

JAN 18 2013

A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1 SECTION 1. Chapter 576D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§576D- Disclosure of obligors in arrears in their child
5 support obligations. (a) The agency may disclose a list of
6 obligors who are in arrears or delinquent in their child support
7 obligations under an existing order of support as defined in
8 section 576D-1. The list shall include only those obligors who
9 owe an arrearage of more than \$ or are delinquent in
10 payment of an amount equal to months' support obligation
11 pursuant to an order for support. The list shall include the
12 obligor's name and address, the amount of any child support
13 arrearage, and any other information deemed appropriate by the
14 agency.

15 (b) At least ninety days before the disclosure under
16 subsection (a), the agency shall serve notice upon the obligor
17 of the agency's intent to disclose the arrearage. The notice
18 shall be sent by certified mail to the address of record of the



1 obligor as shown in the agency's child support record. For
2 purposes of this section, the date of service means two days
3 following the date of mailing. The notice shall contain the
4 following information:

- 5 (1) The name, social security number, if available, date
6 of birth, if known, and each applicable child support
7 case number or numbers of the obligor;
- 8 (2) The amount of the arrears, the amount of the monthly
9 child support obligation, and reference to the support
10 order upon which the support amount and arrears are
11 based; and
- 12 (3) A statement that the obligor may contact the agency in
13 writing within sixty days of the date of service of
14 the notice and enter into a monthly payment agreement
15 for the arrears owed, and if an agreement is entered
16 into within sixty days of making contact with the
17 agency, the agency shall not disclose the arrearage.
- 18 (c) If the arrearage is not paid within sixty days after
19 the notice was delivered to the obligor or the agency has been
20 notified that delivery was refused, and the obligor has not,
21 since the date of mailing, entered into a written agreement with



1 the agency for payment of the arrearage, the agency may disclose
2 the obligor's arrearage.

3 (d) An obligor with child support arrearage under an order
4 of support or an administrative order is not subject to
5 disclosure under subsection (a) if a written agreement for
6 payment exists between the obligor and the agency or the
7 arrearage is the subject of an administrative hearing,
8 administrative review, or judicial review.

9 (e) The list shall be made available for public inspection
10 on the agency's official website.

11 (f) A disclosure made by the agency in a good faith effort
12 to comply with this section shall not be considered a violation
13 of the confidentiality provisions under section 576D-12."

14 SECTION 2. Chapter 651C, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§651C- Intentional concealment of support; penalties.**

18 (a) Whoever shall transfer an asset for the purpose of
19 concealing it to avoid payment of an order of support, judgment,
20 or decree issued pursuant to chapter 571, 576B, 576D, 580, or
21 584 or pursuant to any similar laws of other states, shall be



1 punished by a fine of not more than \$ _____ or by
2 imprisonment of not more than _____ years, or both.

3 (b) Whoever receives or conceals an asset of another
4 knowing that the asset is being transferred for the purpose of
5 concealing it to avoid payment of an order of support, judgment,
6 or decree issued pursuant to chapter 571, 576B, 576D, 580, or
7 584 or pursuant to any similar laws of other states, shall be
8 punished by a fine of not more than \$ _____ or by
9 imprisonment of not more than _____ years, or both."

10 SECTION 3. Section 576D-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§576D-6 Other duties of agency.** (a) The agency shall:

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

15 (2) Cooperate with other states in:

16 (A) Establishing paternity, if necessary;

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

20 and



- 1 (C) Securing compliance by an absent parent with a
- 2 support order issued by a court of competent
- 3 jurisdiction in any other state;
- 4 (3) Perform periodic checks of whether a parent is
- 5 collecting unemployment compensation and, if so, to
- 6 arrange, either through agreement with the parent or
- 7 by bringing legal process, to have a portion of the
- 8 compensation withheld, to fulfill the parent's child
- 9 support obligations;
- 10 (4) Notify annually each custodial parent, guardian,
- 11 protective payee, or other person having custody of
- 12 the child of an Aid to Families with Dependent
- 13 Children family of the amount of child support
- 14 collected on behalf of the child in the family. For
- 15 the purpose of this paragraph, "Aid to Families with
- 16 Dependent Children family" means a family that
- 17 receives financial assistance under the federal Aid to
- 18 Families with Dependent Children program or its
- 19 successor;
- 20 (5) Establish and use procedures that shall require a
- 21 debtor parent to give security, post bond, or give
- 22 some other guarantee to secure payment of delinquent



