

1 § -1 **Jurisdiction; hearing.** Exclusive original
2 jurisdiction in matters terminating a reciprocal beneficiary
3 relationship, subject to section 603-37 as to change of venue,
4 and subject also to appeal according to law, is conferred upon
5 the family court of the circuit in which the applicant has been
6 domiciled or has been physically present for a continuous period
7 of at least three months next preceding the application
8 therefor. No absolute termination of a reciprocal beneficiary
9 relationship shall be granted for any cause unless either party
10 to the reciprocal beneficiary relationship has been domiciled or
11 has been physically present in the State for a continuous period
12 of at least six months next preceding the application therefor.
13 A person who may be residing on any military or federal base,
14 installation, or reservation within the State or who may be
15 present in the State under military orders shall not thereby be
16 prohibited from meeting the requirements of this section.

17 § -2 **Commencement of action; summons.** An action for
18 termination of a reciprocal beneficiary relationship shall be
19 commenced by filing a complaint with the court, which complaint
20 shall be signed and sworn to by the applicant and shall set
21 forth sufficient facts to constitute a claim for relief. Upon
22 the filing of the complaint, the clerk shall forthwith issue a



1 summons and deliver it for service to a person authorized to
2 serve process in civil actions. The summons shall:

3 (1) Be signed by the clerk and be under the seal of the
4 court;

5 (2) Contain the name of the court and the names of the
6 parties;

7 (3) Be directed to the defendant;

8 (4) State the name and address of the plaintiff's
9 attorney, if any, otherwise the plaintiff's address,
10 and the time within which the defendant is required to
11 appear and defend, which shall not be less than twenty
12 days after the service of the summons and complaint
13 upon the defendant; and

14 (5) Notify the defendant that in case of the defendant's
15 failure to appear and defend, as required, further
16 proceedings may be taken, including judgment for the
17 relief demanded in the complaint, without further
18 notice to the defendant.

19 Alternative complaints for termination of a reciprocal
20 beneficiary relationship may be set forth or combined in one
21 complaint.



1 § -3 Service. (a) The complaint for termination of a
2 reciprocal beneficiary relationship and the summons shall be
3 served by an authorized process server on the defendant
4 personally if the defendant is within the State, unless the
5 defendant enters an appearance in the case, and except as
6 hereinafter otherwise provided.

7 (b) If service by an authorized process server is not
8 feasible or is inconvenient or if the defendant is outside of
9 the State, the court may authorize the service to be made by any
10 other responsible person, or the court may authorize notice of
11 the pendency of the action and of a time and place of hearing,
12 which shall be not less than twenty days after the giving of
13 personal notice, to be given to the defendant personally by such
14 person and in such manner as the court shall designate and the
15 case may be heard and determined at or after the time specified
16 in the notice.

17 (c) If the defendant is outside of the circuit, the court
18 may authorize service by registered or certified mail, with
19 request for a return receipt and direction to deliver to
20 addressee only. The return receipt signed by the defendant
21 shall be prima facie evidence that the defendant accepted
22 delivery of the complaint and summons on the date set forth on



1 the receipt. Actual receipt by the defendant of the complaint
2 and summons sent by registered or certified mail shall be
3 equivalent to personal service on the defendant by an authorized
4 process server as of the date of the receipt.

5 (d) If it appears that the defendant has refused to accept
6 service by mail, or is in concealment or otherwise evading
7 service, or that the plaintiff does not know the address or
8 residence of the defendant and has not been able to ascertain
9 the same after reasonable and due inquiry and search for at
10 least fifteen days either before or after the filing of the
11 complaint, the court may authorize notice of the pendency of the
12 action and of a time and place of hearing, which shall not be
13 less than twenty days after the last publication of the
14 published notice, to be given to the defendant by publication
15 thereof at least once in each of three successive weeks in a
16 newspaper suitable for the advertisement of notices of judicial
17 proceedings, published in the State, and the case may be heard
18 and determined at or after the time specified in the notice.

19 (e) If the plaintiff, as a result of impoverishment, is
20 unable to publish notice as required by subsection (d), the
21 plaintiff shall file an affidavit attesting to impoverishment
22 and to the fact that, after due and diligent search, the



1 whereabouts of the individual sought to be served are unknown.
2 Upon those filings, the court shall order that service be made
3 by forwarding a certified copy of the pleadings and process to
4 the individual at the last known address by registered or
5 certified mail, with a return receipt requested and a directive
6 to deliver to addressee only, sending a certified copy of the
7 pleadings and process to the defendant's closest known relative,
8 if any can be found, and by posting a copy of the pleadings and
9 process at the courthouse in which the pleadings and process has
10 been filed. Service shall be completed thirty days after
11 mailing. The plaintiff shall attest to the fact of the mailing
12 and the date thereof by affidavit, attaching the sender's
13 receipt for that mail and, if available, the return receipt and
14 envelope.

