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## A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1           SECTION 1. The legislature finds that federal regulations  
2 under title 38 Code of Federal Regulations part 3, subpart A,  
3 provide for an apportionment of a veteran's benefits between the  
4 veteran and the veteran's dependents under certain  
5 circumstances. Under title 38 Code of Federal Regulations  
6 section 3.450(a)(1)(ii), if a veteran is not residing with the  
7 veteran's spouse, or if the veteran's children are not residing  
8 with the veteran and the veteran is not reasonably discharging  
9 his or her responsibility for the spouse's or children's  
10 support, all or any part of the veteran's pension, compensation,  
11 or emergency officers' retirement pay may be apportioned.

12           The legislature further finds that where a hardship is  
13 known to exist, title 38 Code of Federal Regulations section  
14 3.451 authorizes a special apportionment of a beneficiary's  
15 pension, compensation, emergency officers' retirement pay, or  
16 dependency and indemnity compensation between the veteran and  
17 the veteran's dependents. The apportionment is based on the



## H.B. NO. 417

1 facts in an individual case, and may not cause undue hardship to  
2 the other persons in interest. Factors that determine the basis  
3 for special apportionment include the amount of veteran's  
4 benefits payable; other resources and income of the veteran and  
5 those dependents on whose behalf apportionment is claimed; and  
6 special needs of the veteran, the dependents, and those applying  
7 for apportionment.

8 The legislature therefore finds that it is not necessary  
9 for the State to order child support in cases where such  
10 apportionment is available, unless the State is otherwise  
11 obligated to create such an order under applicable law.

12 Accordingly, the purpose of this Act is to prohibit the  
13 State from issuing an order for child support if:

- 14 (1) The non-custodial parent is a veteran whose sole  
15 source of income is the veteran's pension,  
16 compensation, or emergency officers' retirement pay;  
17 and
- 18 (2) That income may be apportioned pursuant to title 38  
19 Code of Federal Regulations part 3, subpart A, to  
20 support the child;



# H.B. NO. 417

1 provided that this prohibition shall not apply if the State's  
2 failure to issue such an order would violate federal law, the  
3 Uniform Interstate Family Support Act, or any interstate  
4 compact.

5 SECTION 2. Chapter 571, Hawaii Revised Statutes, is  
6 amended by adding a new section to part V to be appropriately  
7 designated and to read as follows:

8 "§571- Veterans; when child support orders prohibited.

9 Notwithstanding the provisions of this chapter, the court shall  
10 not issue an order to award the payment of child support to a  
11 custodial parent if:

12 (1) The non-custodial parent is a veteran whose sole  
13 source of income is the veteran's pension,  
14 compensation, or emergency officers' retirement pay;  
15 and

16 (2) That income may be apportioned to the custodial parent  
17 pursuant to title 38 Code of Federal Regulations part  
18 3, subpart A, to support the child;

19 provided that this prohibition shall not apply if the State's  
20 failure to issue such an order would violate federal law,  
21 chapter 576B, or any interstate compact."



# H.B. NO. 417

1 SECTION 3. Chapter 576D, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§576D- Veterans; when child support orders prohibited.

5 Notwithstanding the provisions of this chapter, neither the  
6 family court nor a hearings officer appointed pursuant to  
7 section 576E-10 shall issue an order to award the payment of  
8 child support to a custodial parent if:

9 (1) The non-custodial parent is a veteran whose sole  
10 source of income is the veteran's pension,  
11 compensation, or emergency officers' retirement pay;  
12 and

13 (2) That income may be apportioned to the custodial parent  
14 pursuant to title 38 Code of Federal Regulations part  
15 3, subpart A, to support the child;

16 provided that this prohibition shall not apply if the State's  
17 failure to issue such an order would violate federal law,  
18 chapter 576B, or any interstate compact."

19 SECTION 4. Chapter 576E, Hawaii Revised Statutes, is  
20 amended by adding a new section to be appropriately designated  
21 and to read as follows:



# H.B. NO. 417

1           "§576E-       Veterans; when child support orders prohibited.

2   Notwithstanding the provisions of this chapter, no hearings  
3   officer shall issue an order to award the payment of child  
4   support to a custodial parent if:

5           (1)   The non-custodial parent is a veteran whose sole  
6               source of income is the veteran's pension,  
7               compensation, or emergency officers' retirement pay;  
8               and

9           (2)   That income may be apportioned to the custodial parent  
10           pursuant to title 38 Code of Federal Regulations part  
11           3, subpart A, to support the child;

12   provided that this prohibition shall not apply if the State's  
13   failure to issue such an order would violate federal law,  
14   chapter 576B, or any interstate compact."

15           SECTION 5. Chapter 580, Hawaii Revised Statutes, is  
16   amended by adding a new section to part I to be appropriately  
17   designated and to read as follows:

18           "§580-       Veterans; when child support orders prohibited.

19   Notwithstanding the provisions of this chapter, the court shall  
20   not issue an order to award the payment of child support to a  
21   custodial parent if:



# H.B. NO. 417

1        (1) The non-custodial parent is a veteran whose sole  
 2        source of income is the veteran's pension,  
 3        compensation, or emergency officers' retirement pay;  
 4        and

5        (2) That income may be apportioned to the custodial parent  
 6        pursuant to title 38 Code of Federal Regulations part  
 7        3, subpart A, to support the child;

8        provided that this prohibition shall not apply if the State's  
 9        failure to issue such an order would violate federal law,  
 10       chapter 576B, or any interstate compact."

11       SECTION 6. This Act does not affect rights and duties that  
 12       matured, penalties that were incurred, and proceedings that were  
 13       begun before its effective date.

14       SECTION 7. New statutory material is underscored.

15       SECTION 8. This Act shall take effect on July 1, 2017.

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INTRODUCED BY: *Linda Chiyama*  
 BY REQUEST

JAN 20 2017



# H.B. NO. 417

**Report Title:**

Veterans; Benefits; Apportionment; Child Support

**Description:**

Prohibits the State from ordering child support if the non-custodial parent's income may be apportioned pursuant to federal regulations to support the child, unless failure to issue such an order would violate federal law, the Uniform Interstate Family Support Act, or any interstate compact.

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

