

ACT 178

S.B. NO. 2977

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-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(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] 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]~~ that receives financial assistance under the federal Aid to Families with Dependent Children program or its successor;
 - (5) Establish and ~~[utilize]~~ use procedures ~~[which]~~ that 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]~~ use procedures by which information regarding the name of the debtor parent and the amount of delinquent child support owed by a debtor parent residing in the ~~[State]~~ state will be made available to any consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act. 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]~~ use procedures ~~[which]~~ that 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.]~~ state. The agency shall further establish guidelines ~~[which]~~ that are available to the public to determine whether the case is inappropriate for application of this paragraph;
 - (8) Establish and ~~[utilize]~~ use 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;]~~ retained by the State in cases where medical support rights have been assigned to the State and the income tax refund setoff is applied to amounts designated in the child support order for medical purposes;
 - (9) Establish and ~~[utilize]~~ use 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]~~ use procedures for periodic review and modification of child support orders in accordance with Title IV-D;
 - (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]~~ that 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] state on or after October 1, 1998.

[Such] The 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] any 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 576B, the Uniform Interstate Family Support Act; and
- (14) Perform other duties required under Title IV-D."

SECTION 2. Section 576D-11, Hawaii Revised Statutes, is amended to read as follows:

"**§576D-11 Staff.** The attorney general shall appoint, without regard to chapter 76[, an administrator; an assistant];

- (1) An administrator;
- (2) 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]
- (3) An assistant administrator who shall serve as the policy administrator and whose duties shall include but not be limited to developing and implementing comprehensive policy and planning documents to guide operations to successful outcomes, including federal performance reporting and interstate activities; and
- (4) A staff attorney to serve as the supervisor of the administrative process activities and staff.

In addition, the attorney general shall appoint, pursuant to chapter 76, 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."

SECTION 3. Section 576E-6, Hawaii Revised Statutes, is amended to read as follows:

"**§576E-6 Request for hearing; how made.** (a) Except as provided in subsection (b), any party who is aggrieved by the proposed order of the agency may, within ten days of service of a notice described in section 576E-5, obtain a hearing by sending a written request for hearing to the agency at the address from which the notice was sent.

(b) In the case of a proposed order to modify child support resulting from the agency's [periodic] review of support orders, a party aggrieved by the proposed order may request a hearing within thirty days of service of a notice described in section 576E-5.

(c) The agency, on its own behalf, may request a hearing after the commencement of an administrative proceeding pursuant to section 576E-5.

~~[(e)]~~ (d) Notice of the hearing under this section shall be served in accordance with section 576E-4.”

SECTION 4. Section 576E-7, Hawaii Revised Statutes, is amended to read as follows:

“§576E-7 Failure to request hearing; effect. If the parties fail to request a hearing pursuant to section 576E-6, the agency or a hearings officer shall sign the proposed order as the final order in the action.”

SECTION 5. Effective October 1, 2008, personnel employed by the family support division of the county of Kauai whose functions, duties, responsibilities, and activities relate to child support enforcement shall be transferred to the department of the attorney general. There is established two temporary civil service positions in the department of the attorney general to carry out the purposes of this Act.

Such employees holding civil service status shall be transferred to similar or corresponding positions in the department of the attorney general, subject to state personnel laws and this Act, without loss of salary, seniority, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges; provided that the employees possess the minimum qualifications for the class and/or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, computer software and data, and other personal property made, used, acquired, or held by the family support division of the county of Kauai on September 30, 2008, relating to the functions transferred to the department of the attorney general shall be transferred with the functions to which they relate on October 1, 2008.

The provisions of this section are to be liberally construed to effectuate its purposes.

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

SECTION 7. This Act shall take effect on July 1, 2008.

(Approved June 16, 2008.)