

JAN 18 2019

A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1 SECTION 1. Section 576D-14, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§576D-14 Implementation of income withholding. (a) For
4 cases being enforced under the Title IV-D state plan or for
5 those parents applying to the agency for services, the income of
6 an obligor who receives income on a periodic basis and who has a
7 support obligation imposed by a support order issued or modified
8 in the State before January 1, 1994, and issued or modified
9 thereafter, if not otherwise subject to withholding, shall
10 become subject to withholding as provided in subsection (b) if
11 arrearages or delinquency occur, without the need for a judicial
12 or administrative hearing. The income of an obligor shall
13 become subject to withholding without regard to whether there
14 are arrearages or delinquency upon the agency receiving a
15 request for income withholding from the obligee and a
16 determination made by the agency that income withholding is
17 appropriate, or upon the agency receiving a request for income



1 withholding from the obligor. The agency shall implement such
2 withholding without the necessity of any application in the case
3 of a child with respect to whom services are already being
4 provided under Title IV-D and shall implement withholding on the
5 basis of an application for services under Title IV-D in the
6 case of any other child on whose behalf a support order has been
7 issued or modified. In either case, the withholding shall occur
8 without the need for any amendment to the support order involved
9 or for any further action by the court or other entity that
10 issued the order.

11 (b) If the obligor who receives income on a periodic basis
12 becomes delinquent in making payments under a support order in
13 an amount at least equal to the support payable for one month,
14 the agency shall issue an income withholding order that shall
15 include an amount to be paid towards the delinquency. The
16 income withholding order shall be in the standard format
17 prescribed by Title IV-D of the Social Security Act, as amended
18 by the child support enforcement agency. The order shall be
19 served upon the employer by regular mail, by personal delivery,
20 or by transmission to the employer through electronic means.



1 (c) If the obligor who receives income on a periodic basis
2 becomes delinquent in making payments under a support order
3 under this chapter or chapter 580 in an amount at least equal to
4 the support payable for three months, upon the agency or court
5 receiving a request for income withholding from the obligee, the
6 agency or the appropriate court shall enter an order that shall
7 require the obligor's place of employment to classify the
8 obligor as an employee for payroll or accounting purposes in
9 order to become subject to withholding pursuant to this chapter.

10 [~~e~~] (d) Upon the agency's receipt of an income
11 withholding request from any other state or agency administering
12 a program under Title IV-D, the agency may issue an income
13 withholding order to collect the support imposed upon the
14 obligor by a support order issued or modified by the other
15 state. The order shall include an amount adequate to ensure
16 that past due payments and payments that will become due in the
17 future under the terms of the support order will be paid.

18 [~~d~~] (e) A copy of the order shall be filed in the office
19 of the clerk of the circuit court in the circuit where the order
20 was issued.



1 ~~[(e)]~~ (f) Upon sending the order of income withholding to
2 the employer, the agency shall send a notice of the withholding
3 by regular mail to each obligor to whom subsections (b) and (c)
4 apply. The notice shall inform the obligor:

5 (1) That the withholding has commenced;

6 (2) That the obligor may request a hearing in writing
7 within fourteen days of the date of the notice;

8 (3) That, unless the obligor files a written request for a
9 hearing within fourteen days of the date of the
10 notice, the money received from the income withholding
11 will be distributed to the custodial parent or, in an
12 interstate case, the obligee in the other
13 jurisdiction, or in the case where the children are
14 receiving public assistance, to the State;

15 (4) That the only defense to income withholding is a
16 mistake of fact; and

17 (5) Of the information that was provided to the employer
18 with respect to the employer's duties pursuant to
19 section 576E-16.

20 ~~[(f)]~~ (g) The agency may delay the distribution of
21 collections toward arrearages or delinquency until the



1 resolution of any requested hearing regarding the arrearages or
2 delinquency.

3 ~~[(g)]~~ (h) Upon timely receipt of a request for a hearing
4 from the obligor pursuant to the notice provided under
5 subsection (e), the agency shall refer the matter to the office
6 and a hearing shall be conducted pursuant to chapters 91 and
7 576E.

8 ~~[(h)]~~ (i) Upon receiving an order of income withholding
9 from the agency, the employer is subject to the requirements of
10 section 576E-16(b) through (h).

11 ~~[(i)]~~ (j) In a case being enforced under the Title IV-D
12 state plan or for those parents applying to the agency for
13 services, the agency may enforce the existing order of support
14 by sending to the employer by regular mail, by personal
15 delivery, or by transmission through electronic means, a notice
16 to withhold child support issued by the agency that reflects the
17 terms and conditions specified in the order for support or
18 income withholding order. Upon receiving a notice to withhold
19 child support, the employer is subject to the requirements of
20 section 576E-16(b) to (h).



1 ~~(j)~~ (k) The agency may terminate income withholding by
2 sending a notice to the employer by regular mail, by personal
3 delivery, or by transmission through electronic means. The
4 notice shall be issued upon determination by the agency that the
5 obligor no longer owes the child support or that the obligation
6 is being satisfied through withholding by another employer.

7 ~~(k)~~ (l) The agency may adopt rules in accordance with
8 chapter 91 as may be necessary to implement and administer
9 income withholding under this section and sections 571-52, 571-
10 52.2, 571-52.3, and 576E-16."

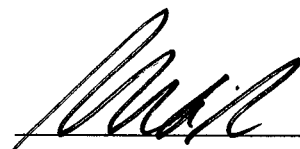
11 SECTION 2. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:


Clarence W. Fisher



S.B. NO. 734

Report Title:

Child Support Enforcement Agency; Support Order; Enforcement

Description:

Requires the agency or appropriate court that receives an income withholding request from an obligee to enter an order requiring the obligor's place of employment to classify the obligor as an employee for payroll or accounting purposes in order to become subject to withholding provided that the obligor receives income on a periodic basis and becomes delinquent in making payments under a support order in an amount at least equal to the support payable for three months.

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

