



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

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**ON THE FOLLOWING MEASURE:**

S.B. No. 2977, S.D. 1, RELATING TO CHILD SUPPORT ENFORCEMENT.

**BEFORE THE:**

HOUSE COMMITTEE ON HUMAN SERVICES & HOUSING

**DATE:** Tuesday, March 11, 2008 **TIME:** 8:30 AM

**LOCATION:** Conference Room 329  
*Deliver to: Room 326, 3 copies*

**TESTIFIER(S):** Lisa M. Ginoza, First Deputy Attorney General  
or Lawrence A. Sousie, Deputy Attorney General  
or Garry L. Kemp, Administrator, Child Support Enforcement  
Agency

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Chair Shimabukuro and Members of the Committee:

The Attorney General strongly supports this bill.

The provisions of this measure amend various sections of the Hawaii Revised Statutes in order to bring the Child Support Enforcement Agency into compliance with federal law, streamline agency actions, or add strength to the current organizational structure.

The proposed changes are:

- To comply with federal statutory requirements by clarifying the requirement for "notice" to custodial parents regarding state income tax refund setoffs in cases where medical support rights have been assigned to the State. This is a housekeeping provision designed to align Hawaii and federal law. This change amends the "notice" requirement in the current law, but does not affect the distribution of funds collected. How the funds are actually distributed is covered under federal law by 42 U.S.C. § 657, which assigns to the state the right to recovered funds when the custodial parent is on welfare.

- To streamline the child support enforcement process by making consistent the number of days a party has to request an administrative hearing for actions initiated because of the federally required "periodic" review of Temporary Assistance for Needy Families (TANF) cases and for modification actions initiated at the request of one of the parties. This change is prompted by a change in federal law, effective October 1, 2007, requiring states to periodically review cases in which children are receiving TANF at least once every three years. This change sets the hearing request period for both the periodic review and the requested modification actions at 30 days.
- To allow the Child Support Enforcement Agency to make a request for hearing. This change makes the agency a party in interest for purposes of requesting a hearing.
- To allow the Child Support Enforcement Agency to sign proposed administrative orders when no request for hearing is received by the agency. The current process only provides for an administrative hearings officer to sign default orders. This change will allow the agency to expedite the filing and implementation of default orders.
- To strengthen the Child Support Enforcement Agency's objective of improvement by creating an assistant administrator position that will serve to centrally coordinate and to systematically develop and implement policy and planning documents to guide operations to successful outcomes. This change is recommended to provide structured leadership to the agency staff in implementing federal requirements.

Because we have been informed that the two positions being transferred are temporary civil service positions, not exempt from civil service, we recommend amending section 5 of this bill as follows:

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"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 full-time equivalent (2.0 FTE) temporary civil service positions [~~exempt from chapter 76, Hawaii Revised Statutes,~~] in the department of the attorney general to carry out the purposes of this Act.

~~[Any employee who, prior to this Act, was exempt from chapter 76, Hawaii Revised Statutes, and who may be transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. No employee who is transferred by this Act shall suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act. The attorney general may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.]~~

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."

The provisions of this measure that are being proposed in order to comply with federal statutory requirements and to continue to provide child support services to the County of Kauai are necessary to maintain eligibility for federal welfare funding and federal funding of child support enforcement programs.

The Attorney General respectfully requests the passage of this bill.