

ACT 140

S.B. NO. 664

A Bill for an Act Relating to Assignment of Wages for Child Support.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-52, Hawaii Revised Statutes, is amended to read:

“Sec. 571-52 Assignment by court order of future wages for future payments of support. (a) Whenever any person has been ordered to pay an allowance for the support, maintenance, or education of a minor child, or for the support and maintenance of a spouse or former spouse, and fails or refuses to obey or perform the order and has been adjudged guilty of contempt of court for such failure or refusal, the

court may make an order which shall operate as an assignment by the person to the clerk of the court where the order is entered, for the benefit of the minor child or spouse, of such amounts at such times as may be specified in the order, from the salary, wages, or other income due or to become due in the future to such person from his employer or successor employers, until further order of the court. The order of assignment shall be effective immediately after service upon an employer of a true copy of the order, which service may be affected by certified or registered mail or by personal delivery. Thereafter, the employer shall for each pay period withhold from the salary, wages, or other income due to the person from the employer, and not required to be withheld by any other provision of federal or state law, and transmit to the clerk of the court as set forth in the order, as much as may remain payable to the person for such pay period up to the amount specified in the order of assignment as being payable during the same period. The person ordered to pay shall inform the court immediately of any change which would affect the order of assignment or the disbursement thereof. Compliance by an employer with the order of assignment shall operate as a discharge of the employer's liability to the employee for that portion of the employee's earnings withheld and transmitted to the clerk of court, whether or not the employer has withheld the correct amount. The term "employer" as used in this section includes the United States government, the State and any political subdivision thereof.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever a court has ordered any person (hereinafter "obligor") to make periodic payments toward the support of a minor child and, upon petition of the person to whom such payments are ordered to be made, or that person's assignee, the court finds the obligor to be delinquent in payments due within the twenty-four months immediately preceding the filing of the petition in an amount equal to or greater than the sum of payments which would become due over a three-month period under that order, the court may order an assignment of future earnings or income of the obligor in an amount adequate to insure that payments which will become due in the future under the terms of the support order will be paid. Such an order shall operate as an assignment and shall be binding upon any person who is or shall become obligated to the obligor for payment of earnings or income and who has been served with a certified copy of the assignment order. For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional amount of two dollars from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order may have priority as against any garnishment, attachment, execution, or other assignment or order unless otherwise ordered by the court and the same shall not be subject to the exemption provisions of part III of chapter 651.

For purposes of this subsection, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court of its duty under this subsection to order the assignment.

(c) No employer shall use any assignment authorized by this section as a basis in whole or in part for the discharge of an employee or for any other disciplinary

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action against an employee.

(d) Notwithstanding any other provision of law, the provisions of this section shall be applicable to all moneys payable to any obligor including moneys payable as a pension or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government, or from the State or other political subdivision thereof, or from any retirement, disability, or annuity system established by any of them pursuant to statute.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved June 1, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.