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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 (e) to read as follows:  
3           "(e) An employer receiving an assignment order shall send  
4 the amounts withheld to [~~the designated obligee or, if~~  
5 ~~requested, to~~] this State's child support enforcement agency  
6 within five working days after the obligor is paid. The  
7 employer shall begin withholding no later than the first pay  
8 period occurring within seven business days following the date a  
9 copy of the order is mailed to the employer. As used in this  
10 subsection, the term "business day" means a day on which the  
11 employer's office is open for regular business. The employer  
12 shall withhold funds as directed in the order, except that when  
13 an employer receives an income withholding order issued by  
14 another state, the employer shall send the amounts withheld to  
15 that state's agency administering a program under Title IV-D of  
16 the Social Security Act and apply the income withholding law of



1 the state of the obligor's principal place of employment in  
2 determining:

3 (1) The employer's fee for processing an income assignment  
4 order;

5 (2) The maximum amount permitted to be withheld from the  
6 obligor's income under [~~section~~] Section 303(b) of the  
7 Consumer Credit Protection Act (15 U.S.C. §1673(b));

8 (3) The time periods within which the employer must  
9 implement the income withholding order and forward the  
10 child support payment;

11 (4) The priorities for withholding and allocating income  
12 withheld for multiple child support obligees; and

13 (5) Any withholding terms or conditions not specified in  
14 the order.

15 An employer who complies with an income assignment order  
16 that is regular on its face shall not be subject to civil  
17 liability to any person or agency for conduct in compliance with  
18 the order.

19 An employer who is required to withhold amounts from the  
20 income of more than one obligor may remit a sum total of the  
21 amounts in one check, with a listing of the amounts applicable  
22 to each obligor.



1           Within two working days after receipt of the amounts  
2 withheld by the employer, the child support enforcement agency  
3 shall disburse those amounts to the obligee for the benefit of  
4 the child, except that the child support enforcement agency may  
5 delay the distribution of collections toward arrearages until  
6 the resolution of any timely request for a hearing with respect  
7 to such arrearages."

8           SECTION 2. Section 576D-10, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "**§576D-10 Collection and disbursal of child support;**  
11 **direct payment exception.** (a) The agency shall collect and  
12 disburse child support payments when an order requires the  
13 collection and disbursal. In the event of any default by the  
14 obligor, upon notification of the default by the custodial  
15 parent, the agency shall proceed against the obligor for the  
16 arrearage and the agency shall have jurisdiction over future  
17 child support payments. Notwithstanding any other law to the  
18 contrary, the agency shall maintain a special interest bearing  
19 account for child support payments. Moneys collected by the  
20 agency for child support payments shall not be deposited into  
21 the state treasury, but shall be deposited into this account.  
22 Moneys to be disbursed by the agency for child support payments



1 shall be disbursed from this account without appropriation or  
2 allotment. The interest realized from this account shall be  
3 used:

4 (1) For related costs of the maintenance and operation of  
5 the account; and

6 (2) To improve the child support enforcement agency's  
7 ability to promptly disburse payments to the custodial  
8 parent.

9 The balance shall be deposited into the state treasury to the  
10 credit of the general fund.

11 (b) Any child support payments required by a court order  
12 effective on June 30, 1986, to be made to a court or clerk of  
13 the court and disbursed to a custodial parent shall be made to  
14 the agency after June 30, 1986. The agency shall disburse the  
15 payments as appropriate under the court order.

16 (c) Other than for child support payments disbursed to the  
17 department of human services or to another agency administering  
18 a program under Title IV-D of the federal Social Security Act,  
19 the custodial parent shall elect to receive child support  
20 payments from the agency by means of an electronic benefits  
21 transfer system or by directly depositing the amount into an  
22 account designated by the custodial parent. If an election is



1 not made, the agency shall determine whether the disbursement of  
2 child support payments shall be by means of an electronic  
3 benefits transfer system or by an alternate method of  
4 disbursement that complies with the time frame required under  
5 Title IV-D of the federal Social Security Act.

