

ACT 178

H.B. NO. 3350

A Bill for an Act Relating to the Payment of Child Support.

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

SECTION 1. Section 576D-3, Hawaii Revised Statutes, is amended to read as follows:

**“§576D-3 Obtaining or enforcing child support.** (a) The agency shall undertake any legal or administrative action to secure support for a child by enforcing an existing court order or obtaining a court order of support.

(b) In order to carry out its responsibilities imposed under this chapter, the agency, through the offices of the corporation counsel, the county attorneys, or the attorney general, may commence or appear in any proceeding before any court or administrative agency for the purpose of establishing paternity for children born out of wedlock or for the purpose of obtaining, enforcing, or modifying an order of support on behalf of any dependent or any other person for whom the agency has a duty to obtain or enforce an order for<sup>1</sup> support under this chapter. The agency may commence or appear in any action on its own behalf, on behalf of any dependent child or custodial parent, or on behalf of any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency shall obtain or enforce a child support order for the following children:

- (1) A child on whose behalf public assistance payments have been or are being made;
- (2) A child on whose behalf foster care payments have been or are being made under Title IV-E; or
- (3) A child on whose behalf a custodial parent, guardian, or other person having custody applies to the agency for assistance in obtaining or enforcing a child support order, regardless of whether [or not] public assistance payments have been made on the child’s behalf[]; or

- (4) A child on whose behalf an order for child support requires child support payments to be paid through the child support enforcement agency. The signature of a judge or administrative hearings officer on the order for child support shall be considered an application for services].”

SECTION 2. Section 576D-10, Hawaii Revised Statutes, is amended to read as follows:

**“§576D-10 Collection and disbursal of child support[.]; direct payment exception.** (a) The agency shall collect and disburse child support payments when a court order requires the collection and disbursal. Notwithstanding any other law to the contrary, the agency shall maintain a special interest bearing account for child support payments. Moneys collected by the agency for child support payments shall not be deposited into the state treasury, but shall be deposited into this account. Moneys to be disbursed by the agency for child support payments shall be disbursed from this account without appropriation or allotment. The interest realized from this<sup>2</sup> account shall be used for related costs of the maintenance and operation of the account and the balance shall be deposited into the state treasury to the credit of the general fund.

(b) Any child support payments required by a court order effective on June 30, 1986, to be made to a court or clerk of the court and disbursed to a custodial parent shall be made to the agency after June 30, 1986. The agency shall disburse the payments as appropriate under the court order.

(c) At the time a child support obligation is first established or at any time thereafter, the court may approve an alternative arrangement for the direct payment of child support from the obligor to the custodial parent as an exception to the provisions for income withholding through the agency, as required by sections 571-52.2(a)(1), 571-52.3, and 576E-16(a).

(d) The court may approve an alternative arrangement for the direct payment of child support where either:

- (1) The obligor or custodial parent demonstrates and the court finds that there is good cause not to require immediate withholding; or
- (2) A written agreement is reached between the obligor and the custodial parent and signed by both parties;

provided that in either case where child support has been ordered previously, an alternative arrangement for direct payment shall be approved only where the obligor provides proof of the timely payment of previously ordered support. For purposes of this section, good cause to approve an alternative arrangement shall be based upon a determination by the court, either in writing or on the record, that implementing income withholding would not be in the best interests of the child. Such a determination shall include a statement setting forth the basis of the court’s conclusion.

(e) Any alternative arrangement for direct payment shall provide that either parent may void the arrangement at any time and apply for services from the agency to act as agent to receive payments from the obligor parent. The alternative arrangement for direct payment also shall provide that, if the subject dependents of the obligor parent commence receiving public assistance, including but not limited to public assistance from the department of human services under chapter 346, Hawaii Revised Statutes, foster care under section 571-48, Hawaii Revised Statutes, Title IV-E or Title XIX of the federal Social Security Act (42 U.S.C. §1396), the child support enforcement agency may immediately void the direct payment arrangement by sending written notice by regular mail to the custodial and obligor parents at their last known addresses, as disclosed in the alternative arrangement agreement.

(f) The alternative arrangement for direct payment agreement shall include the most recent addresses of the custodial and obligor parent. If the obligor parent alleges direct payment of child support to the custodial parent after the subject dependents of the court-approved alternative arrangement become recipients of public assistance, including but not limited to public assistance from the department of human services under chapter 346, Hawaii Revised Statutes, foster care under section 571-48, Hawaii Revised Statutes, Title IV-E or Title XIX of the federal Social Security Act (42 U.S.C. §1396), and after receiving proper notification of the change of payee to the child support enforcement agency, then the obligor shall have the burden of proving that the child support payments were made by presenting written evidence, including but not limited to cancelled checks or receipts.

(g) No alternative arrangement for direct payment shall be approved where the obligor or the custodial parent is receiving services under Title IV-D or where the dependents of the obligor receive public assistance, including but not limited to public assistance from the department of human services under chapter 346, foster care under section 571-48, Hawaii Revised Statutes, Title IV-E or Title XIX of the federal Social Security Act (42 U.S.C. §1396), or where the obligor owes a public assistance debt.

(h) Any alternative arrangement for direct payment shall pertain only to the method of payment of child support. The amount of child support shall be determined according to the child support guidelines pursuant to section 576D-7 and section 576E-15.

(i) The alternative arrangement for direct payment shall become effective upon approval and filing by the court.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 17, 1996.)

#### Notes

1. Prior to amendment “of” appeared here.
2. Prior to amendment “the” appeared here.