

ACT 293

S.B. NO. 1266

A Bill for an Act Relating to Child Support Enforcement.

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

SECTION 1. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§291- Driving after license suspended or denied for noncompliance with an order of support; penalties.** (a) No person whose driver’s license has been suspended, denied, or otherwise restricted pursuant to section 576D-A shall operate a motor vehicle upon the public streets, roads, or highways of this State while the person’s license remains suspended or denied.

(b) Any person convicted of violating this section shall be sentenced as follows:

- (1) For a first offense, or any offense not preceded within a five-year period by a conviction under this section:
  - (A) A term of imprisonment at least three consecutive days but not more than thirty days;
  - (B) A fine not less than \$250 but not more than \$1,000; and
  - (C) License suspension or denial shall continue until written authorization of compliance is issued by the child support enforcement agency, the office of child support hearings, or the family court;
 and
- (2) For an offense which occurs within five years of a prior conviction under this section:
  - (A) Thirty days imprisonment;
  - (B) A fine of \$1,000; and
  - (C) License suspension or denial shall continue until written authorization of compliance pursuant to section 576D-A issued by the child support enforcement agency, the office of child support hearings, or the family court.”

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 9 to be appropriately designated and to read as follows:

**“§431- Suspension or denial of license for noncompliance with support order.** In addition to any other acts or conditions provided by law, the commissioner shall refuse to renew, reinstate, or restore, or shall deny or suspend any license if the commissioner has received certification from the child support enforcement agency pursuant to the terms of section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Unless otherwise provided by law, following receipt of certification pursuant to this section, the commissioner shall renew, reinstate, restore, or grant the license only upon receipt of an authorization from the child support enforcement agency, office of child support hearings, or the family court. Sections 92-17, 431:9-235, 431:9-236, 431:9-237, 431:9-238, 431:9-239, and 431:9-240 shall not apply to a refusal to renew, reinstate, or restore a license or to a license suspension or denial pursuant to this section.”

SECTION 3. Chapter 436B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§436B- Suspension or denial of license for noncompliance with child support order.** In addition to any other acts or conditions provided by law, the licensing authority shall refuse to renew, reinstate, or restore, or shall deny or suspend any license if the authority has received certification from the child support enforcement agency pursuant to the terms of section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Unless otherwise provided by law, the licensing authority shall renew, reinstate, restore, or grant the license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court. Sections 92-17, 436B-20, 436B-21, 436B-24, and 436B-25 shall not apply to a license suspension or denial pursuant to this section.”

SECTION 4. Chapter 485, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§485- Suspension or denial of license for noncompliance with child support order.** In addition to any other acts or conditions provided by law, the commissioner shall refuse to renew, reinstate, or restore, or shall deny or suspend any license if the authority has received certification from the child support enforcement agency pursuant to the terms of section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support order. Unless otherwise provided by law, the commissioner shall renew, reinstate, restore, or grant the license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court. Sections 92-17, 485-15, and 485-16 shall not apply to a refusal to renew, reinstate, or restore a license or to a license suspension or denial pursuant to this section.”

SECTION 5. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§571- Support order, decree, judgment, or acknowledgment; social security number.** The social security number of any individual who is a party to a divorce decree, or subject to a support order or paternity determination, or has made an acknowledgment of paternity issued under this chapter or chapter 576, 580, or 584 shall be placed in the records relating to the matter.”

SECTION 6. Chapter 576D, Hawaii Revised Statutes, is amended by adding six new sections to be appropriately designated and to read as follows:

**“§576D-A Suspension or denial of licenses.** (a) Upon a determination that an obligor is not in compliance with an order of support as defined in section 576D-1 or that an individual failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, and that the obligor or individual is the holder of or an applicant for a license issued by a licensing authority in this State, the agency shall serve notice upon the obligor or individual of the agency’s intent to certify the obligor or individual as noncompliant with an order of support or a subpoena or warrant relating to a paternity or child support proceeding, which shall direct the appropriate licensing authority to deny or suspend the license, or to deny the application for renewal, reinstatement, or restoration of such license.

(b) The notice shall be sent by regular mail to both the last known address of record of the obligor or individual as shown in the records of the licensing authority and the address of record of the obligor or individual as shown in the agency’s child support record and shall contain the following information:

- (1) Identification of the license, certificate, permit, or registration subject to suspension, nonrenewal, nonreinstatement, nonrestoration, or denial;
- (2) The name, social security number, if available, date of birth, if known, and each applicable child support case number or numbers of the obligor or individual;
- (3) The amount of the arrears, the amount of the monthly child support obligation, and reference to the support order upon which the support amount and arrears are based or the subpoena or warrant that the individual has failed to comply with;
- (4) A statement that the obligor or individual may contest the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of a license by requesting a hearing in writing which shall be received by the agency within thirty days of the date of service of the notice of intent to suspend, not renew, not reinstate, not restore, or deny the license;

- (5) A statement that the obligor may contact the agency in writing within thirty days of receiving the notice and enter into a monthly payment agreement for the arrears owed, and if an agreement is entered into within thirty days of making contact with the agency, the agency shall not pursue the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of the license;
- (6) A statement that an individual not in compliance with a subpoena or warrant relating to a paternity or child support proceeding may contact the agency in writing within thirty days after receiving the notice and enter into an agreement to provide the information or appear at the proceedings, and if so, the agency shall not pursue the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of the license; and
- (7) A statement that if the obligor or individual makes a timely request as specified in paragraph (4), the agency shall stay the action until a decision is made.

(c) If the obligor or individual:

- (1) Fails to contact the agency in writing within thirty days of the date of service of the notice;
- (2) Is not in compliance with an order of support or failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, and does not timely enter into an agreement under subsection (d); or
- (3) If the office issues a decision that the obligor or an individual is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding,

the agency shall certify in writing to the licensing authority that the obligor is not in compliance with an order of support or that the individual is not in compliance with a subpoena or warrant relating to a paternity or child support proceeding, and shall authorize the immediate suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of any license held or applied for by the obligor or individual. The agency shall provide a copy of the certification to the obligor or individual.

Upon receipt of the certification, the licensing authority shall suspend any license that the obligor or individual holds or deny any license for which the obligor or individual applies without further review or hearing concerning the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial.

Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal, reinstatement, or restoration of a license, a certification issued by the agency suspending, not renewing, not reinstating, not restoring, or denying a license shall be implemented by the licensing authority and continue in effect until the licensing authority receives a written release of suspension or denial from the agency, the office of child support hearings, or the family court.

(d) The obligor may enter into a payment agreement with the agency if the obligor makes contact with the agency within thirty days of the date of the notice, or the individual may enter into an agreement to provide the information requested in the subpoena or appear at the proceeding required by the warrant.

(e) If the obligor or the individual requests an administrative hearing in writing within thirty days of the service of the notice as provided in subsection (b), the office shall schedule a hearing to determine whether the obligor is not in compliance with a support order or whether the individual is not in compliance with a subpoena or warrant relating to a paternity or child support proceeding. The hearing shall be conducted in accordance with chapters 91 and 576E. The issues before the hearings officer shall be limited to whether the obligor is in compliance with an order of support or whether the individual is in compliance with a subpoena

or warrant relating to a paternity or child support proceeding. The hearings officer shall issue a written decision within ten days of the hearing. If the hearings officer decides that the obligor is not in compliance with a support order or that the individual is not in compliance with a subpoena or warrant relating to a paternity or child support proceeding, the license held or applied for by the obligor or individual shall be denied or suspended and shall not be renewed, reinstated, or restored.

(f) The decision of the hearings officer shall be final and shall be subject to judicial review as provided in chapter 91. Any suspension or denial under this section shall not be stayed pending judicial review.

(g) In the event that an obligor or individual holds more than one license, any determination regarding suspension or denial of one license is sufficient to suspend or deny any other license within a thirty-day period after the first certification of suspension, nonrenewal, nonreinstatement, nonrestoration, or denial.

(h) When the conditions which resulted in the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial no longer exist, the agency shall provide the obligor or individual with written confirmation that the obligor is in compliance with the order of support or that the individual is in compliance with the subpoena or warrant relating to a paternity or child support proceeding, and the agency, office, or the family court shall issue an authorization cancelling the certification in writing to the licensing authority.

(i) If a license is suspended or denied under this section, any funds paid by the obligor or individual to the licensing authority shall not be refunded by the licensing authority, and the licensing authority may charge a fee for reinstating or restoring a license. The licensing authority may also charge the obligor or individual a reasonable fee to cover the administrative costs incurred by the licensing authority in complying with this section.

(j) The agency shall adopt rules necessary for the implementation and administration of this section. The licensing authority shall adopt rules necessary for the implementation and administration of this section.

