

CHAPTER 576E
ADMINISTRATIVE PROCESS FOR
CHILD SUPPORT ENFORCEMENT

Section

- 576E-1 Definitions
- 576E-2 Attorney general; powers
- 576E-3 Jurisdiction
- 576E-4 Service
- 576E-5 Commencement of administrative proceedings; notice
- 576E-6 Request for hearing; how made
- 576E-7 Failure to request hearing; effect
- 576E-8 Action by agency upon request for hearing
- 576E-9 Hearings in contested cases
- 576E-10 Hearings officers
- 576E-11 Administrative orders; required findings
- 576E-12 Administrative orders; force and effect
- 576E-13 Appeal to the family court
- 576E-14 Modification, suspension, or termination of court
and administrative orders
- 576E-15 Guidelines to be followed
- 576E-16 Income withholding
- 576E-16.5 Repealed
- 576E-17 Medical support enforcement
- 576E-18 Contempt; procedure for punishment
- 576E-19 Wilful violations; penalties
- 576E-20 Uniform statewide procedures

" **§576E-1 Definitions.** As used in this chapter, unless the context otherwise requires:

"Administrative order" means the order resulting from an administrative adjudication by a hearings officer or the attorney general, through the agency, of the final disposition of a matter before the agency.

"Agency" means the child support enforcement agency established by section 576D-2.

"Arrearage" means past due child support under an existing court or administrative order.

"Child support" means payment for the necessary support and maintenance of a child as required by law that includes but is not limited to spousal support when being enforced in conjunction with child support or medical support when a court or administrative order requires the debtor parent to pay an amount in lieu of providing medical insurance coverage or to reimburse for maternity and delivery expenses incurred when the debtor parent's child was born.

"Compliance with an order of support" means that an obligor:

- (1) Is not delinquent in payments in an amount equal to or greater than the sum of payments which would become due for child support, for a three-month period with regard to driver's and recreational licenses and for a six-month period with regard to professional and vocational licenses;
- (2) Is not delinquent in making periodic payments on a support arrearage pursuant to a written agreement with the child support enforcement agency under section 576D-13(d); or
- (3) Has obtained or maintained health insurance coverage as required by a child support order.

"Court" means the family courts of this State and, when the context requires, a court or agency of any other state having jurisdiction to establish, modify, and enforce support obligations.

"Custodial parent" means a parent, guardian, or other person having physical custody of the child.

"Department" means the department of the attorney general.

"Dependent child" means any person to whom a duty of support is owed.

"Duty of support" means any duty of support imposed or imposable by law, or by any court order, decree, or judgment, whether interlocutory or final or whether incidental to a proceeding for divorce, judicial separation, separate maintenance, or otherwise, and includes the duty to pay arrearages of support past due and unpaid.

"Employee" means any person working for another for hire, including but not limited to, an individual employed in domestic service or at a family's or person's home or any individual employed by the individual's parent or spouse, or independent contractors.

"Employer" means any person who uses or engages the services of any person in exchange for the payment of wages or other means of exchange, including the United States government, the State, and any political subdivision thereof, and anyone who is or shall become obligated for payment of income.

"Hearings officer" means a public official appointed and commissioned pursuant to section 576E-10.

"License" means any license, certification, registration, or permit issued by a licensing authority for recreational purposes, or to conduct a trade or business, including a license to practice a profession or vocation, or a license to operate any motor vehicle, boat, airplane, or helicopter.

"Licensing authority" means any unit of the State or county government, including agencies, departments, boards, commissions, or authorities, or any other entity within the State or county authorized by statute to grant or deny licenses.

"Obligee" means any person to whom payments are required to be made under the terms of a court or administrative order for child support, or child support and spousal support.

"Obligor" means a responsible parent obligated by court or administrative order to pay child support.

"Office" means the office of child support hearings established pursuant to section 576E-10.

