

JAN 26 2011

S.B. NO. 1232

---

---

# 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 576D-1, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4 "Other state" includes:

5 (1) All states of the United States other than the State  
6 of Hawaii;

7 (2) The District of Columbia;

8 (3) Puerto Rico, the United States Virgin Islands, and any  
9 territory or insular possession subject to the  
10 jurisdiction of the United States;

11 (4) Any Indian or Alaska Native Tribe, band, nation,  
12 pueblo, village, or community that the Secretary of  
13 the Interior acknowledges to exist as an Indian Tribe  
14 and is included in the list of federally recognized  
15 Indian Tribal governments as published in the Federal  
16 Register that is operating under Title IV-D; and

17 (5) A foreign country or a political subdivision thereof:

18 (A) Declared to be a foreign reciprocating country

1                   under Title IV-D; or  
2                   (B) With which the State has entered into a  
3                   reciprocal arrangement for the establishment and  
4                   enforcement of support obligations to the extent  
5                   consistent with Title IV-D.

6                   "State" means State of Hawaii."

7                   SECTION 2. Section 576D-6, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9                   "(a) The agency shall:

10                   (1) Establish a state parent locator service for the  
11                   purpose of locating absent and custodial parents;

12                   (2) Cooperate with other states in:

13                   (A) Establishing paternity, if necessary;

14                   (B) Locating an absent parent who is present in the  
15                   State and against whom any action is being taken  
16                   under a Title IV-D program in any other state;  
17                   and

18                   (C) Securing compliance by an absent parent with a  
19                   support order issued by a court of competent  
20                   jurisdiction in [~~another~~] any other state;

21                   (3) Perform periodic checks of whether a parent is  
22                   collecting unemployment compensation and, if so, to

1           arrange, either through agreement with the parent or  
2           by bringing legal process, to have a portion of the  
3           compensation withheld, to fulfill the parent's child  
4           support obligations;

5           (4) Notify annually each custodial parent, guardian,  
6           protective payee, or other person having custody of  
7           the child of an Aid to Families with Dependent  
8           Children family of the amount of child support  
9           collected on behalf of the child in the family. For  
10          the purpose of this section, "Aid to Families with  
11          Dependent Children family" means a family that  
12          receives financial assistance under the federal Aid to  
13          Families with Dependent Children program or its  
14          successor;

15          (5) Establish and use procedures that shall require a  
16          debtor parent to give security, post bond, or give  
17          some other guarantee to secure payment of delinquent  
18          child support. The procedures shall apply to all  
19          debtor parents of children described under section  
20          576D-3. The procedures shall include advance notice  
21          to the debtor parent in full compliance with the  
22          State's procedural due process requirements. The

1 agency shall develop guidelines, which are available  
2 to the public, to determine whether the case is  
3 inappropriate for application of this requirement;

4 (6) Establish and use procedures by which information  
5 regarding the name of the debtor parent and the amount  
6 of delinquent child support owed by a debtor parent  
7 residing in the State will be made available to any  
8 consumer reporting agency as defined in section 603(f)  
9 of the Fair Credit Reporting Act. The procedures  
10 shall be effectuated upon the agency being authorized  
11 to provide Title IV-D services, and shall include  
12 provisions on advance notice to the debtor parent  
13 whose information is being reported of the procedures,  
14 which shall be in full compliance with the State's  
15 procedural due process requirements, to contest the  
16 accuracy of the information;

17 (7) Establish and use procedures that will enforce liens  
18 against the real and personal property of a debtor  
19 parent who owes overdue support and who resides or  
20 owns property in the State. The agency shall further  
21 establish guidelines that are available to the public

1 to determine whether the case is inappropriate for  
2 application of this paragraph;

3 (8) Establish and use procedures for the notification of a  
4 custodial parent that any income tax refund setoff  
5 under section 231-53 shall be retained by the State in  
6 cases where medical support rights have been assigned  
7 to the State and the income tax refund setoff is  
8 applied to amounts designated in the child support  
9 order for medical purposes;

10 (9) Establish and use procedures for prompt reimbursements  
11 of overpayments of child support debts from income tax  
12 refund setoffs under section 231-53. The procedures  
13 shall provide for the reimbursements to be made by the  
14 custodial parent or agency;

15 (10) Establish and use procedures for periodic review and  
16 modification of child support orders in accordance  
17 with Title IV-D;

18 (11) Provide notice not less than once every three years to  
19 those parents subject to an order of support informing  
20 the parents of their right to request the agency to  
21 review and, if appropriate, adjust the order of

1 support pursuant to the guidelines established under  
2 section 576D-7;

3 (12) Establish and operate a state case registry that  
4 contains records of:

5 (A) Each case in which services are being provided by  
6 the agency under the state plan; and

7 (B) Each support order established or modified in the  
8 State on or after October 1, 1998.