**§576D-B Implementation of income withholding.** (a) For cases being enforced under the Title IV-D state plan or for those parents applying to the agency for services, the income of an obligor who receives income on a periodic basis and who has a support obligation imposed by a support order issued or modified in the State before October 1, 1996, if not otherwise subject to withholding, shall become subject to withholding as provided in subsection (b) if arrearages or delinquency occur, without the need for a judicial or administrative hearing. The agency shall implement such withholding without the necessity of any application in the case of a child with respect to whom services are already being provided under Title IV-D and shall implement on the basis of an application for services under Title IV-D in the case of any other child on whose behalf a support order has been issued or modified. In either case, such withholding shall occur without the need for any amendment to the support order involved or for any further action by the court or other entity which issued such order.

(b) If the obligor who receives income on a periodic basis becomes delinquent in making payments under a support order in an amount at least equal to the support payable for one month, the agency shall issue an income withholding order that shall include an amount to be paid for current support and towards the delinquency. The order shall be served upon the employer by certified mail or personal service, or transmitted to the employer through electronic means.

(c) Upon the agency's receipt of an interstate income withholding request from another jurisdiction, the agency may issue an income withholding order to collect the support imposed upon the obligor by a support order issued or modified by the other state. The order shall include an amount adequate to ensure that past due

payments and payments which will become due in the future under the terms of the support order will be paid.

(d) A copy of the order shall be filed in the office of the clerk of the circuit court in the circuit where the order was issued.

(e) Upon sending the order of income withholding to the employer, the agency shall send a notice of the withholding to each obligor to whom subsections (b) and (c) apply. The notice shall inform the obligor:

- (1) That the withholding has commenced;
- (2) That the obligor may request a hearing in writing within fourteen days of the date of the notice;
- (3) That, unless the obligor files a written request for a hearing within fourteen days of the date of the notice, the money received from the income withholding will be distributed to the custodial parent or, in an interstate case, the obligee in the other jurisdiction, or in the case where the children are receiving public assistance, to the State;
- (4) That the only defense to income withholding is mistake of fact; and
- (5) Of the information that was provided to the employer with respect to the employer's duties pursuant to section 576E-16.

(f) The agency may delay the distribution of collections toward arrearages or delinquency until the resolution of any requested hearing regarding the arrearages or delinquency.

(g) Upon timely receipt of a request for a hearing from the obligor, the agency shall refer the matter to the office and a hearing shall be conducted pursuant to chapters 91 and 576E.

(h) Upon receiving an order of income withholding from the agency, the employer is subject to the requirements of section 576E-16(b) through (h).

**§576D-C Financial institution data match system.** (a) The agency may enter into agreements with financial institutions doing business in the State to develop and operate a data match system for the purposes of support enforcement, using automated data exchanges to the maximum extent feasible.

(b) The financial institution shall provide to the agency, on a quarterly basis, the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past due support, as identified by the agency by name and social security number or other taxpayer identification number.

(c) In response to a notice of lien or levy, the financial institution shall surrender or encumber assets held by such institution to the agency on behalf of any noncustodial parent who is subject to a child support lien arising by operation of law against real and personal property for delinquent support owed by the noncustodial parent who resides in or owns property in the State and those liens shall be accorded full faith and credit when the agency or other entity seeking to enforce the lien has complied with the procedural rules of the State and, if applicable, section 501-102.

(d) The agency may pay a reasonable fee to a financial institution for conducting the data match provided for in this section, not to exceed the actual costs incurred by the institution.

(e) A financial institution shall not be liable under any state law to any person for:

- (1) The disclosure of information to the agency under this section;
- (2) The encumbrance or surrender of any assets held by such financial institution in response to a notice of lien or levy issued by the agency as provided for in subsection (c); or

- (3) Any other action taken in good faith to comply with the requirements of this section.

(f) Unless otherwise required by applicable law, a financial institution furnishing a report or providing information to the agency under this section shall not disclose to a depositor or an account holder that the name of such person has been received from or furnished to the agency; provided that an institution may disclose to its depositors or account holders that under the bank match system the agency has the authority to request certain identifying information on certain depositors or account holders. If an institution wilfully violates this section, the institution shall pay to the agency the lesser of \$1,000 or the amount on deposit or in the account of the person to whom such disclosure was made. An institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the agency under this section, or from the failure to disclose to a depositor or account holder that the name of such person was included in a list furnished by the agency or in a report furnished by the institution to the agency. An institution may charge an account levied on by the agency a fee, as determined by the agency, of not less than \$20 nor more than \$50 which shall be deducted from such account prior to remitting any funds to the agency.

- (g) For purposes of this section:

“Account” means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or a money-market mutual fund account.

“Financial institution” means every financial institution doing business in the State, as defined in section 412:1-109, and the term also includes but is not limited to any benefit association, insurance company, safe deposit company, money-market mutual fund, or entity similar to the foregoing authorized to do business in the State.

“Financial record” means the same as the term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. §3401).

“Money-market mutual fund” means every regulated investment company within the meaning of section 851(a) of the Internal Revenue Code of 1986, as amended, which seeks to maintain a constant net asset value of one dollar in accordance with 17 C.F.R. §270.2a-7.

**§576D-D Duty of employers to report new hires to the agency; civil penalties for failure to comply with reporting; national new hire directory.** (a) Beginning October 1, 1998, each employer in the State shall report to the agency within twenty days of hire the name, address, and social security number of each new employee along with the name, federal identification number, and address of the employer. Each report shall be made on a W-4 form or its equivalent, and may be transmitted by first class mail, magnetically, or electronically. If an employer is transmitting reports to the agency magnetically or electronically, the report shall be transmitted twice monthly not less than twelve days nor more than sixteen days apart. The agency shall maintain these reports as the state directory of new hires.

(b) Employers failing to report the information required in subsection (a) shall be subject to a civil penalty of \$25 or, if the failure is the result of a conspiracy between the employer and the employee not to supply the required report or to supply a false or incomplete report, a \$500 fine.

(c) Within three working days after the date information is reported to the agency’s state directory of new hires, the agency shall furnish the information to the national directory of new hires. The agency shall furnish extracts of the reports required to the national directory of new hires on a quarterly basis concerning the wages and compensation paid to individuals, by such dates, in such format, and

containing such information as the United States Secretary of Health and Human Services shall specify in regulations.

**§576D-E Wilful violations; penalties.** Unless otherwise provided, any person or entity in the State including for-profit, nonprofit, and labor organizations, and any agency, board, commission, authority, court, or committee of the State or its political subdivisions who knowingly, intentionally, or wilfully violates any section of this chapter or any request of the agency pursuant to this chapter shall be guilty of a petty misdemeanor.

**§576D-F Investigators.** (a) The attorney general shall commission child support enforcement investigators who shall have all powers and authority of a police officer or a deputy sheriff to fulfill their official responsibilities; provided that a person so appointed and commissioned shall not carry firearms.

(b) The duties of the commissioned investigators shall be to locate absent parents for the establishment of paternity, and for obtaining and enforcing orders of support.

(c) The agency shall have access, including automated inquiry access, to the records of all entities in the State for information on the employment, compensation, and benefits of any individual member, employee, or contractor of such entity, in order to accomplish the purposes of the child support program. The entities include, but are not limited to for-profit, nonprofit, and labor organizations, and any agency, board, commission, authority, court, or committee of the State or its political subdivisions, notwithstanding any provision for confidentiality. Subject to safeguards on privacy and confidentiality and subject to the nonliability of entities that afford access under this section, the agency shall also have access to records held by private entities with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought consisting of:

- (1) The names and addresses of individuals and the names and addresses of the employers of such individuals as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized pursuant to section 576E-2; and
- (2) Information, including information on assets and liabilities, on such individuals held by financial institutions.

(d) Other state or territorial agencies administering a program under Title IV-D shall have access, including automated inquiry access, to the records of all entities in the State for information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, to the same extent and with the same restrictions as child support enforcement investigators pursuant to this chapter.”

SECTION 7. Chapter 580, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read as follows:

**“§580- Divorce decree, support order; social security number.** The social security number of any individual who is party to a divorce decree or subject to a support order issued under this chapter shall be placed in the records relating to the matter.”

SECTION 8. Chapter 584, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§584- Paternity judgment, acknowledgment, support order; social security number.** The social security number of any individual who is subject to a

paternity judgment or acknowledgment, or support order issued under this chapter shall be placed in the records relating to the matter.

**§584- Filing of acknowledgments and adjudications with department of health.** All voluntary acknowledgments and adjudications of paternity by judicial process shall be filed with the department of health for comparison with information in the state case registry. Filing of the adjudications of paternity shall be the responsibility of the natural mother or such person or agency as the court shall direct.

