

ACT 200

H.B. NO. 3570

A Bill for an Act Relating to Support.

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

SECTION 1. Chapter 576, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§576- Interstate request for income withholding.** (a) Upon receipt by the agency, as defined in Section 576D-1, of a request from another state for enforcement of a support order by income withholding, which request is accompanied by a certified copy of the support order, the agency may enter an income withholding order as authorized in section -16 or forward the request and support order to the court for filing.

(b) If the request is forwarded to the court, the certified copy of the support order shall be filed with the court. The support order so filed has the same effect and shall be enforced in the same manner as a support order rendered by a court of this state or by the agency. The agency shall notify the obligor that unless the obligor contests it, an order for income withholding pursuant to the procedures in section 571-52. , shall automatically issue thirty days after the mailing of the notice. An obligor may contest the issuance of an income withholding order under this section by filing with the agency a statement of objections within twenty days from the date of receipt of the notice of the pending order for income withholding. If no such statement of objections is received, the court shall issue an income withholding order upon the expiration of the thirty day period. If a statement of objections is made within this time, the agency shall notify the court to set the matter for a hearing. At the hearing, the court shall determine whether an income withholding order shall issue and the amount thereof. The only basis for contesting a withholding under this section is a mistake of fact, which, for purposes of this section, means an error in the amount of current or overdue support or in the identity of the alleged absent parent.”

SECTION 2. Section 571, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§571-52. Immediate Income Withholding.** In any case where child support is an issue, and an order for child support is established or modified, and the obligor receives income on a periodic basis, the court shall concurrently enter an order for immediate income withholding which shall operate as an assignment by the person to the child support enforcement agency for the benefit of the child of such amounts at such times as may be specified in the child support order. Such order may also include child support arrears and/or reimbursement of debt pursuant to §346-37.1. The provisions of section 571-52.2(d), (e), (f), (g), (l), (m) and (n) shall apply to all orders for immediate income withholding issued under this section.”

SECTION 3. Section 576-25, Hawaii Revised Statutes, is amended to read as follows:

**“§576-25 Officials to represent [plaintiff.** Where in any case initiated in a court of this State the plaintiff is unable to hire private counsel, the county attorney or corporation counsel upon request of the child support enforcement agency shall represent the plaintiff, except that fees may be charged as provided for by chapter 576D. The county attorney or corporation counsel of each county shall represent the plaintiff in any case in which the State is the responding state, provided that the plaintiff may employ private counsel and in such event the county attorney or corporation counsel shall not be obligated to act save as requested by the court.] agency. The county attorney or corporation counsel, under cooperative agreement, or the attorney general, may represent the child support enforcement agency in cases arising under this chapter. A fee may be charged to the person applying for child support enforcement agency assistance as provided by law. In any case in which the State is the responding state, the child support enforcement agency may appear by counsel.”

SECTION 4. Section 576D-3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§576D-3]] Obtaining or enforcing child support.** (a) The agency shall

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undertake any legal or administrative action to secure support for a child by enforcing an existing court order or obtaining a court order of support.

(b) In order to carry out its responsibilities imposed under this chapter, the agency, through the offices of the corporation counsel [or], the county attorneys, or the attorney general, may commence or appear in any proceeding before any court or administrative agency for the purpose of establishing paternity for children born out of wedlock or for the purpose of obtaining, enforcing, or modifying an order of support on behalf of any dependent or any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency may commence or appear in any action on its own behalf, on behalf of any dependent child or custodial parent, or on behalf of any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency shall obtain or enforce a child support order for the following children:

- (1) A child on whose behalf public assistance payments have been or are being made;
- (2) A child on whose behalf foster care payments have been or are being made under Title IV-E; or
- (3) A child on whose behalf a custodial parent, guardian, or other person having custody applies to the agency for assistance in obtaining or enforcing a child support order, whether or not public assistance payments have been made on the child's behalf."

SECTION 5. Section 571-52.1, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved June 7, 1988.)

### Note

1. Edited pursuant to HRS §23G-16.5.