15 § -4 Personal judgment against absent defendant. In any
16 proceeding in the family court, the court shall have the power
17 to render a personal judgment against a party who is outside of
18 this State and over whom jurisdiction is acquired by service of
19 process in the manner set forth in section -3(b) or (c), if
20 the party was personally served with a copy of the summons or
21 order to show cause and complaint or other pleading upon which



1 the judgment is based and if the party was a domiciliary of this
2 State at the time:

3 (1) That the cause of action that is the subject of the
4 proceeding arose;

5 (2) Of the commencement of the proceeding; or

6 (3) Of service.

7 § -5 **Cross-complaint.** In any action for termination of
8 a reciprocal beneficiary relationship, a cross-complaint for
9 termination of a reciprocal beneficiary relationship may be
10 filed and affirmative relief granted thereon as fully and
11 effectually as on an original complaint. The cross-complaint
12 shall be signed and sworn to by the cross-complainant and shall
13 be served in the same manner as an original complaint.

14 § -6 **Proof.** Upon the hearing of every complaint for
15 termination of a reciprocal beneficiary relationship, the court
16 shall require exact legal proof upon every point,
17 notwithstanding the consent of the parties. Where the matter is
18 uncontested and the court, in its discretion, waives the need
19 for a hearing, then the court shall require exact legal proof
20 upon every point by affidavit.

21 § -7 **Guardian ad litem for incompetent defendant.** In
22 any case where the court has reason to believe that the



1 defendant in an action for termination of a reciprocal
2 beneficiary relationship is not fully competent to conduct the
3 defendant's defense or to comprehend the nature of the
4 proceedings, the court may appoint a guardian ad litem to
5 represent the interests of the defendant. The court may assess
6 the reasonable fees and expenses of the guardian ad litem as
7 costs of the action, payable in whole or in part by either or
8 both parties as the circumstances may justify.

9 § -8 Examination of parties to prevent collusion. Upon
10 the hearing of any complaint for the termination of a reciprocal
11 beneficiary relationship, the court may examine either or both
12 of the parties, upon oath, in order to prevent collusion.

13 § -9 Procedure when collusion suspected. If there is
14 any reason to suspect collusion, or that important testimony can
15 be procured that has not been produced, the court shall continue
16 the cause from time to time while the reason for suspicion
17 continues. The attorney general or other prosecuting officer
18 and parties not of record shall be heard, to establish the fact
19 of collusion or of the existence of testimony not produced.

20 § -10 Temporary support, etc. After the filing of a
21 complaint for termination of a reciprocal beneficiary
22 relationship the court may make orders relative to the personal



1 liberty and support of either party to a reciprocal beneficiary
2 relationship, pending the complaint, as the court may deem fair
3 and reasonable and may enforce the orders by summary process.
4 The court may also compel either party to a reciprocal
5 beneficiary relationship to advance reasonable amounts for the
6 compensation of witnesses and other expenses of the trial,
7 including attorney's fees, to be incurred by the other party to
8 the reciprocal beneficiary relationship and may from time to
9 time amend and revise the orders.

10 § -11 Restraining orders; appointment of master. (a)
11 When a complaint for termination of a reciprocal beneficiary
12 relationship is filed in this State, the court, on an
13 application by either party, supported by affidavit or a
14 statement made under penalty of perjury, without a hearing, may
15 enjoin and restrain each of the parties to that action from
16 transferring, encumbering, wasting, or otherwise disposing of
17 any of their property, whether real, personal, or mixed, over
18 and above current income, except as necessary for the ordinary
19 course of a business or for usual current living expenses,
20 without the consent and concurrence of the other party to the
21 action for termination of a reciprocal beneficiary relationship
22 or further specific order of the court. Where restraining



1 orders are issued against the other party to the action, the
2 person shall be served promptly with the order and shall be
3 entitled to a prompt hearing to show cause why the order should
4 not be enforced.

5 (b) In all actions for termination of a reciprocal
6 beneficiary relationship, the court shall have the power to
7 issue such restraining orders against a person or persons not a
8 party to the action, as shall be reasonably required during the
9 pendency of the action, to preserve the estates of the parties.
10 Where restraining orders are issued against a person or persons
11 not a party to the action, such persons shall be promptly served
12 with the order and shall be entitled to a prompt hearing within
13 a reasonable time to show cause why the order should not be
14 enforced.

15 (c) In all actions for termination of a reciprocal
16 beneficiary relationship, the court shall have the power to
17 appoint a master, or masters, to make preliminary findings and
18 to report to the court on any issue. The written reports of a
19 master shall be available to interested parties and may be
20 received in evidence if no objection is made or, if objection is
21 made, may be received in evidence, provided the person or
22 persons responsible for the reports are available for cross-



1 examination as to any matter contained therein. When a report
2 is received in evidence, any party may introduce other evidence
3 supplementing, supporting, modifying, or rebutting the whole or
4 any part of the report.

