



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

GOV. MSG. NO. **552**

April 26, 2006

The Honorable Robert Bunda, President  
and Members of the Senate  
Twenty-Third State Legislature  
State Capitol, Room 003  
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on April 26, 2006, the following bill was signed into law:

HB2303 HD1

A BILL FOR AN ACT RELATING TO  
CHILD SUPPORT ENFORCEMENT.  
(ACT 34)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

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## A BILL FOR AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 571-52.2, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) The order for automatic assignment shall operate as  
4 an assignment by the obligor to the child support enforcement  
5 agency and shall be binding upon any person who is or shall  
6 become obligated to the obligor for payment of income and who  
7 has been served with a copy of the assignment order. The order  
8 shall be in the standard format prescribed by Title IV-D of the  
9 Social Security Act, as amended by the child support enforcement  
10 agency.

11 The assignment shall continue after the obligor's  
12 requirement to pay future child support has ended if the obligor  
13 owes past due support, and any amount received pursuant to the  
14 assignment shall be applied to satisfy all past due support  
15 owed. The assignment shall be terminated when appropriate by  
16 the court, the clerk of the court, or the child support  
17 enforcement agency; provided that payment of all overdue support  
18 shall not be the sole basis for terminating the assignment. An



1 employer withholding income for payment to the child support  
2 enforcement agency shall terminate withholding upon receipt of a  
3 notice from the child support enforcement agency to terminate  
4 income withholding. In the event that the obligee retains  
5 private counsel or proceeds pro se, the obligee shall have  
6 primary responsibility for terminating the assignment.

7 If the obligee fails to terminate the assignment when  
8 appropriate, the obligee shall reimburse the obligor to the  
9 extent of any overpayment. If the assignment is not terminated  
10 when appropriate, the obligor may seek reimbursement for any  
11 overpayment from the obligee or from the child support  
12 enforcement agency, to the extent the overpayment was disbursed  
13 to the department of human services.

14 The child support enforcement agency shall establish  
15 procedures by rule in accordance with chapter 91 for the prompt  
16 reimbursement for any overpayment to the obligor."

17 SECTION 2. Section 576D-14, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§576D-14 Implementation of income withholding.** (a) For  
20 cases being enforced under the Title IV-D state plan or for  
21 those parents applying to the agency for services, the income of  
22 an obligor who receives income on a periodic basis and who has a



1 support obligation imposed by a support order issued or modified  
2 in the State before January 1, 1994, and issued or modified  
3 thereafter, if not otherwise subject to withholding, shall  
4 become subject to withholding as provided in subsection (b) if  
5 arrearages or delinquency occur, without the need for a judicial  
6 or administrative hearing. The income of an obligor shall  
7 become subject to withholding without regard to whether there  
8 are arrearages or delinquency upon the agency receiving a  
9 request for income withholding from the obligee and a  
10 determination made by the agency that income withholding is  
11 appropriate, or upon the agency receiving a request for income  
12 withholding from the obligor. The agency shall implement such  
13 withholding without the necessity of any application in the case  
14 of a child with respect to whom services are already being  
15 provided under Title IV-D and shall implement withholding on the  
16 basis of an application for services under Title IV-D in the  
17 case of any other child on whose behalf a support order has been  
18 issued or modified. In either case, [~~such~~] the withholding  
19 shall occur without the need for any amendment to the support  
20 order involved or for any further action by the court or other  
21 entity [~~which~~] that issued [~~such~~] the order.



1 (b) If the obligor who receives income on a periodic basis  
2 becomes delinquent in making payments under a support order in  
3 an amount at least equal to the support payable for one month,  
4 the agency shall issue an income withholding order that shall  
5 include an amount to be paid towards the delinquency. The  
6 income withholding order shall be in the standard format  
7 prescribed by Title IV-D of the Social Security Act, as amended  
8 by the child support enforcement agency. The order shall be  
9 served upon the employer by regular mail, by personal delivery,  
10 or by transmission to the employer through electronic means.

11 (c) Upon the agency's receipt of an interstate income  
12 withholding request from another jurisdiction, the agency may  
13 issue an income withholding order to collect the support imposed  
14 upon the obligor by a support order issued or modified by the  
15 other state. The order shall include an amount adequate to  
16 ensure that past due payments and payments that will become due  
17 in the future under the terms of the support order will be paid.

