

ACT 25

H.B. NO. 3351

A Bill for an Act Relating to Child Support Enforcement.

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 (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. The total amount withheld from the obligor's income including the administrative fee may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. § 1673(b)).¹ 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]¹ 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 2. Section 576D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The agency shall:
 - (1) Establish a state parent locator service for the purpose of locating absent and custodial parents;
 - (2) Cooperate with other states in:
 - (A) Establishing paternity, if necessary;
 - (B) Locating an absent parent who is present in the State and against whom any action is being taken under a Title IV-D program in any other state; and
 - (C) Securing compliance by such an absent parent with a support order issued by a court of competent jurisdiction in another state;
 - (3) Perform periodic checks of whether a parent is collecting unemployment compensation and, if so, to arrange, either through agreement with the parent or by bringing legal process, to have a portion of the compensation withheld, to fulfill the parent's child support obligations;
 - (4) Notify annually each custodial parent, guardian, protective payee, or other person having custody of the child of an Aid to Families with Dependent Children family of the amount of child support collected on behalf of the child in the family. For the purpose of this section, “Aid to Families with Dependent Children family” means a family which receives financial assistance under the federal Aid to Families with Dependent Children program;
 - (5) Establish and utilize procedures which shall require a debtor parent to give security, post bond, or give some other guarantee to secure payment of delinquent child support. The procedures shall apply to all debtor parents of children described under section 576D-3. The procedures shall include advance notice to the debtor parent in full compliance with the State's procedural due process requirements. The agency shall develop guidelines, which are available to the public, to determine whether the case is inappropriate for application of this requirement;
 - (6) Establish and utilize procedures by which information regarding the amount of delinquent child support owed by a debtor parent residing in the State will be made available to any consumer reporting agency. The procedures shall be effectuated upon the agency being authorized to provide Title IV-D services, and shall include provisions on advance notice to the debtor parent whose information is being reported of the procedures, which shall be in full compliance with the State's proce-

dural due process requirements, to contest the accuracy of the information[. The agency may require payment of a reasonable fee by any consumer reporting agency that requests information on the account status of a child support obligor, provided that all fees collected shall be deposited to the general fund];

- (7) Establish and utilize procedures which will enforce liens against the real and personal property of a debtor parent who owes overdue support and who resides or owns property in the State. The agency shall further establish guidelines which are available to the public to determine whether the case is inappropriate for application of this paragraph;
- (8) Establish and utilize procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;
- (9) Establish and utilize procedures for prompt reimbursements of overpayments of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the reimbursements to be made by the custodial parent or agency;
- (10) Establish and utilize procedures for periodic review and modification of child support orders in accordance with Title IV-D; and
- (11) Perform other duties required under Title IV-D.”

SECTION 3. 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. The total amount withheld from the obligor’s income, including the administrative fee, may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. § 1673(b)). Any income withholding order shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, 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 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 5. This Act shall take effect upon its approval.

(Approved April 22, 1996.)

Note

1. So in original.