
A BILL FOR AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 571-52.2, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:
3 "(e) An employer receiving an assignment order shall send
4 the amounts withheld to ~~[the designated obligee or, if~~
5 ~~requested, to]~~ this State's child support enforcement agency
6 within five working days after the obligor is paid. The
7 employer shall begin withholding no later than the first pay
8 period occurring within seven business days following the date a
9 copy of the order is mailed to the employer. As used in this
10 subsection, the term "business day" means a day on which the
11 employer's office is open for regular business. The employer
12 shall withhold funds as directed in the order, except that when
13 an employer receives an income withholding order issued by
14 another state, the employer shall send the amounts withheld to
15 that state's agency administering a program under title IV-D and
16 apply the income withholding law of the state of the obligor's
17 principal place of employment in determining:

1 (1) The employer's fee for processing an income assignment
2 order;

3 (2) The maximum amount permitted to be withheld from the
4 obligor's income under section 303(b) of the Consumer
5 Credit Protection Act (15 U.S.C. §1673(b));

6 (3) The time periods within which the employer must
7 implement the income withholding order and forward the
8 child support payment;

9 (4) The priorities for withholding and allocating income
10 withheld for multiple child support obligees; and

11 (5) Any withholding terms or conditions not specified in
12 the order.

13 An employer who complies with an income assignment order
14 that is regular on its face shall not be subject to civil
15 liability to any person or agency for conduct in compliance with
16 the order.

17 An employer who is required to withhold amounts from the
18 income of more than one obligor may remit a sum total of the
19 amounts in one check, with a listing of the amounts applicable
20 to each obligor.

21 Within two working days after receipt of the amounts
22 withheld by the employer, the child support enforcement agency

1 shall disburse those amounts to the obligee for the benefit of
2 the child, except that the child support enforcement agency may
3 delay the distribution of collections toward arrearages until
4 the resolution of any timely request for a hearing with respect
5 to such arrearages."

6 SECTION 2. Section 576D-10, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§576D-10 Collection and disbursal of child support;**
9 **direct payment exception.** (a) The agency shall collect and
10 disburse child support payments when an order requires the
11 collection and disbursal. In the event of any default by the
12 obligor, upon notification of the default by the custodial
13 parent, the agency shall proceed against the obligor for the
14 arrearage and the agency shall have jurisdiction over future
15 child support payments. Notwithstanding any other law to the
16 contrary, the agency shall maintain a special interest bearing
17 account for child support payments. Moneys collected by the
18 agency for child support payments shall not be deposited into
19 the state treasury, but shall be deposited into this account.
20 Moneys to be disbursed by the agency for child support payments
21 shall be disbursed from this account without appropriation or

1 allotment. The interest realized from this account shall be
2 used:

3 (1) For related costs of the maintenance and operation of
4 the account; and

5 (2) To improve the child support enforcement agency's
6 ability to promptly disburse payments to the custodial
7 parent.

8 The balance shall be deposited into the state treasury to the
9 credit of the general fund.

10 (b) Any child support payments required by a court order
11 effective on June 30, 1986, to be made to a court or clerk of
12 the court and disbursed to a custodial parent shall be made to
13 the agency after June 30, 1986. The agency shall disburse the
14 payments as appropriate under the court order.

15 (c) Other than for child support payments disbursed to the
16 department of human services or to another agency administering
17 a program under title IV-D, the custodial parent shall elect to
18 receive child support payments from the agency by means of an
19 electronic benefits transfer system or by directly depositing
20 the amount into an account designated by the custodial parent.
21 If an election is not made, the agency shall determine whether
22 the disbursement of child support payments shall be by means of

1 an electronic benefits transfer system or by an alternate method
2 of disbursement that complies with the time frame required under
3 title IV-D.

4 ~~[(e)]~~ (d) At the time a child support obligation is first
5 established or at any time thereafter, the court may approve an
6 alternative arrangement for the direct payment of child support
7 from the obligor to the custodial parent as an exception to the
8 provisions for income withholding through the agency, as
9 required by sections 571-52.2(a)(1), 571-52.3, and 576E-16(a).

10 ~~[(d)]~~ (e) The court may approve an alternative arrangement
11 for the direct payment of child support where either:

12 (1) The obligor or custodial parent demonstrates and the
13 court finds that there is good cause not to require
14 immediate withholding; or

15 (2) A written agreement is reached between the obligor and
16 the custodial parent and signed by both parties;
17 provided that in either case where child support has been
18 ordered previously, an alternative arrangement for direct
19 payment shall be approved only where the obligor provides proof
20 of the timely payment of previously ordered support. For
21 purposes of this section, good cause to approve an alternative
22 arrangement shall be based upon a determination by the court,

1 either in writing or on the record, that implementing income
2 withholding would not be in the best interests of the child.
3 Such a determination shall include a statement setting forth the
4 basis of the court's conclusion.