**§584- Temporary support order based on probable paternity.** In all contested paternity actions where a presumption of paternity as defined in section 584-4 exists, upon motion by a party, the court shall order temporary support for the child pending a judicial determination of parentage.”

SECTION 9. Chapter 634, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§634- Presumption of notice and service of process in child support cases.** Whenever notice and service of process is required for child support enforcement proceedings subsequent to an order issued pursuant to chapter 571, 576 or its successor, 576E, 580, or 584, upon a showing that diligent effort has been made to ascertain the location of a party, notice and service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry pursuant to section 571-52.6.”

SECTION 10. Section 183D-22, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-22 Application and issuance of licenses; fees.** (a) A hunting license shall be issued to a person by an agent of the department upon:

- (1) Written application in the form prescribed by the department;
- (2) Payment of a hunting license fee or any other hunting related fee the board may require as provided in this chapter; and
- (3) Showing of a valid hunter education certificate or written exemption issued under section 183D-28.

The application shall require a statement under oath of the applicant’s name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes.

(b) The hunting license fee shall be:

- (1) \$10 for any person who has resided in the State for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof, or who elects to forgo the exemption provided in paragraph (3);
- (2) \$95 for all other persons; and
- (3) Free to all Hawaii residents sixty-five years of age or older and to all persons with Hansen’s disease who are residents of Kalaupapa, Molokai.

(c) The department shall suspend, refuse to renew, reinstate, or restore, or deny any license if the department has received certification from the child support enforcement agency pursuant to section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, restore, or reinstate such a license only upon receipt of an authorization

from the child support enforcement agency, the office of child support hearings, or the family court.”

SECTION 11. Section 188-50, Hawaii Revised Statutes, is amended to read as follows:

**“§188-50 License; application; fees; restrictions.** (a) It is unlawful for any person, except children below nine years of age, to fish, take, or catch any introduced freshwater game fish without first obtaining a license. Children exempt by this section may fish, provided they are accompanied by a licensed person. The department of land and natural resources may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter and to set fees for freshwater game fish fishing.

(b) The licenses shall be issued by agents of the department of land and natural resources upon written application in such form as may be prescribed by the department together with payment of a fee. The application shall require a statement under oath of the applicant’s name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. All licenses shall expire and become void one year from the date of issuance, except the tourist license which shall expire and become void thirty days after the date of issuance; provided that no fees or charges shall be made for licenses issued to persons sixty-five years of age or<sup>1</sup> older. A duplicate license may be issued upon affidavit that the original license has been lost or destroyed and upon the payment of a duplicate license fee. The fees for licenses and duplicate licenses shall be established by the department by rules adopted in accordance with chapter 91. The department shall set the fees in an amount that, when combined with the fees provided for in sections 188-37 and 189-2, shall be reasonably necessary to supplement the funding for:

- (1) Enforcement of this chapter and section 189-2; and
- (2) The activities set forth in section 187A-11.

(c) No person to whom a license has been issued under this section shall permit any other person to carry, display, or use the license for any purpose. Every person to whom a license has been issued under this section shall show the license upon demand of any officer authorized to enforce the fishing laws of the State. No person shall refuse any officer the examination or inspection of any bag or container of any kind used to carry fish or any vehicle or conveyance used to transport fish.

The department, upon written application, may issue a permit to a club or group of minors, not less than five in number, for unlicensed fishing where such activity will be supervised by responsible adults. All adults accompanying the excursions, however, shall themselves be licensed. The application shall state the area to be visited, the dates for the excursion, the name of the organization or group, and shall be signed by an adult advisor of the group. The permits shall expire and become void thirty days after issuance. The department may determine other terms and conditions of the permits.

(d) Where a bag limit is specified for the catching of freshwater fish, each licensee may take only one bag per day. This restriction to one bag applies to each minor participating in unlicensed group excursions for which permits have been issued under this section. The catch of a child below the age of nine years shall be deemed part of the catch of the licensed adult accompanying the child.

(e) The department may revoke any license for any infraction of the terms and conditions of the license. Any person whose license has been revoked shall not be eligible to apply for another license until<sup>2</sup> expiration of one year from the date of revocation.

(f) The department shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the department has received certification from the

child support enforcement agency pursuant to section 576D-A that the licensee or applicant is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, restore, or reinstate a license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court.”

SECTION 12. Section 286-102, Hawaii Revised Statutes, is amended to read as follows:

“**§286-102 Licensing.** (a) No person, except one exempted under section 286-105, one who holds an instruction permit under section 286-110, one who holds a commercial driver’s license issued under section 286-239, or a commercial driver’s license instruction permit issued under section 286-236, shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified driver of that category of motor vehicles.

(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Motor scooters;
- (2) Motorcycles and motor scooters;
- (3) Passenger cars of any gross vehicle weight rating<sup>3</sup> buses designed to transport fifteen or fewer occupants, and trucks and vans having a gross vehicle weight rating of ten thousand pounds or less;
- (4) All of the motor vehicles in category (3) and trucks having a gross vehicle weight rating of ten thousand one through twenty-six thousand pounds.

A school bus or van operator shall be properly licensed to operate the category of vehicles that the operator operates as a school bus or van and shall comply with the standards of the department of transportation as provided by rules adopted pursuant to section 286-181.

(c) No person shall receive a driver’s license without surrendering to the examiner of drivers all valid driver’s licenses in the person’s possession. All licenses so surrendered shall be returned to the issuing authority, together with information that the person is licensed in this State; provided that with the exception of driver’s licenses issued by any Canadian province, a foreign driver’s license may be returned to the owner after being invalidated pursuant to issuance of a Hawaii license; and provided further that the examiner of drivers shall notify the authority that issued the foreign license that the license has been invalidated and returned because the owner is now licensed in this State. No person shall be permitted to hold more than one valid driver’s license at any time.

(d) In addition to other qualifications and conditions by or pursuant to this part, the right of an individual to hold a motor vehicle operator’s license or permit issued by the county is subject to the requirements of section 576D-A.

Upon receipt of certification from the child support enforcement agency pursuant to section 576D-A that an obligor or individual who owns or operates a motor vehicle is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, the examiner of drivers shall suspend the license and right to operate motor vehicles and confiscate the license of the obligor. The examiner of drivers shall not reinstate an obligor’s or individual’s license until the child support enforcement agency, the office of child support hearings, or the family court issues an authorization that states the obligor or individual is in compliance with an order

of support or has complied with a subpoena or warrant relating to a paternity or child support hearing.

The licensing authority may adopt rules pursuant to chapter 91 to implement and enforce the requirements of this section.”

SECTION 13. Section 286-241.4, Hawaii Revised Statutes, is amended to read as follows:

**“§286-241.4 Authority of examiner of drivers to suspend, revoke, or cancel commercial driver’s license or permit.** (a) The examiner of drivers may suspend, revoke, or cancel any commercial driver’s license or permit without a hearing when the examiner of drivers has probable cause to believe that the licensee is disqualified under section 286-240(c) through (h). [Upon suspension, revocation, or cancellation of the commercial driver’s license or permit, the driver’s license or permit shall be surrendered to the examiner of drivers by the licensee or permittee.]

(b) The examiner of drivers shall deny or suspend any commercial driver’s license pursuant to the terms of 576D-A when the examiner of drivers receives certification from the child support enforcement agency that the licensee is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Both the licensee and the licensee’s employer shall be notified of the suspension.

(c) Upon suspension, revocation, or cancellation of the commercial driver’s license or permit, the driver’s license or permit shall be surrendered to the examiner of drivers by the licensee or permittee.

(d) Unless otherwise provided by law, the licensing authority shall reinstate, renew, or approve the license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court.”

SECTION 14. Section 286-241.5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§286-241.5]] Notification and hearing.** When the examiner of drivers suspends, revokes, or cancels a commercial driver’s license or permit under section [286-241.4<sup>3</sup>] 286-241.4(a), the examiner of drivers shall immediately notify the licensee and afford the licensee an opportunity for a hearing.”

SECTION 15. Section 321-15, Hawaii Revised Statutes, is amended to read as follows:

**“§321-15 Annual registration; fees, failure to register.** (a) Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health, in accordance with the rules of the department, before February 1 of each year and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding such a license to reregister or pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person’s license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and an additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the environmental health program enhancement and education fund established under section 321-27.

(b) The department shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the department has received certification from the

child support enforcement agency pursuant to the terms of section 576D-A that the licensee or applicant is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Unless otherwise provided by law, the department shall grant, renew, restore, or reinstate a license only upon receipt of an authorization from the child support enforcement agency, office of child support hearings, or family court.”

SECTION 16. Section 321-393, Hawaii Revised Statutes, is amended to read as follows:

“[[§321-393]] License required. (a) Except as otherwise provided by law, no person, other than a physician, shall engage or hold themselves out as practicing midwifery without first obtaining and holding a valid license to do so in accordance with this part and any rules adopted by the department.

