

S.B. NO. 2977

JAN 22 2008

A BILL FOR AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 576D-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§576D-6 Other duties of agency.** (a) The agency shall:

4 (1) Establish a state parent locator service for the
5 purpose of locating absent and custodial parents;

6 (2) Cooperate with other states in:

7 (A) Establishing paternity, if necessary;

8 (B) Locating an absent parent who is present in the
9 State and against whom any action is being taken
10 under a Title IV-D program in any other state;

11 and

12 (C) Securing compliance by such an absent parent with
13 a support order issued by a court of competent
14 jurisdiction in another state;

15 (3) Perform periodic checks of whether a parent is
16 collecting unemployment compensation and, if so, to
17 arrange, either through agreement with the parent or
18 by bringing legal process, to have a portion of the

1 compensation withheld, to fulfill the parent's child
2 support obligations;

3 (4) Notify annually each custodial parent, guardian,
4 protective payee, or other person having custody of
5 the child of an Aid to Families with Dependent
6 Children family of the amount of child support
7 collected on behalf of the child in the family. For
8 the purpose of this section, "Aid to Families with
9 Dependent Children family" means a family which
10 receives financial assistance under the federal Aid to
11 Families with Dependent Children program or its
12 successor;

13 (5) Establish and utilize procedures which shall require a
14 debtor parent to give security, post bond, or give
15 some other guarantee to secure payment of delinquent
16 child support. The procedures shall apply to all
17 debtor parents of children described under section
18 576D-3. The procedures shall include advance notice
19 to the debtor parent in full compliance with the
20 State's procedural due process requirements. The
21 agency shall develop guidelines, which are available

1 to the public, to determine whether the case is
2 inappropriate for application of this requirement;

3 (6) Establish and utilize procedures by which information
4 regarding the name of the debtor parent and the amount
5 of delinquent child support owed by a debtor parent
6 residing in the State will be made available to any
7 consumer reporting agency as defined in section 603(f)
8 of the Fair Credit Reporting Act. The procedures
9 shall be effectuated upon the agency being authorized
10 to provide Title IV-D services, and shall include
11 provisions on advance notice to the debtor parent
12 whose information is being reported of the procedures,
13 which shall be in full compliance with the State's
14 procedural due process requirements, to contest the
15 accuracy of the information;

16 (7) Establish and utilize procedures which will enforce
17 liens against the real and personal property of a
18 debtor parent who owes overdue support and who resides
19 or owns property in the State. The agency shall
20 further establish guidelines which are available to
21 the public to determine whether the case is
22 inappropriate for application of this paragraph;

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- 1 (8) Establish and utilize procedures for the notification
2 of a custodial parent that any income tax refund
3 setoff under section 231-53 shall be [~~ereditied to~~
4 ~~child support debts for past public assistance or~~
5 ~~foster care maintenance before any other debt;~~]
6 retained by the State in cases where medical support
7 rights have been assigned to the State and the income
8 tax refund setoff are applied to amounts designated in
9 the child support order for medical purposes;
- 10 (9) Establish and utilize procedures for prompt
11 reimbursements of overpayments of child support debts
12 from income tax refund setoffs under section 231-53.
13 The procedures shall provide for the reimbursements to
14 be made by the custodial parent or agency;
- 15 (10) Establish and utilize procedures for periodic review
16 and modification of child support orders in accordance
17 with Title IV-D;
- 18 (11) Provide notice not less than once every three years to
19 those parents subject to an order of support informing
20 the parents of their right to request the agency to
21 review and, if appropriate, adjust the order of

1 support pursuant to the guidelines established under
2 section 576D-7;

3 (12) Establish and operate a state case registry which
4 contains records of:

5 (A) Each case in which services are being provided by
6 the agency under the state plan; and

7 (B) Each support order established or modified in the
8 State on or after October 1, 1998.

