
A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1 SECTION 1. Section 571-52, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-52 Assignment by court order of future income for**
4 **payments of support.** (a) Whenever any person has been ordered
5 to pay an allowance for the support of a child or for the
6 support and maintenance of a spouse or former spouse, and fails
7 or refuses to obey or perform the order and has been adjudged
8 guilty of contempt of court for such failure or refusal, the
9 court may make an order that shall operate as an assignment by
10 the person for the benefit of the child or spouse, of such
11 amounts at such times as may be specified in the order, from any
12 income due or to become due in the future to such person from
13 the person's employer or successor employers, until further
14 order of the court.

15 The assignment of the amounts shall be to the clerk of the
16 court where the order is entered if for the support or
17 maintenance of a spouse or former spouse, or to the child
18 support enforcement agency if for the support of a child or if



1 child support and spouse support are contained in the same
2 order. The order of assignment to the child support enforcement
3 agency shall be in the standard format prescribed by Title IV-D
4 of the Social Security Act, as amended by the child support
5 enforcement agency. The order of assignment shall be effective
6 immediately after service upon an employer of a true copy of the
7 order, which service may be effected by regular mail, by
8 personal delivery, or by transmission through electronic means.

9 Thereafter, the employer [~~shall~~], for each pay period,
10 shall withhold from any income due to the person from the
11 employer, and not required to be withheld by any other provision
12 of federal or state law, and transmit to the clerk of the court
13 or child support enforcement agency as set forth in the order,
14 as much as may remain payable to the person for [~~such~~] the pay
15 period up to the amount specified in the order of assignment as
16 being payable during the same period. The person ordered to pay
17 shall inform the court immediately of any change that would
18 affect the order of assignment or the disbursement thereof.

19 Compliance by an employer with the order of assignment
20 shall operate as a discharge of the employer's liability to the
21 employee for that portion of the employee's income withheld and
22 transmitted to the clerk of court or child support enforcement



1 agency, as the case may be, whether or not the employer has
2 withheld the correct amount.

3 (b) Notwithstanding the provisions of subsection (a) to
4 the contrary, whenever a court has ordered any person
5 (hereinafter "obligor") to make periodic payments toward the
6 support of a child, upon petition of the person to whom [~~such~~]
7 the payments are ordered to be made or that person's assignee,
8 and the court finds the obligor to be delinquent in payments in
9 an amount equal to or greater than the sum of payments that
10 would become due over a one-month period under the order,
11 judgment, or decree providing for child support, the court shall
12 order an assignment of future income, or a portion thereof, of
13 the obligor in an amount adequate to insure that past due
14 payments and payments that will become due in the future under
15 the terms of the support order will be paid. Such an order
16 shall operate as an assignment by the obligor to the child
17 support enforcement agency and shall be binding upon any person
18 who is or shall become obligated to the obligor for payment of
19 income and who has been served with a copy of the assignment
20 order.

21 For each payment made pursuant to an assignment order, the
22 person making [~~such~~] the payment may deduct and retain as an



1 administrative fee the additional amount of \$2 from the income
2 owed to the obligor. Any assignment made pursuant to an
3 assignment order shall have priority as against any garnishment,
4 attachment, execution, or other assignment order, or any other
5 order unless otherwise ordered by the court and the same shall
6 not be subject to any of the exemptions or restrictions
7 contained in part III of chapter 651, and chapters 652 and 653.

8 For purposes of this subsection, delinquencies in payments
9 shall be computed on the basis of the moneys owed and unpaid on
10 the date that the obligor under the support order has been given
11 notice pursuant to law of the application for the order of
12 assignment. The fact that the obligor may have subsequently
13 paid such delinquencies shall not relieve the court of its duty
14 under this subsection to order the assignment.

15 (c) An employer withholding income for payment to the
16 child support enforcement agency shall terminate withholding
17 upon receipt of a notice from the child support enforcement
18 agency to terminate income withholding.

19 (d) In addition to any other remedies authorized by law,
20 upon a finding by the court that an employer has failed to
21 comply with an order of assignment to the child support
22 enforcement agency pursuant to this section, the court shall



1 issue to the employer an order directing compliance and may
2 direct the payment of a civil penalty not to exceed \$500 for the
3 first occurrence of employer noncompliance and \$1,000 for each
4 occurrence thereafter. The penalty shall be paid to the child
5 support enforcement agency and may be enforced in the same
6 manner as a civil judgment or in any other manner permitted by
7 law.

8 ~~(d)~~ (e) It shall be unlawful for any employer to refuse
9 to hire a prospective employee, to discharge an employee, or to
10 take any other disciplinary action against an employee, based in
11 whole or part upon an assignment authorized by this section.
12 Any employer violating this section shall be guilty of a
13 misdemeanor under section 710-1077(1)(g).

14 ~~(e)~~ (f) As used in this section:

15 "Employer" includes the United States government, the
16 State, any political subdivision thereof, and any person who is
17 or shall become obligated to the obligor for payment of income.

