

JAN 17 2020

A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1 PART I

2 SECTION 1. Section 346-29, Hawaii Revised Statutes, is
3 amended by amending subsection (c) to read as follows:

4 "(c) In determining the needs of an applicant or recipient
5 for public assistance by the department, the department shall:

6 (1) Disregard the amounts of earned or unearned income as
7 required or allowed by federal acts and other
8 regulations, to receive federal funds and disregard
9 from gross earned income twenty per cent plus \$200 and
10 a percentage of the remaining balance of earned income
11 consistent with federal regulations and other
12 requirements;

13 (2) Consider as net income in all cases the income as
14 federal acts and other regulations require the
15 department to consider for receipt of federal funds
16 and may consider the additional income and resources
17 as these acts and regulations permit to be considered;



- 1 (3) For households with minor dependents, disregard assets
2 in determining the needs of persons for financial
3 assistance; provided that the amount to be disregarded
4 shall not exceed standards under federally funded
5 financial assistance programs. This paragraph shall
6 not apply to persons eligible for federal supplemental
7 security income benefits, aid to the aged, blind or
8 disabled, or general assistance to households without
9 minor dependents. In determining the needs of persons
10 eligible for federal supplemental security income
11 benefits, aid to the aged, blind or disabled, or
12 general assistance to households without minor
13 dependents, the department shall apply all the
14 resource retention and exclusion requirements under
15 the federal supplemental security income program;
- 16 (4) Apply the resource retention requirements under the
17 federal supplemental security income program in
18 determining the needs of a single person for medical
19 assistance only;
- 20 (5) Apply the resource retention requirements under the
21 federal supplemental security income program in



1 determining the needs of a family of two persons for
2 medical assistance only and an additional \$250 for
3 each additional person included in an application for
4 medical assistance only;

5 (6) Disregard amounts of emergency assistance granted
6 under section 346-65;

7 (7) Not consider as income or resources any payment for
8 services to or on behalf of, or any benefit received
9 by, a participant under the first-to-work program of
10 part XI, other than wages. Wages earned by a
11 participant while participating in the first-to-work
12 program shall be considered income of the participant,
13 unless the wages are excluded or disregarded under any
14 other law;

15 (8) Not consider as income or resources payment made to
16 eligible individuals, eligible surviving spouses,
17 surviving children or surviving parents as specified
18 under title I of the Civil Liberties Act of 1988,
19 Public Law 100-383, which made restitution to
20 individuals of Japanese ancestry who were interned
21 during World War II;



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- 1 (9) Allow the community spouse of an individual residing
2 in a medical institution to maintain countable
3 resources to the maximum allowed by federal statutes
4 or regulations with provisions for increases, as
5 allowed by the Secretary of Health and Human Services
6 by means of indexing, court order, or fair hearing
7 decree, without jeopardizing the eligibility of the
8 institutionalized spouse for medical assistance;
- 9 (10) Allow an individual residing in a medical institution
10 to contribute toward the support of the individual's
11 community spouse, thereby enabling the community
12 spouse to maintain the monthly maximum income allowed
13 by federal statutes or regulations, with provisions
14 for increases as allowed by the Secretary of Health
15 and Human Services by means of indexing, court order,
16 or fair hearing decree;
- 17 (11) Consider the transfer of assets from the applicant's
18 name to another name within the specified time period
19 as required by federal regulations, known as the
20 "lookback" period, prior to the application for
21 medical assistance for care in a nursing home or other



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1 long-term care facility. Pursuant to rules adopted
 2 under chapter 91, the director may attribute any
 3 assets that have been transferred within the required
 4 federal "lookback" period from the applicant if the
 5 director determines that transfer of certain assets
 6 was made solely to make the applicant eligible for
 7 assistance under this chapter; [~~and~~]

8 (12) Not consider as income or resources any funds
 9 deposited into a family self-sufficiency escrow
 10 account on behalf of a participant under a federal
 11 housing choice voucher family self-sufficiency program
 12 as required or allowed under federal law[~~-~~]; and

13 (13) Disregard any amount of child support payments passed
 14 through to applicants or recipients pursuant to
 15 section 346-37.1."

