Attached is a notice of public hearing and proposed rule changes for Hawaii Administrative Rules Title 5, Chapter 31, Subtitle 3, Child Support Enforcement. The notice of public hearing contains hearing information and a brief description of the proposed changes. The Proposed Rules are in "Ramseyer format" which includes both the existing rules and the proposed changes by bracketing material to be deleted and underscoring material to be added.

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
CHILD SUPPORT ENFORCEMENT AGENCY

NOTICE OF PUBLIC HEARING

Pursuant to sections 91-3 and 92-41, Hawaii Revised Statutes, this is notice that the Child Support Enforcement Agency (CSEA) will hold public hearing(s) to consider amending the Agency's rules.

The proposed amendments are based on Federal & State laws. Brief descriptions of the proposed amendments are listed below:

CHAPTER 5-31

This chapter is being amended for the following purposes:

1. Housekeeping to correct federal citations and altering some rules to comply with federal requirements and for clarity.
2. Clarifying who can receive services for what purpose and fees.
3. Adding and clarifying enforcement methods and the right to a review or hearing.
4. Clarifying when no application is necessary and procedures for handling issues of family violence in cases referred by DHS.
5. Providing the agency discretion to open a file and listing the information it may require.
6. Allowing the agency to provide orientation sessions to the public.
7. Allowing locates for either parent.
8. Clarifying when and how paternity will be initiated, parties rights and handling of test costs
9. Clarifying procedures for establishing and modifying orders and collecting via income assignment.
10. Clarifying procedures regarding payments.
11. Clarifying procedures regarding maintenance of records.
12. Creating a disbursement unit and procedures for handling checks.
13. Scheduling enforcement hearings and conducting reviews.
14. Allowing electronic case records.
15. Establishing criteria for case closure and responding to interstate cases.
16. Maintaining an interstate registry and providing interstate cases with services.
17. Creating monetary fines and the right to appeal them.

Oahu Public Hearing
Date: November 26, 2013
Time: 10:00 a.m.

Place: 601 Kamokila Boulevard, RM 111A/111B

Hilo, Kauai and Maui Public Hearing
Date: November 27, 2013
Time: 10: a.m.
Place: Waiakea Kai Shopping Plaza
88 Kanoelehua Avenue, Room 202
Hilo, HI

4180 Rice Street, Suite 104
Lihue, HI

35 Lunalilo Street, Suite 201
Wailuku, HI

All interested parties are invited to attend and state their views relative to the proposed rules either orally or in writing. Those wishing to present oral testimony from the neighbor islands are invited to participate telephonically on November 27, 2013 at 10: a.m. from the Hilo, Kauai or Maui offices listed above.

Written testimony can be presented by providing three (3) copies to: CSEA, Assistant Administrator – Policy, 601 Kamokila Boulevard, Suite 207, Kapolei, Hawaii 96707, no later than five (5) days prior to the hearing. For oral testimony, CSEA requests a written copy of oral testimony be submitted no later than the date of the hearing (not mandatory).

A copy of the proposed amendments is available for public viewing from Monday through Friday exclusive of State holidays, between 8:00 a.m. and 4:00 p.m., at CSEA offices listed above and at:

601 Kamokila Boulevard, Suite 207
Kapolei, Hawaii.

Copies will be provided on request via mail after prepayment of costs and postage. Contact 808-586-5432. Proposed rules are also available for viewing via the internet on the Lieutenant Governor's web site – www.ltgov.hawaii.gov/the-office and www.ag.hawaii.gov

Special accommodation (i.e. interpreter, large print or taped materials) will be arranged, if requested no later than ten (10) working days before the scheduled public hearing. To request special accommodations call 808-586-5439.

_____

Garry Kemp,
CSEA Administrator

RULES AMENDING TITLE 5

HAWAII ADMINISTRATIVE RULES

[Date]

1. Chapter 31 of Subtitle 3, Title 5, Hawaii Administrative Rules, entitled "Child Support Enforcement," is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 5

DEPARTMENT OF THE ATTORNEY GENERAL

SUBTITLE 3 CHILD SUPPORT ENFORCEMENT

CHAPTER 31

CHILD SUPPORT

Subchapter 1 General Provisions

§5-31-1 Statement of purpose
§5-31-2 Definitions
§5-31-3 Authorization of services
§5-31-4 Scope
§5-31-5 [~~Child support debts~~] Repealed
§5-31-7 Repealed

Subchapter 2 Intake of Cases for Title IV-D Services

§5-31-12 Application process
§5-31-13 Case opening
§5-31-14 Orientation
§5-31-15 Application information

Subchapter 3 [~~Location of Absent Parents~~] Locate

§5-31-17 [~~Cases needing location services~~] Locate
§5-31-18 Interstate [~~requests for location services~~] locate

Subchapter 4 Establishment of Paternity and Support

§5-31-21	Establishment of paternity
§5-31-21.1	Non-pursuit of paternity
§5-31-21.2	Procedures when paternity is at issue
§5-31-22	Establishment of [~~a support obligation~~] child support orders
§5-31-23	Guidelines for determining the amount of the child support obligation
§5-31-24	Modification of child support orders
§5-31-25	Review and adjustment for temporary assistance for needy families cases

Subchapter 5 Enforcement

§5-31-27	Identifying [~~delinquency~~] arrearages and initiating enforcement
§5-31-28	Requiring security bond or other guarantee from a [~~debtor~~] non-custodial parent
§5-31-29	Information of [~~delinquent child support~~] arrearages to consumer [~~credit~~] reporting agencies
§5-31-30	Property liens
§5-31-31	State income tax refund setoff and overpayment refund
§5-31-31.1	Federal income tax refund offset
§5-31-32	[~~Initiating income withholding on cases not subject to immediate income withholding under section 5-34-22~~] Income withholding
§5-31-32.1	License suspension
§5-31-32.2	Administrative financial institution data match
§5-31-32.3	Referral for passport denial
§5-31-32.4	Other enforcement mechanisms
§5-31-32.5	Referral for special prosecution
§5-31-32.6	Bankruptcy
§5-31-32.7	Insurance company data match
§5-31-35	[~~Handling requests~~] Requests for administrative hearings on enforcement actions
§5-31-35.1	Requests for administrative review on enforcement actions

Subchapter 5.1 Collections and Disbursements

§5-31-38	State disbursement unit

Subchapter 6 Maintenance of Records

§5-31-39 Safeguarding information
§5-31-40 Retention and reproduction of records
§5-31-41 Electronic case records

Subchapter 7 Termination and Case Closure

§5-31-43 Termination
§5-31-44 Criteria for case closure
§5-31-45 Notice of case closure
§5-31-46 Maintaining active case status

Subchapter 8 Interstate

§5-31-49 Initiating and responding interstate cases
§5-31-50 Central registry
§5-31-51 Federal full faith and credit for child support orders act
§5-31-52 Enforcement services
§5-31-53 Forwarding collections

Subchapter 9 Penalties

§5-31-58 Penalties for failure to cooperate with the agency's request for information

SUBCHAPTER 1

GENERAL PROVISIONS

§5-31-1 Statement of purpose. This chapter shall implement the child support enforcement plan as required under title IV-D of the Social Security Act (42 United States Code §§652-658a, 664, 666, 667, 668, and [~~1302~~] 669), 45 Code of Federal Regulations parts 300-399, and chapter 576D, Hawaii Revised Statutes. [Eff 2/13/89; comp 10/31/91; am and comp _____] (Auth: HRS §91-2) (Imp: HRS §576D-2; 45 C.F.R. §302.10)

§5-31-2 Definitions. For the purpose of this chapter:

[~~"Absent parent" means a parent who is absent from the family, whether or not the parent is a debtor parent.~~]

"Administrative hearing" means a hearing conducted in accord with chapter 91 of the Hawaii Revised Statutes and presided by a hearing officer from the office of child support hearings.

"Administrative order" means a child support order resulting from an administrative, rather than a judicial, determination.

"Administrative review" means a review by the agency based on all information available to the agency at the time of the review.

"Administrator" means the administrator of the agency.

"Agency" means the child support enforcement agency established under section 576D-2, Hawaii Revised Statutes.

[~~"Aid to Families With Dependent Children" or "AFDC" means financial assistance provided under the federal aid to families with dependent children program under title IV-A of the Social Security Act.~~]

"Alleged father" means any person who may be identified as a biological father of a child.

"Annual fee" means a fee imposed by the child support enforcement agency for services provided under the child support program during the federal fiscal year.

"Applicant" means persons or entities that have completed an application requesting title IV-D services, persons with whom the subject child resides and receives temporary assistance for needy families or title XIX benefits, and department of human services in title IV-E cases.

"Arrearages" means past due, unpaid amounts owed by the non-custodial parent resulting from a child support order.

"Authorized representative" means a person who is designated in writing by the custodial parent, the non-custodial parent, or the alleged father as his or her representative in the case.

"Central registry" means a function at the state level responsible for receiving, distributing, and responding to inquiries on all incoming interstate, tribal, and international title IV-D cases[~~, including URESA petitions and requests for income withholding~~].

"Certified account balance" means an official reconciliation by the agency of both the amounts of child support collected from a non-custodial parent and the amounts distributed to the custodial parent or other appropriate entities during a specified time period.

"Child support" means [~~payment~~] an obligation to pay for the necessary support and maintenance of a child as

required by law. This definition includes both financial and medical support. Except in establishment actions under section 5-31-22, modification actions under section 5-31-24, and termination actions under section 5-31-43, child support may include court-ordered spousal support when spousal support is being enforced in conjunction with the financial support of a child.

