

---

# 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;



(2) The earning potential, reasonable necessities, and borrowing capacity of both parents;

(3) The needs of the child for whom support is sought ~~[+]~~, including health care needs through private or public health care coverage and through cash medical support;

~~[(4) The amount of public assistance which would be paid for the child under the full standard of need as established by the department;~~

~~+(5)]~~ (4) The existence of other dependents of the obligor parent;

~~[(6)]~~ (5) ~~[To foster incentives]~~ Incentives for both parents to work;

~~[(7)]~~ (6) ~~[To balance]~~ Balancing the standard of living of both parents and child and avoid placing any below the poverty level whenever possible;

~~[(8)]~~ (7) ~~[To avoid]~~ Voiding extreme and inequitable changes in either parent's income depending on custody; and

~~[(9) If any obligee parent (with a school age child or children in school), who is mentally and physically able to work, remains at home and does not work,~~



1 ~~thirty (or less) hours of weekly earnings at the~~  
2 ~~minimum wage may be imputed to that parent's income.]~~

3 (8) If imputation of income is authorized, the age of the  
4 child and the specific circumstances of both parents  
5 to the extent known, including such factors as assets,  
6 residence, employment and earnings history, job  
7 skills, educational attainment, literacy, age, health,  
8 criminal record and other employment barriers, record  
9 of seeking work, the local job market, the  
10 availability of employers willing to hire the parent,  
11 prevailing earnings level in the local community, and  
12 other relevant background factors in the case;  
13 provided that incarceration shall not be treated as  
14 voluntary unemployment in establishing or modifying an  
15 order of support.

16 (b) The guidelines shall be:

17 (1) Applied statewide;

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

20 (3) Applied to ensure, at a minimum, that the child for  
21 whom support is sought benefits from the income and



resources of the obligor parent on an equitable basis  
in comparison with any other minor child of the  
obligor parent;

(4) Established by October 1, 1986; and

(5) Transmitted to the agency and all family court judges  
when available or updated, and shall be considered by  
the judges in the establishment and modification of  
each child support order. The most current guidelines  
shall be used to calculate the amount of the child  
support obligation.

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

(1) Consider economic data on the cost of raising  
children; labor market data, such as unemployment  
rates, employment rates, hours worked, and earnings,  
by occupation and skill level for the state and local  
job markets; the impact of guidelines, policies, and  
amounts on custodial and noncustodial parents who have



1 family incomes below two hundred per cent of the  
2 federal poverty level; and factors that influence  
3 employment rates among noncustodial parents and impact  
4 compliance with an order of support;

5 (2) Analyze case data, gathered through sampling or other  
6 methods, on the application of and deviations from the  
7 child support guidelines and the rates of default and  
8 imputed orders of support and orders that considered  
9 the basic subsistence needs of the parents and child,  
10 including orders determined using the minimum child  
11 support amount. The analysis shall also include a  
12 comparison of payments on child support orders by case  
13 characteristics, including whether the order was  
14 entered by default, based on imputed income or based  
15 on consideration of the basic subsistence needs of the  
16 parents and child, including orders determined using  
17 the minimum child support amount;

18 (3) Use the analysis of data as described in paragraph (2)  
19 to ensure that deviations from the guidelines are  
20 limited and that guideline amounts are appropriate;  
21 and



1       (4) Provide a meaningful opportunity for input from the  
2           public, including low-income custodial and  
3           noncustodial parents and their representatives.

4   All reports of the guidelines reviewing committee, the  
5   membership of the reviewing committee, the effective date of the  
6   guidelines, the date of the next quadrennial review, and the  
7   guidelines shall be published on the Internet and be made  
8   accessible to the public by the family court.

9       (d) There shall be a rebuttable presumption, in any  
10   judicial or administrative proceeding for the establishment and  
11   modification of an order of support, that the amount of the  
12   order that would result from the application of the child  
13   support guidelines is the correct amount of child support to be  
14   ordered. A written finding or specific finding on the record of  
15   a judicial or administrative proceeding for the establishment or  
16   modification of an order of support that the application of the  
17   guidelines would be unjust or inappropriate in a particular case  
18   shall be sufficient to rebut the presumption in that case;  
19   provided that:

20       (1) The judicial or administrative tribunal considers the  
21       best interest of the child; and



1        (2) The finding that rebuts the guidelines also states the  
2                    amount of support that would have been required under  
3                    the guidelines and includes a justification for the  
4                    variation from that amount.

5        [~~(d)~~] (e) The establishment of the guidelines or the  
6 adoption of any modifications made to the guidelines set forth  
7 in this section may constitute a change in circumstances  
8 sufficient to permit review of the support order. A material  
9 change of circumstances [~~will~~] shall be presumed if support as  
10 calculated pursuant to the guidelines is either ten per cent  
11 greater or less than the support amount in the outstanding  
12 [~~support~~] order~~[-]~~ of support. [~~The most current guidelines~~  
13 ~~shall be used to calculate the amount of the child support~~  
14 ~~obligation.~~

15        ~~(e) The responsible or custodial parent]~~ (f) Both parents  
16 for which child support has previously been ordered shall have a  
17 right to petition the family court or the [~~child support~~  
18 ~~enforcement]~~ agency not more than once every three years for  
19 review and adjustment of the [~~child support~~] order of support  
20 without having to show a change in circumstances. [~~The~~  
21 ~~responsible or custodial parent]~~ Both parents shall not be



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

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

8 SECTION 3. This Act shall take effect upon its approval.  
9





**Report Title:**

Child Support Guidelines; Guidelines Reviewing Committee; Public Involvement

**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. (SD1)

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