5 (d) Whenever it is made to appear to the court, after the
6 filing of any complaint, that there are reasonable grounds to
7 believe that a party thereto may inflict physical abuse upon,
8 threaten by words or conduct, or harass the other party, the
9 court may issue a restraining order to prevent such physical
10 abuse, threats, or harassment and shall enjoy in respect thereof
11 the powers pertaining to a court of equity. Where necessary,
12 the order may require either or both of the parties involved to
13 leave the shared residence during the period of the order and
14 may also restrain the party to whom the order is directed from
15 contacting, threatening, or physically abusing the children or
16 other relative of the reciprocal beneficiary who may be residing
17 with that reciprocal beneficiary at the time of the granting of
18 the restraining order. The order may also restrain a party's
19 agents, servants, employees, attorneys, or other persons in
20 active concert or participation with the respective party.

21 (e) A knowing or intentional violation of a restraining
22 order issued pursuant to this section is a misdemeanor. A



1 person convicted under this section shall undergo domestic
2 violence intervention at any available domestic violence program
3 as ordered by the court. The court additionally shall sentence
4 a person convicted under this section as follows:

5 (1) For a first conviction for violation of the
6 restraining order, the person shall serve a mandatory
7 minimum jail sentence of forty-eight hours and be
8 fined not less than \$150 nor more than \$500; provided
9 that the court shall not sentence a defendant to pay a
10 fine unless the defendant is or will be able to pay
11 the fine; and

12 (2) For the second and any subsequent conviction for
13 violation of the restraining order, the person shall
14 serve a mandatory minimum jail sentence of thirty days
15 and be fined not less than \$250 nor more than \$1,000;
16 provided that the court shall not sentence a defendant
17 to pay a fine unless the defendant is or will be able
18 to pay the fine.

19 Upon conviction and sentencing of the defendant, the court
20 shall order that the defendant immediately be incarcerated to
21 serve the mandatory minimum sentence imposed; provided that the
22 defendant may be admitted to bail pending appeal pursuant to



1 chapter 804. The court may stay the imposition of the sentence
2 if special circumstances exist.

3 The court may suspend any jail sentence, except for the
4 mandatory sentences under paragraphs (1) and (2), upon condition
5 that the defendant remain alcohol and drug-free, conviction-free
6 or complete court-ordered assessments or intervention. Nothing
7 in this section shall be construed as limiting the discretion of
8 the judge to impose additional sanctions authorized in
9 sentencing for a misdemeanor offense. All remedies for the
10 enforcement of judgments shall apply to this section.

11 Any law enforcement officer shall enforce a restraining
12 order issued pursuant to this subsection, including lawfully
13 ordering the restrained party to voluntarily leave for a three-
14 hour cooling off period, or, with or without a warrant, when the
15 law enforcement officer has reasonable grounds to believe that
16 the restrained party has violated the restraining order,
17 arresting the restrained party.

18 (f) Any fines collected pursuant to subsection (e) shall
19 be deposited into the spouse and child abuse special account
20 established under section 601-3.6.

21 § -12 Care, custody, education, and maintenance of
22 children pendente lite. During the pendency of any action for



1 termination of a reciprocal beneficiary relationship, the court
2 may make such orders concerning the care, custody, education,
3 and maintenance of the minor children of the parties to the
4 action as law and justice may require and may enforce the orders
5 by summary process. The court may revise and amend the orders
6 from time to time.

7 § -13 **Sequestration of property.** The court may order
8 that all property within the State of a party to an action for
9 termination of a reciprocal beneficiary relationship be
10 sequestered and applied to the payment of any allowance ordered
11 by the court for the support and maintenance of either
12 reciprocal beneficiary or for the support, maintenance, and
13 education of minor children, whether temporary or permanent,
14 where service or notice has been effected by any of the methods
15 set forth in section -3.

16 § -14 **Security and enforcement of maintenance and**
17 **alimony.** Whenever the court makes an order or decree requiring
18 a reciprocal beneficiary to provide for the care, maintenance,
19 and education of children, or for an allowance to the other
20 reciprocal beneficiary, the court may require the person subject
21 to the order or decree to give reasonable security for the
22 maintenance and allowance. Upon neglect or refusal to give the



1 security, or upon default of the person subject to the order or
2 decree and the person's surety to provide the maintenance and
3 allowance, the court may sequester the person's personal estate
4 and the rents and profits of the person's real estate and may
5 appoint a receiver thereof and cause the person's personal
6 estate and the rents and profits of the person's real estate to
7 be applied towards the maintenance and allowance, as the court,
8 from time to time, deems just and reasonable.

9 § -15 County attorneys to represent court. The county
10 attorneys of Maui and Kauai and the corporation counsels of the
11 city and county of Honolulu and the county of Hawaii, within
12 their respective counties and when and to the extent authorized
13 by their respective county governing bodies and upon request of
14 the family court, shall represent the court in any contempt
15 proceeding for the enforcement of any order or decree for
16 support of a reciprocal beneficiary or child support or both,
17 except that fees may be charged as provided for by chapter 576D.

18 § -16 Termination decree, support order; social security
19 number. The last four digits of the social security number of
20 any individual who is party to a termination decree or subject
21 to a support order issued under this chapter shall be placed in
22 the records relating to the matter.



1 participate in any component of any mediation program against
2 the wishes of that party.