9 The records shall use standardized data elements for  
10 both parents, including but not limited to names,  
11 residential and mailing addresses, telephone numbers,  
12 driver's license numbers, names, addresses, and  
13 telephone number of the party's employer, social  
14 security numbers and other uniform identification  
15 numbers, dates of birth, and case identification  
16 numbers, and contain any other information as required  
17 by the United States Secretary of Health and Human  
18 Services. In each case with respect to subparagraph  
19 (A) and where a support order has been established,  
20 the case record shall include the amount of monthly or  
21 other periodic support owed under the order, and other  
22 amounts, including but not limited to arrearages, due

S.B. NO. 1232

1           under the order, the amounts collected under the  
2           order, the birthdate of any child for whom the order  
3           requires the provision of support, and the amount of  
4           any lien imposed;

5           (13) Perform other duties required under chapter 576B, the  
6           Uniform Interstate Family Support Act; and

7           (14) Perform other duties required under Title IV-D."

8           SECTION 3. Section 576D-10, Hawaii Revised Statutes, is  
9           amended by amending subsection (c) to read as follows:

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

S.B. NO. 1232

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

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

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

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

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

19 (g) A lien shall be enforceable by the child support  
20 enforcement agency or its designated counsel or by ~~[another]~~ any  
21 other state or agency administering a program under Title IV-D

1 ~~[of the federal Social Security Act]~~ without the necessity of  
2 obtaining a court order in the following manner:

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

5 (A) A state or local agency, including unemployment  
6 compensation, and other benefits; and

7 (B) Judgments, settlements, and lotteries;

8 provided that unemployment compensation benefits may  
9 be intercepted only to the extent authorized by  
10 section 303(e) of the Social Security Act;

11 (2) By attaching and seizing assets of the obligor held in  
12 financial institutions;

13 (3) By attaching public and private retirement funds; and

14 (4) By imposing liens in accordance with this section and,  
15 in appropriate cases, to force the sale of property  
16 and distribution of proceeds.

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

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

1           "(c) Upon the agency's receipt of an [~~interstate~~] income  
2 withholding request from [~~another jurisdiction,~~] any other state  
3 or agency administering a program under Title IV-D, the agency  
4 may issue an income withholding order to collect the support  
5 imposed upon the obligor by a support order issued or modified  
6 by the other state. The order shall include an amount adequate  
7 to ensure that past due payments and payments that will become  
8 "due in the future under the terms of the support order will be  
9 paid."

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

12           "(c) The agency and other state [~~or territorial~~] agencies  
13 administering a program under Title IV-D shall have access,  
14 including automated inquiry access, to the records of all  
15 entities in the State for information on the employment,  
16 compensation, and benefits of any individual member, employee,  
17 or contractor of the entity, to accomplish the purposes of the  
18 child support program. The entities include but are not limited  
19 to for-profit, nonprofit, and labor organizations, and any  
20 agency, board, commission, authority, court, or committee of the  
21 State or its political subdivisions, notwithstanding any  
22 provision for confidentiality. Subject to safeguards on privacy

1 and confidentiality and subject to the nonliability of entities  
2 that afford access under this section, the agency and other  
3 state [~~or territorial~~] agencies administering a program under  
4 Title IV-D shall also have access to records held by private  
5 entities with respect to individuals who owe or are owed  
6 support, or against or with respect to whom a support obligation  
7 is sought consisting of:

8 (1) The names and addresses of individuals and the names  
9 and addresses of the employers of such individuals as  
10 appearing in customer records of public utilities and  
11 cable television companies, pursuant to an  
12 administrative subpoena authorized pursuant to section  
13 576E-2; and

14 (2) Information, including information on assets and  
15 liabilities, on such individuals held by financial  
16 institutions.

17 (d) Other [~~federal, state, and territorial~~] state and  
18 federal agencies conducting activities under [~~the~~] Title IV-D  
19 [~~program~~] shall have access to any system used by the State to  
20 locate an individual for purposes relating to motor vehicles or  
21 law enforcement."

22

S.B. NO. 1232

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

3 SECTION 8. This Act shall take effect upon its approval.

4

5

6

INTRODUCED BY: S.B.T.J.

7

BY REQUEST

**Report Title:**

Child Support Enforcement

**Description:**

Includes tribal IV-D agencies and foreign countries as defined under federal regulations as authorized agencies that services and information can be provided to and received from.

JUSTIFICATION SHEET

SB. NO. 1232

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT.

PURPOSE: In order to comply with new federal regulations, sections of the Hawaii Revised Statutes must be amended to include tribal Title IV-D agencies and foreign countries as defined under federal regulations as authorized agencies that services and information can be provided to and received from.

MEANS: Amend sections 576D-1, 576D-6(a), 576D-10(c), 576D-10.5(f) and (g), 576D-14(c), and 576D-18(c) and (d) of Hawaii Revised Statutes.

JUSTIFICATION: Amendments made to 45 CFR §§ 302.36 and 303.7 require that all states provide Title IV-D services to tribal IV-D agencies and foreign countries as defined under federal regulations. Failure to comply with this federal requirement would jeopardize federal funding of the Child Support Enforcement Agency and federal funding of TANF programs.

Impact on the Public: Facilitates Title IV-D services for the public who have a connection to tribal entities and foreign countries as defined under federal regulations.

Impact on the Department or other agencies: None

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: ATG 500

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.