"Child support order" means an order to pay for the necessary support and maintenance of a child resulting from a judicial or an administrative proceeding that may include financial and medical support for the child. Except in establishment actions under section 5-31-22, modification actions under section 5-31-24, and termination actions under section 5-31-43, child support order may include court-ordered spousal support when spousal support is being enforced in conjunction with the financial support of a child.

"Consumer reporting agency" means any person or entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Court order" means [~~any judgment, decree, or order of a court or agency that requires the payment of a set or determinant amount of child support, or child support and spousal support.~~] a child support order resulting from a judicial, rather than an administrative, adjudication.

"Custodial parent" means a parent, guardian, [~~or~~] other person, or entity having physical custody of the child.

[~~"Debtor parent" means any person who is delinquent in payment of court-ordered child support or who owes a public assistance debt.~~]

[~~"Delinquent child support" means past due child support under an existing court order owed by a debtor parent.~~]

"Department" means the department of the attorney general.

[~~"DHS" means the department of human services.~~]

[~~"Director" means the administrator of the agency.~~]

"Financial institution data match" means the process of identifying the financial account of a non-custodial parent

as a means of locating and seizing financial resources to satisfy obligations owed by the non-custodial parent.

"Income withholding" means the withholding or assignment of future income under sections 571-52, 571-52.2, 571-52.3, 576D-14, and 576E-16, Hawaii Revised Statutes.

"Lien" means a legal claim upon property to prevent sale or transfer of that property until arrearages are satisfied.

"Medical support" means a form of child support where either or both parents provide for medical insurance, which may include dental, drug, or vision services or all, for the children in the case or the payment of a specific amount in lieu of providing medical insurance.

"Non-custodial parent" means a parent who is absent from the family, whether or not the parent is required to pay child support.

"Obligee" means any person [~~to whom payments are required to be made under the terms of a court order for child support, or child support and spousal support.~~] or entity designated to receive payments under the terms of a child support order.

"Obligor" means [~~a person owing a duty of child support.~~] any person or entity that is required to make payments pursuant to a child support order.

"Office of Child Support Hearings" means the office of child support hearings established pursuant to chapter 576E, Hawaii Revised Statutes.

"Other state" includes:

(1) All states of the United States other than the State of Hawaii;
(2) The District of Columbia;
(3) Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States;
(4) Any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe and is included in the list of federally recognized Indian Tribal governments as published in the Federal Register that is operating under title IV-D; and
(5) A foreign country or a political subdivision thereof:
    (i) Declared to be a foreign reciprocating country under title IV-D; or

(ii) With which the State has entered into a reciprocal arrangement for the establishment and enforcement of child support obligations to the extent consistent with title IV-D.

[~~"Public assistance debt" means a debt owing to the department of human services under section 346-37.1, Hawaii Revised Statutes.~~]

"State" means the State of Hawaii.

"State plan" means the state child support enforcement plan as required under title IV-D [~~of the Social Security Act~~].

[~~"Support obligation" means an obligation determined by a court or authorized agency for the maintenance of a dependent child, which is owed to or on behalf of the child, or to the parent or custodian with whom the child is living.~~]

"Spousal support" means a legally enforceable obligation against an individual for the support of a spouse or former spouse [~~who is living with a child for whom an individual also owes support~~].

"Temporary assistance for needy families" means financial assistance provided under the federal Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, (title IV-A), formerly known as "Aid to Families With Dependent Children".

"Title IV-A", "title IV-D", [~~and~~] "title IV-E", and "title XIX" mean title IV-A (temporary assistance for needy families), title IV-D (child support), title IV-E (foster care), and title XIX (medicaid), respectively, of the federal Social Security Act (August 14, 1935, chapter 531, 49 Stat. 620) as amended.

"Uniform Interstate Family Support Act" means the uniform law that sets forth the requirements of processing child support orders in interstate and international cases established under chapter 576B, Hawaii Revised Statutes.

[~~"Uniform Reciprocal Enforcement of Support Act" or "URESA" means a uniform law which sets forth reciprocal legislation concerning the enforcement of support between the states.~~]

"Unreimbursed assistance" means the amount of temporary assistance for needy families benefits paid to the family by the department of human services that has not been recovered by the State.

[~~"Wage assignment" means the assignment of future income under sections 571-52, 571.52.2, and 576E-16, Hawaii Revised Statutes.~~] [Eff 2/13/89; am and comp 10/31/91; am

and comp _____] (Auth: HRS §576D-2) (Imp: HRS §§576B, 576D-2, 576E-2; 45 C.F.R. § 303.1)

§5-31-3 Authorization of services. (a) The agency shall provide services authorized by chapter 576D, Hawaii Revised Statutes.

(b) Any individual or organization providing custodial care on behalf of a child [~~with an absent parent~~], an alleged father, or [~~an absent~~] any non-custodial parent, may apply to the agency for services. [~~An applicant for or recipient of AFDC shall:~~

~~(1) Assign to the State any:~~

~~(A) Rights to support from any other persons the applicant or recipient may be entitled;~~

~~(B) Amounts that have accrued at the time the assignment is executed for the period of time that the recipient received AFDC; and~~

~~(C) Payments received by the recipient directly from the absent parent for the period of time that the recipient received AFDC; and~~

~~(2) Cooperate (unless good cause for refusing to do so is determined by DHS) with the agency in:~~

~~(A) Identifying and locating absent parents of a child;~~

~~(B) Establishing paternity of a child born out of wedlock;~~

~~(C) Obtaining support payments for the AFDC applicant or recipient and for a child for whom aid is claimed; and~~

~~(D) Obtaining any other payments or property due the applicant or recipient or the child.~~] Applications shall not be accepted for the establishment of paternity or child support or both of a child who is emancipated or is beyond the age of eighteen.

(c) [~~Those persons not receiving AFDC who apply for services, shall receive services at a fee of one dollar to be paid with agency incentive funds. However, when the agency is ordered to collect and distribute support payments under section 5-31-4(b)(6) for a non-AFDC recipient who has not requested enforcement services with the agency, no fees shall apply.~~] An applicant for or recipient of temporary assistance for needy families assigns to the State any:

(1) Rights to child and spousal support from any other person(s) to which the applicant or recipient may be entitled;

(2) Amounts that have accrued at the time the assignment is executed for the period of time that the recipient received temporary assistance for needy families; and

(3) Payments received by the recipient directly from the non-custodial parent for the period of time that the recipient received temporary assistance for needy families.

(d) An applicant or recipient of temporary assistance for needy families shall cooperate (unless good cause for refusing to do so is determined by the department of human services) with the agency in:

(1) Identifying and locating the non-custodial parent(s) of a child;

(2) Establishing paternity of a child born out of wedlock;

(3) Obtaining child and spousal support payments; and

(4) Obtaining any other payments due the applicant or recipient or the child.

(e) Those persons not receiving temporary assistance for needy families who apply for services, shall receive services for an application fee of $1 to be paid by the agency. However, where the agency is ordered to collect and distribute child support payments under section 5-31-4(b)(6) for a case in which there is no applicant, no fees shall apply.

(f) In title IV-D cases where the custodial parent has never received temporary assistance for needy families, there shall be an annual fee of $25, once there has been a total disbursement to the custodial parent of $500 within the federal fiscal year. The custodial parent shall be responsible for this annual fee. Upon the disbursement of the $500, the fee shall be retained from child support payments collected. The retention of this fee shall not adversely affect the child support amounts owed by the non-custodial parent. The fee shall not be imposed in responding interstate cases. Notwithstanding any other provision, the non-custodial parent shall be responsible for the annual fee in international cases and shall not receive child support credit for this amount. The collected fees are retained for the agency's operational expenses without the usual federal matching portion and are not considered as administrative cost of the agency's program. The collected fees are considered to be income to the program.

(g) The agency shall not accept applications for the sole purpose of disestablishing paternity.

(h) The agency shall not accept applications from children for their own support, regardless of age. [Eff 2/13/89; am 7/27/90; am and comp 10/31/91; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §§576D-3, 576D-6; 45 C.F.R. §§302.31, 302.33)

§5-31-4 Scope. (a) The agency shall formulate and administer the state plan as required pursuant to section 576D-2, Hawaii Revised Statutes.

(b) The agency [~~shall~~] may undertake any or all legal or administrative [~~action~~] actions to:

(1) Locate [~~absent~~] non-custodial parents;

(2) Establish paternity;

(3) Establish [~~absent~~] non-custodial parents' obligation to support their child[~~,~~] or children;

(4) Review [~~absent~~] non-custodial parents' obligation to support [~~a child,~~] their child or children;

(5) Modify [~~absent~~] non-custodial parents' obligation to support [~~a child,~~] their child or children;

(6) Collect and distribute voluntary payments or child support payments or both when a [~~court~~] child support order requires collection and distribution, except that disbursement in [~~AFDC~~] temporary assistance for needy families cases shall be made in accordance with 45 C.F.R. §302.51; and

(7) Enforce collection of [~~court ordered~~] child support [~~payments~~] by any or a combination of [~~the following methods:~~] all appropriate enforcement methods available to the agency, including, but not limited to:

(A) Judicial process;

(B) Administrative process;

(C) [~~Intercept and retain~~] Interception and retention of federal tax refunds [(~~persons not receiving AFDC may request federal tax refund intercept service provided they meet the eligibility requirements specified in 45 C.F.R. §303.72)~~];

(D) [~~Intercept~~] Interception and retention of state tax refunds [~~of debtor parents under section 231-53, Hawaii Revised Statutes~~];

(E) [~~Intercept~~] Interception and retention of periodic or lump-sum payments from unemployment benefits[~~,~~], workers' compensation benefits, assets, settlements, proceeds, awards, judgments, lotteries, and

any other entitlement to money due to non-custodial parents;

(F) [~~Establish~~] Establishment of liens; [~~or~~]

(G) [~~Income withholding.~~] Establishment and enforcement of income withholding orders;

(H) Financial institution data match resulting in the freezing of financial accounts and the seizing of funds;

(I) Referrals to consumer reporting agencies;

(J) Referrals to licensing agencies for the suspension of driver or professional licenses;

(K) Referrals for the denial of passports;

(L) Referrals for administrative offsets; and

(M) Referrals for federal prosecution in interstate cases.

