

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

Subchapter 2 Intake of Cases for Title IV-D Services

- \$5-31-12 Application process
- \$5-31-13 Case opening

Subchapter 3 Location of Absent Parents

- \$5-31-17 Cases needing location services
- \$5-31-18 Interstate requests for location services

Subchapter 4 Establishment of Support

- \$5-31-22 Establishment of a support obligation
- \$5-31-23 Guidelines for determining the amount of the support obligation

Subchapter 5 Enforcement

- \$5-31-27 Identifying delinquency and initiating enforcement
- \$5-31-28 Requiring security bond or other guarantee from a debtor parent
- \$5-31-29 Information of delinquent child support to consumer credit agencies
- \$5-31-30 Property liens
- \$5-31-31 State income tax refund

§5-31-1

- §5-31-32 setoff and overpayment refund  
Initiating income withholding on cases not  
subject to immediate income withholding  
under section 5-34-22
- §5-31-35 Handling requests for administrative  
hearings on enforcement actions

Subchapter 6 Maintenance of Records

- §5-31-39 Safeguarding information  
§5-31-40 Retention of records

Subchapter 7 Case Closure

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

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 §§652-658, 664, 666, 667, and 1302), 45 Code of Federal Regulations parts 300-399, and chapter 576D, Hawaii Revised Statutes. [Eff 2/13/89; comp **OCT 31 1991**] (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.

"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.

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

"Child support" means payment for the necessary support and maintenance of a child as required by law.

"Consumer reporting agency" means any person 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.

"Custodial parent" means a parent, guardian, or other person 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.

"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.

"Obligor" means a person owing a duty of child support.

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

"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.

"Title IV-A", "title IV-D", and "title IV-E" mean title IV-A, title IV-D, and title IV-E, respectively, of the federal Social Security Act (August 14, 1935, chapter 531, 49 Stat. 620) as amended.

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

"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 OCT 31 1991 ] (Auth: HRS §576D-2) (Imp: HRS §§576D-1, 576E-1, 576E-2; 45 C.F.R. §§303.1, 303.105)

§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, or an absent 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.

(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. [Eff 2/13/89; am 7/27/90; am and comp OCT 31 1991]

] (Auth: HRS §576D-2) (Imp: HRS §576D-3, 576D-5, 576D-6; 45 C.F.R. §§232.11, 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 undertake any legal or administrative action to:

- (1) Locate absent parents;
- (2) Establish paternity;
- (3) Establish absent parents' obligation to support their child;
- (4) Review absent parents' obligation to support a child;
- (5) Modify absent parents' obligation to support a child;
- (6) Collect and distribute child support payments when a court order requires collection and distribution, except that disbursement in AFDC 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:
  - (A) Judicial process;
  - (B) Administrative process;
  - (C) Intercept and retain 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 state tax refunds of debtor parents under section 231-53, Hawaii Revised Statutes;
  - (E) Intercept unemployment benefits;
  - (F) Establish liens; or
  - (G) Income withholding.

(c) The agency may decline to establish paternity, to pursue support, and to initiate review and modification of 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 parent;
- (2) Establishing paternity and support;
- (3) Enforcing support;
- (4) Collecting and disbursing support payments; and
- (5) Reviewing and modifying support obligations. [Eff 2/13/89; am 7/27/90; am and comp  
OCT 31 1991 ] (Auth: HRS §576D-2) (Imp: HRS §§576D-3, 576D-4, 576D-6, 576D-10, 576E-2; 45 C.F.R. §§302.60, 303.5, 302.51, 303.71, 303.103)

§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  
OCT 31 1991 ] (Auth: HRS §91-2) (Imp: HRS §§346-37.1, 346-37.2, 576D-8)

§5-31-7 REPEALED. [R OCT 31 1991 ]

## 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 a 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, 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 referred to the agency within five working days of referral. (Eff and comp ] (Auth: HRS §576D-2) (Imp: 45 C.F.R. §303.2)

§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 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 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, 45 C.F.R. §303.7(a)(2). (Eff and comp ] (Auth: HRS §576D-2) (Imp: 45 C.F.R. §303.2, 303.7)

### SUBCHAPTER 3

#### LOCATION OF ABSENT PARENTS

§5-31-17 Cases needing location services. (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. All appropriate location sources shall be accessed within timeframes prescribed by federal regulations, 45 C.F.R. §303.3(b)(3).