"Order of support" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief. An order of support may include spousal support when ordered to be paid in conjunction with the support and maintenance of a child; provided that the spousal support provision in an order of support shall only be enforced by the agency when the support and maintenance of a child is being enforced. An order of support may also include medical support when the debtor parent is ordered to pay an amount in lieu of providing medical insurance coverage or to reimburse for maternity and delivery expenses incurred when the debtor parent's child was born.

"Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, including but not limited to the custodial parent and the responsible parent.

"Public assistance" means any cash paid or medical assistance provided by the department of human services to or for the benefit of any dependent child, including amounts paid to or on behalf of the child's custodian.

"Responsible parent" means any person who does not have physical custody of the child and who has a legal duty of support.

"Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or a former spouse who is living with a child or children for whom the individual also owes support.

"Support order" means an obligation determined by a court or duly authorized administrative agency, for the maintenance of a dependent child, which is owed to or on behalf of the child, or to the parent or custodian with whom the child is living.

"Uniform statewide procedures" means a written set of instructions prepared by the agency which describe step by step actions to be taken by agency personnel in the performance of duties under this chapter. [L 1988, c 154, pt of §2; am L 1990, c 176, §8; am L 1993, c 251, §§1, 2; am L 1994, c 105, §§1, 2; am L 1997, c 293, §32; am L 1998, c 83, §7 and c 153, §8; am L 2002, c 72, §8 and c 84, §6; am L 2003, c 3, §21]

" **§576E-2 Attorney general; powers.** Notwithstanding any other law to the contrary, the attorney general, through the agency and the office, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified, or enforced, including but not limited to proceedings under chapters 571, 580, 584, and 576B. The attorney general, through the agency and the office, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department's jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include but not be limited to the power to:

- (1) Conduct investigations into the ability of parties to pay support and into nonpayment of support;

- (2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;
- (3) Establish, modify, suspend, terminate, or enforce a child support order and to collect or enforce a spousal support order in conjunction with a child support order;
- (4) Determine that a party has not complied with a court or administrative order of support and make recommendations to the court or other agency with respect to contempt or other appropriate proceedings;
- (5) Establish arrearage;
- (6) Establish an order for child support for periods which public assistance was provided to the child or children by the department of human services;
- (7) Order and enforce assignment of future income under section 576E-16, chapter 571, and section 576D-14;
- (8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order of support issued by another state or foreign jurisdiction, except as modified or limited by this chapter;
- (9) Determine that an obligor owes past-due support with respect to a child receiving assistance under a state program funded under Title IV-A of the Social Security Act, including Aid to Families with Dependent Children and Temporary Assistance to Needy Families and petition the court to issue an order that requires the obligor to pay such support in accordance with a plan approved by the court or, if the obligor is subject to such a plan and is not incapacitated, participate in work activities, as defined in 42 U.S.C. §607(d), as the court deems appropriate;
- (10) Order genetic testing pursuant to chapter 584 for the purpose of establishing paternity, with payment of costs to be made by the agency, subject to recoupment by the State from the father or the mother, if appropriate, if paternity is established, and to also order additional testing in any case if an original test result is contested, upon request and advance payment by the contestant;
- (11) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order of support issued by another state or foreign jurisdiction, except as modified or limited by this chapter and chapter 576B; and

- (12) Delegate the powers and authority described in this section to hearings officers and employees of the agency. [L 1988, c 154, pt of §2; am L 1989, c 61, §2; am L 1990, c 176, §9; am L 1993, c 251, §3; am L 1994, c 105, §3; am L 1997, c 293, §33 and c 295, §4; am L 1998, c 11, §29 and c 83, §8; am L 2002, c 72, §9]

" **§576E-3 Jurisdiction.** Notwithstanding any other law to the contrary, the attorney general, through the agency and the office, shall have concurrent jurisdiction with the court over:

- (1) Any person found within the State of Hawaii against whom a child support obligation may be established, modified, suspended, terminated, or enforced; and
- (2) Any person without the State who has maintained a domicile in this State while involved in a marital or family relationship out of which arises a claim for child support, including any person against whom a Hawaii court or agency has entered a support order. [L 1988, c 154, pt of §2; am L 1990, c 176, §10; am L 1994, c 105, §4]

" **§576E-4 Service.** (a) In any proceeding to establish a child support order, in cases where the agency is not yet enforcing an order of support for the subject child, service of the notice provided in section 576E-5 shall be by personal service or certified mail, return receipt requested. In the case where the person to be served cannot be found, service shall be completed by leaving copies of the notice at the person's usual place of residence with some person of suitable age and discretion residing at that location. After initial service is effected, additional service upon a party shall be satisfied by regular mail to the party's last known address.