(b) The department shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the department has received certification from the child support enforcement agency pursuant to section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, pursuant to the terms of section 576D-A. The department shall grant, renew, restore, or reinstate a license only upon receipt of an authorization from the child support enforcement agency, the office of child support hearings, or the family court.”

SECTION 17. Section 338-11, Hawaii Revised Statutes, is amended to read as follows:

“§338-11 Form of certificates. The forms of certificates shall include as a minimum the items required by the respective standard certificates as recommended by the Public Health Service, National Center for Health Statistics, subject to approval of and modification by the department of health. In addition, the forms of death certificates shall require the individual’s social security number. The form and use of the certificates shall be subject to sections 338-16 to 338-18.”

SECTION 18. Section 353-22.8, Hawaii Revised Statutes, is amended to read as follows:

“[[§353-22.8]] Orders for payment of child support. The director of public safety shall comply with orders for payment of child support from inmate individual trust accounts to the child support enforcement agency pursuant to section 571-52, 571-52.2, 576D-B, or 576E-16 [and], this section[,], or chapter 576 or its successor. When the total of all new deposits and credits to the inmate’s individual trust account in a given month is less than or equal to \$15, no payment shall be made for child support that month out of the trust account. When the total of all new deposits and credits to the inmate’s individual trust account in a given month exceeds \$15, no more than thirty per cent of the total new deposit or credit to the individual’s trust account shall be paid for child support out of the account for that month.”

SECTION 19. Section 445-10, Hawaii Revised Statutes, is amended to read as follows:

“§445-10 Term of license. (a) Subject to section 445-5, all licenses issued for carrying on the several businesses[,], or doing the acts specified in this chapter

[enumerated,] shall be issued by the treasurer in accordance with the terms and conditions and for the fees specified in this chapter [enumerated], for the respective terms of one year from the several dates of issue.

(b) The treasurer shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the treasurer has received certification from the child support enforcement agency pursuant to the terms of section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Unless otherwise provided by law, the treasurer shall grant, reinstate, renew, or restore the license only upon receipt of an authorization from the child support enforcement agency, office of child support hearings, or family court."

SECTION 20. Section 466J-8, Hawaii Revised Statutes, is amended to read as follows:

**"§466J-8 Denial, revocation, or suspension of license.** (a) The board shall have the power to deny, revoke, or suspend any license issued or applied for in accordance with this chapter, upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice as a radiographer or a radiation therapy technologist;
- (2) Is mentally incompetent;
- (3) Is guilty of unprofessional conduct; or
- (4) Has knowingly or repeatedly violated this chapter.

(b) Before denying, suspending, or revoking any license[,] pursuant to subsection (a), the board shall furnish the licensee a notice in writing as prescribed by section 91-9 and shall afford the licensee an opportunity to be heard in person and by or with counsel. Any order denying a license, or suspending or revoking a license shall be rendered not later than fifteen days after the hearing, and any aggrieved person may appeal the order as provided in chapter 91.

(c) The board shall suspend, refuse to renew, reinstate, or restore, or deny any license or application if the board has received certification from the child support enforcement agency pursuant to the terms of section 576D-A that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Unless otherwise provided by law, the board shall issue, renew, restore, or reinstate the license only upon receipt of an authorization from the child support enforcement agency, office of child support hearings, or family court. Subsection (b) shall not apply to a license suspension pursuant to this subsection."

SECTION 21. Section 501-102, Hawaii Revised Statutes, is amended to read as follows:

**"§501-102 Filing liens, etc., notice.** Every conveyance, lien, attachment, order, decree, instrument, or entry affecting registered land, which would under existing laws, if recorded, filed, or entered in the bureau of conveyances, affect the real estate to which it relates, shall, if registered, filed or recorded, or entered in the office of the assistant registrar in the bureau of conveyances, be notice to all persons from the time of such registering, filing, recording, or entering. This section shall not be construed to relate to state or federal tax liens[,] or child support liens that are created pursuant to order or judgment filed through judicial or administrative proceeding in this State or in any other state, the recording of which shall be as provided by chapters 231 [and], 505,<sup>4</sup> and 576D, respectively. The recordation of the child support order or judgment in the bureau of conveyances shall be deemed, at

such time, for all purposes and without any further action, to place a lien on land registered in the land court under this chapter.”

SECTION 22. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding section 571-52, the court [or the child support enforcement agency] shall order an assignment of future income when:

- (1) The court has ordered any person (hereinafter the “obligor”) to make periodic payments toward the support of a child pursuant to a court or administrative order, judgment, or decree;
- (2) The court or administrative order, judgment, or decree provides for an automatic assignment of the obligor’s income upon the obligor’s failure to timely pay any child support that the obligor is required to pay through the child support enforcement agency or directly to the obligee; and
- (3) The [child support enforcement agency] 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 [and notifies the court].

The order shall take effect without necessity of further action of the court [or child support enforcement agency], except when a hearing is requested under subsection (c).”

SECTION 23. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

“(c) The court or the clerk of the court [or the child support enforcement agency] shall provide the obligor written notice at least fourteen days in advance of entering an automatic income assignment and inform the obligor the automatic income assignment will issue on a certain date unless the obligor files with the court or the clerk of the court [or the child support enforcement agency, whichever provided the notice,] 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 [or the child support enforcement agency] shall not issue the automatic assignment of future income until a hearing is held and the matter resolved. The court [and the child support enforcement agency] 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 child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of income and who has been served with a [certified] copy of the assignment order. [The copy of the order may be certified by the court or the office of child support hearings as a true copy of the order.] The assignment shall be terminated when appropriate by the court or the clerk of the court or the child support enforcement agency; provided that payment of all overdue support shall not be the sole basis for terminating the assignment. In the event that the obligee retains private counsel or proceeds pro se, the obligee shall have primary responsibility for terminating the assignment. If the obligee fails to terminate the assignment when appropriate, the obligee shall reimburse the obligor to the extent of any overpayment. If the assignment is not terminated when appropriate, the obligor may seek reimbursement for any overpayment from the obligee or from the child support enforcement agency, to the extent

the overpayment was disbursed to the department of human services. The child support enforcement agency shall establish procedures by rule in accordance with chapter 91 for the prompt reimbursement for any overpayment to the obligor.

(e) An employer receiving an assignment order shall send the amounts withheld to the designated obligee or, if requested, to this State's child support enforcement agency within five working days after the obligor is paid. The employer shall begin withholding no later than the first pay period occurring within [fourteen] seven business days following the date a [certified] copy of the order is mailed to the employer. As used in this subsection, the term "business day" means a day on which the employer's office is open for regular business. The employer shall withhold funds as directed in the order, except that when an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

- (1) The employer's fee for processing an income assignment order;
- (2) The maximum amount permitted to be withheld from the obligor's income under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. §1673(b));
- (3) The time periods within which the employer must implement the income withholding order and forward the child support payment;
- (4) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (5) Any withholding terms or conditions not specified in the order.

An employer who complies with an income assignment order that is regular on its face shall not be subject to civil liability to any person or agency for conduct in compliance with the order.

An employer who is required to withhold amounts from the income of more than one obligor may remit a sum total of the amounts in one check, with a listing of the amounts applicable to each obligor.

Within [five] two working days after receipt of the amounts withheld by the employer, the child support enforcement agency shall disburse those amounts to the obligee for the benefit of the child[.], except that the child support enforcement agency may delay the distribution of collections toward arrearages until the resolution of any timely request for a hearing with respect to such arrearages."

SECTION 24. Section 571-52.6, Hawaii Revised Statutes, is amended to read as follows:

**“[[§571-52.6]] Child support order, judgment, or decree; accident and sickness insurance coverage.** Each order, judgment, or decree under this chapter or chapter 576[,] or its successor, 580, or 584 ordering a person to pay child support shall include [a provision concerning] the following provisions:

- (1) Both the obligor and the obligee are required to file with the state case registry, through the child support enforcement agency, upon entry of the child support order and to update as appropriate, information on the identity and location of the party, including social security number, residential and mailing addresses, telephone number, driver's license number if different from social security number, and name, address, and telephone number of the party's employer; and
- (2) The liability of that person for accident and sickness insurance coverage when available at reasonable cost."