(b) Where previous attempts to locate an absent parent have failed, attempts shall be repeated periodically within timeframes prescribed by federal regulations, 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 sufficient and necessary location information, the case shall be forwarded immediately for the next appropriate action. (Eff and comp **OCT 31 1991** ) (Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §303.3)

§5-31-18 Interstate requests for location services. (a) Requests from other jurisdictions for location services only shall be processed pursuant to section 5-31-17(a).

(b) Results of actions completed to locate an absent 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 **OCT 31 1991** ) (Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §303.3)

#### SUBCHAPTER 4

#### ESTABLISHMENT OF SUPPORT

§5-31-22 Establishment of a support obligation.

(a) A petition for child support should be processed 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.

(b) Within timeframes prescribed by federal regulations, 45 C.F.R. §303.4(d), the agency must establish an order for 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. (Eff and comp
- OCT 31 1991 1 (Auth: HRS §576D-2) (Imp: HRS §576D-3; 45 C.F.R. §303.4)

§5-31-23 Guidelines for determining the amount of the support obligation. 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. (Eff and comp

OCT 31 1991 1 (Auth: HRS §576D-2) (Imp: HRS §576D-7; PL 100-485, §103 (1988))

SUBCHAPTER 5

ENFORCEMENT

§5-31-27 Identifying delinquency 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 in accordance with the current support order.

(b) Upon identifying a delinquency or receiving an interstate request for enforcement, the agency shall proceed to take appropriate enforcement action to collect the 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 in a title IV-D case where the debtor parent resides in another state, the title IV-D agency in the other state shall be requested to provide enforcement services. The request shall be made as prescribed by federal regulations, 45 C.F.R. §303.7(b).

(d) Automated information from records and accounts 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 or to impose a means of enforcement. (Eff and comp

OCT 31 1991 1 (Auth: HRS §576D-2) (Imp: HRS §576D-6; 45 C.F.R. §§303.6, 303.7)

§5-31-28 Requiring security bond or other guarantee from a debtor parent. (a) A debtor parent delinquent in an amount that exceeds \$1,000, shall be required by court order or administrative process to give security, post bond, or give some other guarantee to secure payment of delinquent child support.

(b) The debtor parent shall not be required to provide such security when:

- (1) The debtor parent is receiving public assistance for the benefit of minor children;
- (2) The debtor parent does not have means to post bond or other security; or
- (3) It is not in the best interest of all the debtor parent's dependent children.

(c) When commencing administrative process to require a debtor parent to give security, post bond, or give some other guarantee of payment, the agency shall proceed under section 5-34-14. [Eff 2/13/89; §5-31-6; am, ren, and comp OCT 31 1991] (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 to consumer credit agencies. (a) Information of delinquent child support owed by a debtor parent that exceeds \$1,000 shall be released to a consumer reporting agency upon the reporting agency's request.

(b) The agency shall provide advance written notice to the debtor parent by mailing the notice to the parent's last known address. The notice shall inform the debtor of:

- (1) The amount of the delinquent child support;
- (2) The agency's intent to release information of delinquent child support owed by the debtor to a consumer reporting agency;
- (3) A procedure for contesting the action;
- (4) 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; and
- (5) An explanation that issues that may be raised when contesting the intended action are limited to either an error in the amount of the overdue support or an error in the identity of the debtor parent.

(d) If a written objection is received by the agency from the debtor 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 agencies

until the matter is resolved. (Eff 2/13/89; §5-31-8; am, ren, and comp **OCT 31 1991**) (Auth: HRS §576D-6(b)) (Imp: HRS §576D-6(a)(6); 45 C.F.R. §303.105)

§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 a minor child or if the action would prevent the debtor parent to meet a current support obligation. (Eff 2/13/89; §5-31-9; am, ren, and comp **OCT 31 1991**) (Auth: HRS §576D-6(b)) (Imp: HRS §§576D-6(a)(7), 576D-10.5; 45 C.F.R. §303.103)

§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.

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

- (1) The amount of the delinquent child support;
- (2) The agency's intent to refer the debtor for state income tax refund setoff due to nonpayment of a debt to the agency;
- (3) A procedure for contesting the debt;
- (4) An explanation that the debtor parent has fourteen calendar days from the date of the notice to contest the debt; and
- (5) 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 or an error in the identity of the debtor.

(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. The notice shall be mailed to the debtor parent's last known address and shall include:

- (1) The amount of the debtor's state income tax refund for a specified year;
- (2) The amount of the child support debt;

- (3) The amount that has been identified for application against the debt;
- (4) The legal authority supporting the action;
- (5) The right of the debtor 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 days of the date of the notice.