(b) Service of the notice of hearing pursuant to the request for hearing under section 576E-6 of a party shall be satisfied by regular mail to the party's address provided with the request for hearing, or if not provided, to the party's last known address.

(c) In any child support enforcement proceeding subsequent to an order already being enforced by the agency, upon a showing that diligent effort has been made to ascertain the location of a party, notice and service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry pursuant to section 571-52.6. [L 1988, c 154, pt of §2; am L 1990, c 176, §11; am L 1994, c 105, §5; am L 1997, c 293, §34; am L 2001, c 95, §§5, 6; am L 2002, c 84, §7]

" **§576E-5 Commencement of administrative proceedings; notice.** The agency shall serve a notice of administrative proceedings and notice of financial responsibility upon the parties prior to the issuance of an order under this chapter. Where applicable, notice shall contain the following:

- (1) A copy or statement of the order proposed to be entered;
- (2) A statement that the parties are entitled to an administrative hearing before an impartial hearing officer to contest the entry of the order together with an explanation of the procedure for requesting a hearing;
- (3) A statement of rights at the hearing together with an explanation of defenses or objections which may be considered by the hearing officer;
- (4) A statement of the legal authority under which the hearing is to be held;
- (5) A statement that the property of the parties may be seized or that the income of the parties may be withheld for payment of support;
- (6) A statement that information relating to the parties' nonpayment of support may be made available to credit-reporting agencies;
- (7) A statement that child and spousal support shall be payable by an order for immediate income withholding which shall be entered concurrently with the administrative order pursuant to section 576E-16;
- (8) A statement that parties have the right to request judicial review of a final order of a hearing officer pursuant to section 576E-13;
- (9) A statement that an administrative determination of a support obligation creates a judgment by operation of law upon filing of the order at the family court and as such is entitled to full faith and credit in any other state or jurisdiction. [L 1988, c 154, pt of §2; am L 1990, c 176, §12; am L 1993, c 251, §4; am L 1994, c 105, §6]

" **§576E-6 Request for hearing; how made.** (a) Except as provided in subsection (b), any party who is aggrieved by the proposed order of the agency may, within ten days of service of a notice described in section 576E-5, obtain a hearing by sending a written request for hearing to the agency at the address from which the notice was sent.

(b) In the case of a proposed order to modify child support resulting from the agency's review of support orders, a party aggrieved by the proposed order may request a hearing

within thirty days of service of a notice described in section 576E-5.

(c) The agency, on its own behalf, may request a hearing after the commencement of an administrative proceeding pursuant to section 576E-5.

(d) Notice of the hearing under this section shall be served in accordance with section 576E-4. [L 1988, c 154, pt of §2; am L 1990, c 176, §13; am L 1991, c 182, §2; am L 1994, c 105, §7; am L 2008, c 178, §3]

" **§576E-7 Failure to request hearing; effect.** If the parties fail to request a hearing pursuant to section 576E-6, the agency or a hearings officer shall sign the proposed order as the final order in the action. [L 1988, c 154, pt of §2; am L 1990, c 176, §14; am L 1994, c 105, §8; am L 2008, c 178, §4]

" **§576E-8 Action by agency upon request for hearing.** Upon receipt of a hearing request, the agency may contact the parties and attempt to reach an agreed disposition. If no agreed disposition can be obtained, the matter shall be referred to a hearings officer for contested case proceedings. [L 1988, c 154, pt of §2; am L 1994, c 105, §9; am L 1995, c 191, §1]