18 "Income" includes salaries, wages, earnings, workers'
19 compensation, disability benefits, commissions, independent
20 contractor income, and any other entitlement to money including
21 moneys payable as a pension, annuity, retirement, disability,
22 death, or other benefit, or as a return of contributions and



1 interest from the United States government, the State, or other
2 political subdivision thereof, or from any retirement,
3 disability, or annuity system established by any of them
4 pursuant to statute."

5 SECTION 2. Section 571-52.2, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsection (g) to read:

8 "(g) It shall be unlawful for any employer to fail to
9 comply with the requirements of this section. In addition, an
10 employer who fails to comply with an order of assignment of
11 future income, as provided for under this section[~~, shall~~]:

12 (1) Shall be liable to the obligee or the obligee's
13 assignee for whom support was required to be paid, for
14 the full amount of all sums ordered to be withheld and
15 transmitted and not otherwise done so[~~-~~]; and

16 (2) May be ordered by the court to pay a civil penalty not
17 to exceed \$500 for the first occurrence of employer
18 noncompliance and \$1,000 for each occurrence
19 thereafter. The penalty shall be paid to the child
20 support enforcement agency and may be enforced in the
21 same manner as a civil judgment or in any other manner
22 permitted by law."



1 2. By amending subsection (m) to read:

2 "(m) The provisions of section [~~571-52(d)~~] 571-52(e) and
3 [~~(e)~~] (f) shall apply to all orders for automatic assignments
4 issued under this section."

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

7 "(c) Compliance by an employer with the income withholding
8 order issued pursuant to subsection (a) or with the income
9 withholding order or the notice to withhold child support issued
10 pursuant to section 576D-14 shall operate as a discharge of the
11 employer's liability to the responsible parent for that portion
12 of the responsible parent's earnings withheld and transmitted to
13 the agency, whether or not the employer has withheld the correct
14 amount. For each payment made pursuant to an income withholding
15 order or a notice to withhold child support, the employer may
16 deduct and retain as an administrative fee an additional amount
17 of \$2 from the income owed to the responsible parent. The total
18 amount withheld from the obligor's income, including the
19 administrative fee, may not be in excess of the maximum amounts
20 permitted under section 303(b) of the Consumer, Credit Protection
21 Act (15 U.S.C. §1673(b)). Any income withholding order or
22 notice to withhold child support shall have priority as against



1 any garnishment, attachment, execution, or other income
2 withholding order, or any other order, and shall not be subject
3 to the exemptions or restrictions contained in part III of
4 chapter 651 and in chapters 652 and 653. An employer who fails
5 to comply with an income withholding order under this section or
6 with an income withholding order or notice to withhold child
7 support issued pursuant to section 576D-14 shall be liable to
8 the obligee or the agency for the full amount of all sums
9 ordered to be withheld and transmitted[-]; provided that in the
10 case of an employer's failure to withhold income for child
11 support, the employer may be ordered by the court to pay a civil
12 penalty not to exceed \$500 for the first occurrence of employer
13 noncompliance and \$1,000 for each occurrence thereafter; and
14 provided further that the penalty shall be paid to the agency
15 and may be enforced in the same manner as a civil judgment or in
16 any other manner permitted by law. An employer receiving an
17 income withholding order or a notice to withhold child support
18 shall transmit amounts withheld to the agency within five
19 working days after the responsible parent is paid. The employer
20 shall begin withholding no later than the first pay period
21 commencing within seven business days following the date a copy



1 of the order or the notice to withhold child support is mailed
2 to the employer.

3 As used in this subsection, the term "business day" means a
4 day on which the employer's office is open for regular business.
5 The employer shall withhold funds as directed in the order or
6 the notice to withhold child support, except that when an
7 employer receives an income withholding order issued by another
8 state, the employer shall apply the income withholding law of
9 the state of the obligor's principal place of employment in
10 determining:

- 11 (1) The employer's fee for processing an income
12 withholding order;
- 13 (2) The maximum amount permitted to be withheld from the
14 obligor's income under section 303(b) of the Consumer
15 Credit Protection Act (15 U.S.C. §1673(b));
- 16 (3) The time periods within which the employer must
17 implement the income withholding order and forward the
18 child support payment;
- 19 (4) The priorities for withholding and allocating income
20 withheld for multiple child support obligees; and
- 21 (5) Any withholding terms or conditions not specified in
22 the order.



1 An employer who complies with an income withholding order
2 or a notice to withhold child support that is regular on its
3 face shall not be subject to civil liability to any person or
4 agency for conduct in compliance with the order.

5 An employer who is required to withhold amounts from the
6 income of more than one employee may remit to the agency a sum
7 total of all such amounts in one check with a listing of the
8 amounts applicable to each employee.

9 Within two working days after receipt of the amounts
10 withheld by the employer, the agency shall disburse the amounts
11 to the obligee for the benefit of the child, except that the
12 agency may delay the distribution of collections toward
13 arrearages until resolution of any timely requested hearing with
14 respect to such arrearages."

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Marilyn B. Lee

[Signature]

[Signature]

[Signature]

Tom Brown

Gil

F. Off

Hal Khush

Karen Luano

JAN 23 2012



H.B. NO. 2332

Report Title:

Child Support; Income Withholding; Penalties for Noncompliance

Description:

Establishes civil fines for an employer's failure to comply with an income withholding order for child support.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

