

JAN 18 2024

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# 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. The legislature finds that under Hawaii's  
3 current child support system, custodial parents receiving  
4 Temporary Assistance for Needy Families (TANF) funds may never  
5 see any of the child support money they are owed because a non-  
6 custodial parent must make certain child support payments  
7 directly to the State. The State then keeps nearly half of  
8 those payments and then transfers the remaining amount to the  
9 federal government as reimbursement for providing TANF  
10 assistance.

11 The legislature also finds that the federal Deficit  
12 Reduction Act of 2005 recommended that states pass through  
13 certain portions of child support collected by a state and waive  
14 the federal reimbursement portion of those funds if the state  
15 disregards the additional income for determining TANF  
16 eligibility. As a result, twenty-seven states and the District  
17 of Columbia have adopted child support pass-through laws or



1 policies. Based on 2016 estimates for Hawaii, disregarding the  
2 additional income for determining TANF eligibility would result  
3 in \$675,000 of lost revenue to the State. However, due to the  
4 federal reimbursement waiver, this will increase funds to  
5 Hawaii's most needy families by approximately \$1,500,000.

6 The purpose of this Act is to:

- 7 (1) Require certain amounts of child support moneys  
8 collected by the department of human services for  
9 public assistance of a child to pass through to the  
10 family receiving public assistance;
- 11 (2) Require the department of human services to disregard  
12 passed-through child support payments when calculating  
13 the income of an applicant for or recipient of public  
14 assistance;
- 15 (3) Increase the maximum fine for an employer who  
16 discharges from employment, refuses to employ, or  
17 takes disciplinary action against a noncustodial  
18 parent subject to income withholding or who fails to  
19 comply with an order of assignment of future income to  
20 pay child support; and
- 21 (4) Appropriate funds.



1 PART II

2 SECTION 2. 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;

18 (3) For households with minor dependents, disregard assets  
19 in determining the needs of persons for financial  
20 assistance; provided that the amount to be disregarded  
21 shall not exceed standards under federally funded



1 financial assistance programs. This paragraph shall  
2 not apply to persons eligible for federal supplemental  
3 security income benefits, aid to the aged, blind or  
4 disabled, or general assistance to households without  
5 minor dependents. In determining the needs of persons  
6 eligible for federal supplemental security income  
7 benefits, aid to the aged, blind or disabled, or  
8 general assistance to households without minor  
9 dependents, the department shall apply all the  
10 resource retention and exclusion requirements under  
11 the federal supplemental security income program;

12 (4) Apply the resource retention requirements under the  
13 federal supplemental security income program in  
14 determining the needs of a single person for medical  
15 assistance only;

16 (5) Apply the resource retention requirements under the  
17 federal supplemental security income program in  
18 determining the needs of a family of two persons for  
19 medical assistance only and an additional \$250 for  
20 each additional person included in an application for  
21 medical assistance only;



- 1 (6) Disregard amounts of emergency assistance granted  
2 under section 346-65;
- 3 (7) Not consider as income or resources any payment for  
4 services to or on behalf of, or any benefit received  
5 by, a participant under the first-to-work program of  
6 part XI, other than wages. Wages earned by a  
7 participant while participating in the first-to-work  
8 program shall be considered income of the participant,  
9 unless the wages are excluded or disregarded under any  
10 other law;
- 11 (8) Not consider as income or resources payment made to  
12 eligible individuals, eligible surviving spouses,  
13 surviving children or surviving parents as specified  
14 under title I of the Civil Liberties Act of 1988,  
15 Public Law 100-383, which made restitution to  
16 individuals of Japanese ancestry who were interned  
17 during World War II;
- 18 (9) Allow the community spouse of an individual residing  
19 in a medical institution to maintain countable  
20 resources to the maximum allowed by federal statutes  
21 or regulations with provisions for increases, as



1           allowed by the Secretary of Health and Human Services  
2           by means of indexing, court order, or fair hearing  
3           decree, without jeopardizing the eligibility of the  
4           institutionalized spouse for medical assistance;

5           (10) Allow an individual residing in a medical institution  
6           to contribute toward the support of the individual's  
7           community spouse, thereby enabling the community  
8           spouse to maintain the monthly maximum income allowed  
9           by federal statutes or regulations, with provisions  
10          for increases as allowed by the Secretary of Health  
11          and Human Services by means of indexing, court order,  
12          or fair hearing decree;

13          (11) Consider the transfer of assets from the applicant's  
14          name to another name within the specified time period  
15          as required by federal regulations, known as the  
16          "lookback" period, prior to the application for  
17          medical assistance for care in a nursing home or other  
18          long-term care facility. Pursuant to rules adopted  
19          under chapter 91, the director may attribute any  
20          assets that have been transferred within the required  
21          federal "lookback" period from the applicant if the



1 director determines that transfer of certain assets  
2 was made solely to make the applicant eligible for  
3 assistance under this chapter; [~~and~~]

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

9 (13) Disregard any amount of child support payments passed  
10 through to the applicants or recipients pursuant to  
11 section 346-37.1."