" **§576E-9 Hearings in contested cases.** Hearings in contested cases shall be conducted in accordance with this chapter, and when otherwise applicable, chapter 91, and shall be presided over by a hearings officer appointed and commissioned by the attorney general pursuant to section 576E-10. The attorney general may adopt such administrative rules pursuant to chapter 91, as may be necessary to carry out this section. In any hearing conducted under this section, all parties shall have the right to confront and cross-examine witnesses, to present witnesses and evidence, to be represented by counsel or other person, and to be notified of these rights in writing. Hearings may be conducted by telephone or other electronic telecommunications methods at the discretion of the hearings officer. [L 1988, c 154, pt of §2; am L 1990, c 176, §15; am L 1992, c 246, §5; am L 1994, c 105, §10]

" **§576E-10 Hearings officers.** (a) The attorney general shall establish the office of child support hearings, and shall appoint and commission, without regard to chapter 76, such hearings officers as may be necessary to carry out the purposes of this chapter.

(b) Hearings officers shall exercise all of the powers granted to the attorney general under this chapter, but shall not be considered deputy attorneys general and shall not

exercise the powers or discharge the duties conferred upon the attorney general or the attorney general's deputies by chapter 28.

(c) In exercising the powers conferred upon the attorney general in section 576E-2, the hearings officers shall have the authority to conduct hearings and enter the following orders:

- (1) Child support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provisions of orders of the family courts;
 - (2) Child support orders establishing, modifying, suspending, terminating, or enforcing child support obligations;
 - (3) Orders enforcing the collection of spousal support when child support is being established, modified, or enforced;
 - (4) Income withholding orders pursuant to section 576E-16;
 - (5) Automatic income assignment orders pursuant to sections 571-52.2 and 576D-14;
 - (6) Interstate income withholding orders pursuant to chapter 576B;
 - (7) State income tax refund setoff orders pursuant to section 231-54;
 - (8) Orders determining whether Aid to Families with Dependent Children pass through payments were properly distributed;
 - (9) Orders determining whether a party should be required to post bond in order to secure payment of past due support pursuant to section 576D-6;
 - (10) Medical insurance coverage orders;
 - (11) Orders suspending or denying the granting, the renewal, the reinstatement, or the restoration of licenses or applications of an obligor or individual for noncompliance with an order of support or failure to comply with a subpoena or warrant relating to a paternity or child support proceeding, and authorizations allowing the reinstatement of suspended licenses or consideration of license applications pursuant to section 576D-13;
 - (12) Orders concerning whether a responsible parent's child support obligation should be reported to consumer credit reporting agencies pursuant to chapter 576D; and
 - (13) Orders in other child support areas as authorized by the attorney general.
- (d) Hearings officers shall have further authority to:

- (1) Accept voluntary acknowledgments of paternity, support liability, and stipulated agreements setting the amount of child support to be paid after application of the guidelines established under section 576D-7;
 - (2) Receive testimony and evidence from parties to the hearing and to establish a record;
 - (3) Evaluate testimony and other evidence received at hearings and make specific findings of fact and conclusions of law after contested hearings and when otherwise required by law;
 - (4) Issue subpoenas;
 - (5) Compel production of documents and witnesses;
 - (6) Dismiss a case upon a finding of good cause;
 - (7) Hold prehearing conferences;
 - (8) Examine judgment debtors;
 - (9) Refer contempt proceedings to the appropriate court.
- (e) Hearings officers shall be entitled to immunity from liability while acting in their official capacity. [L 1988, c 154, pt of §2; am L 1989, c 61, §3; am L 1990, c 176, §16; am L 1993, c 251, §5; am L 1994, c 105, §11; am L 1997, c 293, §35; am L 1998, c 11, §30 and c 83, §9; am L 1999, c 300, §4; am L 2000, c 253, §150; am L 2002, c 31, §2]

" **§576E-11 Administrative orders; required findings.** Every order entered pursuant to this chapter shall specify, where applicable, the following:

- (1) The amount of periodic support to be paid by a party with directions as to the manner of payment;
- (2) The amount of child support arrearage, if any, that has accrued under an existing court or administrative order;
- (3) The amount of child support owed for a period during which public assistance was provided to the child or children by the department of human services;
- (4) The amount of the periodic payment to be made in liquidation of child support arrearage, if any;
- (5) A statement that a party's taxes shall be set off against the amount of child support arrearage, if any;
- (6) The extent of the party's responsibility to provide medical insurance coverage for the dependent child involved in the case, or otherwise to pay the reasonable and necessary medical expenses of the dependent child, and a statement that the party is required to keep the agency informed of whether the party has access to medical insurance coverage at a reasonable cost and, if so, the medical insurance policy information;

- (7) The name and birth date of the dependent child;
- (8) A statement that the property of the party is subject to collection action, including withholding of income, unemployment compensation, workers' compensation, and retirement benefits, seizure of property, disclosure of information relating to the party's debts to consumer credit reporting agencies, and federal and state tax refund setoff;
- (9) A statement that violations of the administrative order are punishable as contempt of court;
- (10) A statement notifying the parties of the right to judicial review of administrative orders, and the procedure for obtaining such review;
- (11) Identifying information for each party, including social security number, residential and mailing addresses, telephone number, driver's license number if different from the social security number, and name, address, and telephone number of the party's employer, unless there is a finding that such disclosure of information would unreasonably put at risk the health, safety, or liberty of a party or child; and
- (12) A statement that both the obligor party and the obligee party are required to file with the state case registry, through the agency, upon entry of the support order and to update as appropriate, information on the identity and location of the party, including social security number, residential and mailing addresses, telephone number, driver's license number if different from social security number, and name, address, and telephone number of the party's employer. [L 1988, c 154, pt of §2; am L 1990, c 176, §17; am L 1994, c 105, §12; am L 1997, c 293, §36; am L 2002, c 72, §10; am L 2005, c 26, §4]

" **§576E-12 Administrative orders; force and effect.** (a) A true copy of the administrative order, along with a true copy of the return of service, shall be filed in the office of the clerk of the circuit court in the circuit where the order was issued, or in the office of the clerk of the circuit court in the circuit where a previously established support order was filed. Upon filing, the order shall have all the force and effect of a final order or decree of the circuit court.

(b) Orders for reimbursement of public assistance shall be considered child support arrearages for purposes of nondischargeability in bankruptcy.

(c) The administrative order shall remain in effect until superseded by a subsequent court or administrative order.

(d) A copy of the order shall be served by regular mail upon all parties. [L 1988, c 154, pt of §2; am L 1989, c 61, §4; am L 1990, c 176, §18; am L 1994, c 105, §13; am L 1995, c 191, §2]

" **§576E-13 Appeal to the family court.** (a) Any party, including the agency, who is aggrieved by a final decision and order in a contested case or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief is entitled to judicial review under chapter 91.

(b) Proceedings for review shall be instituted in the family court of the circuit where the final decision and order was filed within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the hearings officer or agency. The filing of a notice of appeal shall not stay enforcement of the administrative order.

(c) The senior family court judge or senior judge may assign the hearing and disposition of such appeals to any district judge of the family court who shall exercise all of the powers conferred upon a circuit court by section 91-14. [L 1988, c 154, pt of §2; am L 1989, c 61, §5; am L 1990, c 176, §19; am L 2001, c 95, §7]

Rules of Court

Appeal to family court, see HFCR rule 72.

" **§576E-14 Modification, suspension, or termination of court and administrative orders.** (a) The responsible parent, the agency, or the person having custody of the dependent child may file a request for suspension, termination, or modification of the child support provisions of a Hawaii court or administrative order with the agency. Such request shall be in writing, shall set forth the reasons for suspension, termination, or modification, including the change in circumstances since the date of the entry of the order, and shall state the address of the requesting party. The agency shall thereafter commence a review of the order and, if appropriate, shall commence administrative proceedings pursuant to sections 576E-5 through 576E-9. The need to provide for the child's health care needs through health insurance or other means shall be a basis for the agency to commence administrative proceedings pursuant to section 576E-5.