3 (b) A mediator who receives a referral or order from a
4 court to conduct mediation shall screen for the occurrence of
5 family violence between the parties. A mediator shall not
6 engage in mediation when it appears to the mediator or when
7 either party asserts that family violence has occurred unless:

8 (1) Mediation is authorized by the victim of the alleged
9 family violence;

10 (2) Mediation is provided in a specialized manner that
11 protects the safety of the victim by a mediator who is
12 trained in family violence; and

13 (3) The victim is permitted to have, in attendance at the
14 mediation, a supporting person of the victim's choice
15 including but not limited to an attorney or advocate.
16 If the victim chooses to exercise the option, any
17 other party to the mediation will be permitted to have
18 in attendance at the mediation, a supporting person of
19 the party's choice including but not limited to an
20 attorney or advocate.

21 (c) In a proceeding concerning the custody or visitation
22 of a child, if a protective order is in effect, the court shall



1 not require a party alleging family violence to participate in
2 any component of any mediation program against the wishes of
3 that party.

4 (d) In a proceeding concerning the custody or visitation
5 of a child, if there is an allegation of family violence and a
6 protective order is not in effect, the court may order mediation
7 or refer either party to mediation only if:

8 (1) Mediation is authorized by the victim of the alleged
9 family violence;

10 (2) Mediation is provided in a specialized manner that
11 protects the safety of the victim by a mediator who is
12 trained in family violence; and

13 (3) The victim is permitted to have in attendance at
14 mediation, a supporting person of the victim's choice
15 including but not limited to an attorney or advocate.

16 If the victim chooses to exercise this option, any
17 other party to the mediation will be permitted to
18 have, in attendance at the mediation, a supporting
19 person of the party's choice, including but not
20 limited to an attorney or advocate.

21 § -23 Irretrievable breakdown. (a) If both of the
22 parties by complaint or otherwise have stated under oath or



1 affirmation that the reciprocal beneficiary relationship is
2 irretrievably broken, or one of the parties has so stated and
3 the other has not denied it, the court, after hearing, shall
4 make a finding whether the reciprocal beneficiary relationship
5 is irretrievably broken. The court, in its discretion, may
6 waive a hearing on an uncontested complaint for termination of a
7 reciprocal beneficiary relationship and admit proof by
8 affidavit.

9 (b) If one of the parties has denied under oath or
10 affirmation that the reciprocal beneficiary relationship is
11 irretrievably broken, the court shall consider all relevant
12 factors, including the circumstances that gave rise to the
13 filing of the complaint and the prospect of reconciliation, and
14 shall:

- 15 (1) Make a finding whether the reciprocal beneficiary
16 relationship is irretrievably broken, or
17 (2) Continue the matter for further hearing not less than
18 thirty or more than sixty days later, or as soon
19 thereafter as the matter may be reached on the court's
20 calendar, and may suggest to the parties that they
21 seek counseling. At the adjourned hearing, the court



1 shall make a finding whether the reciprocal
2 beneficiary relationship is irretrievably broken.

3 § -24 **Recrimination no defense.** Recrimination shall not
4 be a defense to an application for termination of a reciprocal
5 beneficiary relationship.

6 § -25 **Persons affected with Hansen's disease represented**
7 **by attorney general.** Upon application of the director of
8 health, the attorney general or the attorney general's deputies
9 shall represent any person affected with Hansen's disease
10 detained at any hospital, settlement, or place for the care and
11 treatment of persons affected with Hansen's disease in
12 proceedings for termination of a reciprocal beneficiary
13 relationship.

14 § -26 **Decree.** If, after a full hearing, the court is of
15 opinion that a reciprocal beneficiary relationship ought to be
16 terminated, a decree shall be signed, filed, and entered. The
17 court, in its discretion, may waive a hearing on an uncontested
18 complaint for termination of a reciprocal beneficiary
19 relationship and admit proof by affidavit. A decree dissolving
20 the reciprocal beneficiary relationship, shall take effect from
21 and after the time as may be fixed by the court, provided that



1 the time so fixed shall not be more than one month from and
2 after the date of the decree.

3 § -27 Final judgment; nunc pro tunc entry; validation of
4 certain reciprocal beneficiary relationships and marriages.

5 Whenever either party to an action to terminate a reciprocal
6 beneficiary relationship is entitled to a final decree
7 dissolving the reciprocal beneficiary relationship, but by
8 mistake, negligence, or inadvertence the final decree has not
9 been entered, the court on motion of either party or upon its
10 own motion may cause a final decree to be entered granting the
11 termination of the reciprocal beneficiary relationship as of the
12 date when the decree could have been entered. Upon the entry of
13 the final decree, the parties to the action to terminate the
14 reciprocal beneficiary relationship shall be deemed to have been
15 restored to the status of single persons as of the date set
16 forth in the final decree, and any reciprocal beneficiary
17 relationship or marriage of either party after such date shall
18 not be subject to attack on the grounds that the reciprocal
19 beneficiary relationship or marriage was contracted at a time
20 when the party was a partner to the terminated reciprocal
21 beneficiary relationship. The court may cause a final decree to
22 be entered nunc pro tunc as provided in this section even though



1 another final decree may have been entered previously but by
2 mistake, negligence, or inadvertence was not entered as soon as
3 a final decree could have been entered.