(c) The agency may decline to establish paternity, to pursue child support, and to initiate review and modification of child support when:

(1) Incest or forcible rape is involved;

(2) Legal proceedings for adoption are involved;

(3) The parent is receiving pre-adoption services not to exceed three months; or

(4) There is actual or potential physical or emotional harm to parents, children, or caretakers.

(d) The agency shall cooperate with other states in:

(1) Locating [~~an absent~~] a non-custodial parent;

(2) Establishing paternity and [~~support~~] child support orders;

(3) Enforcing [~~support~~] child support orders;

(4) Collecting and disbursing child support payments; and

(5) Reviewing and modifying [~~support obligations.~~] child support orders. [Eff 2/13/89; am 7/27/90; am and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §§576D-3, 576D-4, 576D-6, 576D-10, 576E-2; 45 C.F.R. §§302.51, 302.60, 303.5, 303.71,)

[~~§5-31-5 Child support debts. (a) Public assistance payments to or for the benefit of any dependent child or children is a debt due and owing to the State by the natural or adoptive parent or parents who are responsible for such support. The debt shall not be incurred by nor collected from the parent or other person who is the recipient of public assistance moneys for the benefit of~~

~~minor dependent children.~~

~~(b) The debt shall equal the amount of public assistance paid on behalf of the child except where there is a court order, the debt shall be limited to the amount provided for by the order. If there is no existing court order, the debt may be established as provided by section 346-37.1, Hawaii Revised Statutes.~~

~~(c) DHS shall be subrogated to the right of individuals to the public assistance debt. The agency shall undertake any judicial or administrative action to collect the debt.~~] [Eff 2/13/89; comp 10/31/91; R _____] (Auth: HRS § 91-2) (Imp: HRS §§346-37.1, 346-37.2, 576D-8)

§5-31-7 REPEALED. [R 10/31/91]

SUBCHAPTER 2

INTAKE OF CASES FOR TITLE IV-D SERVICES

§5-31-12 Application process. (a) The application to obtain title IV-D child support services shall be made on forms supplied by the title IV-D agency and completed in a manner prescribed thereon.

(b) The agency shall provide the appropriate application forms to individuals who make a request in person or send the appropriate application forms upon receiving a written or telephone request. Application forms shall be provided within timeframes prescribed by federal [~~regulations,~~] regulation, 45 C.F.R. §303.2(a)(2).

(c) Information describing available child support services, individual's rights and responsibilities, fees, cost recovery, and distribution policies shall be provided to applicants with the application form and to all [~~cases~~] applicants referred to the agency within five working days of referral.

(d) No application shall be necessary in title IV-A, title IV-E, and title XIX cases. In such cases, referrals are made through an electronic interface with the department of human services.

(e) In cases where there is a protective order or where the custodial parent discloses that the custodial parent or the child(ren), or both may be in danger from the non-custodial parent, an application for family violence indicator shall be completed by the custodial parent. If this application is approved by the agency, the agency will

not disclose the location of the custodial parent and the subject child(ren) to other states or persons through the federal parent locator service without court approval or the custodial parent's written authorization.

(f) Any current recipient of temporary assistance for needy families who believes he or she or the subject child(ren) or both are in danger of physical harm may notify the department of human services. Should the agency receive referrals of temporary assistance for needy families cases identifying this situation, no action to establish paternity or establish or enforce child support shall be taken until the agency is notified otherwise by the department of human services. [Eff and comp 10/31/91; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §303.2(a)(2))

§5-31-13 Case opening. (a) An application or referral is considered filed on the date the appropriate unit office receives a completed, signed application form, or complete referral information, and any applicable fees.

(b) Upon the filing of an application or referral, the agency [~~shall~~] may establish a case record, assess the case and determine necessary action, solicit necessary and relevant information, initiate verification, and refer for location services, if necessary. In addition, the agency shall refer the case, including all necessary documents as prescribed by federal regulations, to another state's title IV-D central registry when the application or referral form indicates that the [~~absent~~] non-custodial parent or putative father resides in that state. These actions shall be completed within timeframes prescribed by federal regulations, 45 C.F.R. §§303.2(b), 303.7(b).

(c) Upon receiving an interstate title IV-D case, the agency shall review the documentation for completeness, establish a case record, forward the case to the appropriate unit for processing, acknowledge to the initiating state receipt of the case, inform the initiating state where the case was sent for action, and request the initiating state to provide additional documentation if necessary. These actions shall be completed within timeframes prescribed by federal [~~regulations,~~] regulation, 45 C.F.R. §303.7(a)(2). [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §§576D-2, 576D-6; 45 C.F.R.§§303.2,303.7)

§5-31-14 Orientation. A specially designed orientation session may be presented by the agency to

familiarize applicants with the rights and responsibilities of the parties. [Eff and comp _____] (Auth: HRS §§576D-2, 576D-6) (Imp: HRS §§576D-2, 576D-6; 45 C.F.R. §302.30)

§5-31-15 Application information. The following information may be required to complete the application:

(1) The applicant's social security number and date of birth;
(2) The applicant's last four pay stubs;
(3) The applicant's most recent federal or state income tax return;
(4) Child care receipts for the last three months;
(5) Birth certificates for each child in the family;
(6) Social security numbers and dates of birth for each child and non-applicant party;
(7) Address information for all parties;
(8) Information when the child has received temporary assistance for needy families or medicaid any time in the State or in other states;
(9) Information on the applicant's employer and work history;
(10) Information on the employer and work history of the other parent of the child(ren);
(11) Information on or availability and cost of medical coverage for the child(ren) by either parent;
(12) All child support orders;
(13) Information on ownership of real property by the non-custodial parent;
(14) Information on financial accounts held by either parent;
(15) Work, home, and cellular telephone numbers for both parents;
(16) Information on both paternal and maternal grandparents for each child;
(17) Caretaker information if the children are not living with the mother or the father;
(18) Marriage or divorce or separation history of both parties, marriage certificate, and divorce decree; and
(19) Restraining orders issued by the court. [Eff and comp _____] (Auth: HRS §§576D-2, 576D-6) (Imp: HRS §§576D-2, 576D-6; 45 C.F.R. §303.2)

SUBCHAPTER 3

[~~LOCATION OF ABSENT PARENTS~~] LOCATE

§5-31-17 [~~Cases needing location services.~~] Locate. (a) The agency shall access available and appropriate sources [~~of information~~] to obtain [~~sufficient~~] information concerning the [~~absent parent's physical whereabouts, employment, sources of income or assets, or medical insurance coverage, which is sufficient and necessary to take the next appropriate action in a case.~~] custodial and non-custodial parent. All appropriate location sources shall be accessed within timeframes prescribed by federal [~~regulations,~~] regulation, 45 C.F.R. § 303.3(b)(3).

(b) Where [~~previous attempts~~] efforts to locate [~~an absent~~] a non-custodial parent have failed, attempts shall be repeated periodically within timeframes prescribed by federal [~~regulations,~~] regulation, 45 C.F.R. § 303.3(b)(5) [~~and (6)~~], or immediately upon receipt of new and relevant information, whichever is earlier.

(c) Upon [~~obtaining~~] receipt of sufficient and necessary [~~location~~] locate information, the case shall be forwarded immediately for the next appropriate action. [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §303.3)

§5-31-18 Interstate [~~requests for location services.~~] locate.

(a) Requests from other jurisdictions for [~~location~~] locate services only shall be processed pursuant to section 5-31-17(a).

(b) Results of actions completed to locate [~~an absent~~] a non-custodial parent shall be communicated to the requesting jurisdiction. No further action shall be required by the agency unless specified by the requesting jurisdiction and determined to be appropriate by the agency. [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §§303.3, 303.7)

SUBCHAPTER 4

ESTABLISHMENT OF PATERNITY AND SUPPORT

§5-31-21 Establishment of paternity. (a) When a referral is received from the department of human services,

another state, or the applicant, a determination is made whether paternity for a child is at issue.

(b) Paternity is at issue when natural parents are not married to each other at the time of the birth of the child.

(c) Paternity can be established by the following methods:

(1) By the voluntary establishment of paternity pursuant to section 584-3.5, Hawaii Revised Statutes;

(2) By a court ordered judgment of paternity; or

(3) By a decree of divorce naming the child as a child of the marriage. [Eff and comp _____] (Auth: HRS §§584-3.5, 584-8.5, 584-15) (Imp: HRS §§584-3.5, 584-8.5, 584-15; 45 C.F.R. §§302.70, 303.5)

§5-31-21.1 Non-pursuit of paternity. (a) The agency shall not initiate paternity proceedings in the following situations:

(1) Where paternity has been established by court order or voluntary establishment of paternity pursuant to section 584-3.5, Hawaii Revised Statutes; or

(2) Where the mother was married at the time of the birth of the child or the child was born within three hundred days of the divorce of the mother, and no alleged natural father has been identified.

(b) The agency may not initiate paternity proceedings in the following situations:

(1) Where incest or forcible rape is involved;

(2) Where legal proceedings for adoption are involved; or

(3) Where the department of human services has made a good cause determination. [Eff and comp _____] (Auth: HRS §§576D-2, 576D-6) (Imp: HRS §§576D-2, 576D-6, 584-3.5; 45 C.F.R. §§302.31, 302.70, 303.5)

§5-31-21.2 Procedures when paternity is at issue. (a) A complaint for paternity initiated by the agency is filed with the court.

