

A Bill for an Act Relating to Child Support Enforcement.

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

SECTION 1. Section 576D-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) A child on whose behalf public assistance payments have been or are being made;
- (2) A child on whose behalf foster care payments have been or are being made under Title IV-E; or
- (3) ~~[A child on whose behalf a custodial]~~ Any other child, if a parent, guardian, or [other] person having custody applies to the agency for assistance in obtaining or enforcing a child support order[;] with respect to the child, regardless of whether public assistance payments have been made on the child’s behalf.”

SECTION 2. Section 576D-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The agency and its agents shall keep records that may be necessary or proper in accordance with this chapter. All applications and records concerning any individual or case shall be confidential. The use or disclosure of information concerning any individual or case 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]~~ Title 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]~~ that 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;
- (6) Purposes directly connected with any investigation, enforcement, prosecution, or criminal [or], civil, or administrative 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.”

SECTION 3. Section 576D-14, Hawaii Revised Statutes, is amended to read as follows:

“§576D-14 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 January 1, 1994, and issued or modified thereafter, 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 income of an obligor shall become subject to withholding without regard to whether there are arrearages or delinquency upon the agency receiving a request for income withholding from the obligee and a determination made by the agency that income withholding is appropriate, or upon the agency receiving a request for income withholding from the obligor. 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 towards the delinquency. The income withholding order shall be in the standard format prescribed by Title IV-D of the Social Security Act, as amended by the child support enforcement agency. The order shall be served upon the employer by regular mail, by personal delivery, or by transmission 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 that 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 by regular mail 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 a 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 pursuant to the notice provided under subsection (e), 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).
- (i) In a case being enforced under the Title IV-D state plan or for those parents applying to the agency for services, the agency may[~~:~~
- (1) ~~Enforcee] enforce~~ the existing order of support by sending to the employer by regular mail, by personal delivery, or by transmission through electronic means, a notice to withhold child support issued by the agency that reflects the terms and conditions specified in the order for support or income withholding order. Upon receiving a notice to withhold child support, the employer is subject to the requirements of section 576E-16(b) to (h)[~~;~~ and
- (2) ~~Terminate].~~
- (j) ~~The agency may terminate~~ income withholding by sending a notice to the employer by regular mail, by personal delivery, or by transmission [by] through electronic means. The notice shall be issued upon determination by the agency that the obligor no longer owes the child support or that the obligation is being satisfied through withholding by another employer.”

SECTION 4. 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 child support owed for a period during which public assistance was provided to the child or children by the department of human services;
- (4) The amount of the periodic payment to be made in liquidation of child support arrearage, if any;
- (5) A statement that a party's taxes shall be set off against the amount of child support arrearage, if any;
- (6) The extent of the party's responsibility to provide medical insurance coverage ~~[øf]~~ for the dependent child involved in the case, or otherwise to pay the reasonable and necessary medical expenses of the dependent child[~~;~~], and a statement that the party is required to keep the agency informed of whether the party has access to medical insurance coverage at a reasonable cost and, if so, the medical insurance policy information;

- (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;
- (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[-]; and
- (12) A statement that both the obligor party and the obligee party are required to file with the state case registry, through the agency, upon entry of the 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."

SECTION 5. Section 576E-17, Hawaii Revised Statutes, is amended to read as follows:

“§576E-17 Medical support enforcement. (a) Where the responsible parent is ordered to provide medical insurance coverage for the dependent child, the standard notice for such medical support prescribed by Title IV-D of the Social Security Act, as amended by the ~~[child support enforcement]~~ agency, shall be issued. The agency shall forward a copy of the notice, by ~~[registered or certified mail or by personal service,]~~ regular mail, by personal delivery, or by transmission through electronic means, 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, or within two business days after the date of entry of a responsible parent in a Title IV-D case in the state directory of new hires, whichever shall first occur.

(b) Upon receipt of the copy of the notice, or upon request of the responsible parent pursuant to the order, the employer or union shall enroll the dependent child as a beneficiary in the group medical insurance plan and withhold any required premium from the responsible parent's income. If more than one plan is offered by the employer or union, the child shall be enrolled in the plan in which the responsible parent is enrolled or the least costly plan otherwise available to the responsible parent that is comparable to the plan in which the responsible parent is enrolled.

(c) A dependent child whom a responsible parent is required to cover as a beneficiary pursuant to this section is eligible for insurance coverage as a dependent of the responsible parent until the duty of support expires or until further court or administrative order. The insurance coverage shall not be terminated prior to the expiration of the duty of support or the entry of [such] an order relieving the responsible parent of the duty to provide insurance coverage[-], unless it is deter-

mined by the agency that insurance coverage is being provided through appropriate alternative means.

(d) The signature of the custodial parent of the insured dependent child is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of medical services. When an order for dependent insurance coverage is in effect and the responsible parent's employment is terminated, or the insurance coverage is terminated, the insurer shall notify the agency within ten days of the termination date with notice of conversion privileges, if any.

(e) Notwithstanding any other law to the contrary, when an order for insurance coverage is in effect, the responsible parent's employer or union shall release to the agency, upon request, information on the dependent coverage available to the responsible parent, including the name of the insurer. The employer or union shall also provide any other information and perform all tasks as required by the notice issued pursuant to this section.

(f) Any responsible parent who fails to comply with an order requiring the maintenance of insurance coverage for the dependent child shall be liable for any medical expenses incurred by the obligee or the State after the effective date of the order.

(g) The agency may terminate the requirement for the responsible parent's employer or union to enroll the dependent child as a beneficiary in the group medical insurance plan and withhold any required premium from the responsible parent's income by sending a notice to the employer or union by regular mail, by personal delivery, or by transmission through electronic means. The notice shall be issued upon determination by the agency that the obligor no longer is required to provide medical insurance coverage or that such coverage is being provided by another employer.'

SECTION 6. Statutory material to be repealed is bracketed and ~~stricken~~. New statutory material is underscored.

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

(Approved April 25, 2005.)