

**ACT 79**

**H.B. NO. 1005**

**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-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Other state” includes:

- (1) All states of the United States other than the State of Hawaii;
- (2) The District of Columbia;
- (3) Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States;
- (4) Any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe and is included in the list of federally recognized Indian tribal governments as published in the Federal Register that is operating under Title IV-D; and
- (5) A foreign country or a political subdivision thereof:
  - (A) Declared to be a foreign reciprocating country under Title IV-D; or
  - (B) With which the State has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with Title IV-D.

“State” means the State of Hawaii.”

SECTION 2. 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 and against whom any action is being taken under a Title IV-D program in any other state; and
  - (C) Securing compliance by an absent parent with a support order issued by a court of competent jurisdiction in ~~[another]~~ any other 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,]~~ paragraph, “Aid to Families with Dependent Children family” means a family that receives financial assistance under the federal Aid to Families with Dependent Children program or its successor;
- (5) Establish and use procedures 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]~~ appropriate for application of this requirement;

- (6) Establish and 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 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<sup>[5]</sup> and shall include provisions ~~[on advance notice]~~ to provide to the debtor parent whose information is being reported advance notice of the procedures, which notice and procedures shall be in full compliance with the State's procedural due process requirements, to contest the accuracy of the information;
- (7) Establish and use procedures 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. The agency shall further establish guidelines that are available to the public to determine whether the case is inappropriate for application of this paragraph;
- (8) Establish and use procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be 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 use procedures for prompt ~~[reimbursements of overpayments]~~ reimbursement of overpayment of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the ~~[reimbursements]~~ reimbursement to be made by the custodial parent or agency;
- (10) Establish and 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 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 on or after October 1, 1998.

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 the names, addresses, and telephone numbers of the parents' employers, and contain any other information as required by the United States Secretary 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 3. Section 576D-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Other than for child support payments disbursed to the department of human services or to ~~[another]~~ any other state or agency administering a program under Title IV-D ~~[of the federal Social Security Act]~~, the custodial parent shall elect to receive child support payments from the agency by means of an electronic benefits transfer system or by directly depositing the amount into an account designated by the custodial parent. If an election is not made, the agency shall determine whether the disbursement of child support payments shall be by means of an electronic benefits transfer system or by an alternate method of disbursement that complies with the time frame required under Title IV-D ~~[of the federal Social Security Act]~~.”

SECTION 4. Section 576D-10.5, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) A lien shall be enforceable by the child support enforcement agency or its designated counsel, by the obligee, or by ~~[another]~~ any other state or agency administering a program under Title IV-D ~~[of the federal Social Security Act]~~, in the following manner:

- (1) By suit in the appropriate court;
- (2) By bringing an action in an administrative tribunal;
- (3) By filing and serving a notice of child support lien; or
- (4) By any lawful means of collection.

A notice of child support lien shall state the name and the last four digits only of the social security number ~~[f, if available]~~, of the obligor, the child support enforcement case number, the amount of the lien and the through date ~~[f, if applicable]~~, the accruing monthly amount, and the date on which the order or judgment regarding child support or public assistance debt was recorded with the bureau of conveyances. The notice shall require that whoever is served with a notice of child support lien either satisfy the lien or obtain a release of the lien prior to disbursing any funds to the obligor. The method of service of a notice of child support lien shall be by certified mail, return receipt requested, or by personal delivery to the individual or entity referred to. A copy of the notice of child support lien shall also be sent to the obligor by regular mail at the obligor's last known address. Upon service of a notice of child support lien, the individual or entity served shall withhold the amount of the lien from the proceeds of any estate, judgment, settlement, compromise, vacation or holiday pay, or other benefits due the obligor and deliver the funds to the child support enforcement agency. For service effectuated by certified mail, an electronic copy or facsimile of the signature of the served individual or entity on certified mailers provided by the United States Postal Service shall constitute valid proof of service on the individual or entity. A notice of child support lien may be amended from time to time until extinguished or released, each amendment taking effect upon proper service. A notice of child support lien shall remain in effect until satisfied, extinguished, or released.

(g) A lien shall be enforceable by the child support enforcement agency or its designated counsel or by ~~[another]~~ any other state or agency administering a program under Title IV-D ~~[of the Social Security Act]~~ without the necessity of obtaining a court order in the following manner:

- (1) By intercepting or seizing periodic or lump-sum payments from:

- (A) A state or local agency, including unemployment compensation, and other benefits; and
- (B) Judgments, settlements, and lotteries; provided that unemployment compensation benefits may be intercepted only to the extent authorized by section 303(e) of the Social Security Act;
- (2) By attaching and seizing assets of the obligor held in financial institutions;
- (3) By attaching public and private retirement funds; and
- (4) By imposing liens in accordance with this section and, in appropriate cases, to force the sale of property and distribution of proceeds.

These procedures shall be subject to due process safeguards, including, as appropriate, requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal."

SECTION 5. Section 576D-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Upon the agency's receipt of an ~~[interstate]~~ income withholding request from ~~[another jurisdiction,]~~ any other state or agency administering a program under Title IV-D, 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."

SECTION 6. Section 576D-18, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) The agency and 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 member, employee, or contractor of the entity, 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 and other state ~~[or territorial]~~ agencies administering a program under Title IV-D 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]~~ those 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]~~ the individuals held by financial institutions.
- (d) Other ~~[federal, state, and territorial]~~ state and federal agencies conducting activities under ~~[the]~~ Title IV-D ~~[program]~~ shall have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement."

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

**SECTION 8.** This Act shall take effect on July 1, 2011.

(Approved June 1, 2011.)