

**2023 HOUSE HUMAN SERVICES**

**HB 1443**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1443  
1/23/2023

Relating to child support guidelines as they relate to unemployment and overtime.

Chairman Weisz called the meeting to order at 9:00 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Rep. Kiefert and Rep. Prichard not present.

### **Discussion Topics:**

- Elevated child support during pay periods
- Attorney discretion to determine level of child support
- Child support policy
- Role of overtime pay
- Child support program
- Parents work schedule
- Separated families
- Current program guidelines
- Income-based child
- Recalculation of child support

Rep. Vetter introduced HB 1443 speaking in favor of bill.

Devin Mast, North Dakota citizen and parent from Minot, spoke in support.

Jim Fleming, with the Child Support Section of the Department of Health and Human Services, opposition testimony (#15126).

### **Additional written testimony:**

Darren Carter, North Dakota citizen and parent, supportive testimony (#15321).

Chairman Weisz adjourned the meeting at 9:33 AM.

*Phillip Jacobs, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1443  
2/13/2023

Relating to child support guidelines as they relate to unemployment and overtime.

Chairman Weisz called the meeting to order at 4:58 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

### Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on HB 1443.

Vice Chairman Ruby moved to adopt amendment to HB 1443 to remove the new language on line 19 and 20 on page 1 and on page 2 line 6 should say “the guideline may not take into consideration overtime wages over 40 hours a week.”

Seconded by Rep. Rohr.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	N
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	N
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
Representative Clayton Fegley	N
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	N
Representative Carrie McLeod	N
Representative Todd Porter	N
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion fails 6-8-0.

Rep. Porter moved a do not pass on HB 1443.

Seconded by Rep. Beltz.

Roll Call Vote:

<b>Representatives</b>	<b>Vote</b>
Representative Robin Weisz	Y
Representative Matthew Ruby	N
Representative Karen A. Anderson	N
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	N
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	N
Representative Karen M. Rohr	N

Motion carries 9-5-0.

Carried by Rep. Porter.

Chairman Weisz adjourned the meeting at 5:18 PM.

*Phillip Jacobs, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1443: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1443 was placed on the Eleventh order on the calendar.

**TESTIMONY**

**HB 1443**



**Testimony**  
**House Bill No. 1443**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
January 23, 2023

Chairman Weisz and members of the House Human Services Committee, I am Jim Fleming with the Child Support Section of the Department of Health and Human Services (Department). I appear before you in opposition to House Bill 1443.

The Department does not oppose House Bill 1443 because it wants child support obligations to be as high as possible. A child support obligation that exceeds a parent's ability to earn income will go unpaid, which frustrates the custodial parent and creates unproductive work for the Department. Rather, the Department opposes House Bill 1443 because it would overlook income that is available to many parents to help support their children.

The presumptively correct amounts of support in the child support guidelines are intended to come close to the amount that the parent would spend to support the child if the parent and child lived in the same household. Every four years during the quadrennial review of the guidelines, the Guidelines Advisory Committee uses Census and United States Department of Agriculture data to confirm the appropriateness of the amounts in the guidelines.

In many occupations, overtime is regularly earned by parents. Indeed, some parents actively search for positions where they can be scheduled to work overtime for three weeks in a row and take the fourth week off.

For a child who still lives with the parent, the full amount of income earned by the parent is used to meet the expenses of the child's household. There should not be a different rule when the child and parent do not live together.

A parent who owes child support and works overtime still benefits from the additional work. A parent with a net monthly income after taxes of \$3,000 will owe 19.7% of that income in child support for one child. Net monthly income of \$4,000 will yield a child support obligation of 18.7%, and net monthly income of \$5,000 will yield an obligation of 18.1%. In other words, under the current child support guidelines, more than 80% of every extra dollar of income in overtime is kept by the parent and not owed in additional child support.

The child support guidelines use recent past earnings to project future income. This committee recognized in 2009 that inconsistent sources of income should not be considered, and at that time adopted the current exception for atypical overtime wages and nonrecurring bonuses.

The median amount of child support owed in orders for one child is currently \$387 per month, which frequently covers less than half of the cost of raising the child. The Department feels that the child support amounts in the current guidelines are appropriate, if not bordering on being too low. We suggest shielding 100% of a parent's regular and consistent overtime from being included in a child support calculation will negatively impact children who need support from both parents.

The bill also includes a provision requiring the guidelines to provide a procedure for courts to determine an updated amount if the obligor



parent becomes unemployed. Court procedures are set by state law or court rule and not by the child support guidelines, which are administrative rules. There are several statutes in chapter 14-09 that already provide procedures for amending a child support obligation when the parent's income changes. A significant amount of the Department's legal resources is committed to reviewing obligations and pursuing adjustments from the court. In fact, although the federal minimum standard is three years, the Department reviews all orders at 18-month intervals upon request. The proposed language, if enacted, would not change what is happening today when a parent becomes unemployed.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

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Hello, I was made aware of the HB 1458 and how it could possibly affect and help in the matter of child support payments and totals. I am a Father to 3 beautiful children and also one that is not biologically mine. The ages are 12, 8, 6, 2. I have separated from my wife and soon to be divorce by 2/1/23. Since the separation and paper work filed on divorce, I have supported my child. I was made aware of the Child Support total that is expected of me and I can't understand how I will make ends meet. I carry health insurance on the children as well through my job and it is not free. The insurance is a 400+ dollars weekly totaling 800+ dollars a month. This is already a hard enough transition form a two income house hold switching to one income and still doing things with the children for entertainment etc. Not to mention starting over life and regaining things that were lost in the separation.

I wish there was some way to help the Fathers that are present in their children's life's without breaking their bank accounts and struggling pay check to paycheck. I hope the bill is passed and put in motion. That extra monthly deduction for health coverage should be considered, it is still income coming out of the working man's check. Consideration of the obligor that has to provide coverage for the children and reduce the final amount owed by the fair market value of the health insurance policy. Anything would help, I feel like a Father shouldn't have to struggle financially and not have any type of consideration. We have rights, We have lives too.

With Respect

Darren Carter