(b) Only payments accruing subsequent to service of the request on all parties may be modified, and only upon a showing of a substantial and material change of circumstances. The agency shall not be stayed from enforcement of the existing order pending the outcome of the hearing on the request to modify.

(c) The establishment of the guidelines or the adoption of any modifications made to the guidelines set forth in section 576D-7 may constitute a change in circumstances sufficient to permit review of the support order. A material change of circumstances will be presumed if support as calculated pursuant to the guidelines is either ten per cent greater or less than the support amount in the outstanding support order. The most current guidelines shall be used to calculate the amount of the child support obligation.

(d) The responsible parent or custodial parent shall have a right to petition the family court or the child support enforcement agency not more than once every three years for review and adjustment of the child support order without having to show a change in circumstances. The responsible or custodial parent shall not be precluded from petitioning the family court or the child support enforcement agency for review and adjustment of child support more than once in any three-year period if the second or subsequent request is supported by proof of a substantial or material change of circumstances.

(e) Upon satisfaction of a responsible parent's support obligation toward the dependent child and the State, the agency or hearings officer without application of any party may issue an order terminating child support and may concurrently, if applicable, issue an order terminating existing assignments against the responsible parent's income and income withholding orders.

(f) In those cases where child support payments are to continue due to the adult child's pursuance of education, the agency, at least three months prior to the adult child's nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, prior to the child's nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency upon the child reaching the age of nineteen years. In addition,

if applicable, the agency or hearings officer may issue an order terminating existing assignments against the responsible parent's income and income assignment orders. [L 1988, c 154, pt of §2; am L 1990, c 176, §20; am L 1991, c 216, §2; am L 1992, c 115, §2 and c 212, §2; am L 1997, c 293, §37 and c 294, §4]

Law Journals and Reviews

Hawaii's Statewide Child Support Guidelines. 14 HBJ, no. 13, at 9 (2011).

Case Notes

Subsection (b) did not apply to case where no request for modification of an existing order was filed with the agency and any request would have had to have been with respect to a preexisting court or agency order, neither of which existed in the case. 96 H. 1, 25 P.3d 60.

" **§576E-15 Guidelines to be followed.** When an administrative order establishes or modifies the amount of child support required to be paid by a party, the guidelines established under section 576D-7 shall be applied, except when exceptional circumstances warrant departure. The most current guidelines shall be used to calculate the amount of the child support obligation. [L 1988, c 154, pt of §2; am L 1990, c 176, §21; am L 1991, c 216, §3; am L 1994, c 105, §14]

Case Notes

Father's due process rights not violated by child support enforcement agency when it did not notify father prior to administrative hearing that the issue was to increase father's child support obligation where, given that father was aware that the purpose of the hearing was the modification of father's child support obligation and that, absent exceptional circumstances, the hearings officer would be bound by the amount calculated by the child support guidelines worksheet, this information was sufficient notice to father that child support amount may be reduced or increased. 108 H. 202, 118 P.3d 1145.

Whether net income earned by an adult-student-son or daughter is "exceptional circumstance", discussed. 86 H. 368 (App.), 949 P.2d 208.

" **§576E-16 Income withholding.** (a) Whenever an administrative order is entered establishing, modifying, or enforcing support, or establishing an arrearage that has accrued

under a previous judicial or administrative order of support, there shall concurrently be issued an order that shall operate as an assignment to the agency for the benefit of the child or in the case of spousal support, for the benefit of a spouse or former spouse, of such amounts at such times as may be specified in the order, from the responsible parent's income due or to become due in the future from the responsible parent's employer, or successor employers, except when alternative arrangements are ordered pursuant to section 576D-10. The income withholding order shall be in the standard format prescribed by Title IV-D of the Social Security Act, as amended by the child support enforcement agency. A copy of the income withholding order shall be filed in the office of the clerk of the circuit court in the circuit where the order was issued along with the copy of the support order as provided in section 576E-12.