6 [~~e~~] (d) At the time a child support obligation is first  
7 established or at any time thereafter, the court may approve an  
8 alternative arrangement for the direct payment of child support  
9 from the obligor to the custodial parent as an exception to the  
10 provisions for income withholding through the agency, as  
11 required by sections 571-52.2(a)(1), 571-52.3, and 576E-16(a).

12 [~~d~~] (e) The court may approve an alternative arrangement  
13 for the direct payment of child support where either:

14 (1) The obligor or custodial parent demonstrates and the  
15 court finds that there is good cause not to require  
16 immediate withholding; or

17 (2) A written agreement is reached between the obligor and  
18 the custodial parent and signed by both parties;

19 provided that in either case where child support has been  
20 ordered previously, an alternative arrangement for direct  
21 payment shall be approved only where the obligor provides proof  
22 of the timely payment of previously ordered support. For



1 purposes of this section, good cause to approve an alternative  
2 arrangement shall be based upon a determination by the court,  
3 either in writing or on the record, that implementing income  
4 withholding would not be in the best interests of the child.  
5 Such a determination shall include a statement setting forth the  
6 basis of the court's conclusion.

7       [~~(e)~~] (f) Any alternative arrangement for direct payment  
8 shall provide that either parent may void the arrangement at any  
9 time and apply for services from the agency to act as agent to  
10 receive payments from the obligor parent. The alternative  
11 arrangement for direct payment also shall provide that, if the  
12 subject dependents of the obligor parent commence receiving  
13 public assistance, including [~~but not limited to~~] public  
14 assistance from the department of human services under chapter  
15 346, foster care under section 571-48, Title IV-E or Title XIX  
16 of the federal Social Security Act (42 U.S.C. §1396), or if  
17 either parent applies for services from the agency, the agency  
18 may immediately void the direct payment arrangement by sending  
19 written notice by regular mail to the custodial and obligor  
20 parents at their last known addresses, as disclosed in the  
21 alternative arrangement agreement.



1           ~~[(f)]~~ (g) The alternative arrangement for direct payment  
2 agreement shall include the most recent addresses of the  
3 custodial and obligor parent. If the obligor parent alleges  
4 direct payment of child support to the custodial parent after  
5 the subject dependents of the court-approved alternative  
6 arrangement become recipients of public assistance, including  
7 ~~[but not limited to]~~ public assistance from the department of  
8 human services under chapter 346, foster care under section  
9 571-48, Title IV-E or Title XIX of the federal Social Security  
10 Act (42 U.S.C. §1396), or after the custodial parent applies for  
11 services from the agency, and after receiving proper  
12 notification of the change of payee to the agency, then the  
13 obligor shall have the burden of proving that the child support  
14 payments were made by presenting written evidence, including  
15 ~~[but not limited to]~~ canceled checks or receipts.

16           ~~[(g)]~~ (h) No alternative arrangement for direct payment  
17 shall be approved where the obligor or the custodial parent is  
18 receiving services under Title IV-D of the federal Social  
19 Security Act or where the dependents of the obligor receive  
20 public assistance, including ~~[but not limited to]~~ public  
21 assistance from the department of human services under chapter  
22 346, foster care under section 571-48, Title IV-E or Title XIX



1 of the federal Social Security Act (42 U.S.C. §1396), or where  
2 the obligor owes child support for a period during which public  
3 assistance was provided to the child or children by the  
4 department of human services.

5 ~~[(h)]~~ (i) Any alternative arrangement for direct payment  
6 shall pertain only to the method of payment of child support.  
7 The amount of child support shall be determined according to the  
8 child support guidelines pursuant to ~~[section]~~ sections 576D-7  
9 and ~~[section]~~ 576E-15.

