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# A BILL FOR AN ACT

RELATING TO INCOME WITHHOLDING FOR CHILD SUPPORT.

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

1           SECTION 1. Section 571-52, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) Whenever any person has been ordered to pay an  
4 allowance for the support of a child or for the support and  
5 maintenance of a spouse or former spouse, and fails or refuses  
6 to obey or perform the order and has been adjudged guilty of  
7 contempt of court for such failure or refusal, the court may  
8 make an order that shall operate as an assignment by the person  
9 for the benefit of the child or spouse, of such amounts at such  
10 times as may be specified in the order, from any income due or  
11 to become due in the future to such person from the person's  
12 employer or successor employers, until further order of the  
13 court.

14           The assignment of the amounts shall be to the clerk of the  
15 court where the order is entered if for the support or  
16 maintenance of a spouse or former spouse, or to the child  
17 support enforcement agency if for the support of a child or if



1 child support and spouse support are contained in the same  
2 order. The order of assignment to the child support enforcement  
3 agency shall be in the standard format prescribed by Title IV-D  
4 of the Social Security Act, as amended by the child support  
5 enforcement agency. The order of assignment shall be effective  
6 immediately after service upon an employer of a true copy of the  
7 order, which service may be effected by regular mail, by  
8 personal delivery, or by transmission through electronic means.

9       Thereafter, the employer shall for each pay period withhold  
10 from any income due to the person from the employer, and not  
11 required to be withheld by any other provision of federal or  
12 state law, and transmit to the clerk of the court or child  
13 support enforcement agency as set forth in the order, as much as  
14 may remain payable to the person for such pay period up to the  
15 amount specified in the order of assignment as being payable  
16 during the same period. The person ordered to pay shall inform  
17 the court immediately of any change that would affect the order  
18 of assignment or the disbursement thereof. Any employer  
19 violating this subsection shall be subject to a fine not to  
20 exceed \$1,000 as determined by the court.



1 Compliance by an employer with the order of assignment  
2 shall operate as a discharge of the employer's liability to the  
3 employee for that portion of the employee's income withheld and  
4 transmitted to the clerk of court or child support enforcement  
5 agency, as the case may be, whether or not the employer has  
6 withheld the correct amount."

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

9 "(g) It shall be unlawful for any employer to fail to  
10 comply with the requirements of this section. In addition, an  
11 employer who fails to comply with an order of assignment of  
12 future income, as provided for under this section, shall be  
13 liable to the obligee or the obligee's assignee for whom support  
14 was required to be paid, for the full amount of all sums ordered  
15 to be withheld and transmitted and not otherwise done so[-] and  
16 shall be subject to a fine not to exceed \$1,000 as determined by  
17 the court."

18 SECTION 3. Section 576E-16, Hawaii Revised Statutes, is  
19 amended by amending subsection (c) to read as follows:

20 "(c) Compliance by an employer with the income withholding  
21 order issued pursuant to subsection (a) or with the income



1 withholding order or the notice to withhold child support issued  
2 pursuant to section 576D-14 shall operate as a discharge of the  
3 employer's liability to the responsible parent for that portion  
4 of the responsible parent's earnings withheld and transmitted to  
5 the agency, whether or not the employer has withheld the correct  
6 amount. For each payment made pursuant to an income withholding  
7 order or a notice to withhold child support, the employer may  
8 deduct and retain as an administrative fee an additional amount  
9 of \$2 from the income owed to the responsible parent. The total  
10 amount withheld from the obligor's income, including the  
11 administrative fee, may not be in excess of the maximum amounts  
12 permitted under section 303(b) of the Consumer Credit Protection  
13 Act (15 U.S.C. §1673(b)). Any income withholding order or  
14 notice to withhold child support shall have priority as against  
15 any garnishment, attachment, execution, or other income  
16 withholding order, or any other order, and shall not be subject  
17 to the exemptions or restrictions contained in part III of  
18 chapter 651 and in chapters 652 and 653. An employer who fails  
19 to comply with an income withholding order under this section or  
20 with an income withholding order or notice to withhold child  
21 support issued pursuant to section 576D-14 shall be liable to



1 the obligee or the agency for the full amount of all sums  
2 ordered to be withheld and transmitted. In addition, any  
3 employer violating this subsection shall be subject to a fine  
4 not to exceed \$1,000 as determined by the court. An employer  
5 receiving an income withholding order or a notice to withhold  
6 child support shall transmit amounts withheld to the agency  
7 within five working days after the responsible parent is paid.  
8 The employer shall begin withholding no later than the first pay  
9 period commencing within seven business days following the date  
10 a copy of the order or the notice to withhold child support is  
11 mailed to the employer.

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

- 20 (1) The employer's fee for processing an income  
21 withholding order;



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

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

15          An employer who is required to withhold amounts from the  
16          income of more than one employee may remit to the agency a sum  
17          total of all such amounts in one check with a listing of the  
18          amounts applicable to each employee.

19          Within two working days after receipt of the amounts  
20          withheld by the employer, the agency shall disburse the amounts  
21          to the obligee for the benefit of the child, except that the



1 agency may delay the distribution of collections toward  
2 arrearages until resolution of any timely requested hearing with  
3 respect to such arrearages."

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect on July 1, 2075.



**Report Title:**

Income Withholding for Child Support

**Description:**

Imposes a fine against any employer who fails to comply with income withholding requirements applicable to child and spousal support, or discharges, refuses to employ, or takes disciplinary action against a person because the person is subject to income withholding requirements. (HB1025 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