4 § -28 Support orders; division of property. (a) Upon
5 termination of a reciprocal beneficiary relationship, or
6 thereafter if, in addition to the powers granted in subsections
7 (c) and (d), jurisdiction of those matters is reserved under the
8 decree by agreement of both parties or by order of court after
9 finding that good cause exists, the court may make any further
10 orders as shall appear just and equitable:

- 11 (1) Compelling the parties or either of them to provide
12 for the support, maintenance, and education of the
13 children of the parties;
- 14 (2) Compelling either party to provide for the support and
15 maintenance of the other party;
- 16 (3) Finally dividing and distributing the estate of the
17 parties, real, personal, or mixed, whether joint or
18 separate; and
- 19 (4) Allocating, as between the parties, the responsibility
20 for the payment of the debts of the parties, whether
21 joint or separate, and the attorney's fees, costs, and
22 expenses incurred by each party by reason of the



1 action to terminate the reciprocal beneficiary
2 relationship. In making these further orders, the
3 court shall take into consideration: the respective
4 merits of the parties, the relative abilities of the
5 parties, the condition in which each party will be
6 left by the termination of the reciprocal beneficiary
7 relationship, and all other circumstances of the
8 burdens imposed upon either party for the benefit of
9 the children of the parties, and all other
10 circumstances of the case. In establishing the
11 amounts of child support, the court shall use the
12 guidelines established under section 576D-7.
13 Provision may be made for the support, maintenance,
14 and education of an adult or minor child and for the
15 support, maintenance, and education of an incompetent
16 adult child, whether or not the petition is made
17 before or after the child has attained the age of
18 majority. In those cases where child support payments
19 are to continue due to the adult child's pursuance of
20 education, the agency, three months prior to the adult
21 child's nineteenth birthday, shall send notice by
22 regular mail to the adult child and the custodial



1 parent that prospective child support will be
2 suspended unless proof is provided by the custodial
3 parent or adult child to the child support enforcement
4 agency, prior to the child's nineteenth birthday, that
5 the child is presently enrolled as a full-time student
6 in school or has been accepted into and plans to
7 attend as a full-time student for the next semester a
8 post-high school university, college, or vocational
9 school. If the custodial parent or adult child fails
10 to do so, prospective child support payments may be
11 automatically suspended by the child support
12 enforcement agency, hearings officer, or court upon
13 the child reaching the age of nineteen years. In
14 addition, if applicable, the agency, hearings officer,
15 or court may issue an order terminating existing
16 assignments against the responsible parent's income
17 and income assignment orders.

18 In addition to any other relevant factors considered, the
19 court, in ordering support and maintenance for a party to a
20 reciprocal beneficiary relationship, shall consider the
21 following factors:

- 22 (1) Financial resources of the parties;



- 1 (2) Ability of the party seeking support and maintenance
- 2 to meet the party's needs independently;
- 3 (3) Duration of the reciprocal beneficiary relationship;
- 4 (4) Standard of living established during the reciprocal
- 5 beneficiary relationship;
- 6 (5) Age of the parties;
- 7 (6) Physical and emotional condition of the parties;
- 8 (7) Usual occupation of the parties during the reciprocal
- 9 beneficiary relationship;
- 10 (8) Vocational skills and employability of the party
- 11 seeking support and maintenance;
- 12 (9) Needs of the parties;
- 13 (10) Custodial and child support responsibilities;
- 14 (11) Ability of the party from whom support and maintenance
- 15 is sought to meet that party's own needs while meeting
- 16 the needs of the party seeking support and
- 17 maintenance;
- 18 (12) Other factors that measure the financial condition in
- 19 which the parties will be left as the result of the
- 20 action under which the determination of maintenance is
- 21 made; and



1 (13) Probable duration of the need of the party seeking
2 support and maintenance.

3 The court may order support and maintenance to a party for
4 an indefinite period or until further order of the court;
5 provided that in the event the court determines that support and
6 maintenance shall be ordered for a specific duration wholly or
7 partly based on competent evidence as to the amount of time that
8 will be required for the party seeking support and maintenance
9 to secure adequate training, education, skills, or other
10 qualifications necessary to qualify for appropriate employment,
11 whether intended to qualify the party for a new occupation,
12 update or expand existing qualification, or otherwise enable or
13 enhance the employability of the party, the court shall order
14 support and maintenance for a period sufficient to allow
15 completion of the training, education, skills, or other activity
16 and shall allow, in addition, sufficient time for the party to
17 secure appropriate employment.

18 (b) An order as to the custody, management, and division
19 of property and as to the payment of debts and the attorney's
20 fees, costs, and expenses incurred in the action to terminate a
21 reciprocal beneficiary relationship shall be final and
22 conclusive as to both parties, subject only to appeal as in



1 civil cases. The court, at all times including during the
2 pendency of any appeal, shall have the power to grant any and
3 all orders that may be necessary to protect and provide for the
4 support and maintenance of the parties and any children of the
5 parties to secure justice, to compel either party to advance
6 reasonable amounts for the expenses of the appeal, including
7 attorney's fees to be incurred by the other party, and to amend
8 and revise such orders from time to time.