(d) Upon receipt of a written request for an administrative hearing 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.

(f) If the agency intercepts a state income tax refund that exceeds the amount due, the agency shall reimburse the overpayment within twenty days after the agency discovers the overpayment. If the overpayment has been released to the obligee, the agency will notify the obligee of the overpayment and request that the obligee refund the overpayment as required under the request for tax refund setoff services. [Eff 2/13/89; §5-31-10; am, ren, and comp OCT 31 1991 ] (Auth: HRS §576D-6(b)) (Imp: HRS §§231-53, 576D-6(a)(8) and (9); 45 C.F.R. §303.102)

§5-31-32 Initiating income withholding on cases not subject to immediate income withholding under section 5-34-22. (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.
- (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.
- (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.
- (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.
- (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. (Eff and comp **OCT 31 1991** ) (Auth: HRS §§91-2, 576D-10) (Imp: HRS §§571-52.2, 576D-6(10), 576E-16.5; 45 C.F.R. §303.100)

§5-31-35 Handling requests for administrative hearings on enforcement actions. (a) Upon 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 a hearing have been met.

(b) The criteria for referring a case for an administrative hearing include:

- (1) Receipt of the written request for a hearing on a timely basis; 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 an administrative hearing have been met, the agency shall forward the request to the office of child support hearings.

(d) If the criteria for granting 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. [Eff and comp OCT 31 1991 ] (Auth: HRS §§91-2, 231-58) (Imp: HRS §§231-54, 571-52.2; SLH 1990, Act 176, §§1, 2; 45 C.F.R. §§303.100, 303.102)

## SUBCHAPTER 6

### MAINTENANCE OF RECORDS

§5-31-39 Safeguarding information. 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 shall be limited pursuant to section 576D-12, Hawaii Revised Statutes. [Eff 2/13/89; am 7/27/90; §5-31-11; ren and comp OCT 31 1991 ] (Auth: HRS §576D-6(a)(10)) (Imp: HRS §§576D-6(a)(10), 92F-2, 92F-11, 92F-13, 92F-14, 576D-12; 45 C.F.R. §303.21)

§5-31-40 Retention 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. Part 74, Subpart D.

(b) The agency may require of the requestor payment of a reasonable fee for the reproduction and processing of records. [Eff and comp OCT 31 1991 ] (Auth: HRS §§91-2, 576D-2) (Imp: HRS §92F-18; 45 C.F.R. §§74.20, 74.21, 74.22, 74.23, 74.24, 74.25, 303.11)

SUBCHAPTER 7

CASE CLOSURE

§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 support order and arrearage is under \$500 or unenforceable under state law.
- (2) The absent 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 legal 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.
- (4) The agency is unable to locate the absent parent over a three-year period, having made periodic efforts according to schedules prescribed by federal regulations using available and appropriate location sources.
- (5) The absent 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 parent is a citizen of and lives in a foreign country, does not work for the United States government or a company which has its headquarters or offices in the United States, 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 Service and the request has been completed.
- (8) The custodial parent has requested case closure in a non-AFDC, former AFDC, Medicaid,

or foster care case, and there is no assigned arrearage.

- (9) There has been a finding of good cause for failure to cooperate and the title IV-A or title IV-E agency has determined that support enforcement may not proceed.
- (10) The agency is unable to contact a non-AFDC custodial parent by telephone or letter over a period of thirty calendar days and at least one certified or registered letter has been sent.
- (11) The non-AFDC custodial parent is uncooperative with the agency and the agency is unable to proceed with the case without the custodial parent's cooperation, and there is no assigned arrearage. [Eff and comp

OCT 31 1991 1 (Auth: HRS §576D-2)(Imp: 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 of the closing of a title IV-D case by sending written notice to the custodial parent's last known address. The notice shall be sent at least sixty days prior to the effective date of closure.

(b) The notice shall inform the custodial parent 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 may submit information that was previously unknown to the agency, which may impact upon the disposition of the case, within sixty days of the date of the notice.

(c) Upon closing a case, the agency shall also notify the interstate central registry in the responding jurisdiction, if applicable. [Eff and comp

OCT 31 1991 1 (Auth: HRS §576D-2) (Imp: 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

§5-31-46

process of the case, the agency shall maintain the case as active and proceed with appropriate action. (Eff and comp **OCT 31 1991** ] (Auth: HRS §516D-2) (Imp: 45 C.F.R. §303.11)