SECTION 25. Section 572-6, Hawaii Revised Statutes, is amended to read as follows:

**“§572-6 Application; license; limitations.** To secure a license to marry, the persons applying for the license shall appear personally before an agent authorized to grant marriage licenses and shall file with the agent an application in writing. The application shall be accompanied by a statement signed and sworn to by each of the persons, setting forth: the person’s full name, date of birth, social security number, residence; their relationship, if any; the full names of parents; and that all prior marriages, if any, have been dissolved by death or dissolution. If all prior marriages have been dissolved by death or dissolution, the statement shall also set forth the date of death of the last prior spouse or the date and jurisdiction in which the last decree of dissolution was entered. Any other information consistent with the standard marriage certificate as recommended by the Public Health Service, National Center for Health Statistics, may be requested for statistical or other purposes, subject to approval of and modification by the department of health; provided that the information shall be provided at the option of the applicant and no applicant shall be denied a license for failure to provide the information. The agent shall indorse on the application, over the agent’s signature, the date of the filing thereof and shall issue a license which shall bear on its face the date of issuance. Every license shall be of full force and effect for thirty days commencing from and including the date of issuance. After the thirty-day period, the license shall become void and no marriage ceremony shall be performed thereon.

It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the agent of the department of health in the district in which the license is issued, setting forth all facts required to be stated in such manner and on such form as the department may prescribe.”

SECTION 26. Section 576D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding six new definitions to be appropriately inserted and to read:

““Compliance with an order of support” means that an obligor:

- (1) Is not delinquent in payments in an amount equal to or greater than the sum of payments for current child support and spousal support when ordered in conjunction with child support for a three-month period with regard to driver’s licenses and recreational licenses and a six-month period with regard to professional and vocational licenses;
- (2) Is not delinquent in making periodic payments on a support arrearage pursuant to a written agreement with the child support enforcement agency under section 576D-A(d); or
- (3) Has obtained or maintained health insurance coverage as required by a child support order.

“License” means any license, certification, registration, or permit issued by a licensing authority for recreational purposes, or to conduct a trade or business, including a license to practice a profession or vocation, or a license to operate any motor vehicle, boat, airplane, or helicopter.

“Licensing authority” means any unit of the state or county government, including agencies, departments, boards, commissions, or authorities, or any other entity within the State or county authorized by statute to grant or deny licenses.

“Office” means the office of child support hearings established pursuant to chapter 576E.

“Order of support” means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child

who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief. An order of support may include spousal support when ordered to be paid in conjunction with child support.

"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."

2. By amending the definitions of the following to read:

"Debtor parent" means any person who is delinquent in payment of [court-ordered] child support payments or who owes a public assistance debt."

"Obligor" means [an absent parent<sup>5</sup>] a responsible parent by court or administrative order obligated to pay child support[.] or who is obligated by court order to pay spousal support in conjunction with child support."

SECTION 27. Section 576D-6, Hawaii Revised Statutes, is amended to read as follows:

**§576D-6 Other duties of agency.** (a) The agency shall:

- (1) Establish a state parent locator service for the purpose of locating absent and custodial parents;
- (2) Cooperate with other states in:
  - (A) Establishing paternity, if necessary;
  - (B) Locating an absent parent who is present in the State and against whom any action is being taken under a Title IV-D program in any other state; and
  - (C) Securing compliance by such an absent parent with a support order issued by a court of competent jurisdiction in another state;
- (3) Perform periodic checks of whether a parent is collecting unemployment compensation and, if so, to arrange, either through agreement with the parent or by bringing legal process, to have a portion of the compensation withheld, to fulfill the parent's child support obligations;
- (4) Notify annually each custodial parent, guardian, protective payee, or other person having custody of the child of an Aid to Families with Dependent Children family of the amount of child support collected on behalf of the child in the family. For the purpose of this section, "Aid to Families with Dependent Children family" means a family which receives financial assistance under the federal Aid to Families with Dependent Children program[;] or its successor;
- (5) Establish and utilize procedures which shall require a debtor parent to give security, post bond, or give some other guarantee to secure payment of delinquent child support. The procedures shall apply to all debtor parents of children described under section 576D-3. The procedures shall include advance notice to the debtor parent in full compliance with the State's procedural due process requirements. The agency shall develop guidelines, which are available to the public, to determine whether the case is inappropriate for application of this requirement;
- (6) Establish and utilize procedures by which information regarding the amount of delinquent child support owed by a debtor parent residing in the State will be made available to any consumer reporting agency. The procedures shall be effectuated upon the agency being authorized to provide Title IV-D services, and shall include provisions on advance notice to the debtor parent whose information is being reported of the

procedures, which shall be in full compliance with the State's procedural due process requirements, to contest the accuracy of the information;

- (7) Establish and utilize procedures which will enforce liens against the real and personal property of a debtor parent who owes overdue support and who resides or owns property in the State. The agency shall further establish guidelines which are available to the public to determine whether the case is inappropriate for application of this paragraph;
- (8) Establish and utilize procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;
- (9) Establish and utilize procedures for prompt reimbursements of overpayments of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the reimbursements to be made by the custodial parent or agency;
- (10) Establish and utilize procedures for periodic review and modification of child support orders in accordance with Title IV-D; [and]
- (11) Provide notice not less than once every three years to those parents subject to an order of support informing the parents of their right to request the agency to review and, if appropriate, adjust the order of support pursuant to the guidelines established under section 576D-7;
- (12) Establish and operate a state case registry which contains records of:
  - (A) Each case in which services are being provided by the agency under the state plan; and
  - (B) Each support order established or modified in the State on or after October 1, 1998.

Such records shall use standardized data elements for both parents, including but not limited to names, residential and mailing addresses, telephone numbers, driver's license numbers, names, addresses, and telephone number of the party's employer, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers, and contain such other information as required by the United States Secretary of the Department of Health and Human Services. In each case with respect to subparagraph (A) and where a support order has been established, the case record shall include the amount of monthly or other periodic support owed under the order, and other amounts, including but not limited to arrearages, due under the order, the amounts collected under the order, the birthdate of any child for whom the order requires the provision of support, and the amount of any lien imposed;

- (13) Perform other duties required under chapter \_\_\_\_\_, the Uniform Interstate Family Support Act; and
- (11) (14) Perform other duties required under Title IV-D.

(b) The procedures required under subsection (a)(5), (6), (7), (8), (9), and (10) shall be established by rule in accordance with chapter 91."

SECTION 28. 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, shall update the guidelines at least once every four years.

(d) The establishment of the guidelines or 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.

(e) The responsible or custodial parent for which child support has previously been ordered shall have a right to petition the family court or the child support enforcement agency not more than once every three years for review and adjustment of the child support order without having to show a change in circumstances. The responsible or custodial parent shall not be precluded from petitioning the family court or the child support enforcement agency for review and adjustment of the child support order more than once in any three-year period if the second or subsequent request is supported by proof of a substantial or material change of circumstances."

SECTION 29. Section 576D-10.5, Hawaii Revised Statutes, is amended to read as follows:

**“§576D-10.5 Liens.** (a) Whenever any obligor through judicial or administrative process in this State or any other state has been ordered to pay an allowance for the support, maintenance, or education of a child, or for the support and

maintenance of a spouse or former spouse in conjunction with child support, and the obligor becomes delinquent in those payments [in an amount equal to or greater than the sum of payments which would become due over a three-month period], a lien shall arise on the obligor's real and personal property and the obligor's real and personal property shall be subject to [lien and] foreclosure, distraint, seizure and sale, or order to withhold and deliver, which shall be executed in accordance with applicable state law. No judicial notice or hearing shall be necessary prior to creation of such a lien.

(b) Whenever the dependents of the obligor receive public assistance moneys, the child support enforcement agency or its designated counsel may establish the public assistance debt through an appropriate judicial or administrative proceeding. Upon the establishment of the public assistance debt, it shall be subject to collection action, and the real and personal property of the obligor shall be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver[, which shall be executed in accordance with applicable state law].

(c) The child support order or judgment filed through judicial or administrative proceedings in this State or any other state shall be recorded in the bureau of conveyances [or filed in the office of the assistant registrar of the land court after filing in the office of the clerk of the circuit court]. The recordation of the order or judgment in the bureau of conveyances shall be deemed, at such time, for all purposes and without any further action, to procure a lien on land registered in the land court under chapter 501. The lien shall become effective immediately upon recordation of the child support order and shall attach to all interests in real or personal property then owned or subsequently acquired by the obligor including any interests not recorded with the bureau of conveyances or filed in the land court.

(d) No fee shall be charged the child support enforcement agency or its designated counsel for recording or filing of the liens provided for in this section or for the recording or filing of any releases requested in conjunction with the liens.

(e) Any lien provided for by this section shall take priority over any lien subsequently acquired or recorded except tax liens.

(f) The lien shall be enforceable by the child support enforcement agency or its designated counsel or by the obligee by suit in the appropriate court or by bringing an action in an administrative tribunal or shall be enforceable as a claim against the estate of the obligor[.] or by any lawful means of collection.

(g) The child support enforcement agency, its designated counsel or the obligee, where appropriate, shall issue certificates of release upon satisfaction of the lien. Certificates of release of any real property shall be recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court. Recordation of the certificate of release shall be the responsibility of the obligor."

