

ACT 33

H. B. 334.

A Bill for an Act Relating to the Court Trustee in Matrimonial Actions and Amending Section 324-39.5, Revised Laws of Hawaii 1955, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

Section 324-39.5, Revised Laws of Hawaii 1955, provides for the enforcement of maintenance and alimony through a court trustee. Subsequent thereto, the supreme court approved rule 33 of the first circuit court relating to the same subject. Rule 33 is broader than section 324-39.5. Thus there is a possibility of confusion and dispute which should be eliminated. Clarification of inconsistencies in the law is always a matter of urgency.

SECTION 2. Section 324-39.5, Revised Laws of Hawaii 1955, as amended, shall be appropriately renumbered as part of chapter 333, and is amended to read as follows:

“§ 333- . Determination and enforcement of support orders. During the course of any proceeding in which the court is considering making or modifying an order for spouse support or child support, the court on its own motion or on motion of any interested person may refer the problem to the court trustee for investigation.

At any time when a support order payable through the court appears or is alleged to be inequitable or unsuitable, the court trustee on his own motion may, and when directed by the court shall, institute an investigation into the situation.

In connection with any such referral or inquiry, the court trustee shall investigate all matters pertinent to the determination of just and suitable allowances for the spouse and children, and shall submit his findings and recommendations in writing to the court.

The written reports of the court trustee shall be available to interested parties and may be received in evidence if no objection is made, or, if objection is made, may be received in evidence provided the person or persons responsible for the reports are available for cross-examination as to any matter which has been investigated. When a report is received in evidence, any party may introduce other evidence supplementing, supporting, modifying or rebutting the whole or any part of the report.

Every order for spouse support or child support which provides for payments to be made through the court may be enforced pursuant to this section.

The court trustee shall maintain files of the support orders and papers referred to him, shall maintain follow-up records to determine whether the payments ordered therein are being made, may make oral or written demand for overdue payments, and, in the event of a default and after such time as the court trustee may deem reasonable, may, and when directed by the court shall institute contempt of court proceedings for the purpose of enforcing support orders.

The court trustee may utilize the services of public or private social agencies in conducting the investigations and making the reports and recommendations occasioned by this rule. Reports of such agencies may be received in evidence under the same conditions as reports of the court trustee.

Court costs, service fees, and the expenses of any investigation conducted by the court trustee may, in the discretion of the court, be assessed wholly or partially against the party ordered to make the support payments.

As used in this section, support includes amounts ordered to be paid as reimbursement or advancement for expenses incurred or to be incurred by or on behalf of a spouse or child, including attorney's fees, court costs, and other expenses in connection with relevant litigation, unpaid amounts due under existing or prior support orders, and payments required by a valid sentence, order, judgment, or decree under chapter 324, chapter 328, chapter 329, chapter 332, or section 333-27.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 7, 1968.)