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

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

12           SECTION 2. Section 576E-16, Hawaii Revised Statutes, is  
13 amended as follows:

14           1. By amending subsection (c) to read:

15           "(c) Compliance by an employer with the income withholding  
16 order issued pursuant to subsection (a) or with the income  
17 withholding order or the notice to withhold child support issued



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



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

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

19 (1) The employer's fee for processing an income  
20 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 2. By amending subsection (e) to read:

5 "(e) It shall be unlawful for any employer to refuse to  
6 hire a prospective employee, to discharge an employee, or to  
7 take any other disciplinary action against an employee, based in  
8 whole or in part upon an order or notice to withhold child  
9 support authorized by this section. Any employer [~~violating~~  
10 who fails to comply with this [section shall be guilty of a  
11 misdemeanor and shall be punished under section 710-1077(1)(g).]  
12 subsection may be subject to a fine not to exceed \$1,000 as  
13 determined by the court."

14 SECTION 3. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

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

19 SECTION 5. This Act shall take effect on July 1, 3000.



**Report Title:**

Child Support; Income Withholding; Employer; Fines

**Description:**

Amends the income withholding requirements to impose a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding, or who fails to comply with an order of assignment of future income. (HB2319 HD1)

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