SECTION 30. Section 576D-11, Hawaii Revised Statutes, is amended to read as follows:

**"§576D-11 Staff.** The attorney general shall appoint, without regard to chapters 76 and 77, an administrator; an assistant administrator who shall serve as controller and whose duties shall include but not be limited to designing and implementing controls over all financial management systems, including electronic data processing systems, and developing an appropriate staffing plan; and a staff attorney to serve as the supervisor of the administrative process activities and staff. In addition, the attorney general shall appoint, pursuant to chapters 76 and 77, other personnel as may be required to discharge the functions of the child support enforcement agency. The staff attorney shall not be considered to be a deputy attorney general under chapter 28. [The attorney general shall commission child support enforcement investigators who shall have and may exercise all the powers

and authority of a police officer or a deputy sheriff to fulfill their official responsibilities; provided that persons so appointed and commissioned shall not carry firearms. The duties of the commissioned investigators shall be to locate absent parents, to establish paternity, and to obtain and enforce court orders of support. The child support enforcement agency shall have access, including automated inquiry access, to the records of any agency, board, commission, authority, court, or committee of the State or the counties notwithstanding any provisions for confidentiality, except that the child support enforcement agency shall be subject to the same restrictions on disclosure of the records as the originating agency pursuant to section 92F-19(b).]''

SECTION 31. Section 576D-12, Hawaii Revised Statutes, is amended to read as follows:

**“§576D-12 Protection of records; divulging confidential information prohibited; penalties.** (a) The agency and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant for support services or recipient of public assistance shall be confidential. The use or disclosure of information concerning any applicant or recipient shall be limited to:

- (1) Persons duly authorized by the State or the United States in connection with their official duties, when their official duties are directly concerned with the administration and implementation of any child support enforcement plan or program approved by Title IV-A through D, or under Titles II, X, XIV, XVI, XIX, or XX of the Social Security Act, including but not limited to any legal counsel working on behalf of the agency;
- (2) Disclosure to the extent necessary to provide information to family support payors or payees or their authorized representatives regarding payments received by the agency and the status of their support accounts; provided that the information shall be disclosed to an authorized representative only if the request is accompanied by a written waiver of the payor or payee concerned;
- (3) Disclosure to consumer reporting agencies as provided in section 576D-6(a)(6);
- (4) Other agencies or persons connected with the administration of any other federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need;
- (5) Employees acting within the scope and course of their employment with the department as may be approved by the agency; and
- (6) Purposes directly connected with any investigation, enforcement, prosecution, or criminal or civil proceeding conducted in connection with the administration of any plan or program in paragraph (1); and
- (7) Disclosure to the family court as may be deemed necessary by the family court for any case pending before a court or for purposes of implementation of section 571-51.5.

(b) Disclosure to any committee or legislative body (federal, state, or county) of any information that identifies by name and address any applicant or recipient shall be prohibited.

(c) The agency shall not disclose information relating to the location of one party to another party if the agency knows a protective order has been entered with respect to the other party. The agency shall not disclose information related to the location of one party to another if the agency has reason to believe that disclosure of the information may result in physical or emotional harm to the other party.

[(c)] (d) The agency shall adopt and enforce such rules as may be necessary to prevent improper acquisition or use of confidential information. Any information obtained pursuant to this section by officials, employees, or legal counsel working on behalf of the agency may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of government records. The agency and its agents shall determine whether the inspection is in connection with the official duties or within the scope and course of employment.

[(d)] (e) The use of the records, and other communications of the agency or its agents by any other agency or department of the government to which they may be furnished, shall be limited to the purposes for which they are furnished.

[(e)] (f) Any person, including any person who is authorized by this section to obtain information, who, knowing the information obtained is from confidential records or files of the agency, intentionally discloses the information other than as authorized by law, or who intentionally or knowingly aids or abets in the inspection or disclosure of the applications or records by any person not authorized by this section to inspect such applications or records, shall be guilty of a misdemeanor, unless a greater penalty is otherwise provided by law.

[(f)] (g) Nothing in this section shall require the sealing of family court records or preclude the disclosure of information by the family court relating to any case pending before a court or for purposes of implementation of section 571-51.5.”

SECTION 32. Section 576E-1, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read:

““Compliance with an order of support” means that an obligor:

- (1) Is not delinquent in payments in an amount equal to or greater than the sum of payments which would become due for current child support, and spousal support when ordered in conjunction with child support, for a three-month period with regard to driver’s and recreational licenses and for a six-month period with regard to professional and vocational licenses;
- (2) Is not delinquent in making periodic payments on a support arrearage pursuant to a written agreement with the child support enforcement agency under section 576D-A(d); or
- (3) Has obtained or maintained health insurance coverage as required by a child support order.

“License” means any license, certification, registration, or permit issued by a licensing authority for recreational purposes, or to conduct a trade or business, including a license to practice a profession or vocation, or a license to operate any motor vehicle, boat, airplane, or helicopter.

“Licensing authority” means any unit of the State or county government, including agencies, departments, boards, commissions, or authorities, or any other entity within the State or county authorized by statute to grant or deny licenses.

“Order of support” means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support,

health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief."

SECTION 33. 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 agency and the office, 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[.] or its successor. The attorney general, through the agency and the office, 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 parties 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 party 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[:], and section 576D-B;
- (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) Determine that an obligor owes past-due support with respect to a child receiving assistance under a state program funded under Title IV-A of the Social Security Act, including Aid to Families with Dependent Children and Temporary Assistance to Needy Families and petition the court to issue an order that requires the obligor to pay such support in accordance with a plan approved by the court or, if the obligor is subject to such a plan and is not incapacitated, participate in work activities, as defined in 42 U.S.C. §607(d), as the court deems appropriate;
- (10) Order genetic testing pursuant to chapter 584 for the purpose of establishing paternity;
- (11) 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 chapter 576 or its successor; and
- [9] (12) Delegate the powers and authority described in this section to hearings officers and employees of the agency."

SECTION 34. Section 576E-4, Hawaii Revised Statutes is amended to read as follows:

“**§576E-4 Service.** (a) Service of the notice provided in section 576E-5 shall be by personal service or certified mail, return receipt requested. After initial service is effected, additional service upon a party shall be satisfied by regular mail to the party’s last known address.

(b) Service of the notice of hearing pursuant to the request for hearing under section 576E-6 of a party shall be satisfied by regular mail to the party’s address provided with the request for hearing, or if not provided, to the party’s last known address.

(c) In any child support enforcement proceedings subsequent to an order, upon a showing that diligent effort has been made to ascertain the location of a party, notice and service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry pursuant to section 571-52.6.”

SECTION 35. Section 576E-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) In exercising the powers conferred upon the attorney general in section 576E-2, the hearings officers shall have the authority to conduct hearings and enter the following orders:

- (1) Child support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provisions of orders of the family courts;
  - (2) Child support orders establishing, modifying, suspending, terminating, or enforcing child support obligations;
  - (3) Orders enforcing the collection of spousal support when child support is being established, modified, or enforced;
  - (4) Income withholding orders pursuant to section 576E-16;
  - (5) Automatic income assignment orders pursuant to [section] sections 571-52.2[;]and 576D-B;
  - (6) Interstate income withholding orders pursuant to [section 576E-16.5;] chapter 576 or its successor;
  - (7) State income tax refund setoff orders pursuant to section 231-54;
  - (8) Orders determining whether Aid to Families with Dependent Children pass through payments were properly distributed;
  - (9) Orders determining whether a party should be required to post bond in order to secure payment of past due support pursuant to section 576D-6;
  - (10) Medical insurance coverage orders; [and]
  - (11) Orders suspending or denying the granting, the renewal, the reinstatement, or the restoration of licenses or applications of an obligor or individual for noncompliance with an order of support or failure to comply with a subpoena or warrant relating to a paternity or child support proceeding, and authorizations allowing the reinstatement of suspended licenses or consideration of license applications pursuant to section 576D-A; and
- [ (11) (12) Orders in other child support areas as authorized by the attorney general.”