(b) Service of the complaint, which includes a court hearing date, is made upon the parties named in the complaint.

(c) Any named party in the complaint may request genetic testing and genetic testing will be ordered by the court. In such instance, the agency will advance the genetic testing cost subject to reimbursement by any party.

(d) The genetic testing report will be filed with the court and sent to the named parties on the complaint.

(e) If genetic testing does not result in exclusion of the alleged father and testing has been conducted in accordance with sections 584-11(a)(2), Hawaii Revised Statutes, the alleged father is presumed to be the father of the subject child pursuant to section 584-4(a)(5), Hawaii Revised Statutes.

(f) A party who has been excluded by genetic testing may have the paternity action dismissed by the court and will not be responsible for the genetic testing cost.

(g) A party has a right to request a non-jury trial on the issue of paternity.

(h) Where paternity has been established pursuant to admission or court order, a judgment of paternity is issued by the court.

(i) Once paternity is established and the parents and the child are residing together, no further action will be taken. [Eff and comp _____] (Auth: §§576D-2, 576D-3, 576D-4, 576D-6) (Imp: §§576D-2, 576D-3, 576D-4, 576D-6, 576E-2, 584-4, 584-11; 45 C.F.R. §§302.70, 303.5)

§5-31-22 Establishment of [~~a support obligation.~~] child support orders. (a) [~~A petition for child~~] Child support [~~should be processed~~] is addressed in conjunction with paternity establishment[, ~~with the child support guidelines, mandated by section 576D-7, Hawaii Revised Statutes, being applied whenever there is sufficient information to do so.~~] or through the administrative process when paternity is not at issue.

(b) Within time frames prescribed by federal [~~regulations,~~] regulation, 45 C.F.R. § 303.4(d), the agency must establish an order for child support, or complete service of process necessary to establish an order, or document unsuccessful attempts to serve process.

(c) [~~If a proposed support order is dismissed without prejudice, the agency shall determine the next appropriate action to be taken based on the reasons for dismissal. Appropriate actions include, but are not limited to:~~

~~(1) Sending the case for location services if the proposed order for support was dismissed due to unemployment or insufficient income;~~

~~(2) Appealing the dismissal; or~~

~~(3) Seeking an order for support at some designated time in the future.~~] If there is no existing order and paternity is not at issue, the administrative process to establish a child support order is initiated when appropriate information is received. Information that is necessary to initiate order establishment are:

(1) Income information from the applicant if the applicant is not receiving temporary assistance for needy families; and

(2) A serviceable address for both parties in the case.

(d) Once it is determined that it is appropriate to initiate an administrative process to establish a child support order, the following steps are taken:

(1) Notice is sent to the other party in the case requesting income information;

(2) Automated inquiries for income information are made to state and federal agencies;

(3) After ten calendar days have passed, a proposed administrative order that includes the amount for child support and medical insurance provision is generated and served upon the parties by certified mail or personal service pursuant to section 576E-4, Hawaii Revised Statutes. The amount of child support is determined by using the child support guidelines as required by section 576D-7, Hawaii Revised Statutes;

(4) Once a party has been served with the proposed administrative order, that party has ten working days to request an administrative hearing;

(5) If neither party requests a hearing, the proposed administrative order is signed by the administrator or a hearings officer with the office of child support hearings. If applicable, an income withholding order, in the standard format prescribed by title IV-D, is issued;

(6) The signed administrative order and income withholding order are filed with the family court. Filed copies of the child support order are sent to the parties. A certified copy of the child support order is sent to the bureau of conveyances for recordation purposes and a notice of income withholding is sent to the non-custodial parent's employer, if applicable;

(7) If an administrative hearing is requested, a hearing is scheduled and notice of the hearing is sent to the parties once both parties are served

with the proposed administrative order. Administrative hearings are scheduled at one-half hour intervals Tuesdays through Fridays from 9:00 a.m. through 11:30 a.m. Administrative hearings that are continued may be scheduled at other times as necessary;

(8) Prior to the hearing the agency representative meets with the parties to determine if a settlement can be reached or to obtain updated information on the parties;

(9) At the time of the hearing, the agency representative provides case information to the administrative hearings officer. The parties are allowed to provide information to the administrative hearings officer that supports their position on the issues being addressed;

(10) After the administrative hearing has been completed and a signed child support order is received from the administrative hearings officer, the process described in paragraph (6) is followed;

(11) Both parties must be served before the administrative process can continue.

(i) If the unserved party is the applicant, attempts will be made to contact the applicant to complete service of process. If such attempts are unsuccessful, case closure may be initiated.

(ii) If the unserved party is not the applicant, the unserved party may be referred to locate or case closure may be initiated.

(e) If the administrative process to establish a child support order is dismissed without prejudice, the agency shall determine the appropriate action to be taken. Appropriate actions include, but are not limited to:

(1) Sending the case for locate;

(2) Appealing the dismissal; or

(3) Seeking an order for child support at a later date.

(f) Child support orders shall include a provision requiring either parent or both to provide medical support.

[Eff and comp 10/31/91; am and comp _____]
(Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §303.4)

§5-31-23 Guidelines for determining the amount of the child support obligation. (a) The agency shall review the child support guidelines mandated by section 576D-7, Hawaii

Revised Statutes, at least once every four years [~~to ensure their application results in the appropriate child support award amounts~~]. Recommendations on amendments to the child support guidelines shall be communicated to the family court.

(b) Where the non-custodial parent is incarcerated, a presumption of exceptional circumstance is created and the agency may initiate administrative proceedings to set current child support at zero. [Eff and comp 10/31/91; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-7; P.L. 100-485, §103 (1988))

§5-31-24 Modification of child support orders. (a) If there is an existing child support order, the administrative process to modify child support is initiated when a request is received from one of the parties. Information that is necessary to initiate order modification are:

(1) A written request specifying the reason for the modification;

(2) Income information from the requesting party if the requesting party is not receiving temporary assistance for needy families; and

(3) A serviceable address for both parties in the case.

(b) Once it is determined that it is appropriate to initiate an administrative process to modify a child support order, the following steps are taken:

(1) A notice is sent to both parties in the case indicating that the agency is reviewing the current child support obligation for possible modification and requesting income information;

(2) Automated inquiries for income information are made to state and federal agencies;

(3) Ten calendar days after the date of notice, a proposed administrative order with modified child support is generated if the threshold under section 576E-14(c), Hawaii Revised Statutes, has been met. If the threshold under section 576E-14(c), Hawaii Revised Statutes, has not been met, a statement of no change is generated. The proposed administrative order or the statement of no change is served upon the parties by regular mail pursuant to section 576E-4, Hawaii Revised Statutes. The amount of child support is determined by using the child support guidelines

as required by section 576D-7, Hawaii Revised Statutes; and

(4) Once a party has been served with the proposed administrative order or the statement of no change, the party has thirty calendar days to request an administrative hearing.

(c) The process as described in section 5-31-22(d)(5) through (10) is followed to complete the modification action. [Eff and comp _____] (Auth: §§576D-2, 576D-6, 576E-2, 576E-5, 576E-6) (Imp: §§ 576D-2, 576D-6, 576E-2, 576E-5, 576E-6; 45 C.F.R. §§302.70, 303.8)

§5-31-25 Review and adjustment for temporary assistance for needy families cases. (a) The agency shall review and, if appropriate, adjust the current child support order in accordance with the guidelines for temporary assistance for needy families cases every three years from the filed date of the most recent order or the date of the most recent review, whichever is later.

(b) The process described in section 5-31-24 is followed except that no written request from a party is necessary. [Eff and comp _____] (Auth: HRS §576D-6) (Imp: HRS §§576D-2, 576D-6, 576E-2; 45 C.F.R. §§302.70, 303.8)

SUBCHAPTER 5

ENFORCEMENT

§5-31-27 Identifying [~~delinquency~~] arrearages and initiating enforcement. (a) The agency shall maintain a system for identifying title IV-D cases in which there is a failure to make [~~a support payment~~] payments in accordance with the [~~current~~] child support order.

(b) Upon identifying [~~a delinquency~~] arrearages or receiving [~~an interstate~~] a request for enforcement[~~,~~] from other states, the agency shall proceed to take appropriate enforcement action to collect [~~the~~] child support as currently ordered, within timeframes prescribed by federal regulations, 45 C.F.R. §303.6(c)(2) and (3).

(c) Upon identifying [~~a delinquency in payment~~] arrearages in a title IV-D case where the [~~debtor~~] non-custodial parent resides in another state, the title IV-D agency in the other state shall be requested to provide enforcement services[~~.~~] when appropriate. The request shall be made as prescribed by federal [~~regulations,~~]

regulation, 45 C.F.R. §303.7(b).

(d) [~~Automated information from records and accounts~~] Information maintained in computerized systems available to the agency shall be [~~considered~~] adequate basis [~~upon which a determination may be made~~] to identify an obligor as [~~delinquent in child support payments~~] owing arrearages or to impose [~~a means of~~] enforcement. [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §§303.6, 303.7)

§5-31-28 Requiring a security bond or other guarantee from a [~~debtor~~] non-custodial parent. (a) A [~~debtor~~] non-custodial parent [~~delinquent in an amount that exceeds $1,000, shall~~] owing arrearages exceeding the amount of child support due for a six month period may be required by [~~court~~] child support order [~~or administrative process~~] to give security, post bond, or give some other guarantee to secure payment of [~~delinquent child support.~~] such arrearages.

