

ACT 207

H.B. NO. 2032-84

A Bill for an Act Relating to Child Support.

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

SECTION 1. Section 571-52, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“§571-52 Assignment by court order of future wages for [future] payments of support.”

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

“(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] one-month period under [that] the order, judgment, or decree providing for child support, the court may order an assignment of future earnings or income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and 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 by the obligor to the clerk of the court where the order is entered, 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] \$2 from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order [may] shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the [exemption provisions of] exemptions or restrictions contained in part III of chapter 651[.], chapter 652, and chapter 653.

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.”

SECTION 3. Chapter 571, Hawaii Revised Statutes, is amended to add a new section to be appropriately designated and to read as follows:

“§571- Automatic assignment by court order of future wages for payment of child support. (a) Notwithstanding the provisions of §571-52, the court may order an assignment of future earnings or income when:

- (1) The court has ordered any person (hereinafter the “obligor”) to make periodic payments toward the support of a minor child pursuant to a court order, judgment, or decree; and
- (2) The court order, judgment, or decree provides for an automatic assignment of the obligor’s wages upon the obligor’s failure to

timely pay any child support that the obligor is required to pay through the clerk of the court; and

- (3) The court or clerk of the court finds the obligor to be delinquent in payments in an amount equal to or greater than the sum of payments which would become due over a one month period under the order, judgment, or decree providing for child support.

(b) The court, on its own motion, may order an assignment of future earnings or income, or a portion thereof, of the obligor in an amount adequate to insure that past due payments and payments which will become due in the future under the terms of the support order will be paid.

(c) The court or the clerk of the court shall provide the obligor written notice at least fourteen days in advance of entering an automatic wage assignment and inform the obligor the automatic wage assignment will issue on a certain date unless the obligor files with the court or the clerk of the court a written objection to the automatic assignment and a written request for a hearing. If the obligor files the written objection and the written request, the court or the clerk of the court shall not issue the automatic assignment of future earnings or income until a hearing is held and the matter is resolved. The court shall establish and implement other notice procedures as may be necessary to adequately protect the obligor's right to procedural due process.

(d) The order for automatic assignment shall operate as an assignment by the obligor to the clerk of the court where the order is entered, 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 \$2 from the earnings or income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order unless otherwise ordered by the court and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, chapter 652, and chapter 653.

For purposes of this section, 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.

(e) The provisions of sections 571-52(c) and (d) shall apply to all orders for automatic assignments issued under this section."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 30, 1984.)

Note

1. Edited pursuant to HRS §23G-16.5.