SECTION 36. Section 576E-11, Hawaii Revised Statutes, is amended to read as follows:

“§576E-11 **Administrative orders; required findings.** Every order entered pursuant to this chapter shall specify, where applicable, the following:

- (1) The amount of periodic support to be paid by a party with directions as to the manner of payment;
- (2) The amount of child support arrearage, if any, that has accrued under an existing court or administrative order;
- (3) The amount of public assistance debt, if any, accrued under section 346-37.1;
- (4) The amount of the periodic payment to be made in liquidation of such public assistance debt, if any, or child support arrearage, if any;
- (5) A statement that a party's taxes shall be set off against the amount of such public assistance debt, if any, or child support arrearage, if any;
- (6) The extent of the party's responsibility to provide medical insurance coverage for the dependent child involved in the case, or otherwise to pay the reasonable and necessary medical expenses of the dependent child;
- (7) The name and birth date of the dependent child;
- (8) A statement that the property of the party is subject to collection action, including but not limited to, withholding of income, unemployment compensation, workers' compensation, and retirement benefits, seizure of property, disclosure of information relating to the party's debts to consumer credit reporting agencies, and federal and state tax refund setoff;
- (9) A statement that violations of the administrative order are punishable as contempt of court; [and]
- (10) A statement notifying the parties of the right to judicial review of administrative orders, and the procedure for obtaining such review[.]; and
- (11) Identifying information for each party, including social security number, residential and mailing addresses, telephone number, driver's license number if different from the social security number, and name, address, and telephone number of the party's employer, unless there is a finding that such disclosure of information would unreasonably put at risk the health, safety, or liberty of a party or child.”

SECTION 37. 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 a review of the order and, if appropriate, shall commence administrative proceedings pursuant to sections 576E-5 through 576E-9. The need to provide for the child's health care needs through health insurance or other means shall be a basis for the agency to commence administrative proceedings pursuant to section 576E-5.

(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 establishment of the guidelines or 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) The responsible parent or custodial parent shall have a right to petition the family court or the child support enforcement agency not more than once every three years for review and adjustment of the child support order without having to show a change in circumstances. The responsible or custodial parent shall not be precluded from petitioning the family court or the child support enforcement agency for review and adjustment of child support more than once in any three-year period if the second or subsequent request is supported by proof of a substantial or material change of circumstances.

[(d)] (e) 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.

[(e)] (f) In those cases where child support payments are to continue due to the adult child's pursuance of education, the agency, at least three months prior to the adult child's nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, prior to the child's nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency upon the child reaching the age of nineteen years. In addition, if applicable, the agency or hearings officer may issue an order terminating existing assignments against the responsible parent's income and income assignment orders."

SECTION 38. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The income withholding order issued pursuant to subsection (a) or section 576D-B shall be effective immediately after service upon an employer of a [true] copy of the order, which service may be effected by certified or registered mail [or], by personal delivery[.], or by transmission through electronic means. Thereafter, the employer shall for each pay period, withhold from the income due to the responsible parent from the employer, and not required to be withheld by any other provision of federal or state law, and transmit to the designated obligee, or upon request, to the child support enforcement agency of this State, as much as may remain payable to the responsible parent for such pay period up to the amount specified in the order as being payable during the same period. The employer shall immediately inform the agency of any change that would affect the income withholding order or the disbursement thereof.

(c) Compliance by an employer with the income withholding order issued pursuant to subsection (a) or section 576D-B shall operate as a discharge of the employer's liability to the responsible parent for that portion of the responsible parent's earnings withheld and transmitted to the agency, whether or not the employer has withheld the correct amount. For each payment made pursuant to an income withholding order, the employer may deduct and retain as an administrative

fee an additional amount of \$2 from the income owed to the responsible parent. The total amount withheld from the obligor's income, including the administrative fee, may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. §1673(b)). Any income withholding order shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, and shall not be subject to the exemptions or restrictions contained in part III of chapter 651 and in chapters 652 and 653. An employer who fails to comply with an income withholding order under this section or section 576D-B shall be liable to the obligee or the agency for the full amount of all sums ordered to be withheld and transmitted. An employer receiving an income withholding order shall transmit amounts withheld to the agency within five working days after the responsible parent is paid. The employer shall begin withholding no later than the first pay period commencing within [fourteen] seven business days following the date a copy is mailed to the employer.

As used in this subsection, the term "business day" means a day on which the employer's office is open for regular business. The employer shall withhold funds as directed in the order, except that when an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

- (1) The employer's fee for processing an income withholding order;
- (2) The maximum amount permitted to be withheld from the obligor's income under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. §1673(b));
- (3) The time periods within which the employer must implement the income withholding order and forward the child support payment;
- (4) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (5) Any withholding terms or conditions not specified in the order.

An employer who complies with an income withholding order that is regular on its face shall not be subject to civil liability to any person or agency for conduct in compliance with the order.

An employer who is required to withhold amounts from the income of more than one employee may remit to the agency a sum total of all such amounts in one check with a listing of the amounts applicable to each employee.

Within [five] two working days after receipt of the amounts withheld by the employer, the agency shall disburse the amounts to the obligee for the benefit of the child[,], except that the agency may delay the distribution of collections toward arrearages until the resolution of any timely requested hearing with respect to such arrearages."

SECTION 39. Section 576E-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Where the responsible parent is ordered [pursuant to section 576E-11(5)] to provide medical insurance coverage for the dependent child, the agency shall[, in addition to any income withholding order issued pursuant to section 576E-16,] forward a copy of the support order, by registered or certified mail or by personal service, to the responsible parent's employer or union when the responsible parent fails to provide written proof to the agency, within thirty days of receipt of the order, that the insurance has been obtained or that application for insurance coverage has been made.”

SECTION 40. Section 580-47, Hawaii Revised Statutes, is amended to read as follows:

**“§580-47 Support orders; division of property.** (a) Upon granting a divorce, or thereafter if, in addition to the powers granted in subsections (c) and (d), jurisdiction of those matters is reserved under the decree by agreement of both parties or by order of court after finding that good cause exists, the court may make any further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney’s fees, costs, and expenses incurred by each party by reason of the divorce. In making these further orders, the court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. In establishing the amounts of child support, the court shall use the guidelines established under section 576D-7. Provision may be made for the support, maintenance, and education of an adult or minor child and for the support, maintenance, and education of an incompetent adult child whether or not the petition is made before or after the child has attained the age of majority. In those cases where child support payments are to continue due to the adult child’s pursuance of education, the agency, three months prior to the adult child’s nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, prior to the child’s nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college, or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency, hearings officer, or court upon the child reaching the age of nineteen years. In addition, if applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent’s income and income assignment orders.

In addition to any other relevant factors considered, the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet his or her own needs while meeting the needs of the party seeking support and maintenance;

- (12) Other factors which measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made; and
- (13) Probable duration of the need of the party seeking support and maintenance.

The court may order support and maintenance to a party for an indefinite period or until further order of the court; provided that in the event the court determines that support and maintenance shall be ordered for a specific duration wholly or partly based on competent evidence as to the amount of time which will be required for the party seeking support and maintenance to secure adequate training, education, skills, or other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure appropriate employment.

(b) An order as to the custody, management, and division of property and as to the payment of debts and the attorney's fees, costs and expenses incurred in the divorce shall be final and conclusive as to both parties subject only to appeal as in civil cases. The court shall at all times, including during the pendency of any appeal, have the power to grant any and all orders that may be necessary to protect and provide for the support and maintenance of the parties and any children of the parties to secure justice, to compel either party to advance reasonable amounts for the expenses of the appeal including attorney's fees to be incurred by the other party, and to amend and revise such orders from time to time.

(c) No order entered under the authority of subsection (a) 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 establishment of the guidelines or 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 need to provide for the child's health care needs through health insurance or other means shall be a basis for petitioning for a modification 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, 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 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.

(e) The responsible parent or the custodial parent shall have a right to petition the family court or the child support enforcement agency not more than once every three years for review and adjustment of the child support order without having to show a change in circumstances. The responsible or custodial parent shall not be precluded from petitioning the family court or the child support enforcement agency for review and adjustment more than once in any three-year period if the second or

subsequent request is supported by proof of a substantial or material change of circumstances.

[(e)] (f) Attorney’s fees and costs. The court hearing any motion for orders either revising an order for the custody, support, maintenance, and education of the children of the parties, or an order for the support and maintenance of one party by the other, or a motion for an order to enforce any such order or any order made under subsection (a) of this section, may make such orders requiring either party to pay or contribute to the payment of the attorney’s fees, costs, and expenses of the other party relating to such motion and hearing as shall appear just and equitable after consideration of the respective merits of the parties, the relative abilities of the parties, the economic condition of each party at the time of the hearing, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case.”

SECTION 41. Section 584-3.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§584-3.5]]~~ **Expedited process of paternity.** (a) To expedite the establishment of paternity, each public and private birthing hospital or center and the department of health shall provide unwed parents the opportunity to voluntarily acknowledge the paternity of a child during the period immediately prior to or following the child’s birth. The voluntary acknowledgment of paternity shall be in writing and shall consist of a single form signed under oath by both the natural mother and the natural father~~[. Designated]~~ and signed by a witness. The voluntary acknowledgment of paternity form shall include the Social Security number of each parent. Prior to the signing of the voluntary acknowledgment of paternity form, designated staff members of such facilities shall provide to both the mother and the alleged father, if he is present at the facility:

- (1) Written materials regarding paternity establishment;
- (2) Forms necessary to voluntarily acknowledge paternity;
- (3) [A] Oral and written [description] descriptions of the alternatives to, the legal consequences of, and the rights and responsibilities of acknowledging paternity[;], including, if one parent is a minor, any right afforded due to minority status; and
- (4) The opportunity to speak with staff who are trained to provide information and answer questions about paternity establishment.