1 child support. The procedures shall apply to all
2 debtor parents of children described under section
3 576D-3. The procedures shall include advance notice
4 to the debtor parent in full compliance with the
5 State's procedural due process requirements. The
6 agency shall develop guidelines, which are available
7 to the public, to determine whether the case is
8 appropriate for application of this requirement;

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



1 (7) Establish and use procedures that will enforce liens
2 against the real and personal property of a debtor
3 parent who owes overdue support and who resides or
4 owns property in the State. The agency shall further
5 establish guidelines that are available to the public
6 to determine whether the case is inappropriate for
7 application of this paragraph;

8 (8) Establish and use procedures that will enforce liens
9 against the vehicles or vessels of a debtor parent who
10 owes overdue support and who resides in the State.

11 The agency shall further establish guidelines that are
12 available to the public to determine whether the case
13 is inappropriate for application of this paragraph;

14 [~~+8~~] (9) Establish and use procedures for the notification
15 of a custodial parent that any income tax refund
16 setoff under section 231-53 shall be retained by the
17 State in cases where medical support rights have been
18 assigned to the State and the income tax refund setoff
19 is applied to amounts designated in the child support
20 order for medical purposes;

21 [~~+9~~] (10) Establish and use procedures for prompt
22 reimbursement of overpayment of child support debts



1 from income tax refund setoffs under section 231-53.

2 The procedures shall provide for the reimbursement to
3 be made by the custodial parent or agency;

4 ~~[(10)]~~ (11) Establish and use procedures for periodic review
5 and modification of child support orders in accordance
6 with Title IV-D;

7 ~~[(11)]~~ (12) Provide notice not less than once every three
8 years to those parents subject to an order of support
9 informing the parents of their right to request the
10 agency to review and, if appropriate, adjust the order
11 of support pursuant to the guidelines established
12 under section 576D-7;

13 ~~[(12)]~~ (13) Establish and operate a state case registry that
14 contains records of:

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

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

19 The records shall use standardized data elements for
20 both parents, including but not limited to names,
21 residential and mailing addresses, telephone numbers,
22 driver's license numbers, social security numbers and



1 other uniform identification numbers, dates of birth,
2 case identification numbers, and the names, addresses,
3 and telephone numbers of the parents' employers, and
4 contain any other information as required by the
5 United States Secretary of Health and Human Services.
6 In each case, with respect to subparagraph (A) and
7 where a support order has been established, the case
8 record shall include the amount of monthly or other
9 periodic support owed under the order, and other
10 amounts, including but not limited to arrearages, due
11 under the order, the amounts collected under the
12 order, the birthdate of any child for whom the order
13 requires the provision of support, and the amount of
14 any lien imposed[+]. The agency may assess and
15 collect interest on behalf of the custodial parent at
16 the rate of ten per cent annually on delinquent child
17 support that has accrued under any support order
18 entered into the registry;

19 [~~13~~] (14) Perform other duties required under chapter
20 576B, the Uniform Interstate Family Support Act; and

21 [~~14~~] (15) Perform other duties required under Title IV-D.



1 (b) The procedures required under subsection (a)(5), (6),
2 (7), (8), (9), (10), and [~~(10)~~] (11) shall be established by
3 rule in accordance with chapter 91."

4 SECTION 4. Section 576D-7, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The family court, in consultation with the agency,
7 shall establish guidelines to establish the amount of child
8 support when an order for support is sought or being modified
9 under this chapter. The guidelines shall be based on specific
10 descriptive and numeric criteria and result in a computation of
11 the support obligation.

12 The guidelines may include consideration of the following:

- 13 (1) All earnings, income, and resources of both parents;
14 provided that earnings be the net amount, after
15 deductions for taxes, and social security. Overtime
16 and cost of living allowance may be deducted where
17 appropriate;
- 18 (2) The earning potential, reasonable necessities, and
19 borrowing capacity of both parents;
- 20 (3) The needs of the child for whom support is sought;



