

ACT 300

S.B. NO. 1003

A Bill for an Act Relating to Child Support Enforcement.

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

SECTION 1. The legislature finds that the child support enforcement agency, despite a new computer system, is still criticized as slow and inefficient by the parents who use the system. More parents want the ability to opt out of the system, and thereby, have the obligor parent transmit the payment directly to the custodial parent.

Therefore, the purpose of this Act is to:

- (1) Permit parents who are having problems getting a response from the child support enforcement agency to go to family court for a speedy resolution of their situation; and
- (2) Establish a parallel mechanism whereby the Office of Child Support Hearings may allow for the direct payment of child support obligations.

SECTION 2. Chapter 580, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§580- Notice to parties with children. When a party files for divorce and there are minor children involved, or when a party institutes a proceeding under chapter 576D or 576E, the court or the office of child support hearings shall provide notice to each party informing them of the opportunity to enter into an alternative arrangement for direct payment of child support under chapter 576D. A party may petition the court at any time, under chapter 576D or 576E, to opt out of the child support enforcement agency system and such a petition shall be assigned priority on the docket and be acted on expeditiously by the court.”

SECTION 3. Section 576D-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The agency shall collect and disburse child support payments when an order requires the collection and disbursal. In the event of any default by the obligor, upon notification of the default by the custodial parent, the agency shall proceed against the obligor for the arrearage and the agency shall have jurisdiction over future child support payments.¹ Notwithstanding any other law to the contrary, the agency shall maintain a special interest bearing account for child support payments. Moneys collected by the agency for child support payments shall not be deposited into the state treasury, but shall be deposited into this account. Moneys to be disbursed by the agency for child support payments shall be disbursed from this account without appropriation or allotment. The interest realized from this account shall be used [for]:

- (1) For related costs of the maintenance and operation of the account; and [the]
- (2) To improve the child support enforcement agency’s ability to promptly disburse payments to the custodial parent.

The balance shall be deposited into the state treasury to the credit of the general fund.”

2. By amending subsection (d) to read:

“(d) The court or office may approve an alternative arrangement for the direct payment of child support where either:

- (1) The obligor or custodial parent demonstrates and the court or office finds that there is good cause not to require immediate withholding; or
- (2) A written agreement is reached between the obligor and the custodial parent and signed by both parties;

provided that in either case where child support has been ordered previously, an alternative arrangement for direct payment shall be approved only where the obligor provides proof of the timely payment of previously ordered support. For purposes of this section, good cause to approve an alternative arrangement shall be based upon a determination by the court or office, either in writing or on the record, that implementing income withholding would not be in the best interests of the child. Such a determination shall include a statement setting forth the basis of the court’s or office’s conclusion.”

SECTION 4. 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 sections 571-52.2 and 576D-14;
- (6) Interstate income withholding orders pursuant to chapter 576B;
- (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;
- (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-13;
- (12) Orders concerning whether a responsible parent’s child support obligation should be reported to consumer credit reporting agencies pursuant to chapter 576D; [and]
- (13) Orders permitting alternative arrangements pursuant to section 576D-10; and
- (14) Orders in other child support areas as authorized by the attorney general.”

SECTION 5. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever an administrative order is entered establishing, modifying, or enforcing support, establishing an arrearage that has accrued under a previous judicial or administrative order for support, or establishing a public assistance debt, there shall concurrently be issued an order which shall operate as an assignment to the agency for the benefit of the child or in the case of spousal support, for the benefit of a spouse or former spouse, of such amounts at such times as may be specified in the order, from the responsible parent’s income due or to become due in the future from the responsible parent’s employer, or successor employers, until further court or administrative order[.]; except when alternative arrangements are ordered pursuant to section 576D-10. A copy of the income withholding order shall be filed in the office of the clerk of the circuit court in the circuit where the order was issued along with the copy of the support order as provided in section 576E-12.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved July 6, 1999.)

Notes

1. Sentence should be underscored.
2. Edited pursuant to HRS §23G-16.5.