10 ~~[(i)]~~ (j) The alternative arrangement for direct payment  
11 shall become effective upon approval and filing by the court.  
12 For any order approved pursuant to this section on or after  
13 October 1, 1998, each party ~~[must]~~ shall send a certified copy  
14 of the order to the state case registry established under  
15 section 576D-6.

16 ~~[(j)]~~ (k) The agency shall not be required to maintain  
17 records while an order obtained pursuant to this section is in  
18 effect, except for any payments received and disbursed by the  
19 agency."

20 SECTION 3. Section 576D-10.5, Hawaii Revised Statutes, is  
21 amended by amending subsections (f) and (g) to read:





1           "(f) A lien shall be enforceable by the child support  
2 enforcement agency or its designated counsel [øæ], by the  
3 obligee, or by another agency administering a program under Title  
4 IV-D of the federal Social Security Act, in the following  
5 manner:

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

11 A notice of child support lien shall state the name and the last  
12 four digits only of the social security number (if available) of  
13 the obligor, the child support enforcement case number, the  
14 amount of the lien and the through date (if applicable), the  
15 accruing monthly amount, and the date on which the order or  
16 judgment regarding child support or public assistance debt was  
17 recorded with the bureau of conveyances. The notice shall  
18 require that whoever is served with a notice of child support  
19 lien either satisfy the lien or obtain a release of the lien  
20 prior to disbursing any funds to the obligor. The method of  
21 service of a notice of child support lien shall be by certified  
22 mail, return receipt requested, or by personal delivery to the



1 individual or entity referred to. A copy of the notice of child  
2 support lien shall also be sent to the obligor by regular mail  
3 at the obligor's last known address. Upon service of a notice  
4 of child support lien, the individual or entity served shall  
5 withhold the amount of the lien from the proceeds of any estate,  
6 judgment, settlement, compromise, vacation or holiday pay, or  
7 other benefits due the obligor and deliver the funds to the  
8 child support enforcement agency. For service effectuated by  
9 certified mail, an electronic copy or facsimile of the signature  
10 of the served individual or entity on certified mailers provided  
11 by the United States Postal Service shall constitute valid proof  
12 of service on the individual or entity. A notice of child  
13 support lien may be amended from time to time until extinguished  
14 or released, each amendment taking effect upon proper service.  
15 A notice of child support lien shall remain in effect until  
16 satisfied, extinguished, or released.

17 (g) A lien shall be enforceable by the child support  
18 enforcement agency or its designated counsel or by another  
19 agency administering a program under Title IV-D of the Social  
20 Security Act without the necessity of obtaining a court order in  
21 the following manner:



- 1 (1) By intercepting or seizing periodic or lump-sum
- 2 payments from:
- 3 (A) A state or local agency, including unemployment
- 4 compensation, and other benefits; and
- 5 (B) Judgments, settlements, and lotteries;
- 6 provided that unemployment compensation benefits may
- 7 be intercepted only to the extent authorized by
- 8 ~~[section]~~ Section 303(e) of the Social Security Act;
- 9 (2) By attaching and seizing assets of the obligor held in
- 10 financial institutions;
- 11 (3) By attaching public and private retirement funds; and
- 12 (4) By imposing liens in accordance with this section and,
- 13 in appropriate cases, to force the sale of property
- 14 and distribution of proceeds.

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

19 SECTION 4. Section 576D-15, Hawaii Revised Statutes, is  
 20 amended by amending subsection (c) to read as follows:

21 "(c) In response to a notice of lien or levy, the  
 22 financial institution ~~[shall surrender or encumber assets held~~



1 ~~by such institution to the agency]~~, if holding assets on behalf  
2 of any noncustodial parent who is subject to a child support  
3 lien arising by operation of law against real and personal  
4 property for delinquent support owed by the noncustodial parent  
5 who resides in or owns property in the [~~State and those liens~~  
6 ~~shall be accorded]~~ state shall accord those liens full faith and  
7 credit when the agency or other entity seeking to enforce the  
8 lien has complied with the procedural rules of the State and, if  
9 applicable, section 501-102[-], and shall surrender those assets  
10 to the agency or other entity seeking to enforce the lien, or  
11 encumber those assets in accordance with the lien."

