

A Bill for an Act Relating to Family Support.

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

SECTION 1. Section 576E-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Spousal support” means a legally enforceable obligation assessed against an individual for the support of a spouse or a former spouse who is living with a child or children for whom the individual also owes support.”

SECTION 2. Section 576E-1, Hawaii Revised Statutes, is amended by amending the definition of “obligor” to read:

““Obligor” means a responsible parent obligated by court or administrative order to pay child support[,] or who is obligated by court order to pay spousal support in conjunction with child support.”

SECTION 3. Section 576E-2, Hawaii Revised Statutes, is amended to read as follows:

“§576E-2 Attorney general; powers. Notwithstanding any other law to the contrary, the attorney general, through the child support enforcement agency, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified, or enforced, including, but not limited to, proceedings under chapters 571, 580, 584, and 576, the Uniform Reciprocal Enforcement of Support Act. The attorney general, through the child support enforcement agency, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department’s jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include, but not be limited to, the power to:

- (1) Conduct investigations into the ability of responsible parents to pay support and into nonpayment of support;
- (2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;
- (3) Establish, modify, suspend, terminate, or enforce a child support order[;] and to collect or enforce a spousal support order in conjunction with a child support order;
- (4) Determine that a responsible parent has not complied with a court or administrative order and make recommendations to the court or other agency with respect to contempt or other appropriate proceedings;
- (5) Establish arrearage;
- (6) Establish a public assistance debt under section 346-37.1;
- (7) Order and enforce assignment of future income under section 576E-16, and chapter 571;
- (8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter; and

- (9) Delegate the powers and authority described in this section to hearings officers and employees of the agency.”

SECTION 4. Section 576E-5, Hawaii Revised Statutes, is amended to read as follows:

“**§576E-5 Commencement of administrative proceedings; notice.** The agency shall serve a notice of administrative proceedings and notice of financial responsibility upon the responsible parent prior to the issuance of an order under this chapter. [The] Where applicable, notice shall contain[:] the following:

- (1) A copy of the order proposed to be entered;
- (2) A statement that the responsible parent is entitled to an administrative hearing before an impartial hearings officer to contest the entry of the order together with an explanation of the procedure for requesting a hearing;
- (3) A statement of rights at the hearing together with an explanation of defenses or objections which may be considered by the hearings officer;
- (4) The legal authority under which the hearing is to be held;
- (5) A statement that the property of the responsible parent may be seized or that the income of the responsible parent may be withheld for payment of support;
- (6) A statement that information relating to the responsible parent’s nonpayment of support may be made available to credit-reporting agencies;
- (7) A statement that child and spousal support [payment] shall be payable by an order for immediate income withholding which shall be entered concurrently with the administrative order pursuant to section 576E-16;
- (8) A statement that the responsible parent has the right to request judicial review of a final order of a hearings officer pursuant to section 576E-13; [and]
- (9) A statement that an administrative determination of a support obligation creates a judgment by operation of law upon filing of the order at the family court and as such is entitled to full faith and credit in any other state or jurisdiction.”

SECTION 5. Section 576E-10, Hawaii Revised Statutes, is amended to read as follows:

“**§576E-10 Hearings officers.** The attorney general shall appoint and commission, without regard to chapters 76 and 77, such hearings officers as may be necessary to carry out the purposes of this chapter. Hearings officers shall exercise all of the powers granted to the attorney general under this chapter, but shall not be considered deputy attorneys general and shall not exercise the powers or discharge the duties conferred upon the attorney general or the attorney general’s deputies by chapter 28. In exercising the powers conferred upon the attorney general in section 576E-2, the hearings officers shall have the authority to:

- (1) Enter a default order against a responsible parent who fails to appear at the time and place of the hearing, upon a showing of proper notice to that parent;
- (2) Accept a voluntary acknowledgment of support liability or stipulated agreement setting the amount of support to be paid after application of the guidelines established under section 576D-7;

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- (3) Enter an income withholding order pursuant to section 576E-16;
- (4) Conduct a hearing and enter an automatic income assignment order pursuant to section 571-52.2;
- (5) Enter an interstate income withholding order pursuant to section 576E-16;
- (6) Enter support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provision of orders of the Hawaii family courts;
- (7) Enter support orders of any form if the order establishes, modifies, suspends, terminates, or enforces child support obligations;
- (8) Receive testimony from the parties to the hearing and establish a record;
- (9) Evaluate the testimony and other evidence received at the hearing and make specific findings of fact and conclusions of law after contested case hearings and when otherwise required by law;
- (10) Issue subpoenas;
- (11) Compel production of documents and witnesses;
- (12) Dismiss a child support case upon finding of good cause;
- (13) Hold a pre-hearing conference;
- (14) Conduct a hearing and enter an order concerning whether a state income tax refund should be intercepted to satisfy a past due support obligation pursuant to section 231-54;
- (15) Enter an order concerning whether a responsible parent's unemployment compensation should be applied to satisfy a past due support obligation pursuant to chapter 576D;
- (16) Enter an order concerning whether a lien should be imposed on a responsible parent's personal and real property pursuant to section 576D-10.5;
- (17) Enter an order concerning whether a responsible parent should be required to post bond in order to secure payment of past due support pursuant to chapter 576D;
- (18) Enter an order concerning whether a responsible parent's child support obligation should be reported to consumer credit reporting agencies pursuant to chapter 576D; [and]
- (19) Refer contempt proceedings to the appropriate court[.]; and
- (20) Enter an order enforcing the collection of spousal support for a spouse or former spouse who is living with a subject child or children if a support obligation has been established by a court order for that spouse and the child support is being enforced for the subject child or children."

SECTION 6. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever an administrative order is entered establishing, modifying, or enforcing support, establishing an arrearage that has accrued under a previous judicial or administrative order for support, or establishing a public assistance debt, there shall concurrently be issued an order which shall operate as an assignment to the agency for the benefit of the child or in the case of spousal support, for the benefit of a spouse or former spouse, of such amounts at such times as may be specified in the order, from the responsible parent's income due or to become due in the future from the responsible parent's employer, or successor employers, until further court or administrative order. A copy of the income withholding order shall be filed in the office of the clerk of the circuit court in the circuit where the order

was issued along with the copy of the support order as provided in section 576E-12.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 18, 1993.)