



Rhode Island Department of Human Services

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April 24, 2024

The Honorable Robert E. Craven Sr.
Chair, House Committee on Judiciary
State House
82 Smith St.
Providence, RI 02903

RE: H7975 – An Act Relating to Domestic Relations – Divorce and Separation

Dear Chair Craven:

Please accept this letter of support for H7975, a bill submitted on behalf of the Rhode Island Department of Human Services (DHS) that would allow child support actions to be taken on behalf of non-custodial parents who are incarcerated and unable to pay child support. DHS is sharing additional information on the statutory need to adopt this proposed legislation for the committee's consideration.

The Office of Child Support Services (OCSS), a division of DHS, and the administrator of child support for the state of Rhode Island, supports H7975 because it allows the agency to conform to federal law.

The Code of Federal Regulations (CFR) requires that state child support agencies must be permitted to bring an action on behalf of a non-custodial parent who is otherwise incarcerated and unable to pay child support. Passage of this legislation would amend the current provision of R.I.G.L. § 15-5-16.2(c)(3) bringing it into compliance with 45 CFR § 302.56(c)(3) and 45 CFR § 303.8(b)(2). A requested action on behalf of incarcerated non-custodial parents may include the possible suspension or reduction of the non-custodial parent's child support order.

Currently, a section of R.I. state law holds that it, "does not apply to those individuals who are serving a sentence for criminal non-support in state or federal prison, or who are found to be in civil contempt for failure to pay child support and incarcerated for that reason." However, the CFR does not allow any exceptions to its requirement such that state child support agencies have the ability to bring actions on behalf of incarcerated non-custodial parents. Moreover, it is not permissible for Rhode Island law to create circumstances preventing the agency from filing an action for those seeking relief from child support orders, even if the individual is incarcerated criminally for failing to support his or her family.

The same applies even when a non-custodial parent has been sentenced to the Adult Correctional Institutions (ACI) on a civil contempt action for failure to pay child support and is incarcerated for that reason.

In addition to the reasons outlined, the federal Office of Child Support Services has indicated to OCSS that current state law renders the Rhode Island child support program non-compliant with federal regulations. Importantly, the federal office has not penalized Rhode Island for non-compliance. OCSS has also been in contact with the R.I. Family Court Administrator, who confirmed there is no objection to the proposed legislation.

I would like to thank the committee for reviewing H7975, and the bill's sponsor for helping OCSS perform its statutory obligations and duty.

Sincerely,



Kimberly Merolla-Brito
Director
RI Department of Human Services

CC: The Honorable Members of the House Committee on Judiciary
The Honorable Cherie L. Cruz
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House of Representatives
Lynne Urbani, Director of House Policy