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

(c) Compliance by an employer with the income withholding order issued pursuant to subsection (a) or with the income withholding order or the notice to withhold child support issued pursuant to section 576D-14 shall operate as a discharge of the employer's liability to the responsible parent for that portion of the responsible parent's earnings withheld and transmitted to the agency, whether or not the employer has withheld the correct amount. For each payment made pursuant to an income withholding order or a notice to withhold child support, the employer may deduct and retain as an administrative fee an additional amount of \$2 from the income owed to the responsible parent. The total amount withheld from the obligor's income, including the administrative fee, may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection

Act (15 U.S.C. §1673(b)). Any income withholding order or notice to withhold child support shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, and shall not be subject to the exemptions or restrictions contained in part III of chapter 651 and in chapters 652 and 653. An employer who fails to comply with an income withholding order under this section or with an income withholding order or notice to withhold child support issued pursuant to section 576D-14 shall be liable to the obligee or the agency for the full amount of all sums ordered to be withheld and transmitted. An employer receiving an income withholding order or a notice to withhold child support shall transmit amounts withheld to the agency within five working days after the responsible parent is paid. The employer shall begin withholding no later than the first pay period commencing within seven business days following the date a copy of the order or the notice to withhold child support is mailed to the employer.

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

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

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

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

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

(d) An income withholding order or a notice to withhold child support shall remain in effect after the obligor's requirement to pay future child support has ended if the obligor owes past due support and any amount received pursuant to the order or notice shall be applied to satisfy all past due support owed. An income withholding order or a notice to withhold child support shall be terminated when appropriate by court or administrative order, except that an employer withholding income for payment to the child support enforcement agency shall terminate withholding upon receipt of a notice from the child support enforcement agency to terminate income withholding. Payment by the responsible parent of any delinquency shall not in and of itself warrant termination of the income withholding order or the notice to withhold child support. The agency shall promptly refund any amount withheld in error to the responsible parent.

(e) It shall be unlawful for any employer to refuse to hire a prospective employee, to discharge an employee, or to take any other disciplinary action against an employee, based in whole or in part upon an order or notice to withhold child support authorized by this section. Any employer violating this section shall be guilty of a misdemeanor and shall be punished under section 710-1077(1)(g).

(f) Notwithstanding any other provision of law, for the purposes of this section, the term "income" shall include, without limitation, salaries, wages, earnings, workers' compensation, unemployment compensation, disability benefits, commissions, independent contractor income, and any other entitlement to money including moneys payable as a pension or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government, or from the State or political subdivision thereof, or from any retirement, disability, or annuity system established by any of them pursuant to statute.

(g) Any responsible parent may request withholding of the parent's income prior to entry of an administrative order. The employer shall comply with that request as if so ordered under this section.

(h) If there is more than one obligee, the amounts withheld from the income of a responsible parent shall be

allocated among the obligees. The allocation may be based on each obligee's proportionate share of the amount of the withholding orders or the notices to withhold child support that were served on the employer of the obligor. If concurrent assignment orders or notices to withhold child support would cause the amounts withheld from the responsible parent's income to exceed applicable wage withholding limitations, the amount withheld shall be allocated so that in no case shall the allocation result in a withholding for one of the support obligations not being implemented. Thereafter, arrearages due under the income withholding orders or the notices to withhold child support shall be satisfied in the order of service, up to the applicable limitation.

(i) If a responsible parent changes employment when an income withholding order or a notice to withhold child support is in effect, the agency shall notify the responsible parent's new employer of the responsible parent's obligation in accordance with subsections (b) to (f). The new employer shall be bound by the income withholding order or the notice to withhold child support until further court or administrative order or until further notified by the agency pursuant to section 576D-14. [L 1988, c 154, pt of §2; am L 1989, c 61, §6; am L 1990, c 152, §3 and c 176, §22; am L 1993, c 251, §6; am L 1995, c 125, §§4, 5; am L 1996, c 25, §3; am L 1997, c 293, §38; am L 1999, c 300, §5; am L 2000, c 194, §6; am L 2002, c 72, §11 and c 84, §8; am L 2006, c 34, §3]

Cross References

Prison inmates child support payments, see §353-22.8.

