12 percent in September), and the percent of new hire reports that included the new health insurance indicator rose to 99.17 percent in December.

Section Ten

The first part of Section 10 provides a contingent effective date so the change in state law coincides with the effective date of the administrative rules on medical support that would be adopted to replace the statutes. The second part of Section 10 provides a delayed effective date so employers have the maximum time to prepare for the expanded new hire reporting data elements.

Madame Chairman and members of the committee, this concludes my testimony on Senate Bill 2107, and I would be glad to answer any questions the committee may have.

#1

Testimony
Senate Bill 2107 – Department Of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
March 11, 2013

Chairman Weisz, members of the House Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to support Senate Bill 2107, which was introduced at the request of the Department.

Sections 1 and 9

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Section 10

The first part of Section 10 provides a contingent effective date so the change in state law coincides with the effective date of the administrative rules on medical support that would be adopted to replace the statutes. The second part of Section 10 provides a delayed effective date so employers have the maximum time to prepare for the expanded new hire reporting data elements.

Chairman Weisz and members of the committee, this concludes my testimony on Senate Bill 2107, and I would be glad to answer any questions the committee may have.