The completed voluntary acknowledgment forms shall clearly identify the name and position of the staff member who provides information and answers questions of the parents regarding paternity establishment. The provision by designated staff members of the facility of the information required by this section shall not constitute the unauthorized practice of law. Each facility shall send to the department of health the original acknowledgment of paternity containing the Social Security numbers, if available, of both parents, with the information required by the department of health so that the birth certificate issued includes the name of the legal father of the child, which shall be promptly recorded by the department of health.

- (b) The child support enforcement agency shall:
  - (1) Provide to any person or facility the necessary:
    - (A) Materials and forms and a written description of the rights and responsibilities related to voluntary acknowledgment of paternity; and
    - (B) Training, guidance, and written instructions regarding voluntary acknowledgment of paternity;
  - (2) Annually assess each facility’s paternity establishment program; and

- (3) Determine if a voluntary acknowledgment has been filed with the department of health whenever it receives an application for paternity establishment services.

(c) Notwithstanding sections 338-17.7 and 338-18(b), the department of health shall disclose to the child support enforcement agency, upon request, all voluntary acknowledgment of paternity forms on file with the department of health.

[(c)] (d) As used in this section:

“Agency” means the child support enforcement agency.

“Birthing center” means any facility outside a hospital that provides maternity services.

“Birthing hospital” means any hospital with licensed obstetric-care units, any hospital licensed to provide obstetric services, or any licensed birthing center associated with a hospital.

“Facility” means a birthing hospital or a birthing center.

(e) The signed voluntary acknowledgment of paternity shall constitute a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment:

(1) Within sixty days of signature; or

(2) Before the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order to which the signatory is a party,

whichever is sooner.

(f) Following the sixty-day period referred to in subsection (e), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger. The legal responsibilities of any signatory arising from the acknowledgment, including child support obligations, shall not be suspended during the challenge, except for good cause shown.

(g) The courts and office of child support hearings of this State shall give full faith and credit to affidavits for the voluntary acknowledgment of paternity signed in any other state and these affidavits shall constitute legal findings of paternity subject to subsections (e) and (f).

(h) Judicial and administrative proceedings shall not be required or permitted to ratify an unchallenged acknowledgment of paternity.”

SECTION 42. Section 584-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A man is presumed to be the natural father of a child if:

(1) He and the child’s natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;

(2) Before the child’s birth, he and the child’s natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(A) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or

- (B) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;
- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
  - (A) He has acknowledged his paternity of the child in writing filed with the department of health;
  - (B) With his consent, he is named as the child's father on the child's birth certificate; or
  - (C) He is obligated to support the child under a written voluntary promise or by court order;
- (4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child;
- (5) Pursuant to section 584-11, he submits to court ordered genetic testing and the results, as stated in a report prepared by the testing laboratory, do not exclude the possibility of his paternity of the child; provided the testing used has a power of exclusion greater than 99.0 per cent and a minimum combined paternity index of five hundred to one; or
- (6) [He files with the department of health:
  - (A)] A voluntary, written acknowledgment of paternity of the child<sup>3</sup> signed by him under oath[; and] is filed with the department of health.
  - [(B) A voluntary, written acknowledgment of paternity of the child, signed by the natural mother under oath.]

The department of health shall prepare a new certificate of birth for the child in accordance with section 338-21. The voluntary acknowledgment of paternity by the presumed father filed with the department of health pursuant to this paragraph shall be the basis for establishing and enforcing a support obligation through a judicial proceeding. [This subsection shall not preclude the presumed father from subsequently filing a motion objecting to the voluntary acknowledgment of paternity. The motion shall state the factual basis for placing the issue of paternity before the court.]”

SECTION 43. Section 584-11, Hawaii Revised Statutes, is amended to read as follows:

**“§584-11 Genetic tests.** (a) The court may, and upon request of a party, shall, require the child, mother, or alleged father to submit to genetic tests, including blood tests. If the requesting party is the mother or the alleged father, the court shall require that the request be made pursuant to a sworn statement. The sworn statement made by the party must either:

- (1) Allege paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or
- (2) Deny paternity setting forth facts establishing a reasonable possibility of the non-existence of sexual contact between the parties. The testing utilized must have a power of exclusion greater than ninety-nine point zero per cent (99.0%) and a minimum combined paternity index of five hundred to one, and shall be performed by an expert qualified as an examiner of genetic markers, appointed by the court. The laboratory performing the testing shall be one approved by an accreditation body designated by the United States Secretary of Health and Human Services.

(b) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiners of genetic markers.

(c) In all cases, the court shall determine the number and qualifications of the experts.

(d) “Genetic test” means the testing of inherited or genetic characteristics (genetic markers) and includes blood testing for paternity purposes.

(e) In any trial brought under this chapter, a report of the facts and results of genetic tests ordered by the court under this chapter shall be admissible in evidence by affidavit of the person whose name is signed to the report, attesting to the procedures followed in obtaining the report. A report of the facts and results of genetic tests shall be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made. The genetic testing performed shall be of a type generally acknowledged as reliable by accreditation bodies designated by the United States Secretary of Health and Human Services. An alleged parent or party to the paternity action who objects to the admission of the report concerning the genetic test results must file a motion no later than twenty days after receiving a copy of the report and shall show good cause as to why a witness is necessary to lay the foundation for the admission of the report as evidence. The court may, sua sponte, or at a hearing on the motion determine whether a witness shall be required to lay the foundation for the admission of the report as evidence. The right to call witnesses to rebut the report is reserved to all parties.

(f) Should an original test result be contested, the court shall order further genetic testing with payment of the testing to be advanced and paid for by the contesting party.”

SECTION 44. Section 584-16, Hawaii Revised Statutes, is amended to read as follows:

**“§584-16 Costs.** The court may order reasonable fees of counsel, experts, and the child’s guardian ad litem, and other costs of the action and pre-trial proceedings, including genetic tests, subject to the provisions of section 584-11(f), to be paid by the parties in proportions and at times determined by the court. The court may order the proportion of any indigent party to be paid by the State, or such person as the court shall direct.”

SECTION 45. Section 584-18, Hawaii Revised Statutes, is amended to read as follows:

**“§584-18 Modification of judgment or order.** (a) The court shall have continuing jurisdiction to modify or revoke a judgment or order:

- (1) For future education and support; and
- (2) With respect to matters listed in section 584-15(c) and (d) and section 584-17(b), except that a court entering a judgment or order for the payment of a lump sum or the purchase of an annuity under section 584-15(d) may specify that the judgment or order may not be modified or revoked.

(b) In those cases where child support payments are to continue due to the adult child’s pursuance of education, the child support enforcement agency, three months prior to the adult child’s nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child, to the child support enforcement agency, prior to the child’s nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and

plans to attend as a full-time student for the next semester a post-high school university, college or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency, hearings officer, or court upon the child reaching the age of nineteen years. In addition, if applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent's income and income assignment orders.

(c) The need to provide for the child's health care needs through health insurance or other means shall be a basis for petitioning for a modification of the support order."

SECTION 46. Section 605-1, Hawaii Revised Statutes, is amended to read as follows:

**"§605-1 Attorneys, qualifications.** (a) The supreme court may examine, admit, and reinstate as practitioners in the courts of the State, such persons as it may find qualified for that purpose, who have taken the prescribed oath of office. The supreme court shall have the sole power to revoke or suspend the license of any such practitioner.

(b) In order to be licensed by the supreme court, a person shall be of good moral character, and shall satisfy such residence and other requirements as the supreme court may prescribe.

(c) In addition to other qualifications for licensure and conditions for continuing eligibility to hold a license, applicants for licensure, licensees renewing their licenses, and existing licensees shall be in compliance with an order of support as defined in section 576D-1 and has not failed to comply with a subpoena or warrant relating to a paternity or child support hearing."

SECTION 47. Section 576E-16.5, Hawaii Revised Statutes, is repealed.

SECTION 48. In codifying the new sections added by section 6 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 49. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>6</sup>

SECTION 50. This Act shall take effect upon its approval.

(Approved June 21, 1997.)

#### Notes

1. Prior to amendment "and" appeared here.
2. Prior to amendment "the" appeared here.
3. Prior to amendment "," appeared here.
4. Comma should not be underscored.
5. Prior to amendment "obligated by" appeared here.
6. Edited pursuant to HRS §23G-16.5.