9 (c) No order entered under the authority of subsection (a)
10 or entered thereafter revising an order that provides for the
11 support, maintenance, and education of the children of the
12 parties shall impair the power of the court, from time to time,
13 to revise its orders providing for the support, maintenance, and
14 education of the children of the parties upon a showing of a
15 change in the circumstances of either party or any child of the
16 parties since the entry of any prior order relating to the
17 support, maintenance, and education. The establishment of the
18 guidelines or the adoption of any modifications made to the
19 guidelines set forth in section 576D-7 may constitute a change
20 in circumstances sufficient to permit review of the support
21 order. A material change of circumstances will be presumed if
22 support as calculated pursuant to the guidelines is either ten



1 per cent greater or less than the support amount in the
2 outstanding support order. The need to provide for the child's
3 health care needs through health insurance or other means shall
4 be a basis for petitioning for a modification of the support
5 order. The most current guidelines shall be used to calculate
6 the amount of the child support obligation.

7 (d) Upon the motion of either party supported by an
8 affidavit setting forth in particular a material change in the
9 physical or financial circumstances of either party, or upon a
10 showing of other good cause, the moving party, in the discretion
11 of the court and upon adequate notice to the other party, may be
12 granted a hearing. The fact that the moving party is in default
13 or arrears in the performance of any act or payment of any sums
14 theretofore ordered to be done or paid by the party shall not
15 necessarily constitute a bar to the granting of the hearing.
16 The court upon such hearing, for good cause shown may amend or
17 revise any order and shall consider all proper circumstances in
18 determining the amount of the allowance, if any, that shall
19 thereafter be ordered.

20 (e) The responsible parent or the custodial parent shall
21 have a right to petition the family court or the child support
22 enforcement agency not more than once every three years for



1 review and adjustment of the child support order, without having
2 to show a change in circumstances. The responsible or custodial
3 parent shall not be precluded from petitioning the family court
4 or the child support enforcement agency for review and
5 adjustment more than once in any three-year period if the second
6 or subsequent request is supported by proof of a substantial or
7 material change of circumstances.

8 (f) Attorney's fees and costs. The court hearing any
9 motion for orders either revising an order for the custody,
10 support, maintenance, and education of the children of the
11 parties, or an order for the support and maintenance of one
12 party by the other, or a motion for an order to enforce any such
13 order, or any order made under subsection (a) of this section
14 may make orders requiring either party to pay or contribute to
15 the payment of the attorney's fees, costs, and expenses of the
16 other party relating to the motion and hearing as appears just
17 and equitable after consideration of the respective merits of
18 the parties, the relative abilities of the parties, the economic
19 condition of each party at the time of the hearing, the burdens
20 imposed upon either party for the benefit of the children of the
21 parties, and all other circumstances of the case.



1 § -29 Notice to parties with children. When a party
2 files for termination of a reciprocal beneficiary relationship
3 and there are minor children involved, or when a party
4 institutes a proceeding under chapter 576D or 576E, the court or
5 the office of child support hearings shall provide notice to
6 each party informing them of the opportunity to enter into an
7 alternative arrangement for direct payment of child support
8 under chapter 576D. A party may petition the court at any time,
9 under chapter 576D or 576E, to opt out of the child support
10 enforcement agency system, and such a petition shall be assigned
11 priority upon the docket and be acted upon expeditiously by the
12 court.

13 § -30 Support of insane reciprocal beneficiary after
14 termination of a reciprocal beneficiary relationship. In every
15 action for termination of a reciprocal beneficiary relationship
16 where a decree is granted to the plaintiff and the defendant is
17 insane at the time of the decree, the court, at any time after
18 entering the decree, may revise and alter the decree so far as
19 the support and maintenance of the insane person is concerned
20 and may provide for maintenance by the plaintiff out of any
21 property or earnings acquired by the plaintiff subsequently, as
22 well as previously, to the decree of termination. In its



1 discretion, the court making the order for maintenance may
2 require the plaintiff to give security to the satisfaction of
3 the court for the faithful execution of the order.

4 § -31 Modification of alimony on subsequent entry into
5 reciprocal beneficiary relationship or marriage. (a) Upon the
6 subsequent entry into a reciprocal beneficiary relationship or
7 marriage of a party in whose favor a final decree or order for
8 support and maintenance has been made, all rights to receive and
9 all duties to make payments for support and maintenance shall
10 automatically terminate for all payments due after the date of
11 the entry into a reciprocal beneficiary relationship or
12 marriage, unless the final decree or order, or an agreement of
13 the parties approved by the final decree or order, provides
14 specifically for the payments to continue after a subsequent
15 entry into a reciprocal beneficiary relationship or marriage.