5 ~~[(e)]~~ (f) Any alternative arrangement for direct payment
6 shall provide that either parent may void the arrangement at any
7 time and apply for services from the agency to act as agent to
8 receive payments from the obligor parent. The alternative
9 arrangement for direct payment also shall provide that, if the
10 subject dependents of the obligor parent commence receiving
11 public assistance, including but not limited to public
12 assistance from the department of human services under chapter
13 346, foster care under section 571-48, Title IV-E or Title XIX
14 of the federal Social Security Act (42 U.S.C. §1396), or if
15 either parent applies for services from the agency, the agency
16 may immediately void the direct payment arrangement by sending
17 written notice by regular mail to the custodial and obligor
18 parents at their last known addresses, as disclosed in the
19 alternative arrangement agreement.

20 ~~[(f)]~~ (g) The alternative arrangement for direct payment
21 agreement shall include the most recent addresses of the
22 custodial and obligor parent. If the obligor parent alleges

1 direct payment of child support to the custodial parent after
2 the subject dependents of the court-approved alternative
3 arrangement become recipients of public assistance, including
4 but not limited to public assistance from the department of
5 human services under chapter 346, foster care under section
6 571-48, Title IV-E or Title XIX of the federal Social Security
7 Act (42 U.S.C. §1396), or after the custodial parent applies for
8 services from the agency, and after receiving proper
9 notification of the change of payee to the agency, then the
10 obligor shall have the burden of proving that the child support
11 payments were made by presenting written evidence, including but
12 not limited to canceled checks or receipts.

13 [~~(g)~~] (h) No alternative arrangement for direct payment
14 shall be approved where the obligor or the custodial parent is
15 receiving services under Title IV-D or where the dependents of
16 the obligor receive public assistance, including but not limited
17 to public assistance from the department of human services under
18 chapter 346, foster care under section 571-48, Title IV-E or
19 Title XIX of the federal Social Security Act (42 U.S.C. §1396),
20 or where the obligor owes child support for a period during
21 which public assistance was provided to the child or children by
22 the department of human services.

1 [~~(h)~~] (i) Any alternative arrangement for direct payment
2 shall pertain only to the method of payment of child support.
3 The amount of child support shall be determined according to the
4 child support guidelines pursuant to section 576D-7 and section
5 576E-15.

6 [~~(i)~~] (j) The alternative arrangement for direct payment
7 shall become effective upon approval and filing by the court.
8 For any order approved pursuant to this section on or after
9 October 1, 1998, each party must send a certified copy of the
10 order to the state case registry established under section
11 576D-6.

12 [~~(j)~~] (k) The agency shall not be required to maintain
13 records while an order obtained pursuant to this section is in
14 effect, except for any payments received and disbursed by the
15 agency."

16 SECTION 3. Section 576D-10.5, Hawaii Revised Statutes, is
17 amended by amending subsections (f) and (g) to read:

18 "(f) A lien shall be enforceable by the child support
19 enforcement agency or its designated counsel [~~or~~], by the
20 obligee, or by another agency administering a program under title
21 IV-D, in the following manner:

22 (1) By suit in the appropriate court;

1 (2) By bringing an action in an administrative tribunal;

2 (3) By filing and serving a notice of child support lien;

3 or

4 (4) By any lawful means of collection.

5 A notice of child support lien shall state the name and the last

6 four digits only of the social security number (if available) of

7 the obligor, the child support enforcement case number, the

8 amount of the lien and the through date (if applicable), the

9 accruing monthly amount, and the date on which the order or

10 judgment regarding child support or public assistance debt was

11 recorded with the bureau of conveyances. The notice shall

12 require that whoever is served with a notice of child support

13 lien either satisfy the lien or obtain a release of the lien

14 prior to disbursing any funds to the obligor. The method of

15 service of a notice of child support lien shall be by certified

16 mail, return receipt requested, or by personal delivery to the

17 individual or entity referred to. A copy of the notice of child

18 support lien shall also be sent to the obligor by regular mail

19 at the obligor's last known address. Upon service of a notice

20 of child support lien, the individual or entity served shall

21 withhold the amount of the lien from the proceeds of any estate,

22 judgment, settlement, compromise, vacation or holiday pay, or

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1 other benefits due the obligor and deliver the funds to the
2 child support enforcement agency. For service effectuated by
3 certified mail, an electronic copy or facsimile of the signature
4 of the served individual or entity provided by the United States
5 Postal Service shall constitute valid proof of service on the
6 individual or entity. A notice of child support lien may be
7 amended from time to time until extinguished or released, each
8 amendment taking effect upon proper service. A notice of child
9 support lien shall remain in effect until satisfied,
10 extinguished, or released.