(b) The [~~debtor~~] non-custodial parent shall not be required to provide such security when:

(1) The [~~debtor~~] non-custodial parent is receiving public assistance for the benefit of minor children;

(2) The [~~debtor~~] non-custodial parent does not have means to post bond or other security; or

(3) It is not in the best interest of all the [~~debtor~~] non-custodial parent's dependent children.

(c) When commencing administrative process to require a [~~debtor~~] non-custodial parent to give security, post bond, or give some other guarantee of payment, the agency shall proceed under section [~~5-34-14.~~] 5-31-22. [Eff 2/13/89; §5-31-6; am, ren, and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-6(b)) (Imp: HRS §§576D-6(a)(5), 576E-5; 45 C.F.R. §303.104)

§5-31-29 Information of [~~delinquent child support~~] arrearages to consumer [~~credit~~] reporting agencies. (a) Information of [~~delinquent child support~~] arrearages owed by a [~~debtor~~] non-custodial parent that exceeds [~~$1,000 shall~~] $2,500 may be released to [~~a~~] consumer reporting [~~agency upon the reporting agency's request.~~] agencies.

(b) The agency shall provide advance written notice to the [~~debtor~~] non-custodial parent by mailing the notice to the non-custodial parent's last known address. The

notice shall inform the [~~debtor~~] non-custodial parent of[~~:~~] the following:

(1) The amount of the [~~delinquent child support;~~] arrearages;

(2) The agency's intent to release information of [~~delinquent child support~~] the arrearages owed by the [~~debtor~~] non-custodial parent to [~~a~~] consumer reporting [~~agency;~~] agencies;

[~~(3) A procedure for contesting the action;~~

~~(4)~~] (3) [~~An explanation that the agency shall proceed with the intended action if the agency does not receive a written objection from the debtor parent within fourteen calendar days of the date of the notice;~~] A statement that the non-custodial parent may contest the agency's action by requesting an administrative review in writing within fourteen calendar days of the date of the notice; and

[~~(5) An explanation that~~] (4) The only issues that may be raised when contesting the intended action are limited to either an error in the amount of the [~~overdue support~~] arrearages or an error in the identity of the [~~debtor~~] non-custodial parent.

[~~(d)~~] (c) If a written objection is received by the agency from the [~~debtor~~] non-custodial parent within the timeframe specified in the advance written notice, the agency shall suspend further action related to releasing information on the case to consumer [~~credit~~] reporting agencies [~~until the matter is resolved.~~] and shall proceed under section 5-31-35.1. [Eff 2/13/89; §5-31-8; am, ren, and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-6(b)) (Imp: HRS §576D-6(a)(6))

§5-31-30 Property Liens. (a) Liens on real and personal property shall be established pursuant to section 576D-10.5, Hawaii Revised Statutes. [~~Judgment liens shall attach under section 636-3, Hawaii Revised Statutes.~~]

(b) [~~Liens shall not be sought if the debtor parent is receiving public assistance for the benefit of the minor child or if the action would prevent the debtor parent to meet a current support obligation.~~] The agency shall be responsible for intercepting and seizing assets, settlements, proceeds, awards, judgments, lotteries, and any other entitlement to money due to non-custodial parents who owe arrearages.

(c) A notice of the amount owed by the non-custodial parent shall be provided to any entity that may be holding funds on behalf of a non-custodial parent to whom subsection (b) applies.

(d) Upon receipt of a written request by the non-custodial parent for an administrative review on the seizure of the funds, the agency shall proceed under section 5-31-35.1.

(e) Prior to the agency receiving the funds, if the agency is served with proper notice that the non-custodial parent is contesting the seizure through a judicial proceeding, the agency shall notify the entity to hold the funds until the proceeding has been completed.

(f) If, after the judicial proceeding has been completed, it is determined that the seizure is proper and the funds have not been released to the agency, the agency shall notify the entity to release the funds to the agency.

(g) If, after an administrative review or a judicial proceeding, it is determined that the seizure is improper and the funds have not been released to the agency, the agency shall notify the entity that the lien is withdrawn.

(h) Liens may not be enforced if the administrator determines that it is not in the best interest of the child. [Eff 2/13/89; § 5-31-9; am, ren, and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-6(b)) (Imp: HRS §§576D-6(a)(7), 576D-10.5)

§5-31-31 State income tax refund setoff and overpayment refund. (a) [~~State income tax refunds of those persons who owe a child support debt shall be setoff to recover this debt.~~] The agency shall refer those persons who owe arrearages in an amount that meet the requirements of section 231-53, Hawaii Revised Statutes, to the state department of accounting and general services for income tax refund setoff.

(b) The agency shall provide advance written notice to the [~~debtor~~] non-custodial parent by pre-setoff letter [~~regarding the~~] of the initial referral of the [~~debtor~~] non-custodial parent for state income tax refund setoff. The pre-setoff letter shall be mailed to the [~~debtor~~] non-custodial parent's last known address and shall include:

(1) The amount of the [~~delinquent child support;~~] arrearages;

(2) The agency's intent to refer the [~~debtor~~] non-custodial parent for state income tax refund setoff due to [~~nonpayment of a debt to the agency;~~] arrearages owed;

[~~(3) A procedure for contesting the debt;~~

~~(4)~~] (3) [~~An explanation that the debtor parent has fourteen calendar days from the date of the notice to contest the debt;~~] A statement that the non-custodial parent may contest the agency's action by requesting an administrative review in writing within fourteen calendar days of the date of the notice; and

[~~(5)~~] (4) An explanation that the issues that may be raised when contesting the action are limited to either an error in the amount of the [~~overdue child support~~] arrearages or an error in the identity of the [~~debtor.~~] non-custodial parent.

(c) [~~Once a debtor parent has been referred for state income tax refund setoff, and an actual setoff is identified, a notice of proposed refund application shall be provided to the debtor parent.~~] A notice of proposed refund application shall be provided to the non-custodial parent once an actual setoff is identified. The notice shall be mailed to the [~~debtor~~] non-custodial parent's last known address and shall include:

(1) The amount of the [~~debtor's~~] non-custodial parent's state income tax refund for a specified year;

(2) The amount of the [~~child support debt;~~] arrearages;

(3) The amount that has been identified for [~~application against the debt;~~] setoff;

(4) The legal authority supporting the action;

(5) The right of the [~~debtor~~] non-custodial parent to request an administrative hearing within thirty calendar days of the date of the notice;

(6) Procedures for requesting an administrative hearing; and

(7) An explanation that the action, when completed, is final, if the agency does not receive a request for an administrative hearing within thirty calendar days of the date of the notice.

(d) Upon receipt of a written request for an administrative hearing from the non-custodial parent on the matter of an identified tax refund setoff, the agency shall proceed under section 5-31-35.

(e) [~~When the agency sets off a state income tax refund under section 231-53, Hawaii Revised Statutes, the agency shall notify the custodial parent that the setoff shall be credited to unreimbursed AFDC or foster care maintenance debts before any other debt. The notice shall~~

~~be sent within forty-five days of the date the tax refund is setoff. The notice shall contain:~~

~~(1) The name of the debtor parent;~~

~~(2) The amount of the setoff;~~

~~(3) Application of the setoff amount; and~~

~~(4) A statement explaining that the setoff amount is required to be credited toward unreimbursed AFDC or foster care maintenance before any other debt.~~] The agency shall provide advance notice to applicants that in cases where medical support rights have been assigned to the State, if state tax income refunds are setoff and applied to amounts designated in the child support order for medical purposes, the amounts shall be retained by the State.

(f) If the agency intercepts a state income tax refund and any portion has not been disbursed, the agency may reimburse the amount that exceeds the amount due[~~, the agency shall reimburse the overpayment within twenty days after the agency discovers the overpayment.~~] or the amount that includes the non-custodial parent's spouse's share, up to the undisbursed amount. If the [~~overpayment~~] state income tax refund has been released to the obligee, the agency [~~will~~] shall notify the obligee of [~~the~~] any overpayment[~~and request that the obligee refund the overpayment as required under the request for tax refund setoff services.~~] or claim made by the non-custodial parent's spouse for his or her share of the refund. The notice shall inform the obligee that he or she may have the obligation to refund the amount that was received by the obligee. [Eff 2/13/89; § 5-31-10; am, ren, and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-6(b)) (Imp: HRS §§231-53, 576D-6(a)(8) and (9); 45 C.F.R. §303.102)

§5-31-31.1 Federal income tax refund offset. (a) The agency shall refer to the federal Office of Child Support Enforcement, those persons who owe arrearages in an amount that meets the requirements for federal income tax refund offset.

(b) Referrals to the Office of Child Support Enforcement will result in a pre-offset notice to the non-custodial parent. Upon receiving the notice, the non-custodial parent may request that the agency conduct an administrative review of the arrearages owed.

(c) Once a federal income tax refund offset has been made, the Secretary of the United States Treasury will send notice to the non-custodial parent indicating that the

offset has occurred. Upon receiving the notice, the non-custodial parent may challenge the offset and request an administrative review from the agency. Challenges received by the agency after the federal income tax refund offset has been disbursed may not result in a return of the offset amount.

(d) The agency shall refer any challenge to the offset by the non-custodial parent's spouse to the Secretary of the United States Treasury.

(e) Collections resulting from federal income tax refund offsets shall be distributed in accordance with federal regulations. When the offset is received, it may be held for up to thirty calendar days in single filed tax returns and for up to one hundred eighty calendar days in jointly filed tax returns.

(f) In cases where arrearages are owed to the State during the period that the custodial parent received temporary assistance for needy families, the amounts collected shall first be distributed to the federal and the state governments for reimbursement of the assistance paid.

