

**Testimony to the Judiciary Committee of the Colorado Senate**  
**Re: HB19-1215**

**Jeff Ball, Chair, Colorado Child Support Commission**

**Tuesday, April 30, 2019**

Chair Lee, Vice Chair Gonzales, and Members of the Committee,

Thank you for this opportunity to testify. My name is Jeff Ball, and I am the chair of the Colorado Child Support Commission. I have been an attorney for 38 years and focused on child support for 32 years at the federal, state and local level. I am also the child support administrator for El Paso County and contract manager for child support programs in Teller and Douglas Counties.

The Commission is a statutorily-authorized body whose members are appointed by the Governor, House Speaker and Senate Majority Leader. Our job is to review child support laws in general to see where improvements can be made, and specifically to review our child support guidelines at least every four years. The Commission this year included Representatives Singer and Froehlich,

Senator Crowder, judges, magistrates, parent representatives, private attorneys, a county human services director, the state child support director, the state judicial liaison, and several child support program managers and attorneys.

This is the fourth year since the last review of the child support guidelines, and we have some suggested guideline improvements that are contained in HB19-1215.

For over one year, we have engaged the public and professional child support community regarding deficiencies in the child support guidelines. We held public hearings in Crested Butte, Durango, Grand Junction, and Denver to hear the voices of the community. While some suggestions went beyond the scope of our commission, there were several ideas that we thought made sense that we investigated in more detail during our monthly meetings.

First, there was a common theme among the attendees at the public hearings, who were mostly parents and the state's child support professionals, that our lowest earners have the hardest time complying with child support

orders. If orders are set too high for low-income earners, the worker tends to avoid paying support by going into the cash or underground economy to avoid income withholding orders that can take a substantial bite out of a paycheck. So, we need to set more realistic orders at the low-income end of the spectrum, and to allow each parent a self-support reserve that offers a modest protective bubble so that a parent can have income on which to live only subject to small amounts of child support. With that in mind, we recommend that the self-support reserve for either parent be raised from \$1100 to \$1500 per month, or about 144% of the federal poverty guideline for 2019.

If a parent is not voluntarily unemployed or underemployed and earns \$650 or less per month, we propose a \$10 per month child support order. This is in line with what other states are doing as they realize the very-low income parents cannot contribute much more than a token amount to support children while at the same time trying to live on their own, and corresponds to the federal Office of Child Support Enforcement's December 2016 regulation requiring a close look at

setting more-compliant low-income orders. This \$650 threshold represents about 63% of the federal poverty guideline in 2019 for one person.

Above \$650 and up to the self-support reserve of \$1500, the current low-income obligation would remain in place – that is, \$50 per month for one child, and an additional \$20 for each additional child up to six children, for a maximum of \$150. In this stratum, adjustments such as child care costs, health insurance premiums, and overnight credits will apply, but are capped at 20% of the payor's adjusted gross income.

Above \$1500, both parents' combined income is used, and the guideline smooths out to join the existing child support guideline schedule at \$2000 per month for one child and up to \$3400 for six or more children.

Second, the Commission included an adjustment for out-of-pocket mandatory public-school expenses, such as computer rentals, lab fees, books, etc. Extracurricular activities and uniforms are not considered mandatory, the cost of which may be split by the parents. Private school costs are already addressed,

but the skyrocketing charges by public school districts are not. The Commission recommends that the annual public school mandatory out-of-pocket fees be split proportionately between the parents based on their adjusted gross incomes.

Third, to match the 2016 federal regulation, we have included the 14 elements that practitioners should consider before imputing income to a parent in both judicial and administrative cases. This checkoff list helps to ensure that myriad evidentiary factors are included before an imputed amount is calculated.

Fourth, a change in federal foster care law resulted in an increase in a fee that child support agencies deduct from the collected support. The fee is for non-public-assistance cases only; the program must withhold \$35 instead of the current \$25 after the first \$550 is collected instead of the first \$500 within a federal fiscal year.

Fifth, the Commission recommends that either parent attending a post-secondary school full-time be presumed to be able to provide support for his or

her child. The current statute does not have the presumption, and a parent could attend post-secondary school for many years without a support duty.

Sixth, the Commission recommends changing from 30 months to 24 months the time period during which the custodial parent will not be imputed income after the birth of the child needing support. While arguments could be made for a higher or lower number of months, the Commission thought that a key cutoff would be the time a child goes from infant to toddler status for child care purposes. Many rural areas do not have sufficient infant care available, and if so, it can be prohibitively expensive.

Seventh, the Commission recommended that a noncustodial parent awarded Social Security Disability shares that information with the child support enforcement unit and the other parent. The other parent should then apply for derivative benefits for the dependent child. The benefits are deducted from the amount the noncustodial parent owes, as under current law. The derivative benefits do not reduce the award amount to the noncustodial parent.

Eighth, some statutory clean-up changes were recommended, including ensuring that all parties receive a copy of a verified entry of judgment, that Social Security Numbers not appear on the face of a child support order, and that our current financial institution data match program be clarified regarding the lien and levy process.

The Commission has worked with the Colorado Bar Family Law Section to find common ground, which I believe we have. We have also removed changes that had a fiscal impact.

The Commission thanks the Committee for considering the changes that are included in HB19-1215. We hope you will consider them worthy of passage.

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