
A BILL FOR AN ACT

RELATING TO CHILD SUPPORT ORDERS.

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

1 SECTION 1. The legislature finds that custodial parents
2 receiving child support funds from noncustodial parents are
3 fiduciaries with respect to the child support funds. Therefore,
4 custodial parents have an obligation to spend funds received in
5 compliance with the child support order, which courts draft with
6 the best interests of the child in mind. The legislature also
7 finds that while Hawaii law provides mechanisms to ensure that
8 noncustodial parents pay child support, there are no similar
9 mechanisms to ensure that custodial parents spend child support
10 funds in a manner consistent with the child support order.

11 Studies have shown that a major reason why noncustodial
12 parents sometimes do not comply with their child support
13 obligations is because of concerns that custodial parents will
14 not spend the funds in accordance with the child support orders.
15 Therefore, creating a mechanism for noncustodial parents to
16 ensure that custodial parents are spending child support funds



1 properly will promote compliance with child support orders on
2 the part of both parents.

3 The purpose of this Act is to ensure that the best
4 interests of the child are being met by:

- 5 (1) Creating a mechanism for the child support enforcement
6 agency, on its own initiative or upon petition by a
7 noncustodial parent, to require a custodial parent to
8 provide evidence that child support funds are being
9 spent in compliance with a child support order; and
- 10 (2) Allowing a noncustodial parent to petition the family
11 court to modify a child support order if the custodial
12 parent does not provide evidence of compliance with
13 the order.

14 SECTION 2. Chapter 576D, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§576D- Custodial parent; evidence of compliance. (a)
18 The agency, upon its own initiative or upon petition by the
19 obligor, may require a custodial parent to provide evidence to
20 the agency showing that the custodial parent has expended child
21 support funds in compliance with an order of support.



1 (b) If the custodial parent refuses or does not provide
2 evidence of compliance within thirty days of a request made
3 under subsection (a), the agency shall:

4 (1) Continue to collect child support from the obligor
5 pursuant to section 576D-10;

6 (2) Withhold disbursement to the custodial parent any portion
7 of the child support funds that are in dispute by the
8 obligor;

9 (3) Hold the disputed funds in trust, pending the outcome
10 of the procedures in subsections (c), (d), and (e);

11 (4) Continue to disburse to the custodial parent the
12 portion of the child support funds that are not in
13 dispute;

14 (5) Notify the obligor of the custodial parent's failure
15 to submit evidence of compliance; and

16 (6) Notify both the obligor and the custodial parent that
17 the custodial parent's failure to submit evidence of
18 compliance:

19 (A) Qualifies as a substantial or material change of
20 circumstances; and



1 (B) Grants the obligor the right to petition the
2 family court for review and adjustment of the
3 existing support order.

4 (c) If the obligor does not file a petition to the family
5 court within thirty days of the date of the notification
6 provided pursuant to subsection (b)(6), the agency shall:

7 (1) Transfer any child support funds being held in trust
8 in accordance with subsection (b)(3) to the custodial
9 parent; and

10 (2) Continue to disburse to the custodial parent all child
11 support funds collected from the obligor pursuant to
12 the existing support order.

13 (d) If the obligor files a petition to the family court
14 within thirty days of the date of the notification provided
15 pursuant to subsection (b)(6), the agency shall:

16 (1) Continue to collect child support from the obligor
17 pursuant to section 576D-10;

18 (2) Continue to disburse to the custodial parent the
19 portion of the child support funds that are not in
20 dispute;



- (3) Withhold disbursement to the custodial parent any portion of the child support funds that are in dispute; and
- (4) Hold the disputed funds in trust until the agency receives an order from the family court regarding the disbursement of the funds.

The agency shall disburse the funds in accordance with the order within fifteen days of the date of the order."

SECTION 3. Section 571-52.6, Hawaii Revised Statutes, is amended to read as follows:

"§571-52.6 Child support order, judgment, or decree; accident and sickness insurance coverage. Each order, judgment, or decree under this chapter or chapter 576B, 580, or 584 ordering a person to pay child support shall include the following provisions:

- (1) Both the obligor and the obligee are required to file with the state case registry, through the child support enforcement agency, upon entry of the child support order and to update as appropriate, information on the identity and location of the party, including social security number, residential and mailing addresses, telephone number, driver's license



1 number if different from social security number, and
2 name, address, and telephone number of the party's
3 employer; [and]

4 (2) The liability of that person for accident and sickness
5 insurance coverage when available at reasonable
6 cost [-] ;

7 (3) A declaration that the obligee shall spend all child
8 support funds in accordance with the order, judgment,
9 or decree; and

10 (4) If the obligee spends any portion of the child support
11 funds in a manner that is not in accordance with the
12 order, judgment, or decree, the misuse may:

13 (A) Constitute a substantial or material change of
14 circumstances that justifies modification of the
15 order of child support, pursuant to the procedure
16 in section 576D- ; and

17 (B) Be cause for forfeiture of the misused funds
18 pursuant to an order of the court."

19 SECTION 4. Section 576D-1, Hawaii Revised Statutes, is
20 amended by amending the definition of "compliance with an order
21 of support" to read as follows:



1 "Compliance with an order of support" means that ~~[an]~~:

2 (1) An obligor:

3 ~~[(1)]~~ (A) Is not delinquent in payments in an amount
4 equal to or greater than the sum of payments for
5 child support for a three-month period with
6 regard to driver's licenses and recreational
7 licenses and a six-month period with regard to
8 professional and vocational licenses; or

9 ~~[(2)]~~ (B) Has obtained or maintained health insurance
10 coverage as required by a child support order~~[-]~~i
11 or

12 (2) A custodial parent's expenditure of child support
13 funds are in compliance with the terms of a child
14 support order."

15 SECTION 5. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



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

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INTRODUCED BY:

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JAN 19 2018



H.B. NO. 1953

Report Title:

Child Support; Enforcement; Evidence of Compliance; Modification

Description:

Allows the child support enforcement agency, at the request of a noncustodial parent or on its own initiative, to require a custodial parent to provide evidence that child support funds are being spent in compliance with an order of support. Allows a noncustodial parent to petition the family court for modification of a child support order if the custodial parent does not provide the requested evidence. Requires the child support enforcement agency to hold the portion of disputed child support funds in trust pending the final disposition of the petition.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