12 SECTION 3. Section 346-37.1, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) Any payment of public assistance money made to or for  
15 the benefit of any dependent child or children creates a debt  
16 due and owing to the department by the natural or adoptive  
17 parent or parents, or any other person who [~~are~~] is responsible  
18 for support of [~~such~~] the child or children [~~except that debts~~];  
19 provided that:

20 (1) Debts under this section shall not be incurred by a  
21 parent or other person who is the recipient of public



1 assistance moneys for the benefit of minor dependent  
2 children for the period [~~such~~] the person or persons  
3 are in [~~such~~] that status[~~, and, provided that where~~];

4 (2) Where there has been a family court order, the debt  
5 shall be limited to the amount provided for by the  
6 order[~~;~~]; and

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

15 SECTION 4. In accordance with section 9 of article VII of  
16 the Hawaii State Constitution and sections 37-91 and 37-93,  
17 Hawaii Revised Statutes, the legislature has determined that the  
18 appropriations contained in Act 164, Regular Session of 2023,  
19 and this Act will cause the state general fund expenditure  
20 ceiling for fiscal year 2024-2025 to be exceeded by  
21 \$ or per cent. This current declaration takes





1 into account general fund appropriations authorized for fiscal  
2 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
3 only. The reasons for exceeding the general fund expenditure  
4 ceiling are that:

- 5 (1) The appropriation made in this Act is necessary to  
6 serve the public interest; and
- 7 (2) The appropriation made in this Act meets the needs  
8 addressed by this Act.

9 SECTION 5. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so much  
11 thereof as may be necessary for fiscal year 2024-2025 for  
12 necessary expenses incurred by the child support enforcement  
13 agency in complying with the requirements of this part of this  
14 Act.

15 The sum appropriated shall be expended by the department of  
16 the attorney general for the purposes of this Act.

17 PART III

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

20 "(g) It shall be unlawful for any employer to fail to  
21 comply with the requirements of this section. In addition, an



1 employer who fails to comply with an order of assignment of  
2 future income, as provided for under this section, shall be  
3 liable to the obligee or the obligee's assignee for whom support  
4 was required to be paid, for the full amount of all sums ordered  
5 to be withheld and transmitted and not otherwise done so, and  
6 may be subject to a fine not to exceed [~~\$250~~] \$1,000 as  
7 determined by the court."

8 SECTION 7. Section 576E-16, Hawaii Revised Statutes, is  
9 amended as follows:

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

11 "(c) Compliance by an employer with the income withholding  
12 order issued pursuant to subsection (a) or with the income  
13 withholding order or the notice to withhold child support issued  
14 pursuant to section 576D-14 shall operate as a discharge of the  
15 employer's liability to the responsible parent for that portion  
16 of the responsible parent's earnings withheld and transmitted to  
17 the agency, regardless of whether the employer has withheld the  
18 correct amount. For each payment made pursuant to an income  
19 withholding order or a notice to withhold child support, the  
20 employer may deduct and retain as an administrative fee an  
21 additional amount of \$2 from the income owed to the responsible



1 parent. The total amount withheld from the obligor's income,  
2 including the administrative fee, may not be in excess of the  
3 maximum amounts permitted under section 303(b) of the Consumer  
4 Credit Protection Act (15 U.S.C. §1673(b)). Any income  
5 withholding order or notice to withhold child support shall have  
6 priority as against any garnishment, attachment, execution, or  
7 other income withholding order, or any other order, and shall  
8 not be subject to the exemptions or restrictions contained in  
9 part III of chapter 651 and in chapters 652 and 653. An  
10 employer who fails to comply with an income withholding order  
11 under this section or with an income withholding order or notice  
12 to withhold child support issued pursuant to section 576D-14  
13 shall be liable to the obligee or the agency for the full amount  
14 of all sums ordered to be withheld and transmitted. In  
15 addition, an employer violating this subsection may be subject  
16 to a fine not to exceed [~~\$250~~] \$1,000 as determined by the  
17 court. An employer receiving an income withholding order or a  
18 notice to withhold child support shall transmit amounts withheld  
19 to the agency within five working days after the responsible  
20 parent is paid. The employer shall begin withholding no later  
21 than the first pay period commencing within seven business days



1 following the date a copy of the order or the notice to withhold  
2 child support is mailed to the employer.

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

- 11 (1) The employer's fee for processing an income  
12 withholding order;
- 13 (2) The maximum amount permitted to be withheld from the  
14 obligor's income under section 303(b) of the Consumer  
15 Credit Protection Act (15 U.S.C. §1673(b));
- 16 (3) The time periods within which the employer must  
17 implement the income withholding order and forward the  
18 child support payment;
- 19 (4) The priorities for withholding and allocating income  
20 withheld for multiple child support obligees; and



1 (5) Any withholding terms or conditions not specified in  
2 the order.

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

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

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

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

18 "(e) It shall be unlawful for any employer to refuse to  
19 hire a prospective employee, to discharge an employee, or to  
20 take any other disciplinary action against an employee, based in  
21 whole or in part upon an order or notice to withhold child



1 support authorized by this section. Any employer who fails to  
2 comply with this subsection may be subject to a fine not to  
3 exceed [~~\$250~~] \$1,000 as determined by the court."

4 PART IV

5 SECTION 8. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

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

10 SECTION 10. This Act shall take effect on July 1, 2024.

11

INTRODUCED BY:

*Francis R. Jurney*



# S.B. NO. 2185

**Report Title:**

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

**Description:**

Requires certain amounts of child support moneys collected by the Department of Human Services for public assistance of a child to pass through to the family receiving public assistance. Requires the Department of Human Services 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 a noncustodial parent subject to income withholding or who fails to comply with an order of assignment of future income to pay child support. Makes an appropriation.

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

