
A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1 PART I

2 SECTION 1. The legislature finds that, under Hawaii's
3 current child support system, custodial parents receiving
4 Temporary Assistance for Needy Families (TANF) funds may never
5 see any of the child support money they are owed because a
6 non-custodial parent must make certain child support payments
7 directly to the State of Hawaii. The State then keeps nearly
8 half of those payments and then transfers the remaining amount
9 to the federal government as reimbursement for providing TANF
10 assistance.

11 The legislature further finds that the federal Deficit
12 Reduction Act of 2005 recommended that states pass through
13 certain portions of child support collected by the state and
14 waived the federal reimbursement portion of those funds if the
15 state disregards the additional income for determining TANF
16 eligibility. As a result, twenty-seven states and the District
17 of Columbia have adopted child support pass-through laws or



1 policies. Based on 2016 estimates for Hawaii, disregarding the
2 additional income for determining TANF eligibility would result
3 in \$675,000 of lost revenue to the State of Hawaii. However,
4 due to the federal reimbursement waiver, this will increase
5 funds to Hawaii's most needy families by approximately
6 \$1,500,000.

7 The purpose of this Act is to increase funds to families
8 receiving child support by implementing a pass-through for
9 portions of the child support collected by the State.

10 PART II

11 SECTION 2. Section 346-29, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) In determining the needs of an applicant or recipient
14 for public assistance by the department, the department shall:

- 15 (1) Disregard the amounts of earned or unearned income as
16 required or allowed by federal acts and other
17 regulations, to receive federal funds and disregard
18 from gross earned income twenty per cent plus \$200 and
19 a percentage of the remaining balance of earned income
20 consistent with federal regulations and other
21 requirements;



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- 1 (2) Consider as net income in all cases the income as
2 federal acts and other regulations require the
3 department to consider for receipt of federal funds
4 and may consider the additional income and resources
5 as these acts and regulations permit to be considered;
- 6 (3) For households with minor dependents, disregard assets
7 in determining the needs of persons for financial
8 assistance; provided that the amount to be disregarded
9 shall not exceed standards under federally funded
10 financial assistance programs. This paragraph shall
11 not apply to persons eligible for federal supplemental
12 security income benefits, aid to the aged, blind or
13 disabled, or general assistance to households without
14 minor dependents. In determining the needs of persons
15 eligible for federal supplemental security income
16 benefits, aid to the aged, blind or disabled, or
17 general assistance to households without minor
18 dependents, the department shall apply all the
19 resource retention and exclusion requirements under
20 the federal supplemental security income program;



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- 1 (4) Apply the resource retention requirements under the
2 federal supplemental security income program in
3 determining the needs of a single person for medical
4 assistance only;
- 5 (5) Apply the resource retention requirements under the
6 federal supplemental security income program in
7 determining the needs of a family of two persons for
8 medical assistance only and an additional \$250 for
9 each additional person included in an application for
10 medical assistance only;
- 11 (6) Disregard amounts of emergency assistance granted
12 under section 346-65;
- 13 (7) Not consider as income or resources any payment for
14 services to or on behalf of, or any benefit received
15 by, a participant under the first-to-work program of
16 part XI, other than wages. Wages earned by a
17 participant while participating in the first-to-work
18 program shall be considered income of the participant,
19 unless the wages are excluded or disregarded under any
20 other law;



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- 1 (8) Not consider as income or resources payment made to
2 eligible individuals, eligible surviving spouses,
3 surviving children or surviving parents as specified
4 under title I of the Civil Liberties Act of 1988,
5 Public Law 100-383, which made restitution to
6 individuals of Japanese ancestry who were interned
7 during World War II;
- 8 (9) Allow the community spouse of an individual residing
9 in a medical institution to maintain countable
10 resources to the maximum allowed by federal statutes
11 or regulations with provisions for increases, as
12 allowed by the Secretary of Health and Human Services
13 by means of indexing, court order, or fair hearing
14 decree, without jeopardizing the eligibility of the
15 institutionalized spouse for medical assistance;
- 16 (10) Allow an individual residing in a medical institution
17 to contribute toward the support of the individual's
18 community spouse, thereby enabling the community
19 spouse to maintain the monthly maximum income allowed
20 by federal statutes or regulations, with provisions
21 for increases as allowed by the Secretary of Health



1 and Human Services by means of indexing, court order,
2 or fair hearing decree;

3 (11) Consider the transfer of assets from the applicant's
4 name to another name within the specified time period
5 as required by federal regulations, known as the
6 "lookback" period, prior to the application for
7 medical assistance for care in a nursing home or other
8 long-term care facility. Pursuant to rules adopted
9 under chapter 91, the director may attribute any
10 assets that have been transferred within the required
11 federal "lookback" period from the applicant if the
12 director determines that transfer of certain assets
13 was made solely to make the applicant eligible for
14 assistance under this chapter; [~~and~~]

15 (12) Not consider as income or resources any funds
16 deposited into a family self-sufficiency escrow
17 account on behalf of a participant under a federal
18 housing choice voucher family self-sufficiency program
19 as required or allowed under federal law[~~-~~]; and



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1 (13) Disregard any amount of child support payments passed
 2 through to applicants or recipients pursuant to
 3 section 346-37.1."