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

21 (e) Upon sending the order of income withholding to the  
22 employer, the agency shall send a notice of the withholding by



1 regular mail to each obligor to whom subsections (b) and (c)  
2 apply. The notice shall inform the obligor:

3 (1) That the withholding has commenced;

4 (2) That the obligor may request a hearing in writing  
5 within fourteen days of the date of the notice;

6 (3) That, unless the obligor files a written request for a  
7 hearing within fourteen days of the date of the  
8 notice, the money received from the income withholding  
9 will be distributed to the custodial parent or, in an  
10 interstate case, the obligee in the other  
11 jurisdiction, or in the case where the children are  
12 receiving public assistance, to the State;

13 (4) That the only defense to income withholding is a  
14 mistake of fact; and

15 (5) Of the information that was provided to the employer  
16 with respect to the employer's duties pursuant to  
17 section 576E-16.

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

21 (g) Upon timely receipt of a request for a hearing from  
22 the obligor pursuant to the notice provided under subsection



1 (e), the agency shall refer the matter to the office and a  
2 hearing shall be conducted pursuant to chapters 91 and 576E.

3 (h) Upon receiving an order of income withholding from the  
4 agency, the employer is subject to the requirements of section  
5 576E-16(b) through (h).

6 (i) In a case being enforced under the Title IV-D state  
7 plan or for those parents applying to the agency for services,  
8 the agency may enforce the existing order of support by sending  
9 to the employer by regular mail, by personal delivery, or by  
10 transmission through electronic means, a notice to withhold  
11 child support issued by the agency that reflects the terms and  
12 conditions specified in the order for support or income  
13 withholding order. Upon receiving a notice to withhold child  
14 support, the employer is subject to the requirements of section  
15 576E-16(b) to (h).

16 (j) The agency may terminate income withholding by sending  
17 a notice to the employer by regular mail, by personal delivery,  
18 or by transmission through electronic means. The notice shall  
19 be issued upon determination by the agency that the obligor no  
20 longer owes the child support or that the obligation is being  
21 satisfied through withholding by another employer.



1       (k) The agency may adopt rules in accordance with chapter  
2 91 as may be necessary to implement and administer income  
3 withholding under this section and sections 571-52, 571-52.2,  
4 571-52.3, and 576E-16."

5       SECTION 3. Section 576E-16, Hawaii Revised Statutes, is  
6 amended by amending subsection (d) to read as follows:

7       "(d) An income withholding order or a notice to withhold  
8 child support shall remain in effect after the obligor's  
9 requirement to pay future child support has ended if the obligor  
10 owes past due support and any amount received pursuant to the  
11 order or notice shall be applied to satisfy all past due support  
12 owed. An income withholding order or a notice to withhold child  
13 support shall [~~remain in effect until~~] be terminated when  
14 appropriate by court or administrative order, except that an  
15 employer withholding income for payment to the child support  
16 enforcement agency shall terminate withholding upon receipt of a  
17 notice from the child support enforcement agency to terminate  
18 income withholding. Payment by the responsible parent of any  
19 delinquency shall not in and of itself warrant termination of  
20 the income withholding order or the notice to withhold child  
21 support. The agency shall promptly refund any amount withheld  
22 in error to the responsible parent."





1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 26 day of APR 20, 2006



GOVERNOR OF THE STATE OF HAWAII

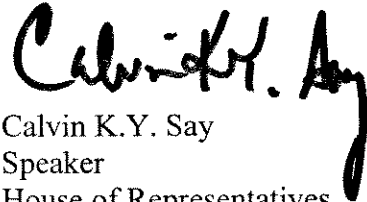


HB No. 2303, HD 1


THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: February 10, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Third Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say  
Speaker  
House of Representatives




Patricia Mau-Shimizu  
Chief Clerk  
House of Representatives

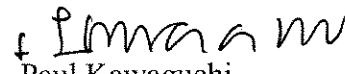
THE SENATE OF THE STATE OF HAWAII

Date: April 11, 2006  
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Third Reading in the Senate of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Robert Bunda  
President of the Senate



Paul Kawaguchi  
Clerk of the Senate