

ACT 216

H.B. NO. 621

A Bill for an Act Relating to Child Support.

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

SECTION 1. Section 576D-7, Hawaii Revised Statutes, is amended to read as follows:

“§576D-7 Guidelines in establishing amount of child support. (a) The family court, in consultation with the agency, shall establish guidelines to establish the amount of child support when an order for support is sought or being modified under this chapter. The guidelines shall be based on specific descriptive and numeric criteria and result in a computation of the support obligation.

The guidelines may include consideration of the following:

- (1) All earnings, income, and resources of both parents; provided that earnings be the net amount, after deductions for taxes, and social security. Overtime and cost of living allowance may be deducted where appropriate;
- (2) The earning potential, reasonable necessities, and borrowing capacity of both parents;
- (3) The needs of the child for whom support is sought;
- (4) The amount of public assistance which would be paid for the child under the full standard of need as established by the department;
- (5) The existence of other dependents of the obligor parent;
- (6) To foster incentives for both parents to work;
- (7) To balance the standard of living of both parents and child and avoid placing any below the poverty level whenever possible;
- (8) To avoid extreme and inequitable changes in either parent's income depending on custody; and
- (9) If any obligee parent (with a school age child or children in school), who is mentally and physically able to work, remains at home and does not work, thirty (or less) hours of weekly earnings at the minimum wage may be imputed to that parent's income.

(b) The guidelines shall be:

- (1) Applied statewide;
- (2) To simplify the calculations as much as practicable;
- (3) Applied to ensure, at a minimum, that the child for whom support is sought benefits from the income and resources of the obligor parent on an equitable basis in comparison with any other minor child of the obligor parent;
- (4) Established by October 1, 1986; and
- (5) Transmitted to the agency and all family court judges when available or updated, and shall be considered by the judges in the establishment of each child support order.

(c) The family court, in consultation with the agency, may update the guidelines when the family court deems it necessary.

(d) The adoption of any substantive modifications made to the guidelines set forth in this section may constitute a change in circumstances sufficient to permit review of the support order. The most current guidelines shall be used to calculate the amount of the child support obligation."

SECTION 2. Section 576E-14, Hawaii Revised Statutes, is amended to read as follows:

"§576E-14 Modification, suspension, or termination of court and administrative orders. (a) The responsible parent, the agency, or the person having custody of the dependent child may file a request for suspension, termination, or modification of the child support provisions of a Hawaii court or administrative order with the agency. Such request shall be in writing, shall set forth the reasons for suspension, termination, or modification, including the change in circumstances since the date of the entry of the order, and shall state the address of the requesting party. The agency shall thereafter commence administrative proceedings pursuant to sections 576E-5 through 576E-9.

(b) Only payments accruing subsequent to service of the request on all parties may be modified, and only upon a showing of a substantial and material change of circumstances. The agency shall not be stayed from enforcement of the existing order pending the outcome of the hearing on the request to modify.

(c) The adoption of any substantive modifications made to the guidelines set forth in section 576D-7 may constitute a change in circumstances sufficient to permit review of the support order. The most current guidelines shall be used to calculate the amount of the child support obligation.

[(c)] (d) Upon satisfaction of a responsible parent's support obligation toward the dependent child and the State, the agency or hearings officer without application of any party may issue an order terminating child support and may concurrently, if applicable, issue an order terminating existing assignments against the responsible parent's income and income withholding orders."

SECTION 3. Section 576E-15, Hawaii Revised Statutes, is amended to read as follows:

"§576E-15 Guidelines to be followed. When an administrative order establishes or modifies the amount of child support required to be paid by a responsible parent, the guidelines established under section 576D-7 shall be applied, except when exceptional circumstances warrant departure. The most current guidelines shall be used to calculate the amount of the child support obligation."

SECTION 4. Section 580-47, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) No order entered under the authority of subsection (a) [of this section] or entered thereafter revising so much of such an order as provides for the support, maintenance, and education of the children of the parties shall impair the power of the court from time to time to revise its orders providing for the support, maintenance, and education of the children of the parties upon a showing of a change in the circumstances of either party or any child of the parties since the entry of any prior order relating to such support, maintenance, and education. The adoption of any substantive modifications made to the guidelines set forth in section 576D-7 may constitute a change in circumstances sufficient to permit review of the support order. The most current guidelines shall be used to calculate the amount of the child support obligation.

(d) Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party, or upon a showing of other good cause, the moving party [may], in the discretion of the court, and upon adequate notice to the other party, may be granted a hearing. The fact that the moving party is in default or arrears in the performance of any act or payment of any sums theretofore ordered to be done or paid by [him or her] the party shall not necessarily constitute a bar to the granting of the hearing. The court, upon such hearing, for good cause shown may amend or revise any order and shall consider all proper circumstances in determining the amount of the allowance, if any, which shall thereafter be ordered."

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

SECTION 6. This Act shall take effect ninety days after its approval by the Governor.

(Approved June 6, 1991.)