11 (g) A lien shall be enforceable by the child support
12 enforcement agency or its designated counsel or by another
13 agency administering a program under title IV-D without the
14 necessity of obtaining a court order in the following manner:

15 (1) By intercepting or seizing periodic or lump-sum
16 payments from:

17 (A) A state or local agency, including unemployment
18 compensation, and other benefits; and

19 (B) Judgments, settlements, and lotteries;

20 provided that unemployment compensation benefits
21 may be intercepted only to the extent authorized
22 by section 303(e) of the Social Security Act;

1 (2) By attaching and seizing assets of the obligor held in
2 financial institutions;

3 (3) By attaching public and private retirement funds; and

4 (4) By imposing liens in accordance with this section and,
5 in appropriate cases, to force the sale of property
6 and distribution of proceeds.

7 These procedures shall be subject to due process safeguards,
8 including, as appropriate, requirements for notice, opportunity
9 to contest the action, and opportunity for an appeal on the
10 record to an independent administrative or judicial tribunal."

11 SECTION 4. Section 576D-15, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) In response to a notice of lien or levy, the
14 financial institution shall surrender to the agency or other
15 entity seeking to enforce the lien or encumber assets held by
16 such institution [~~to the agency~~] on behalf of any noncustodial
17 parent who is subject to a child support lien arising by
18 operation of law against real and personal property for
19 delinquent support owed by the noncustodial parent who resides
20 in or owns property in the State and those liens shall be
21 accorded full faith and credit when the agency or other entity

1 seeking to enforce the lien has complied with the procedural
2 rules of the State and, if applicable, section 501-102."

3 SECTION 5. Section 576E-12, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) A true copy of the administrative order, along with a
6 true copy of the return of service, shall be filed in the office
7 of the clerk of the circuit court in the circuit where the order
8 was issued, or in the office of the clerk of the circuit court
9 in the circuit where a previously established support order was
10 filed. For service effectuated by certified mail, an electronic
11 copy or facsimile of the signature of the served individual
12 provided by the United States Postal Service shall constitute
13 valid proof of service on the individual. Upon filing, the
14 order shall have all the force and effect of a final order or
15 decree of the circuit court."

16 SECTION 6. Section 576E-16, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The income withholding order issued pursuant to
19 subsection (a) or the income withholding order or the notice to
20 withhold child support issued pursuant to section 576D-14 shall
21 be effective immediately after service upon an employer of a
22 copy of the order or the notice to withhold child support, which

1 service may be effected by regular mail, by personal delivery,
2 or by transmission through electronic means. Thereafter, the
3 employer shall for each pay period, withhold from the income due
4 to the responsible parent from the employer, and not required to
5 be withheld by any other provision of federal or state law, and
6 transmit to the ~~[designated obligee, or upon request, to the]~~
7 child support enforcement agency of this State, as much as may
8 remain payable to the responsible parent for such pay period up
9 to the amount specified in the order or the notice to withhold
10 child support as being payable during the same period. The
11 employer shall immediately inform the agency of any change that
12 would affect the income withholding order or the notice to
13 withhold child support or the disbursement thereof."

14 SECTION 7. Section 584-8, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§584-8 Jurisdiction; venue.** (a) Without limiting the
17 jurisdiction of any other court, the family court has
18 jurisdiction of an action brought under this chapter. The
19 action may be joined with an action for divorce, annulment,
20 separate maintenance, or support.

21 (b) A person who has sexual intercourse in this State
22 thereby submits to the jurisdiction of the courts of this State

1 as to an action brought under this chapter with respect to a
2 child who may have been conceived by that act of intercourse.
3 In addition to any other method provided by statute, personal
4 jurisdiction may be acquired by personal service outside this
5 State or by service by certified or registered mail, postage
6 prepaid, with return receipt requested.

7 (c) In addition to any other method of service provided by
8 statute or court rule, if the defendant is not found within the
9 circuit, service may be effectuated by registered or certified
10 mail, with request for a return receipt and direction to deliver
11 to addressee only. The return receipt signed by the defendant
12 shall be prima facie evidence that the defendant accepted
13 delivery of the complaint and summons on the date set forth on
14 the receipt. Actual receipt by the defendant of the complaint
15 and summons sent by registered or certified mail shall be
16 equivalent to personal service on the defendant by an authorized
17 process server as of the date of the receipt.

18 (d) The action may be brought in the county in which the
19 child, the mother, or the alleged father resides or is found or
20 in which the child was born or, if the father is deceased, in
21 which proceedings for probate of his estate have been or could
22 be commenced.

1 (e) For service effectuated by registered or certified
2 mail, an electronic copy or facsimile of the signature of the
3 served individual provided by the United States Postal Service
4 shall constitute valid proof of service on the individual."

5 SECTION 8. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect upon its approval.

Report Title:

Child Support Enforcement

Description:

Clarifies that all income withholding payments be sent through the Child Support Enforcement Agency; allows the agency to disburse support by electronic deposit or debit card; allows for electronic copy or facsimile of a signature as proof of service for certified mail; clarifies lien payment and enforcement.

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