(g) Upon receipt of a written request for an administrative review, the agency shall proceed under section 5-31-35.1. If the arrearages are based upon another state's child support order and the non-custodial parent requests that the administrative review be done by the state that issued the order, the agency shall send the non-custodial parent's request along with all necessary documentation to the appropriate entity in the state that issued the order. [Eff and comp _____] (Auth: HRS §§576D-2, 576D-6) (Imp: HRS §§576D-2, 576D-6; 45 C.F.R. §§302.60, 303.72)

§5-31-32 [~~Initiating income withholding on cases not subject to immediate income withholding under section 5-34-22.~~] Income withholding. (a) The agency shall initiate income withholding[~~, whether or not there are income withholding provisions in the support order, if the obligor is employed or otherwise receiving income, upon identifying a delinquency in payment in an amount equal to or greater than the support payable for one month, or if earlier and without regard to whether there is a delinquency, upon the earlier of:~~

~~(1) Receiving a request for income withholding from the obligor;~~

~~(2) Receiving a request for income withholding from the obligee upon showing of good cause.~~] for all

title IV-D cases unless a determination has been made by the agency that income withholding would not be in the best interest of the child.

(b) [~~In a case where the obligor is believed to be employed or otherwise receiving income in another state, the agency shall request the title IV-D agency in the other state to implement income withholding.~~] If income withholding is initiated on the basis of an arrearage, the administrator or designee may sign an income withholding order which includes an additional amount to reduce the arrearages owed. A copy of the income withholding order shall be filed in the office of the clerk of the circuit court in the circuit where the child support order was issued.

(c) [~~When the agency pursues income withholding in a case where the obligor is employed or otherwise receiving income in the State, except in the case of income withholding being initiated at the request of the obligor, the obligor shall be provided advance written notice. The notice shall include:~~

~~(1) The amount of the delinquent child support, if applicable;~~

~~(2) The intent of the agency to implement income withholding and the amount proposed to be withheld;~~

~~(3) A statement that the withholding applies to any current or subsequent period of employment or payment of income;~~

~~(4) A procedure for contesting the action;~~

~~(5) A statement that the only basis for contesting the withholding is a mistake of fact; and~~

~~(6) An explanation that the agency shall proceed with the intended action if the agency does not receive a written objection and request for an administrative hearing from the obligor within fourteen calendar days of the date of the notice, or within ten calendar days of the date of the notice if income withholding was requested by another state.~~] The agency shall send a filed copy of the income withholding order to the non-custodial parent and a notice of the income withholding to the employer. Such income withholding procedures and challenges thereto are specified in section 576D-14, Hawaii Revised Statutes.

(d) [~~The advance notice shall be served upon the obligor by personal service or certified mail, return receipt requested, unless subsection (e) of this section~~

~~applies.~~] In those cases where current child support has been suspended or terminated and arrearages are owed, the most recent income withholding order that has not been terminated by court or administrative order shall continue in effect and may be served on current or future employers until such time as the arrearages are fully satisfied.

[~~(e) If income withholding is initiated on the basis of a delinquency, pursuant to subsection (a) of this section, and the current support order contains income withholding provisions pursuant to section 571-52.2, Hawaii Revised Statutes, the advance notice may be mailed to the parent's last known address by regular mail.~~

~~(f) If the agency does not receive a written objection and request for an administrative hearing within the timeframe specified in the advance notice, the agency shall proceed to send an order of income withholding to the employer.~~

~~(g) The income withholding order shall operate as an assignment to the agency and shall include:~~

~~(1) The amount to be withheld;~~

~~(2) The effective date of withholding;~~

~~(3) Sanctions for noncompliance; and~~

~~(4) A notice that the amount of income withheld shall not exceed limits imposed by the Consumer Credit Protection Act.~~

~~(h) The income withholding order shall be signed by the director of the agency or designee unless the order is being issued after an administrative hearing has commenced whereupon the order shall be signed by the hearings officer.~~

~~(i) A copy of the income withholding order shall be filed in the office of the clerk of the circuit court in the circuit where the order was issued.~~

~~(j) If a written objection and request for an administrative hearing is received by the agency from the obligor within the timeframe specified in the notice sent under subsection (c), the agency shall suspend further income withholding action on the case until the matter is resolved and complete the following:~~

~~(1) Handle the request for administrative hearing in accordance with section 5-31-35;~~

~~(2) Service of an order or notice to the absent parent regarding whether or not income withholding is to occur; and~~

~~(3) Service of an order to commence income withholding to the employer if income withholding is to occur.~~

~~(k) If the agency has received child support through income withholding in an amount that exceeds the amount due, and has released the overpayment to the obligee, the agency will request the obligee to refund the overpayment or the agency will withhold future child support payments from the obligee until the overpayment has been recovered. The agency shall reimburse the absent parent within twenty days after the overpayment has been recovered from the obligee.~~

~~(l) If the agency has access to the overpayment moneys at the time that an overpayment is identified, the agency shall reimburse the absent parent within twenty days after the agency has discovered the overpayment.~~]

(e) Upon receipt of a written request for an administrative hearing regarding the income withholding action, the agency shall proceed under section 5-31-35.

[Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §§91-2, 576D-10) (Imp: HRS §§571-52.2, 576D-6(a)(10); 45 C.F.R. §303.100)

§5-31-32.1 License suspension. (a) The agency may refer non-custodial parents who are delinquent in child support in an amount that would be owed for a three-month period to appropriate licensing authorities to suspend their driver's license.

(b) The agency may refer non-custodial parents who are delinquent in child support in an amount that would be owed for a six-month period to appropriate licensing authorities to suspend their professional license(s).

(c) The agency may refer individuals who have failed to comply with the subpoena or the warrant relating to a paternity or a child support proceeding to appropriate licensing authorities to suspend the individual's driver's or professional license(s) or both.

(d) The agency may refer individuals who have not obtained or maintained health insurance coverage as required by a child support order to appropriate licensing authorities to suspend the individual's driver's or professional license(s) or both.

(e) License suspension procedures and challenges thereto are specified in section 576D-13, Hawaii Revised Statutes.

(f) Where the non-custodial parent has entered into a repayment agreement in response to a notice of impending license suspension action and has failed to comply with the agreement, the agency shall refer the non-custodial parent to appropriate licensing authorities to suspend the

individual's driver's or professional license(s) or both without further advance notice to the affected individual.

(g) Upon receipt of a written request for an administrative hearing regarding the license suspension action, the agency shall proceed under section 5-31-35.

[Eff and comp _____] (Auth: HRS §§576D-1, 576D-2, 576D-13) (Imp: HRS §§576D-1, 576D-2, 576D-13; 45 C.F.R. §303.6)

§5-31-32.2 Administrative financial institution data match. (a) The agency shall enter into agreements with financial institutions to exchange data related to non-custodial parents that owe arrearages.

(b) The agency may be responsible for freezing and seizing funds from the accounts of delinquent non-custodial parents that have active accounts. The administrative financial institution data match process may be initiated against a non-custodial parent who owes arrearages equal to or greater than the amount owed for one month of child support and the arrearages amount has been outstanding for a three month period.

(c) A notice of lien and levy shall be served on the financial institution that may be holding funds on behalf of a non-custodial parent to whom subsection (b) applies. Upon being served with notice, the financial institution:

(1) Notifies the account holders of the freeze of the account and the impending seizure;

(2) Discloses to the agency the amount being held, if any, pursuant to the notice of lien and levy, and also inform the agency of any safe deposit box held in the name of the non-custodial parent; and

(3) Sixty calendar days after being served with the lien, shall turn over the funds to the agency unless otherwise informed by the agency that the institution should hold onto the funds for a longer period.

(d) After serving the notice of lien and levy on the financial institution, the agency shall serve notice upon the non-custodial parent of the agency's intent to seize funds in the account held by the financial institution. The notice shall be sent by regular mail to both the last known address of record of the non-custodial parent as shown in the records of the financial institution and the address of record of the non-custodial parent as shown in the agency's child support record. For purposes of this section, the date of service means two working days following the date of mailing of the notice to the non-

custodial parent by the agency. The notice shall contain the following information:

(1) Identification of the financial institution where the funds are being held;

(2) The name, the last four digits of the social security number, if available, and each applicable child support case number or numbers of the non-custodial parent;

(3) The amount of the arrears owed by the non-custodial parent; and

(4) A statement that the non-custodial parent may contest the seizure by requesting an administrative review in writing within fourteen calendar days of the date of service of the notice of intent to seize the funds.

(e) After receipt of a written request by the non-custodial parent for an administrative review on the seizure of the funds held by the financial institution, the agency shall proceed under section 5-31-35.1.

(f) If the agency receives a timely request for an administrative review prior to the agency receiving the funds from the financial institution, the agency may notify the financial institution to hold the funds until the administrative review has been completed.

(g) If, after the administrative review, it is determined that the seizure is proper and the funds have not been released to the agency, the financial institution shall be notified to release the funds to the agency.

(h) If, after the administrative review, it is determined that the seizure is improper and the funds have not been released to the agency, the financial institution shall be notified that the lien is released. [Eff and comp _____] (Auth: HRS §576D-15) (Imp: HRS §576D-15; 45 C.F.R. §303.6)

§5-31-32.3 Referral for passport denial. (a) The agency may request the federal Office of Child Support Enforcement to deny, revoke, or limit the passport of any non-custodial parent that owes arrearages equal to or greater than $2,500.

(b) In cases where such requests are approved, passport privileges will not be restored unless the arrearages have been fully satisfied.