4 SECTION 3. Section 346-37.1, Hawaii Revised Statutes, is
 5 amended by amending subsection (a) to read as follows:

6 "(a) Any payment of public assistance money made to or for
 7 the benefit of any dependent child or children creates a debt
 8 due and owing to the department by the natural or adoptive
 9 parent or parents, or any other person who ~~[are]~~ is responsible
 10 for support of ~~[such]~~ the child or children ~~[except that debts];~~
 11 provided that:

12 (1) Debts under this section shall not be incurred by a
 13 parent or other person who is the recipient of public
 14 assistance moneys for the benefit of minor dependent
 15 children for the period ~~[such]~~ the person or persons
 16 are in such status~~[, and, provided that where];~~

17 (2) Where there has been a family court order, the debt
 18 shall be limited to the amount provided for by the
 19 order~~[-];~~ and

20 (3) Each month, the child support enforcement agency shall
 21 pass through to a family receiving public assistance



1 future income, as provided for under this section, shall be
2 liable to the obligee or the obligee's assignee for whom support
3 was required to be paid, for the full amount of all sums ordered
4 to be withheld and transmitted and not otherwise done so, and
5 may be subject to a fine not to exceed [~~\$250~~] \$1,000 as
6 determined by the court."

7 SECTION 6. Section 576E-16, Hawaii Revised Statutes, is
8 amended as follows:

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

10 "(c) Compliance by an employer with the income withholding
11 order issued pursuant to subsection (a) or with the income
12 withholding order or the notice to withhold child support issued
13 pursuant to section 576D-14 shall operate as a discharge of the
14 employer's liability to the responsible parent for that portion
15 of the responsible parent's earnings withheld and transmitted to
16 the agency, regardless of whether the employer has withheld the
17 correct amount. For each payment made pursuant to an income
18 withholding order or a notice to withhold child support, the
19 employer may deduct and retain as an administrative fee an
20 additional amount of \$2 from the income owed to the responsible
21 parent. The total amount withheld from the obligor's income,



1 including the administrative fee, may not be in excess of the
2 maximum amounts permitted under section 303(b) of the Consumer
3 Credit Protection Act (15 U.S.C. §1673(b)). Any income
4 withholding order or notice to withhold child support shall have
5 priority as against any garnishment, attachment, execution, or
6 other income withholding order, or any other order, and shall
7 not be subject to the exemptions or restrictions contained in
8 part III of chapter 651 and in chapters 652 and 653. An
9 employer who fails to comply with an income withholding order
10 under this section or with an income withholding order or notice
11 to withhold child support issued pursuant to section 576D-14
12 shall be liable to the obligee or the agency for the full amount
13 of all sums ordered to be withheld and transmitted. In
14 addition, an employer violating this subsection may be subject
15 to a fine not to exceed [~~\$250~~] \$1,000 as determined by the
16 court. An employer receiving an income withholding order or a
17 notice to withhold child support shall transmit amounts withheld
18 to the agency within five working days after the responsible
19 parent is paid. The employer shall begin withholding no later
20 than the first pay period commencing within seven business days



1 following the date a copy of the order or the notice to withhold
2 child support is mailed to the employer.

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

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



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

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

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

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

17 2. By amending subsection (e) to read:

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



1 support authorized by this section. Any employer who fails to
 2 comply with this subsection may be subject to a fine not to
 3 exceed [~~\$250~~] \$1,000 as determined by the court."

PART IV

5 SECTION 7. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

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

10 SECTION 9. This Act shall take effect on July 1, 2023.

11

INTRODUCED BY:



 JAN 24 2023



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Report Title:

DHS; Child Support; Temporary Assistance for Needy Families Program; Employer; Fines; Appropriation

Description:

Requires certain amounts of child support moneys collected by the Department of Human Services for public assistance of a child to pass through to the family receiving public assistance. Requires the Department of Human Services to disregard passed-through child support payments when calculating the income of an applicant for or recipient of public assistance. Increases the maximum fine for an 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 to pay child support. Appropriates funds.

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