

ACT 67

S.B. NO. 1173

A Bill for an Act Relating to Child Support.

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 (g) to read as follows:

“(g) It shall be unlawful for any employer to fail to comply with the requirements of this section. In addition, an employer who fails to comply with an order of assignment of future income, as provided for under this section, shall be liable to the obligee or the obligee’s assignee for whom support was required to be paid, for the full amount of all sums ordered to be withheld and transmitted and not otherwise done so[-], and may be subject to a fine not to exceed \$250 as determined by the court.”

SECTION 2. Section 576D-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of an individual who has never received public assistance for the support of a child under Title IV-A and for whom the State has collected not less than [~~\$500~~] \$550 of support, the agency shall impose an annual fee of [~~\$25~~] \$35 for each case in which Title IV-D services were furnished, which shall be retained in accordance with Title IV-D requirements; provided that the [~~\$25~~] \$35 shall not be retained from the first [~~\$500~~] \$550 so collected. Any fee collected shall be maintained by the agency and used as required under Title IV-D.”

SECTION 3. Section 576E-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

“(c) Compliance by an employer with the income withholding order issued pursuant to subsection (a) or with the income withholding order or the notice to withhold child support issued pursuant to section 576D-14 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, regardless of whether [~~or not~~] the employer has withheld the correct amount. For each payment made pursuant to an income withholding order or a notice to withhold child support, 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 or notice to withhold child support shall have prior-

ity 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 or with an income withholding order or notice to withhold child support issued pursuant to section 576D-14 shall be liable to the obligee or the agency for the full amount of all sums ordered to be withheld and transmitted. In addition, an employer violating this subsection may be subject to a fine not to exceed \$250 as determined by the court. An employer receiving an income withholding order or a notice to withhold child support 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 seven business days following the date a copy of the order or the notice to withhold child support is mailed to the employer.

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

- (1) The employer’s fee for processing an income withholding order;
- (2) The maximum amount permitted to be withheld from the obligor’s income under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. §1673(b));
- (3) The time periods within which the employer must implement the income withholding order and forward the child support payment;
- (4) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (5) Any withholding terms or conditions not specified in the order.

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

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 two 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, except that the agency may delay the distribution of collections toward arrearages until resolution of any timely requested hearing with respect to such arrearages.”

2. By amending subsection (e) to read:

“(e) It shall be unlawful for any employer to refuse to hire a prospective employee, to discharge an employee, or to take any other disciplinary action against an employee, based in whole or in part upon an order or notice to withhold child support authorized by this section. Any employer ~~[violating this section shall be guilty of a misdemeanor and shall be punished under section 710-1077(1)(g)-]~~ who fails to comply with this subsection may be subject to a fine not to exceed \$250 as determined by the court.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

ACT 67

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2019.

(Approved June 7, 2019.)