

JAN 21 2022

A BILL FOR AN ACT

RELATING TO SPOUSAL SUPPORT.

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

1 SECTION 1. Section 571-52, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Whenever any person has been ordered to pay an
4 allowance for the support of a child or for the support and
5 maintenance of a spouse or former spouse, and fails or refuses
6 to obey or perform the order and has been adjudged guilty of
7 contempt of court for such failure or refusal, the court may
8 make an order that shall operate as an assignment by the person
9 for the benefit of the child or spouse, of such amounts at such
10 times as may be specified in the order, from any income due or
11 to become due in the future to such person from the person's
12 employer or successor employers, until further order of the
13 court. For orders solely for the support or maintenance of a
14 spouse or former spouse, the spouse or former spouse may elect
15 to enforce the order pursuant to chapters 651, 652, or 653, in
16 which case no assignment shall be made to the clerk of the
17 court, the child support enforcement agency, or other entity.



1 The assignment of the amounts shall be to the clerk of the
2 court where the order is entered if for the support or
3 maintenance of a spouse or former spouse, if elected by the
4 spouse or former spouse, or to the child support enforcement
5 agency if for the support of a child or if child support and
6 spouse support are contained in the same order. The order of
7 assignment to the child support enforcement agency shall be in
8 the standard format prescribed by Title IV-D of the Social
9 Security Act, as amended by the child support enforcement
10 agency. The order of assignment shall be effective immediately
11 after service upon an employer of a true copy of the order,
12 which service may be effected by regular mail, by personal
13 delivery, or by transmission through electronic means.

14 Thereafter, the employer shall for each pay period withhold
15 from any income due to the person from the employer, and not
16 required to be withheld by any other provision of federal or
17 state law, and transmit to the clerk of the court or child
18 support enforcement agency as set forth in the order, as much as
19 may remain payable to the person for such pay period up to the
20 amount specified in the order of assignment as being payable
21 during the same period. The person ordered to pay shall inform



1 the court immediately of any change that would affect the order
2 of assignment or the disbursement thereof.

3 Compliance by an employer with the order of assignment
4 shall operate as a discharge of the employer's liability to the
5 employee for that portion of the employee's income withheld and
6 transmitted to the clerk of court or child support enforcement
7 agency, as the case may be, whether or not the employer has
8 withheld the correct amount.

9 (b) Notwithstanding the provisions of subsection (a) to
10 the contrary, whenever a court has ordered any person
11 (hereinafter "obligor") to make periodic payments toward the
12 support of a child, upon petition of the person to whom such
13 payments are ordered to be made or that person's assignee, and
14 the court finds the obligor to be delinquent in payments in an
15 amount equal to or greater than the sum of payments that would
16 become due over a one-month period under the order, judgment, or
17 decree providing for child support, the court shall order an
18 assignment of future income, or a portion thereof, of the
19 obligor in an amount adequate to insure that past due payments
20 and payments that will become due in the future under the terms
21 of the support order will be paid. Such an order shall operate



1 as an assignment by the obligor to the child support enforcement
2 agency and shall be binding upon any person who is or shall
3 become obligated to the obligor for payment of income and who
4 has been served with a copy of the assignment order.

5 For each payment made pursuant to an assignment order, the
6 person making such payment may deduct and retain as an
7 administrative fee the additional amount of \$2 from the income
8 owed to the obligor. Any assignment made pursuant to an
9 assignment order shall have priority as against any garnishment,
10 attachment, execution, or other assignment order, or any other
11 order unless otherwise ordered by the court and the same shall
12 not be subject to any of the exemptions or restrictions
13 contained in part III of chapter 651, and chapters 652 and
14 653[-]; provided that orders solely for the support or
15 maintenance of a spouse or former spouse may be enforced
16 directly pursuant to chapters 651, 652, and 653, if elected by
17 the spouse or former spouse, and payments shall not be assigned
18 to the child support enforcement agency or other entity.

19 For purposes of this subsection, delinquencies in payments
20 shall be computed on the basis of the moneys owed and unpaid on
21 the date that the obligor under the support order has been given



1 notice pursuant to law of the application for the order of
2 assignment. The fact that the obligor may have subsequently
3 paid such delinquencies shall not relieve the court of its duty
4 under this subsection to order the assignment."

5 SECTION 2. Section 576E-16, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:


7 "(a) Whenever an administrative order is entered
8 establishing, modifying, or enforcing support, or establishing
9 an arrearage that has accrued under a previous judicial or
10 administrative order of support, there shall concurrently be
11 issued an order that shall operate as an assignment to the
12 agency for the benefit of the child or in the case of spousal
13 support, for the benefit of a spouse or former spouse, of such
14 amounts at such times as may be specified in the order, from the
15 responsible parent's income due or to become due in the future
16 from the responsible parent's employer, or successor employers,
17 except when alternative arrangements are ordered pursuant to
18 section 576D-10[-]; provided that, for orders solely for spousal
19 support, the spouse or former spouse may elect to enforce the
20 order pursuant to chapters 651, 652, and 653, in which case no
21 assignment to the agency shall be made. The income withholding



1 order shall be in the standard format prescribed by Title IV-D
2 of the Social Security Act, as amended by the child support
3 enforcement agency. A copy of the income withholding order
4 shall be filed in the office of the clerk of the circuit court
5 in the circuit where the order was issued along with the copy of
6 the support order as provided in section 576E-12."

7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval.

10
INTRODUCED BY:  _____



Report Title:

Spousal Support Orders; Enforcement; Wage Garnishment

Description:

Allows obligees under a order solely for spousal support to elect to enforce the order pursuant to chapter 652, Hawaii Revised Statutes, rather than through the clerk of the court or the child support enforcement agency.

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