16 (b) The party who subsequently enters into a reciprocal
17 beneficiary relationship or marriage shall file a notice of the
18 reciprocal beneficiary relationship or marriage with the court
19 that made the order for support and maintenance and serve within
20 thirty days of the reciprocal beneficiary relationship or
21 marriage, by personal service or registered or certified mail, a
22 copy of the notice on the former paying party. In any



1 proceeding relating to the payment of support and maintenance to
2 a party who subsequently enters into a reciprocal beneficiary
3 relationship or marriage, the failure of that party to file a
4 notice of the reciprocal beneficiary relationship or marriage
5 shall be considered by the court in awarding attorney's fees and
6 costs for the proceeding and in determining reimbursement to the
7 former paying party.

8 § -32 **Reciprocal beneficiary relationship or marriage**
9 **after termination.** Whenever a reciprocal beneficiary
10 relationship is terminated, either party to the reciprocal
11 beneficiary relationship may enter into a subsequent reciprocal
12 beneficiary relationship or marriage at any time.

13 § -33 **Property rights following termination of a**
14 **reciprocal beneficiary relationship.** (a) Every decree
15 terminating a reciprocal beneficiary relationship that does not
16 specifically recite that the final division of the property of
17 the parties is reserved for further hearing, decision, and
18 orders shall finally divide the property of the parties to the
19 action.

20 (b) Following the entry of a decree of termination of a
21 reciprocal beneficiary relationship in which the final division
22 of the property of the parties to the action is reserved for



1 further hearings, decisions, and orders, notwithstanding the
2 provisions of section 560:2-802, or any other provisions of the
3 law to the contrary, each party to the action shall continue to
4 have all of the rights to and interests in the property of the
5 other party to the action as provided by chapter 560, or as
6 otherwise provided by law to the same extent the party would
7 have had such rights or interests if the decree terminating the
8 reciprocal beneficiary relationship had not been entered, until
9 the entry of a decree or order finally dividing the property of
10 the parties to the action to terminate a reciprocal beneficiary
11 relationship or as provided in subsection (d).

12 (c) When a party to an action to terminate a reciprocal
13 beneficiary relationship has entered into a subsequent
14 reciprocal beneficiary relationship or marriage following the
15 entry of a decree of termination of a reciprocal beneficiary
16 relationship, in which the final division of the property of the
17 parties is reserved for further hearings, decisions, and orders,
18 but prior to the entry of a decree or order finally dividing the
19 property owned by the parties to that action, notwithstanding
20 the provisions of chapter 560, the present reciprocal
21 beneficiary or spouse of the party to the former reciprocal
22 beneficiary relationship shall have none of the rights or



1 interests in the former reciprocal beneficiary's real property
2 or personal estate as provided in chapter 560 or as otherwise
3 provided by law, until such time as the decree or order shall be
4 entered finally dividing the property owned by the parties or
5 either of them as of the effective date of the entry of the
6 decree of termination of the prior reciprocal beneficiary
7 relationship. Upon the entry of a decree or order finally
8 dividing the property of the parties to an action to terminate a
9 reciprocal beneficiary relationship in which a decree of
10 termination has been entered, the present reciprocal beneficiary
11 or spouse of a party who has entered into a subsequent
12 reciprocal beneficiary relationship or marriage shall have all
13 of the rights of a reciprocal beneficiary or spouse as provided
14 by chapter 560, or as otherwise provided by law, in and to the
15 property of the reciprocal beneficiary or spouse as is vested in
16 the reciprocal beneficiary or spouse by the decree or order
17 finally dividing the property of the parties, or either of them,
18 as of the effective date of the entry of the decree of
19 termination of the prior reciprocal beneficiary relationship.

20 (d) Following the entry of a decree of termination of a
21 reciprocal beneficiary relationship, or the entry of a decree or
22 order finally dividing the property of the parties to an action



1 to terminate a reciprocal beneficiary relationship if the same
 2 is reserved in the decree of termination, or the elapse of one
 3 year after entry of a decree or order reserving the final
 4 division of property of the party, a reciprocal beneficiary to a
 5 terminated reciprocal beneficiary relationship shall not be
 6 entitled to dower or curtesy in the former reciprocal
 7 beneficiary's real estate, or any part thereof, nor to any share
 8 of the former reciprocal beneficiary's personal estate."

9 SECTION 3. Section 87A-1, Hawaii Revised Statutes, is
 10 amended by amending the definitions of "dependent-beneficiary",
 11 "employee-beneficiary", and "qualified beneficiary" to read as
 12 follows:

13 "Dependent-beneficiary" means an employee-beneficiary's:

14 (1) Spouse;

15 (2) Reciprocal beneficiary;

16 (3) Unmarried child deemed eligible by the board,
 17 including a legally adopted child, stepchild, foster
 18 child, or recognized natural child who lives with the
 19 employee-beneficiary; and

20 [~~3~~] (4) [~~Unmarried child~~] Child not married or not in a
 21 reciprocal beneficiary relationship regardless of age
 22 who is incapable of self-support because of a mental



1 or physical incapacity, [~~which~~] that existed prior to
2 the [~~unmarried~~] child's reaching the age of nineteen
3 years.

