

JAN 25 2006

A BILL FOR AN ACT

RELATING TO APPEALS.

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

1 SECTION 1. Section 571-54, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§571-54 Appeal.** An interested party, aggrieved by any
4 order or decree of the court, may appeal to the intermediate
5 appellate court for review of questions of law and fact upon the
6 same terms and conditions as in other cases in the circuit
7 court, and review shall be governed by chapter 602, except as
8 hereinafter provided. Where the decree or order affects the
9 custody of a child or minor, the appeal shall be heard at the
10 earliest practicable time. In cases under section 571-11, the
11 record on appeal shall be given a fictitious title, to safeguard
12 against publication of the names of the children or minors
13 involved.

14 The stay of enforcement of an order or decree, or the
15 pendency of an appeal, shall not suspend the order or decree of
16 the court regarding a child or minor, or discharge the child or
17 minor from the custody of the court or of the person,
18 institution, or agency to whose care the child or minor has been



1 committed, unless otherwise ordered by the family court or by
2 the appellate court after an appeal is taken. Pending final
3 disposition of the case, the family court or the appellate
4 court, after the appeal is taken, may make such order for
5 temporary custody as is appropriate in the circumstances. If
6 the appellate court does not dismiss the proceedings and
7 discharge the child or minor, it shall affirm or modify the
8 order of the family court and remand the child or minor to the
9 jurisdiction of the court for disposition not inconsistent with
10 the appellate court's finding on the appeal.

11 An order or decree entered in a proceeding based upon
12 section 571-11(1), (2), or (6) [~~7 or 9~~] shall be subject to
13 appeal only as follows:

14 Within twenty days from the date of the entry of any such
15 order or decree, any party directly affected thereby may file a
16 motion for a reconsideration of the facts involved. The motion
17 and any supporting affidavit shall set forth the grounds on
18 which a reconsideration is requested and shall be sworn to by
19 the movant or the movant's representative. The judge shall hold
20 a hearing on the motion, affording to all parties concerned the
21 full right of representation by counsel and presentation of
22 relevant evidence. The findings of the judge upon the hearing



1 of the motion and the judge's determination and disposition of
2 the case thereafter, and any decision, judgment, order, or
3 decree affecting the child and entered as a result of the
4 hearing on the motion, shall be set forth in writing and signed
5 by the judge. Any party aggrieved by any such findings,
6 judgment, order, or decree shall have the right to appeal
7 therefrom to the intermediate appellate court, upon the same
8 terms and conditions as in other cases in the circuit court, and
9 review shall be governed by chapter 602; provided that no such
10 motion for reconsideration shall operate as a stay of any such
11 findings, judgment, order, or decree unless the judge of the
12 family court so orders; and provided further that no informality
13 or technical irregularity in the proceedings prior to the
14 hearing on the motion for reconsideration shall constitute
15 grounds for the reversal of any such findings, judgment, order,
16 or decree by the appellate court."

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect on July 1, 2006.

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INTRODUCED BY: 

By Request



SB. NO. 2591

Report Title:

Appeals; Child Protective Cases

Description:

Eliminates the requirement for a motion for reconsideration from the appellate process for child protective cases.

