

ACT 125

S.B. NO. 1771

A Bill for an Act Relating to Payment of Child Support Through Income Withholding.

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

SECTION 1. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The order for automatic assignment shall operate as an assignment by the obligor to the child support enforcement agency and shall be binding upon any person who is or shall become obligated to the obligor for payment of income and who has been served with a certified copy of the assignment order. The copy of the order may be certified by the court or the office of child support hearings as a true copy of the order. The assignment shall be terminated when appropriate by the court or the clerk of the court or the child support enforcement agency; provided that payment of all overdue support shall not be the sole basis for terminating the assignment. In the event that the obligee retains private counsel or proceeds pro se, the obligee shall have primary responsibility for terminating the assignment. If the obligee fails to terminate the assignment when appropriate, the obligee shall reimburse the obligor to the extent of any overpayment. If the assignment is not terminated when appropriate, the obligor may seek reimbursement for any overpayment from the obligee or from the child support enforcement agency, to the extent the overpayment was disbursed to the department of human services. The child support enforcement agency shall establish procedures by rule in accordance with chapter 91 for the prompt reimbursement for any overpayment to the obligor.”

SECTION 2. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) For each payment made pursuant to an assignment order, the person making such payment may deduct and retain as an administrative fee the additional

amount of \$2 from the income owed to the obligor. Any assignment made pursuant to an assignment order shall have priority as against any garnishment, attachment, execution, or other assignment order, or any other order [unless otherwise ordered by the court] and the same shall not be subject to any of the exemptions or restrictions contained in part III of chapter 651, and chapters 652 and 653.

For purposes of this section, delinquencies in payments shall be computed on the basis of the moneys owed and unpaid on the date that the obligor under the support order has been given notice pursuant to law of the application for the order of assignment, and the fact that the obligor may have subsequently paid such delinquencies shall not relieve the court or the child support enforcement agency of its duty under this subsection to order the assignment.”

SECTION 3. Section 571-52.2, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

“(l) [The] If there is more than one obligee, the amounts withheld from the income of an obligor [may] shall be allocated among [more than one obligee.] the obligees. The allocation may be based on each obligee’s proportionate share of the amount of the withholding orders that were served on the employer of the obligor. In no case shall the allocation result in a withholding for one of the support obligations not being implemented.”

SECTION 4. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Compliance by an employer with the income withholding order 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, the employer may deduct and retain as an administrative fee an additional amount of \$2 from the income owed to the responsible parent. Any income withholding order shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, [unless otherwise ordered.] 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 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 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 fourteen days following the date a copy is mailed to the employer. 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 five 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.”

SECTION 5. Section 576E-16, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) [The] If there is more than one obligee, the amounts withheld from the income of a responsible parent [may] shall be allocated among [more than one obligee.] the obligees. The allocation may be based on each obligee’s proportionate

share of the amount of the withholding orders that were served on the employer of the obligor. If concurrent assignment orders would cause the amounts withheld from the responsible parent's income to exceed applicable wage withholding limitations, the [current support obligation of the first served order shall be satisfied first, and then current obligations of subsequently served orders shall be satisfied in the order of service.] 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 shall be satisfied in the order of service, up to the applicable limitation.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 8, 1995.)