- 1 (4) The amount of public assistance which would be paid
- 2 for the child under the full standard of need as
- 3 established by the department;
- 4 (5) The existence of other dependents of the obligor
- 5 parent;
- 6 (6) To foster incentives for both parents to work;
- 7 (7) To balance the standard of living of both parents and
- 8 child and avoid placing any below the poverty level
- 9 whenever possible;
- 10 (8) To avoid extreme and inequitable changes in either
- 11 parent's income depending on custody; [~~and~~]
- 12 (9) To verify income and deductions when an order for
- 13 support is sought or being modified, federal and state
- 14 tax returns for the preceding two years and current
- 15 pay stubs may be required. Other sufficient
- 16 verification may be required for income and deductions
- 17 that do not appear on tax returns or paystubs;
- 18 (10) To verify income and deductions for self-employed
- 19 parents when an order for support is sought or being
- 20 modified, federal and state tax returns with all
- 21 schedules for the preceding five years may be
- 22 required. Other sufficient verification may be



1 required for income and deductions that do not appear
2 on tax returns or paystubs; and

3 [~~(9)~~] (11) If any obligee parent (with a school age child
4 or children in school), who is mentally and physically
5 able to work, remains at home and does not work,
6 thirty (or less) hours of weekly earnings at the
7 minimum wage may be imputed to that parent's income."

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

10 "(a) The agency and its agents shall keep records that may
11 be necessary or proper in accordance with this chapter. All
12 applications and records concerning any individual or case shall
13 be confidential. The use or disclosure of information
14 concerning any individual or case shall be limited to:

15 (1) Persons duly authorized by the State or the United
16 States in connection with their official duties, when
17 their official duties are directly concerned with the
18 administration and implementation of any child support
19 enforcement plan or of a program approved by Title
20 IV-A through E, or under Title II, X, XIV, XVI, XIX,
21 or XX of the Social Security Act, including but not



- 1 limited to any legal counsel working on behalf of the
- 2 agency;
- 3 (2) Disclosure to the extent necessary to provide
- 4 information to family support payors or payees or
- 5 their authorized representatives regarding payments
- 6 received by the agency and the status of their support
- 7 accounts; provided that the information shall be
- 8 disclosed to an authorized representative only if the
- 9 request is accompanied by a written waiver of the
- 10 payor or payee concerned;
- 11 (3) Disclosure to consumer reporting agencies as provided
- 12 in section 576D-6(a)(6);
- 13 (4) Other agencies or persons connected with the
- 14 administration of any other federal or federally
- 15 assisted program that provides assistance, in cash or
- 16 in kind, or services, directly to individuals on the
- 17 basis of need;
- 18 (5) Employees acting within the scope and course of their
- 19 employment with the department as may be approved by
- 20 the agency;
- 21 (6) Purposes directly connected with any investigation,
- 22 enforcement, prosecution, or criminal, civil, or



1 administrative proceeding conducted in connection with
2 the administration of any plan or program in paragraph
3 (1); ~~and~~

4 (7) Disclosure to the family court as may be deemed
5 necessary by the family court for any case pending
6 before a court or for purposes of implementation of
7 section 571-51.5~~[-]~~; and

8 (8) Disclosure on the agency's official website as
9 provided in section 576D- ."

10 SECTION 6. Section 651C-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "creditor" to read as
12 follows:

13 "Creditor" means a person who has a claim against a
14 debtor~~[-]~~, including a claim for past-due child support."

15 SECTION 7. Section 657-5.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[-]~~**§657-5.5**~~[+]~~ **Judgments for support.** Every judgment for
18 child support, including a judgment for reimbursement or other
19 arrears, shall be ~~[presumed to be paid and discharged on the~~
20 ~~thirty third birthday of the child for which the order of~~
21 ~~support was rendered or by the expiration of the latest period~~



1 ~~provided in section 657-5, whichever date is later.]~~ enforceable
2 until paid in full."

3 SECTION 8. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 9. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect upon its approval.

12

INTRODUCED BY: *Franne Chun Oallala*
By Request



Report Title:

Child Support; Child Support Enforcement Agency; Arrearages;
Uniform Fraudulent Transfer Act

Description:

Permits the child support enforcement agency to disclose a list of obligors who are in arrears or delinquent in their child support obligations on the agency's official website; permits the agency to establish procedures that will enforce liens against vehicles or vessels of parents who owe overdue child support; permits the agency to assess and collect interest on delinquent child support. Permits the family court to require verification of income and deductions when an order for child support is sought or modified. Amends the definition of "creditor" in the Uniform Fraudulent Transfer Act to include a person who has a claim for past-due child support against a debtor, and establishes penalties for persons who intentionally transfer, receive, or conceal assets to avoid payment of child support. Establishes that every judgment for child support is enforceable until paid in full.

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