" **§576E-16.5 REPEALED.** L 1997, c 293, §47.

" **§576E-17 Medical support enforcement.** (a) Where the responsible parent is ordered to provide medical insurance coverage for the dependent child, the standard notice for such medical support prescribed by Title IV-D of the Social Security Act, as amended by the agency, shall be issued. The agency shall forward a copy of the notice, by regular mail, by personal delivery, or by transmission through electronic means, to the responsible parent's employer or union when the responsible parent fails to provide written proof to the agency, within thirty days of receipt of the order, that the insurance has been obtained, that application for insurance coverage has been made, or within two business days after the date of entry of a responsible parent in a Title IV-D case in the state directory of new hires, whichever shall first occur.

(b) Upon receipt of the copy of the notice, or upon request of the responsible parent pursuant to the order, the employer or union shall transfer the notice to the appropriate plan providing health care coverage for which the child is eligible within twenty business days after the date of the notice or enroll the dependent child as a beneficiary in the group medical insurance plan and withhold any required premium from the responsible parent's income. If more than one plan is offered by the employer or union, the child shall be enrolled in the plan in which the responsible parent is enrolled or the least costly plan otherwise available to the responsible parent that is comparable to the plan in which the responsible parent is enrolled. An employer who has received a copy of the notice shall inform the agency when the employment of the responsible parent is terminated.

(c) A dependent child whom a responsible parent is required to cover as a beneficiary pursuant to this section is eligible for insurance coverage as a dependent of the responsible parent until the duty of support expires or until further court or administrative order. The insurance coverage shall not be terminated prior to the expiration of the duty of support or the entry of an order relieving the responsible parent of the duty to provide insurance coverage, unless it is determined by the agency that insurance coverage is being provided through appropriate alternative means.

(d) The signature of the custodial parent of the insured dependent child is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of medical services. When an order for dependent insurance coverage is in effect and the responsible parent's employment is terminated, or the insurance coverage is terminated, the insurer shall notify the agency within ten days of the termination date with notice of conversion privileges, if any.

(e) Notwithstanding any other law to the contrary, when an order for insurance coverage is in effect, the responsible parent's employer or union shall release to the agency, upon request, information on the dependent coverage available to the responsible parent, including the name of the insurer. The employer or union shall also provide any other information and perform all tasks as required by the notice issued pursuant to this section.

(f) Any responsible parent who fails to comply with an order requiring the maintenance of insurance coverage for the dependent child shall be liable for any medical expenses incurred by the obligee or the State after the effective date of the order.

(g) The agency may terminate the requirement for the responsible parent's employer or union to enroll the dependent child as a beneficiary in the group medical insurance plan and withhold any required premium from the responsible parent's income by sending a notice to the employer or union by regular mail, by personal delivery, or by transmission through electronic means. The notice shall be issued upon determination by the agency that the obligor no longer is required to provide medical insurance coverage or that such coverage is being provided by another employer. [L 1988, c 154, pt of §2; am L 1990, c 176, §23; am L 1997, c 293, §39; am L 2002, c 19, §1; am L 2005, c 26, §5; am L 2012, c 35, §2]

Cross References

Medicaid-related mandates, see chapter 431L.

" **[\$576E-18] Contempt; procedure for punishment.** In any hearing in a contested case before a hearings officer, any adult who wilfully violates, neglects, or refuses to obey or perform any lawful order of the hearings officer, may be proceeded against in the family court for contempt of court according to law. [L 1990, c 176, pt of §1]

" **[\$576E-19] Wilful violations; penalties.** Unless otherwise provided herein, any person who knowingly, intentionally or wilfully violates any section of this chapter shall be guilty of a petty misdemeanor. [L 1990, c 176, pt of §1]

" **[\$576E-20] Uniform statewide procedures.** The agency shall adopt uniform statewide procedures in compliance with applicable federal law, including part 305 of Title 45, Code of Federal Regulations. [L 1990, c 176, pt of §1]