9 Such records shall use standardized data elements for
10 both parents, including but not limited to names,
11 residential and mailing addresses, telephone numbers,
12 driver's license numbers, names, addresses, and
13 telephone number of the party's employer, social
14 security numbers and other uniform identification
15 numbers, dates of birth, and case identification
16 numbers, and contain such other information as
17 required by the United States Secretary of the
18 Department of Health and Human Services. In each case
19 with respect to subparagraph (A) and where a support
20 order has been established, the case record shall
21 include the amount of monthly or other periodic
22 support owed under the order, and other amounts,

1 including but not limited to arrearages, due under the
2 order, the amounts collected under the order, the
3 birthdate of any child for whom the order requires the
4 provision of support, and the amount of any lien
5 imposed;

6 (13) Perform other duties required under chapter 576B, the
7 Uniform Interstate Family Support Act; and

8 (14) Perform other duties required under Title IV-D.

9 (b) The procedures required under subsection (a) (5), (6),
10 (7), (8), (9), and (10) shall be established by rule in
11 accordance with chapter 91."

12 SECTION 2. Section 576D-11, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§576D-11 Staff.** The attorney general shall appoint,
15 without regard to chapter 76, an administrator; an assistant
16 administrator who shall serve as controller and whose duties
17 shall include but not be limited to designing and implementing
18 controls over all financial management systems, including
19 electronic data processing systems, and developing an
20 appropriate staffing plan; an assistant administrator who shall
21 serve as the policy administrator and whose duties shall include
22 but not be limited to developing and implementing comprehensive

1 policy and planning documents to guide operations to successful
2 outcomes, including federal performance reporting and interstate
3 activities; and a staff attorney to serve as the supervisor of
4 the administrative process activities and staff. In addition,
5 the attorney general shall appoint, pursuant to chapter 76,
6 other personnel as may be required to discharge the functions of
7 the child support enforcement agency. The staff attorney shall
8 not be considered to be a deputy attorney general under chapter
9 28."

10 SECTION 3. Section 576E-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§576E-6 Request for hearing; how made.** (a) Except as
13 provided in subsection (b), any party who is aggrieved by the
14 proposed order of the agency may, within ten days of service of
15 a notice described in section 576E-5, obtain a hearing by
16 sending a written request for hearing to the agency at the
17 address from which the notice was sent.

18 (b) In the case of a proposed order to modify child
19 support resulting from the agency's [~~periodic~~] review of support
20 orders, a party aggrieved by the proposed order may request a
21 hearing within thirty days of service of a notice described in
22 section 576E-5.

1 (c) The agency, on its own behalf, may request a hearing
2 after the commencement of an administrative proceeding pursuant
3 to section 576E-5.

4 [~~e~~] (d) Notice of the hearing under this section shall
5 be served in accordance with section 576E-4."

6 SECTION 4. Section 576E-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§576E-7 Failure to request hearing; effect.** If the
9 parties fail to request a hearing pursuant to section 576E-6,
10 the agency or a hearings officer shall sign the proposed order
11 as the final order in the action."

12 SECTION 5. Effective _____, personnel employed by
13 the family support division of the county of Kauai whose
14 functions, duties, responsibilities, and activities relate to
15 child support enforcement shall be transferred to the department
16 of the attorney general. There is established two full-time
17 equivalent (2.0 FTE) positions exempt from civil service in the
18 department of the attorney general to carry out the purposes of
19 this Act.

20 Any employee who, prior to this Act, was exempt from civil
21 service and who may be transferred as a consequence of this Act,
22 may continue to retain the employee's exempt status, but shall

1 not be appointed to a civil service position because of this
2 Act. No employee who is transferred by this Act shall suffer
3 any loss of prior service credit, any vacation and sick leave
4 credits previously earned, or other employee benefits or
5 privileges as a consequence of this Act. The attorney general
6 may prescribe the duties and qualifications of such employees
7 and fix their salaries without regard to chapter 76, Hawaii
8 Revised Statutes.

