

JAN 24 2018

A BILL FOR AN ACT

RELATING TO INCOME WITHHOLDING FOR CHILD SUPPORT.

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 (g) to read as follows:

3 "(g) It shall be unlawful for any employer to fail to
4 comply with the requirements of this section. In addition, an
5 employer who fails to comply with an order of assignment of
6 future income, as provided for under this section, shall be
7 liable to the obligee or the obligee's assignee for whom support
8 was required to be paid, for the full amount of all sums ordered
9 to be withheld and transmitted and not otherwise done so and may
10 be subject to a fine not to exceed \$1,000 as determined by the
11 court."

12 SECTION 2. Section 576E-16, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (c) to read:

15 "(c) Compliance by an employer with the income withholding
16 order issued pursuant to subsection (a) or with the income
17 withholding order or the notice to withhold child support issued
18 pursuant to section 576D-14 shall operate as a discharge of the

1 employer's liability to the responsible parent for that portion
2 of the responsible parent's earnings withheld and transmitted to
3 the agency, regardless of whether the employer has withheld the
4 correct amount. For each payment made pursuant to an income
5 withholding order or a notice to withhold child support, the
6 employer may deduct and retain as an administrative fee an
7 additional amount of \$2 from the income owed to the responsible
8 parent. The total amount withheld from the obligor's income,
9 including the administrative fee, may not be in excess of the
10 maximum amounts permitted under section 303(b) of the Consumer
11 Credit Protection Act (15 U.S.C. §1673(b)). Any income
12 withholding order or notice to withhold child support shall have
13 priority as against any garnishment, attachment, execution, or
14 other income withholding order, or any other order, and shall
15 not be subject to the exemptions or restrictions contained in
16 part III of chapter 651 and in chapters 652 and 653. An
17 employer who fails to comply with an income withholding order
18 under this section or with an income withholding order or notice
19 to withhold child support issued pursuant to section 576D-14
20 shall be liable to the obligee or the agency for the full amount
21 of all sums ordered to be withheld and transmitted. In
22 addition, any employer violating this subsection may be subject
23 to a fine not to exceed \$1,000 as determined by the court. An

1 employer receiving an income withholding order or a notice to
2 withhold child support shall transmit amounts withheld to the
3 agency within five working days after the responsible parent is
4 paid. The employer shall begin withholding no later than the
5 first pay period commencing within seven business days following
6 the date a copy of the order or the notice to withhold child
7 support is mailed to the employer.

8 As used in this subsection, the term "business day" means a
9 day on which the employer's office is open for regular business.
10 The employer shall withhold funds as directed in the order or
11 the notice to withhold child support, except that when an
12 employer receives an income withholding order issued by another
13 state, the employer shall apply the income withholding law of
14 the state of the obligor's principal place of employment in
15 determining:

- 16 (1) The employer's fee for processing an income
17 withholding order;
- 18 (2) The maximum amount permitted to be withheld from the
19 obligor's income under section 303(b) of the Consumer
20 Credit Protection Act (15 U.S.C. §1673(b));
- 21 (3) The time periods within which the employer must
22 implement the income withholding order and forward the
23 child support payment;

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

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

An employer who complies with an income withholding order or a notice to withhold child support that is regular on its face shall not be subject to civil liability to any person or agency for conduct in compliance with the order.

An employer who is required to withhold amounts from the income of more than one employee may remit to the agency a sum total of all such amounts in one check with a listing of the amounts applicable to each employee.

Within two working days after receipt of the amounts withheld by the employer, the agency shall disburse the amounts to the obligee for the benefit of the child, except that the agency may delay the distribution of collections toward arrearages until resolution of any timely requested hearing with respect to such arrearages."

2. By amending subsection (e) to read:

"(e) It shall be unlawful for any employer to refuse to hire a prospective employee, to discharge an employee, or to take any other disciplinary action against an employee, based in whole or in part upon an order or notice to withhold child

S.B. NO. 2746

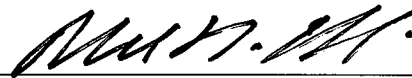
support authorized by this section. Any employer who fails to
comply with this subsection may be subject to a fine not to
exceed \$1,000 as determined by the court."

SECTION 3. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon approval.

INTRODUCED BY:



BY REQUEST

S.B. NO. 2746

Report Title:

Child Support; Income Withholding; Employer; Fines

Description:

Amends the income withholding requirements to impose a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding, or who fails to comply with an order of assignment of future income. Takes effect upon approval.

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

JUSTIFICATION SHEET

SB. NO. 2746

DEPARTMENT: ATTORNEY GENERAL, CHILD SUPPORT ENFORCEMENT AGENCY

TITLE: A BILL FOR AN ACT RELATING TO INCOME WITHHOLDING FOR CHILD SUPPORT.

PURPOSE: To amend the income withholding requirements to impose a fine against any employer who (a) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding or (b) fails to withhold support from income or pay the amounts to the Child Support Enforcement Agency (CSEA).

MEANS: Amend sections 571-52.2(g), and 576E-16(c) and (e), Hawaii Revised Statutes.

JUSTIFICATION: Under 42 U.S.C. 666(b)(6)(D), each State must have in effect laws requiring the imposition of a fine against any employer who discriminates against an employee because of the existence of an income withholding order or fails to withhold support from income or pay the amounts to a child support agency.

Impact on the public: This measure would benefit the public because it increases the effectiveness of income withholding and therefore makes the child support enforcement process more efficient. In addition, it protects the obligor parent against employment discrimination due to the income withholding order.

Impact on the department and other agencies: If this federal requirement is not implemented, the state plan that is administered by the CSEA for federal funding purposes may be disapproved. If the state plan is disapproved, federal funding that is

provided to the CSEA and to the Department of Human Services may be jeopardized.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: ATG 500

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.