

ACT 70

S.B. NO. 2245-82

A Bill for an Act Relating to Reciprocal Enforcement of Support.

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

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

“§576-1 Definitions. As used in this chapter unless the context requires otherwise:

- (1) “State” includes any state, territory, or possession of the United States [and], the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law has been enacted.
- (2) “Initiating state” means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

- (3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.
- (4) "Court" means any circuit court of this State and when the context requires, means the court of any state as defined in a substantially similar reciprocal law.
- (5) "Law" includes both common and statute law.
- (6) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree, or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise[.] and includes the duty to pay arrearages of support past due and unpaid.
- (7) "Obligor" means any person owing a duty of support[.] or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.
- (8) "Obligee" means any person to whom a duty of support is owed[.] or a person, including a state or political subdivision, that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.
- (9) "Register" means to file in the registry of foreign support orders.
- (10) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state."

SECTION 2. Section 576-23, Hawaii Revised Statutes, is amended to read as follows:

"§576-23 How duties of support are enforced[.]; immunities unavailable; jurisdiction. All duties of support, including the duty to pay arrearages, are enforceable by action commenced by complaint irrespective of relationship between the obligor and obligee. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available. Jurisdiction of all proceedings hereunder shall be vested in the family court of the circuit in which the plaintiff has resided for sixty days next preceding his or her complaint."

SECTION 3. Section 576-24, Hawaii Revised Statutes, is amended to read as follows:

"§576-24 Contents of complaint for support. (a) The complaint shall be verified and shall state the name and, so far as known to the plaintiff, the addresses and circumstances of the defendant, his dependents for whom support is sought and all other pertinent information. The plaintiff may include in or attach to the complaint any information which may help in locating or identifying the defendant including, but without limitation by enumeration, a photograph of the defendant, a description of any distinguishing marks [of his person], other names and aliases which [he] the defendant has been or is known, the name of [his] the defendant's employer, [his] the defendant's fingerprints or social security number.

(b) The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, judicial separation, annulment,

dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement."

SECTION 4. Chapter 576, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

"§576- Rules of evidence. In any hearing for the civil enforcement of this chapter the court is governed by the rules of evidence applicable in a civil action in the family court. If the action is based on a support order issued by another court a certified copy of the order may be received as evidence of the duty of support. The determination or enforcement of duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

§576- Paternity. If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both the child's alleged father and the child's mother are present at the hearing or the proof required in the case indicates that the presence of either or both of them is not necessary, the court may adjudicate the paternity issue. Otherwise, the court may adjourn the hearing until the paternity issue has been adjudicated.

§576- Proceedings not to be stayed. A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, judicial separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard the court must take into account in placing its support order the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

§576- Registration of foreign support orders. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided as follows:

(a) The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

(b) The clerk of the court shall maintain a registry of foreign support orders in which foreign support orders shall be filed.

(c) If this State is acting either as a rendering or a registering state, the county attorney or corporation counsel shall represent the obligee in proceedings under this part. If such attorney neglects or refuses to represent the obligee, the attorney general may undertake the representation.

§576- Registration procedure for foreign support order; notice. (a) An obligee seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modifications thereof, (2) one copy of the reciprocal enforcement of support act of

the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this chapter.

(b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. The clerk shall also docket the case and notify the county attorney or corporation counsel of such action. The county attorney or corporation counsel shall proceed diligently to enforce the order.

§576- Effect of registration of foreign support orders; enforcement procedure. (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this State and may be enforced and satisfied in like manner.

(b) The obligor has twenty days after the mailing of the notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available as defenses in an action to enforce a foreign money judgment. If it is shown to the court that an appeal from the order is pending, or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support order as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this State may be stayed, the court shall stay enforcement of the order for an appropriate period, if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 13, 1982.)