16 SECTION 2. Section 346-37.1, Hawaii Revised Statutes, is
 17 amended by amending subsection (a) to read as follows:

18 "(a) Any payment of public assistance money made to or for
 19 the benefit of any dependent child or children creates a debt
 20 due and owing to the department by the natural or adoptive
 21 parent or parents, or any other person who [~~are~~] is responsible



1 for support of [~~such~~] the child or children [~~except that debts~~],
2 provided that:

3 (1) Debts under this section shall not be incurred by a
4 parent or other person who is the recipient of public
5 assistance moneys for the benefit of minor dependent
6 children for the period [~~such~~] the person or persons
7 are in such status[~~, and, provided that where~~];

8 (2) Where there has been a family court order, the debt
9 shall be limited to the amount provided for by the
10 order[~~-~~]; and

11 (3) Each month, the child support enforcement agency shall
12 pass through to a family receiving public assistance
13 moneys for the benefit of minor dependent children up
14 to the first \$100 in child support collected in that
15 month for a recipient family with one child and up to
16 the first \$200 in child support collected in that
17 month for a recipient family with more than one
18 child."

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2020-2021 for



1 necessary expenses incurred by the child support enforcement
2 agency in complying with the requirements of part I of this Act.

3 The sum appropriated shall be expended by the department of
4 the attorney general for the purposes of part I of this Act.

5 PART II

6 SECTION 4. Section 571-52.2, Hawaii Revised Statutes, is
7 amended by amending subsection (g) to read as follows:

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 be
12 liable to the obligee or the obligee's assignee for whom support
13 was required to be paid, for the full amount of all sums ordered
14 to be withheld and transmitted and not otherwise done so, and
15 may be subject to a fine not to exceed [~~\$250~~] \$1,000 as
16 determined by the court."

17 SECTION 5. Section 576E-16, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (c) to read:

20 "(c) Compliance by an employer with the income withholding
21 order issued pursuant to subsection (a) or with the income



1 withholding order or the notice to withhold child support issued
2 pursuant to section 576D-14 shall operate as a discharge of the
3 employer's liability to the responsible parent for that portion
4 of the responsible parent's earnings withheld and transmitted to
5 the agency, regardless of whether the employer has withheld the
6 correct amount. For each payment made pursuant to an income
7 withholding order or a notice to withhold child support, the
8 employer may deduct and retain as an administrative fee an
9 additional amount of \$2 from the income owed to the responsible
10 parent. The total amount withheld from the obligor's income,
11 including the administrative fee, may not be in excess of the
12 maximum amounts permitted under section 303(b) of the Consumer
13 Credit Protection Act (15 U.S.C. §1673(b)). Any income
14 withholding order or notice to withhold child support shall have
15 priority as against any garnishment, attachment, execution, or
16 other income withholding order, or any other order, and shall
17 not be subject to the exemptions or restrictions contained in
18 part III of chapter 651 and in chapters 652 and 653. An
19 employer who fails to comply with an income withholding order
20 under this section or with an income withholding order or notice
21 to withhold child support issued pursuant to section 576D-14



1 shall be liable to the obligee or the agency for the full amount
2 of all sums ordered to be withheld and transmitted. In
3 addition, an employer violating this subsection may be subject
4 to a fine not to exceed [~~\$250~~] \$1,000 as determined by the
5 court. An employer receiving an income withholding order or a
6 notice to withhold child support shall transmit amounts withheld
7 to the agency within five working days after the responsible
8 parent is paid. The employer shall begin withholding no later
9 than the first pay period commencing within seven business days
10 following the date a copy of the order or the notice to withhold
11 child support is mailed to the employer.

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

- 20 (1) The employer's fee for processing an income
21 withholding order;



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

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

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

19 Within two working days after receipt of the amounts
20 withheld by the employer, the agency shall disburse the amounts
21 to the obligee for the benefit of the child, except that the



1 agency may delay the distribution of collections toward
2 arrearages until resolution of any timely requested hearing with
3 respect to such arrearages."

4 2. By amending subsection (e) to read:

5 "(e) It shall be unlawful for any employer to refuse to
6 hire a prospective employee, to discharge an employee, or to
7 take any other disciplinary action against an employee, based in
8 whole or in part upon an order or notice to withhold child
9 support authorized by this section. Any employer who fails to
10 comply with this subsection may be subject to a fine not to
11 exceed [~~\$250~~] \$1,000 as determined by the court."

12 PART III


13 SECTION 6. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2020.

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S.B. NO. 2310

Report Title:

DHS; Child Support; Temporary Assistance for Needy Families Program; Employer; Fines; Appropriation

Description:

Requires certain amounts of child support moneys collected by the Department of Human Services (DHS) for public assistance of a child to pass through to the family receiving public assistance. Requires DHS to disregard passed through child support payments when calculating the income of an applicant for or recipient of public assistance. Increases the maximum fine for an employer who discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding or who fails to comply with an order of assignment of future income to pay child support. Appropriates funds.

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