

JAN 24 2018

A BILL FOR AN ACT

RELATING TO CHILD SUPPORT GUIDELINES.

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

1 SECTION 1. Section 576D-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§576D-7 Guidelines in establishing amount of child**
4 **support.** (a) The family court, in consultation with the
5 agency, shall establish guidelines to establish the amount of
6 child support when an order for support is sought or being
7 modified under this chapter. The guidelines shall be based on
8 specific descriptive and numeric criteria and result in a
9 computation of the support obligation.

10 The guidelines [~~may~~] shall include consideration of the
11 following:

- 12 (1) All earnings, income, other evidence of ability to
13 pay, and resources of both parents; provided that
14 earnings be the net amount, after deductions for
15 taxes, and social security. Overtime and cost of
16 living allowance may be deducted where appropriate;
- 17 (2) The earning potential, reasonable necessities, and
18 borrowing capacity of both parents;

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1 (3) The needs of the child for whom support is sought~~[7]~~,
2 including health care needs through private or public
3 health care coverage and through cash medical support;
4 ~~[(4) The amount of public assistance which would be paid~~
5 ~~for the child under the full standard of need as~~
6 ~~established by the department;~~
7 ~~(5)]~~ (4) The existence of other dependents of the obligor
8 parent;
9 ~~[(6) To foster incentives]~~ (5) Incentives for both
10 parents to work;
11 ~~[(7) To balance]~~ (6) Balancing the standard of living of
12 both parents and child and avoid placing any below the
13 poverty level whenever possible;
14 ~~[(8) To avoid]~~ (7) Avoiding extreme and inequitable
15 changes in either parent's income depending on
16 custody; and
17 ~~[(9) If any obligee parent (with a school age child or~~
18 ~~children in school), who is mentally and physically~~
19 ~~able to work, remains at home and does not work,~~
20 ~~thirty (or less) hours of weekly earnings at the~~
21 ~~minimum wage may be imputed to that parent's income.]~~
22 (8) If imputation of income is authorized, the age of the
23 child and the specific circumstances of both parents

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1 to the extent known, including such factors as assets,
2 residence, employment and earnings history, job
3 skills, educational attainment, literacy, age, health,
4 criminal record and other employment barriers, and
5 record of seeking work, as well as the local job
6 market, the availability of employers willing to hire
7 the parent, prevailing earnings level in the local
8 community, and other relevant background factors in
9 the case. Incarceration may not be treated as
10 voluntary unemployment in establishing or modifying an
11 order of support.

12 (b) The guidelines shall be:

13 (1) Applied statewide;

14 (2) ~~[To]~~ Established to simplify the calculations as much
15 as practicable;

16 (3) Applied to ensure, at a minimum, that the child for
17 whom support is sought benefits from the income and
18 resources of the obligor parent on an equitable basis
19 in comparison with any other minor child of the
20 obligor parent;

21 (4) Established by October 1, 1986; and

22 (5) Transmitted to the agency and all family court judges
23 when available or updated, and shall be considered by

1 the judges in the establishment and modification of
2 each child support order. The most current guidelines
3 shall be used to calculate the amount of the child
4 support obligation.

5 (c) The family court [~~, in consultation with the agency,~~
6 ~~shall [update]~~ shall convene a guidelines reviewing committee to
7 review and revise, if appropriate, the guidelines at least once
8 every four years[~~-~~] in consultation with the agency. The review
9 shall:

10 (1) Consider economic data on the cost of raising
11 children, labor market data (such as unemployment
12 rates, employment rates, hours worked, and earnings)
13 by occupation and skill-level for the state and local
14 job markets, the impact of guidelines policies and
15 amounts on custodial and noncustodial parents who have
16 family incomes below 200 per cent of the federal
17 poverty level, and factors that influence employment
18 rates among noncustodial parents and impacts
19 compliance with an order of support.

20 (2) Analyze case data, gathered through sampling or other
21 methods, on the application of and deviations from the
22 child support guidelines, as well as the rates of
23 default and imputed orders of support and orders that

1 considered the basic subsistence needs of the parents
2 and child, including orders determined using the
3 minimum child support amount. The analysis must also
4 include a comparison of payments on child support
5 orders by case characteristics, including whether the
6 order was entered by default, based on imputed income,
7 or based on consideration of the basic subsistence
8 needs of the parents and child, including orders
9 determined using the minimum child support amount.