12 SECTION 5. Section 576E-12, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) A true copy of the administrative order, along with a  
15 true copy of the return of service, shall be filed in the office  
16 of the clerk of the circuit court in the circuit where the order  
17 was issued, or in the office of the clerk of the circuit court  
18 in the circuit where a previously established support order was  
19 filed. For service effectuated by certified mail, an electronic  
20 copy or facsimile of the signature of the served individual on  
21 certified mailers provided by the United States Postal Service  
22 shall constitute valid proof of service on the individual. Upon



1 filing, the order shall have all the force and effect of a final  
2 order or decree of the circuit court."

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

5 "(b) The income withholding order issued pursuant to  
6 subsection (a) or the income withholding order or the notice to  
7 withhold child support issued pursuant to section 576D-14 shall  
8 be effective immediately after service upon an employer of a  
9 copy of the order or the notice to withhold child support, which  
10 service may be effected by regular mail, by personal delivery,  
11 or by transmission through electronic means. Thereafter, the  
12 employer shall for each pay period, withhold from the income due  
13 to the responsible parent from the employer, and not required to  
14 be withheld by any other provision of federal or state law, and  
15 transmit to the [~~designated obligee, or upon request, to the~~]  
16 child support enforcement agency of this State, as much as may  
17 remain payable to the responsible parent for such pay period up  
18 to the amount specified in the order or the notice to withhold  
19 child support as being payable during the same period. The  
20 employer shall immediately inform the agency of any change that  
21 would affect the income withholding order or the notice to  
22 withhold child support or the disbursement thereof."



1 SECTION 7. Section 584-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§584-8 Jurisdiction; venue. (a) Without limiting the  
4 jurisdiction of any other court, the family court has  
5 jurisdiction of an action brought under this chapter. The  
6 action may be joined with an action for divorce, annulment,  
7 separate maintenance, or support.

8 (b) A person who has sexual intercourse in this [State]  
9 state thereby submits to the jurisdiction of the courts of this  
10 [State] state as to an action brought under this chapter with  
11 respect to a child who may have been conceived by that act of  
12 intercourse. In addition to any other method provided by  
13 statute, personal jurisdiction may be acquired by personal  
14 service outside this [State] state or by service by certified or  
15 registered mail, postage prepaid, with return receipt requested.

16 (c) In addition to any other method of service provided by  
17 statute or court rule, if the defendant is not found within the  
18 circuit, service may be effectuated by registered or certified  
19 mail, with request for a return receipt and direction to deliver  
20 to addressee only. The return receipt signed by the defendant  
21 shall be prima facie evidence that the defendant accepted  
22 delivery of the complaint and summons on the date set forth on



1 the receipt. Actual receipt by the defendant of the complaint  
2 and summons sent by registered or certified mail shall be  
3 equivalent to personal service on the defendant by an authorized  
4 process server as of the date of the receipt.

5 (d) The action may be brought in the county in which the  
6 child, the mother, or the alleged father resides or is found or  
7 in which the child was born or, if the father is deceased, in  
8 which proceedings for probate of his estate have been or could  
9 be commenced.

10 (e) For service effectuated by registered or certified  
11 mail, an electronic copy or facsimile of the signature of the  
12 served individual on certified mailers provided by the United  
13 States Postal Service shall constitute valid proof of service on  
14 the individual."

15 SECTION 8. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect upon its approval.



S.B. NO. 851  
S.D. 1  
H.D. 3  
C.D. 1

**Report Title:**

Child Support Enforcement

**Description:**

Clarifies that all income withholding payments be sent through the Child Support Enforcement Agency; allows the agency to disburse support by electronic transfer or direct deposit; allows for electronic copy or facsimile of a signature as proof of service for certified mail; clarifies lien payment and enforcement. (CD1)