(c) The administrator has the discretion to request the restoration of passport privileges when the non-custodial parent clearly demonstrates an inability to fully satisfy the arrearages owed and that exigent circumstances

exist. [Eff and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §303.6)

§5-31-32.4 Other enforcement mechanisms. The agency may utilize other enforcement mechanisms to collect arrearages. These include, but are not limited to:

(1) Garnishment;

(2) Criminal forfeiture;

(3) Tax sale; and

(4) Foreclosure. [Eff and comp _____] (Auth: HRS §§576D-2, 576D-10.5) (Imp: HRS §§576D-2, 576D-10.5; 45 C.F.R. §303.6)

§5-31-32.5 Referral for special prosecution. In cases where the non-custodial parent owes arrearages and the agency is not successful in securing his or her compliance in meeting child support obligations, the agency may refer the cases to the appropriate county, state, or federal agencies for special prosecution. [Eff and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §§302.34, 303.6)

§5-31-32.6 Bankruptcy. During the pendency of the non-custodial parent's bankruptcy proceeding, the agency may file a proof of claim and take all appropriate enforcement actions. [Eff and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §303.6)

§5-31-32.7 Insurance company data match. (a) The agency may enter into agreements to obtain insurance claim information related to non-custodial parents that owe arrearages.

(b) The agency may institute such enforcement action as appropriate based upon the information obtained from the data match. [Eff and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §303.6)

§ 5-31-35 [~~Handling requests~~] Requests for administrative hearings on enforcement actions. (a) [~~Upon~~] After receipt of a written request for an administrative hearing on an enforcement action imposed by the agency, a determination shall be made [~~as to~~] whether [~~or not~~] the criteria for [~~referring a case for~~] scheduling a hearing have been met.

(b) The criteria for [~~referring a case for~~] scheduling an administrative hearing include:

(1) Receipt of the written request for a hearing on a timely basis[~~,~~] as prescribed by the specific enforcement action; and

(2) The issues stated in the request are limited to those which are allowed to be considered by applicable state law and federal regulations.

(c) If the criteria for [~~referring the case for~~] scheduling an administrative hearing have been met, the agency shall [~~forward the request to the office of child support hearings.~~] send a written notice of the date, place, and the time of the hearing to the individual requesting the hearing. The notice shall be sent by regular mail to the individual's last known address.

(d) If the criteria for [~~granting~~] scheduling an administrative hearing have not been met [~~and the request for a hearing is to be denied~~], the agency shall send the requestor a written notice [~~of denial.~~] that the request for hearing is denied. [Eff and comp 10/31/91; am and comp _____] (Auth: HRS §576E-8) (Imp: HRS §576E-8; 45 C.F.R. §§303.100, 303.101)

§5-31-35.1 Requests for administrative review on enforcement actions. (a) After receipt of a written request for an administrative review on an enforcement action imposed by the agency, a determination shall be made whether the criteria for scheduling an administrative review have been met.

(b) The criteria for scheduling an administrative review include:

(1) Receipt of the written request for a review on a timely basis as prescribed by the specific enforcement action; and

(2) The issues stated in the request are limited to those which are allowed to be considered by applicable state law and federal regulations.

(c) If the criteria for scheduling an administrative review have been met, the agency shall schedule and perform the review. The results of the review and relevant documentation shall be sent to the non-custodial parent. The agency shall notify the non-custodial parent that an in-person review may be scheduled if the non-custodial parent submits a written request for an in-person review within fourteen calendar days from the date that the results of the administrative review were sent to the non-custodial parent.

(d) If the criteria for granting an administrative review have not been met, the request is denied, and the

agency shall send the non-custodial parent a written notice of denial.

(e) After receipt of a timely written request for an in-person review, the agency shall send a written notice to the non-custodial parent of the date, place, and the time of the in-person review. The notice shall inform the non-custodial parent to bring to the review all appropriate child support related documentation that the non-custodial parent wishes to be considered.

(f) Following the in-person review, the results of the review and relevant documentation shall be provided to the non-custodial parent.

(g) If the request for an in-person review has not been received on a timely basis, the request is denied and the agency shall send the non-custodial parent a written notice of denial.

(h) The applicable enforcement action shall continue if:

(1) The request for an administrative review has not been received or has been denied;

(2) The results of an administrative review was sent to the non-custodial parent and no written request for an in-person review was received in a timely manner; or

(3) After an in-person review is conducted, the agency determines that the action shall continue.

(i) For enforcement actions related to federal tax or administrative offset, the results of the administrative review and the results of the in-person review, including relevant documentation, shall be provided to the custodial parent in a non-title IV-A case.

(j) The agency, at its discretion, may suspend taking an applicable enforcement action at any time. [Eff and comp _____] (Auth: HRS §576E-8) (Imp: 45 C.F.R. §§303.100, 303.101)

SUBCHAPTER 5.1

COLLECTIONS AND DISBURSEMENTS

§5-31-38 State collection and disbursement unit. (a) The agency shall maintain a statewide collection and disbursement unit. This unit shall receive child support collections and disburse funds to the proper parties as required by federal law.

(b) The agency shall meet the federal requirements governing the disbursement of money received pursuant to a child support order.

(c) When the non-custodial parent makes a child support payment by personal check and there are insufficient funds in the account, the non-custodial parent shall be instructed to submit future payments by cashier's check, certified bank check, money order, or another method that will ensure valid payment.

(d) When the non-custodial parent's employer makes a child support payment by company check and there are insufficient funds in the account, the employer shall be instructed to submit future payments by cashier's check, certified bank check, money order, or another method that will ensure valid payment.

(e) Any check received that does not clear due to insufficient funds or any other reason, may not be given credit as payment for child support.

(f) When the agency disburses a payment to the custodial parent, an assignment of the right to receive and retain the amount that the agency disbursed is created from the custodial parent to the agency in the following circumstances:

(1) Where a payment is disbursed to the custodial parent based upon a check received by the agency that does not clear due to insufficient funds or for any other reason;

(2) Where a payment is disbursed to the custodial parent based upon a federal or state tax intercept refund received by the agency that has subsequently been retracted by the federal or state tax authority; or

(3) Where a payment received by the agency is erroneously disbursed to the custodial parent.

The amount covered by the assignment may be established as an arrearage owed by the non-custodial parent to the agency and may include any applicable fees. Such arrearages shall be eligible for collection through all appropriate child support enforcement mechanisms.

(g) The agency may proceed against the custodial parent or non-custodial parent to recoup any payment disbursed inappropriately.

(h) If the agency has received child support in an amount that exceeds the amount due and has access to the overpayment, or if the agency determines that reimbursement can be made, the agency shall distribute all appropriate refunds within thirty calendar days to the non-custodial

parent after the overpayment has been discovered. If the overpayment has been released to the obligee, the agency shall notify the obligee of the overpayment and inform the obligee of his or her obligation to refund the overpayment. [Eff and comp _____] (Auth: HRS §§576D-2, 576D-6, 576D-10) (Imp: HRS §§576D-2, 576D-6, 576D-10; 45 C.F.R. 302.33(d))

SUBCHAPTER 6

MAINTENANCE OF RECORDS

§5-31-39 Safeguarding information. (a) The agency shall maintain such records as may be necessary and proper to carry out its functions in accordance with title IV-D [~~of the Social Security Act~~] and chapter 576D, Hawaii Revised Statutes. The use or disclosure of information [~~concerning applicants and recipients~~] in the agency's records shall be [~~limited pursuant to~~] in accordance with section 576D-12, Hawaii Revised Statutes. Except as provided for in section 5-31-49 and otherwise prohibited by law, the custodial parent, the non-custodial parent, or their authorized representative may be provided information regarding the status of their child support account, their rights and responsibilities relating to child support, and actions taken by the agency.

(b) Federal tax information may be released to the non-custodial parent. Custodial parents may only receive information on the amount of any federal tax refund offset and the date the offset has been applied to the case after the amount has been allocated to the case. [Eff 2/13/89; am 7/27/90; § 5-31-11; ren and comp 10/31/91; am and comp _____] (Auth: HRS §576D-12) (Imp: HRS §576D-12; 45 C.F.R. §303.21)

§5-31-40 Retention and reproduction of records. (a) Case records shall be retained by the agency for at least three years from the date of closure, in accordance with 45 C.F.R. §74.53.

(b) The agency may require [~~of the requestor~~] payment of a reasonable fee for the reproduction and processing of records from the requestor. [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §§74.53, 302.15, 303.11)

§5-31-41 Electronic case records. The agency may establish, convert, and maintain the records for all agency cases in an electronic format. [Eff and comp _____] (Auth: HRS §§489E-12, 489E-17, 489E-18) (Imp: HRS §§489E-12, 489E-17, 489E-18; 45 C.F.R. §302.15)

SUBCHAPTER 7

TERMINATION AND CASE CLOSURE

§5-31-43 Termination. (a) Child support shall automatically be terminated if the conditions for termination set forth in the child support order are met. Such conditions include, but are not limited to, the adoption, marriage, legal emancipation, enlistment in the military, and death of the child. Child support shall also terminate if the child reaches eighteen years of age and there is no provision in the child support order for continuing child support.

(b) The agency may initiate action to terminate child support when the conditions for termination are not set forth in the child support order and the agency determines that termination is appropriate. Such conditions include, but are not limited to, the court ordered change of custody of the child to the obligor, the parties residing together with the child as an intact family, and the conditions described in subsection (a). A proposed administrative order terminating child support is generated and served upon the parties by regular mail pursuant to section 576E-4, Hawaii Revised Statutes. The process as described in section 5-31-22(d)(4) through (11) is followed to complete the termination action.

