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Testimony of Mark A. Tyler, Social Services Attorney in support of Senate Bill 579 – Child Support - Shared Physical Custody

Chairman Smith, Vice-Chairman Waldstreicher, and members of the committee. My name is Mark Tyler and I am counsel to the Wicomico County Office of Child Support, the local office of the Child Support Administration (CSA) in the county. I am assigned to manage the litigation and legal case management needs of approximately 4,500 active paternity and child support cases there. I was pleased to serve on the Guidelines Advisory Committee sponsored by CSA, having chaired the subcommittee that reviewed the phenomenon known as the “cliff effect.” As counsel to the local office of the CSA, I am pleased to offer my support in favor of this bill and encourage you to vote for its passage.

As you may be aware, when parents live apart from each other, the amount of overnight time that they have with their children can impact the amount of child support that must be paid. It will help you to imagine a tall plateau with a flat top. Now, imagine the flat top of the plateau represents the amount of child support that one parent must pay when the parent living apart from the children has less than 128 overnight visits during the year. Under the current law, a parent who never keeps the child overnight pays the same amount of support as a parent who keeps the child overnight 127 times per year. However, when the number of overnight visits increases to 128, that plateau sharply drops, resulting in a substantially reduced amount of child support. The difference of just a single overnight – between 127 and 128 – causes a significant and precipitous drop in the child support owed.

For various reasons – the size of the cliff, the perceived unfairness of such a drop, or the desire for more time with their children – this cliff effect causes problems for families. Frequently, families litigating custody or support cases find the cliff to be another issue that can drag out the litigation of their case, unfortunately shifting the focus of custody and visitation issues to financial considerations rather than the schedule that would be in the best interests of their children. A survey conducted by our subcommittee indicated that 87% of family law attorneys in private practice identified the “cliff” as an issue in the majority of their cases. Even more troubling was the response that in cases where the “cliff” was involved, the majority of attorneys reported that the issue had an adverse impact on the

litigation over 76% of the time, meaning the issue detracted the focus of the parties away from the best interests of the children. A survey of judges and family magistrates had similar findings. Consequently, there seems to be little dispute that the cliff creates problems for families.

The proposed solution contained in this legislation takes a measured approach to fixing the cliff. It lowers the number of overnights at which the support reduction starts from 128 overnights to 92 overnights. This is a more easily attainable number, as the most common visitation schedules provide the non-custodial parent with at least 92 overnights per year.

In addition to reducing the number of overnights necessary to qualify for a child support reduction, this legislation also replaces the steep drop of the cliff effect with a more gradual slope. It accomplishes this by using a “shared custody adjustment” to calculate child support for cases involving 92 to 109 overnights. By making the drop more gradual, there is less financial incentive to engage in disputes and emotionally damaging litigation over additional parenting time, allowing the focus to remain on the children’s best interests where it belongs.

I am pleased to ask for your support of this bill. It benefits families by providing a measured and equitable fix to the cliff for both parents. Thank you for your attention to this important issue and I would be happy to answer any questions you may have about the bill.