9 All appropriations, records, equipment, machines, files,
10 supplies, contracts, books, papers, documents, maps, computer
11 software and data, and other personal property made, used,
12 acquired, or held by the family support division of the county
13 of Kauai on _____, relating to the functions transferred to
14 the department of the attorney general shall be transferred with
15 the functions to which they relate on _____.

16 The provisions of this section are to be liberally
17 construed to effectuate its purposes.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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

INTRODUCED BY:



BY REQUEST

Report Title:
CHILD SUPPORT.

Description:
Changes the law relating to Child Support Enforcement Agency notification in some circumstances to custodial parents; establishes a CSEA Assistant Administrator; clarifies rules relating to some CSEA hearings and related matters.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT.

PURPOSE: To clarify the requirement for notice to custodial parents regarding state income tax refund setoffs; to create an assistant administrator position who will serve as the policy administrator and whose duties will involve the development and implementation of comprehensive policy and planning documents, including federal performance reporting and interstate activities; to clarify that parties have thirty (30) days to request an administrative hearing for modification; to enable the Child Support Enforcement Agency with the opportunity to request an administrative hearing; to enable the agency to sign proposed administrative orders when no request for an administrative hearing has been received; and to transfer two temporary full-time equivalent positions performing functions relating to paternity from the County of Kauai to the Department of the Attorney General.

MEANS: Amend sections 576D-6, 576D-11, 576E-6, and 576E-7, Hawaii Revised Statutes.

JUSTIFICATION: The notification of custodial parents that state tax refund setoffs will be retained by the State when medical support rights have been assigned to the State and the setoff is being applied to amounts designated for medical purposes is a federally mandated requirement under 45 C.F.R. §303.102(d).

This measure creates an assistant administrator position that will serve to centrally coordinate and to systematically go through the child support enforcement process to develop and implement policy and planning

documents to guide operations to successful outcomes and to make the child support enforcement process more efficient. Currently, the development and implementation of policy and planning documents are done by the different branch supervisors as problems are identified. There is no centrally coordinated effort to ensure that all aspects of the issues are considered, especially in areas where problems have not been identified.

This measure also removes the confusion between the number of days a party has to request an administrative hearing for actions initiated because of the federally required "periodic" review of TANF cases and for modification actions initiated at the request of one of the parties. In addition, by allowing the Child Support Enforcement Agency to make a request for hearing rather than having to wait for one of the parties to make the request, the administrative process will be more efficient and expeditious. This measure also provides the agency with the authority to sign proposed administrative orders when no request for hearing is received by the agency and is consistent with the existing authority of the agency under sections 576E-2 and 576E-2(3), Hawaii Revised Statutes. It expedites and makes more efficient the child support enforcement process as currently, there are delays and added costs when creating a second file for the Office of Child Support Hearings and the transmission of the file back and forth between that office and the agency.

In addition, the establishment of paternity is a federally mandated requirement and the transfer of the two temporary full-time equivalent positions from the County of Kauai is necessary so that paternity processing can continue without affecting the agency's ability to continue to provide

existing services. Since the County of Kauai has

indicated that the County no longer wishes to continue the cooperative agreement relating to the functions, duties, responsibilities, and activities related to the establishment of paternity, this function must be performed by the agency.

Impact on the public: This measure would benefit the public by making the child support enforcement process a more efficient and consistent process. If the positions are not transferred, there may be reduced services and delays to the public in the establishment of paternity and in general child support services for the County of Kauai.

Impact on the department and other agencies: This measure would assist in making the child support enforcement process more consistent and would help to eliminate some of the problems and delays currently experienced by the Child Support Enforcement Agency in the child support enforcement process. If the positions are not transferred, added responsibilities will be placed on existing agency staff. Any reduction in services or delays may negatively impact the agency in its ability to meet federal requirements and may result in the loss of incentives. If federal requirements are not met, eligibility for federal welfare funding and federal funding of child support enforcement programs may be jeopardized.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: ATG 500

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OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE
DATE:

Upon approval.