(c) In cases where the child support order provides for child support past the age of eighteen due to continuing education and services are being provided under title IV-D, the agency shall seek verification of the child's continued educational status. If the child is in high school or is enrolled or plans to enroll full-time in a post-secondary educational or vocational institution, then child support shall continue un-interrupted upon receipt of such verification. The agency shall initially request verification of continued educational status three months prior to the child's eighteenth birthday and semiannually thereafter. The request for verification shall include the name and date of birth of the child for whom the verification is being sought and time frame when

the verification must be returned to the agency before the agency's collection of child support is terminated. Verification of continuing school shall consist of:

(1) Registration confirmation from the high school;

(2) Prior to the beginning of the school year, an acceptance letter on school letterhead and the child's written statement indicating his or her intent to enroll on a full-time basis;

(3) The registration confirmation from the school of full-time enrollment or, if the full-time status is not indicated on the registration, a minimum of twelve credit hours per semester or its equivalent be reflected on the registration and indicating the school and student names;

(4) The receipt of tuition payment reflecting full-time enrollment and indicating the school and student names; or

(5) The school registrar's letter indicating full-time enrollment status.

If the agency does not receive verification within the timeframe stated in the request for verification, the agency's collection of child support shall be terminated. Once the agency's collection of child support has been terminated, future child support shall only be reinstated commencing the first of the month following the date proof of the child's full-time enrollment is received by the agency. Reinstatement shall only occur if the adult child has continuously attended post-high school education on a full-time basis.

(d) In cases where the child support order provides for child support past the age of eighteen due to continuing education and services are not being provided under title IV-D, the agency shall seek verification of the child's continued educational status three months prior to the child's nineteenth birthday. If the agency does not receive verification within the timeframe stated in the request for verification, the agency's collection of child support shall be terminated.

(e) In cases where the child support order provides for child support past the age of eighteen, the agency's collection of child support shall be terminated upon the child reaching twenty-three years of age unless the child support order provides for continuing child support past the age of twenty-three.

(f) The agency may terminate the income withholding as necessary. [Eff and comp _____] (Auth: HRS

§§576D-2, 576E-14) (Imp: HRS §§576D-2, 576E-14; 45 C.F.R. §303.11)

§5-31-44 Criteria for case closure. (a) The agency may close a case without application by any party to the case.

(b) Cases may be closed if the case meets at least one of the following criteria:

(1) There is no longer a current child support order and arrearage is under $500 or unenforceable under state law[~~.~~]*;*

(2) The [~~absent~~] non-custodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken[~~.~~]*;*

(3) Paternity has not been established and will not be pursued because:

(A) The child has reached the age of three years beyond the age of majority and the action is barred by a statute of limitations;

(B) All identified putative fathers have been excluded by genetic tests or by [~~legal~~] judicial or administrative process; [~~or~~]

(C) The agency has determined that it would not be in the best interests of the child, pursuant to section 5-31-4(c), to establish paternity[~~.~~]*; or*

(D) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the agency with the applicant;

(4) The agency is unable to locate the [~~absent~~] non-custodial parent over a three-year period, having made periodic efforts according to schedules prescribed by federal regulations using available and appropriate location sources[~~.~~] or over a one-year period when there is insufficient information to initiate an automated locate search;

(5) The [~~absent~~] non-custodial parent is institutionalized in a licensed facility for the mentally ill, incarcerated with no chance of parole, or medically totally and permanently disabled, and no income or assets are available[~~.~~]*;*

(6) The [~~absent~~] non-custodial parent is a citizen of and lives in a foreign country[~~,~~] that has no

reciprocal arrangement for the enforcement and collection of child support, does not work for the United States government or a company [~~which~~] that has its headquarters or offices in the United States, and has no accessible domestic income or assets[~~, and the State has been unable to establish reciprocity with the foreign country in which the absent parent resides.~~];

(7) The [~~custodial parent has requested only location services from the Federal Parent Locator Services~~] agency has received a request for location-only services and the request has been completed[~~.~~];

(8) The [~~custodial parent~~] applicant has requested case closure in a [~~non-AFDC, former AFDC, Medicaid, or foster care case,~~] non-title IV-A case and there is no [~~assigned arrearage.~~] assignment of medical support, or arrearages to the State;

(9) There has been a finding of good cause [~~for failure to cooperate and~~] by the title IV-A, title XIX, or title IV-E agency [~~has determined that support enforcement~~] that agency actions may not proceed[~~.~~];

(10) [~~The~~] In non-title IV-A and non-title XIX cases, the agency is unable to contact [~~a non-AFDC custodial parent~~] the applicant by telephone or letter over a period of [~~thirty~~] sixty calendar days and at least one [~~certified or registered~~] letter has been sent[~~.~~] by first class mail to the applicant's last known address;

(11) [~~The non-AFDC custodial parent~~] In non-title IV-A and non-title XIX cases, the applicant is uncooperative with the agency and the agency is unable to proceed with the case without the [~~custodial parent's~~] applicant's cooperation, and there [~~is~~] are no [~~assigned arrearage.~~] arrearages assigned to the State. Documentation of the circumstances regarding the applicant's non-cooperation shall be maintained by the agency; or

(12) The initiating state fails to take appropriate action that is necessary for the agency to proceed with the case. Documentation of the failure shall be maintained by the agency. [Eff and comp 10/31/91; am and comp _____]

(Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §303.11)

§5-31-45 Notice of case closure. (a) In cases meeting the criteria in section 5-31-44(b)(1) through (6), (10) and (11) [~~of this chapter~~], the agency shall notify the [~~custodial parent~~] applicant of the closing of a title IV-D case by sending written notice to the [~~custodial parent's~~] applicant's last known address. The notice shall be sent at least sixty calendar days prior to the effective date of closure.

(b) The notice shall inform the [~~custodial parent~~] applicant of:

(1) The agency's intent to close the case;

(2) The effective date of closure;

(3) The reasons for the intended action;

(4) The statutes and rules supporting the action; and

(5) An explanation that the [~~custodial parent~~] applicant may submit information that was previously unknown to the agency, which may impact upon the disposition of the case, within sixty calendar days of the date of the notice.

(c) Upon closing a case pursuant to section 5-31-44(b)(12), the agency shall [~~also notify the interstate central registry in the responding jurisdiction, if applicable.~~] send written notice to the initiating state at least sixty calendar days prior to closure. [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §§303.7, 303.11)

§5-31-46 Maintaining active case status. If the agency receives information on a case in response to the notice of closure sent pursuant to section 5-31-45 [~~of this chapter,~~] within the specified timeframe, and the information enables the agency to proceed with the [~~process~~] processing of the case, the agency shall maintain the case as active and proceed with appropriate action. [Eff and comp 10/31/1991; am and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §303.11)

SUBCHAPTER 8

INTERSTATE

§5-31-49 Initiating and responding interstate cases. (a) Once proper application has been received and a determination has been made to initiate appropriate action to an other state, the agency shall send all necessary documentation to the other state for the locate of an individual, the establishment of paternity or child support or both, modification of an existing child support order, or the enforcement, and collection of child support.

(b) Upon receipt of a proper interstate request from an other state, the agency shall process the request and take all appropriate action.

(c) Where the agency is the responding state, information shall be disclosed in accordance with the requirements of the initiating state.

(d) All actions shall be taken within the time frames specified by federal law. [Eff and comp _____] (Auth: HRS §§576B-304, 576B-305, 576B-307, 576B-310, 576D-2) (Imp: HRS §§576B-304, 576B-305, 576B-307, 576B-310, 576D-2; 45 C.F.R. §§302.36, 303.7)

§5-31-50 Central registry. The agency shall maintain a central registry that receives and distributes interstate requests, and responds to interstate inquiries within the time frames specified by federal law. [Eff and comp _____] (Auth: HRS §§576B-307, 576B-310, 576D-2) (Imp: HRS §§576B-307, 576B-310, 576D-2; 45 C.F.R. §§302.36, 303.7)

§5-31-51 Federal full faith and credit for child support orders act. Federal full faith and credit for child support orders act requires that a valid order issued by an other state be recognized and enforced as if the order were issued in this State. [Eff and comp _____] (Auth: HRS §576D-2) (Imp: HRS §576D-2; 45 C.F.R. §§302.36, 302.70, 303.7; 28 U.S.C. §1738B)

§5-31-52 Enforcement services. The agency shall provide the same level of service for interstate cases, as would be provided for in-state cases. [Eff and comp _____] (Auth: HRS §§576B-305, 576D-2) (Imp: HRS §§576B-305, 576D-2; 45 C.F.R. §§302.36, 303.11)

§5-31-53 Forwarding collections. The agency shall forward collections to the initiating state for distribution within the time frames specified by federal law. [Eff and comp _____] (Auth: HRS §§576B-

319, 576D-2) (Imp: HRS §§576B-319, 576D-2; 45 C.F.R. §§302.32, 302.70)

SUBCHAPTER 9

PENALTIES

§5-31-58 Penalties for failure to cooperate with the agency's request for information. (a) Any person or entity that wilfully fails to promptly respond to the agency's request for information shall be subject to a fine of no more than $1,000.

(b) When there is wilful failure to promptly respond to the agency's request for information, the person or entity shall be sent a written notice of the agency's findings by regular mail and shall have fourteen calendar days to comply with the agency's request.

(c) If there is no compliance after fourteen calendar days, then civil penalties may be imposed as follows:

(1) The first instance shall result in a fine of $250;

(2) The second instance shall result in a fine of $500; and

(3) The third and subsequent instances shall result in a fine of $1,000.

(d) The notification of imposition of the penalty will be sent by regular mail and the payment shall be made within thirty calendar days from the date of notification.

(e) Appeals may be made within thirty calendar days from the date of notification of the imposition of the penalty. All appeals shall be made to the attorney general or his or her designee." [Eff and comp _____] (Auth: HRS §576D-17) (Imp: HRS §576D-17)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 5-31, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements

of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

_____
GARRY L. KEMP
Administrator, Child Support
Enforcement Agency

_____
DAVID M. LOUIE
Attorney General

APPROVED AS TO FORM:

_____
Deputy Attorney General