10 The analysis of the data must be used in the review of
11 the child support guidelines to ensure that deviations
12 from the guidelines are limited and guideline amounts
13 are appropriate; and

14 (3) Provide a meaningful opportunity for public input,
15 including input from low-income custodial and
16 noncustodial parents and their representatives.

17 All reports of the guidelines reviewing committee, the
18 membership of the reviewing committee, the effective date of the
19 guidelines, the date of the next quadrennial review, and the
20 guidelines shall be published on the internet and be made
21 accessible to the public by the family court.

22 ~~[(d) The establishment of the guidelines or the adoption~~
23 ~~of any modifications made to the guidelines set forth in this~~

~~1 section may constitute a change in circumstances sufficient to
2 permit review of the support order. A material change of
3 circumstances will be presumed if support as calculated pursuant
4 to the guidelines is either ten per cent greater or less than
5 the support amount in the outstanding support order. The most
6 current guidelines shall be used to calculate the amount of the
7 child support obligation.~~

~~8 (c) The responsible or custodial parent for which child
9 support has previously been ordered shall have a right to
10 petition the family court or the child support enforcement
11 agency not more than once every three years for review and
12 adjustment of the child support order without having to show a
13 change in circumstances. The responsible or custodial parent
14 shall not be precluded from petitioning the family court or the
15 child support enforcement agency for review and adjustment of
16 the child support order more than once in any three year period
17 if the second or subsequent request is supported by proof of a
18 substantial or material change of circumstances.]~~

~~19 (d) There shall be a rebuttable presumption, in any
20 judicial or administrative proceeding for the establishment and
21 modification of an order of support, that the amount of the
22 order that would result from the application of the child
23 support guidelines is the correct amount of child support to be~~

1 ordered. A written finding or specific finding on the record of
2 a judicial or administrative proceeding for the establishment or
3 modification of an order of support that the application of the
4 guidelines would be unjust or inappropriate in a particular case
5 shall be sufficient to rebut the presumption in that case, so
6 long as the judicial or administrative tribunal considers the
7 best interest of the child. Findings that rebut the guidelines
8 shall state the amount of support that would have been required
9 under the guidelines and include a justification of why the
10 order varies from the guidelines amount.

11 (e) The establishment of the guidelines or the adoption
12 of any modifications made to the guidelines set forth in this
13 section may constitute a change in circumstances sufficient to
14 permit review of the order of support. A material change of
15 circumstances shall be presumed if support as calculated
16 pursuant to the guidelines is either ten per cent greater or
17 less than the support amount in the outstanding order of
18 support.

19 (f) Both parents for which child support has previously
20 been ordered shall have a right to petition the family court or
21 the agency not more than once every three years for review and
22 adjustment of the order of support without having to show a
23 change in circumstances. Both parents shall not be precluded

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1 from petitioning the family court or the agency for review and
2 adjustment of order of support more than once in any three-year
3 period if the second or subsequent request is supported by proof
4 of a substantial or material change of circumstances."

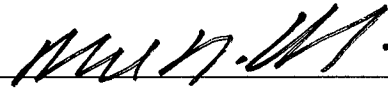
5 SECTION 2. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



10

BY REQUEST

Report Title:

Child Support Guidelines

Description:

Amends the child support guidelines requirements to provide for more opportunity for the public to be involved in the review of the guidelines and to require consideration of additional factors relating to the situation of the parents.

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. 2749

DEPARTMENT: ATTORNEY GENERAL, CHILD SUPPORT ENFORCEMENT AGENCY

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

PURPOSE: To amend the provisions relating to the child support guidelines to be in compliance with federal regulations.

MEANS: Amend section 576D-7, Hawaii Revised Statutes.

JUSTIFICATION: Final rule amendments to federal regulations were published in the Federal Register on December 20, 2016. The amendments to 45 C.F.R. § 302.56 require the states to implement changes that must be included in the state's child support guidelines.

Impact on the public: The changes provide for more opportunity for the public to be involved in the review of the child support guidelines, to have access to information on how the review was conducted, and access to the guidelines. Also, in requiring the consideration of additional factors relating to the situation of the parents, child support amounts established pursuant to the guidelines are intended to be more reliable, result in less conflict between the parents, and improve collections.

Impact on the department and other agencies: If this federal requirement is not implemented, the state plan that is administered by the Child Support Enforcement Agency (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.