4 "Employee-beneficiary" means:

- 5 (1) An employee;
- 6 (2) The beneficiary of an employee who is killed in the
7 performance of the employee's duty;
- 8 (3) An employee who retired prior to 1961;
- 9 (4) The beneficiary of a retired member of the employees'
10 retirement system; a county pension system; or a
11 police, firefighters, or bandsmen pension system of
12 the State or a county, upon the death of the retired
13 member;
- 14 (5) The surviving child of a deceased retired employee, if
15 the child is unmarried or not in a reciprocal
16 beneficiary relationship and under the age of
17 nineteen; [~~or~~]
- 18 (6) The surviving spouse of a deceased retired employee,
19 if the surviving spouse does not subsequently
20 remarry[+] or enter into a reciprocal beneficiary
21 relationship; or



1 (7) The surviving reciprocal beneficiary of a deceased
2 retired employee, if the surviving reciprocal
3 beneficiary does not subsequently marry or enter into
4 a reciprocal beneficiary relationship;

5 provided that the employee, the employee's beneficiary, or the
6 beneficiary of the deceased retired employee is deemed eligible
7 by the board to participate in a health benefits plan or long-
8 term care benefits plan under this chapter.

9 "Qualified-beneficiary" means, for purposes of the long-
10 term care benefits plan, a former employee or an employee who is
11 not eligible for benefits due to a reduction in work hours,
12 including the spouse, divorced spouse, reciprocal beneficiary,
13 former reciprocal beneficiary, parents, grandparents, in-law
14 parents, [and] parents of a reciprocal beneficiary, in-law
15 grandparents, and grandparents of a reciprocal beneficiary of an
16 employee or retiree; provided that the beneficiary was enrolled
17 in the plan before the employee or former employee became
18 ineligible for benefits."

19 SECTION 4. Section 87A-18, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) The board may establish a long-term care benefits
22 plan or plans for employee-beneficiaries; the spouses,



1 reciprocal beneficiaries, parents, parents of a reciprocal
2 beneficiary, grandparents, grandparents of a reciprocal
3 beneficiary, in-law parents, in-law parents of a reciprocal
4 beneficiary, [and] in-law grandparents, and in-law grandparents
5 of a reciprocal beneficiary of employee-beneficiaries; and
6 qualified-beneficiaries. The plan or plans shall be at no cost
7 to employers and shall comply with article 10H of chapter 431.

8 (b) Notwithstanding any other law to the contrary, long-
9 term care benefits shall be available only to:

10 (1) Employee-beneficiaries and their spouses, reciprocal
11 beneficiaries, parents, and grandparents;

12 (2) Employee-beneficiary in-law parents and
13 grandparents[+], and the parents and grandparents of
14 reciprocal beneficiaries; and

15 (3) Qualified-beneficiaries who enroll between the ages of
16 twenty and eighty-five,
17 who comply with the plan's age, enrollment, medical
18 underwriting, and contribution requirements."

19 SECTION 5. Section 87A-23, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§87A-23 Health benefits plan supplemental to medicare.**

22 The board shall establish a health benefits plan, which takes



1 into account benefits available to an employee-beneficiary and
2 spouse or reciprocal beneficiary under medicare, subject to the
3 following conditions:

- 4 (1) There shall be no duplication of benefits payable
5 under medicare. The plan under this section, which
6 shall be secondary to medicare, when combined with
7 medicare and any other plan to which the health
8 benefits plan is subordinate under the National
9 Association of Insurance Commissioners' coordination
10 of benefit rules, shall provide benefits that
11 approximate those provided to a similarly situated
12 beneficiary not eligible for medicare;
- 13 (2) The State, through the department of budget and
14 finance, and the counties, through their respective
15 departments of finance, shall pay to the fund a
16 contribution equal to an amount not less than the
17 medicare part B premium, for each of the following who
18 are enrolled in the medicare part B medical insurance
19 plan: (A) an employee-beneficiary who is a retired
20 employee, (B) an employee-beneficiary's spouse or
21 reciprocal beneficiary while the employee-beneficiary
22 is living, and (C) an employee-beneficiary's spouse [7]



1 or reciprocal beneficiary, after the death of the
2 employee-beneficiary, if the spouse or reciprocal
3 beneficiary qualifies as an employee-beneficiary. For
4 purposes of this section, a "retired employee" means
5 retired members of the employees' retirement system; a
6 county pension system; or a police, firefighters, or
7 bandsmen pension system of the State or a county as
8 set forth in chapter 88. If the amount reimbursed by
9 the fund under this section is less than the actual
10 cost of the medicare part B medical insurance plan due
11 to an increase in the medicare part B medical
12 insurance plan rate, the fund shall reimburse each
13 employee-beneficiary and employee-beneficiary's spouse
14 or reciprocal beneficiary for the cost increase within
15 thirty days of the rate change. Each employee-
16 beneficiary and employee-beneficiary's spouse or
17 reciprocal beneficiary who becomes entitled to
18 reimbursement from the fund for medicare part B
19 premiums after July 1, 2006, shall designate a
20 financial institution account into which the fund
21 shall be authorized to deposit reimbursements. This



1 method of payment may be waived by the fund if another
2 method is determined to be more appropriate;

3 (3) The benefits available under this plan, when combined
4 with benefits available under medicare or any other
5 coverage or plan to which this plan is subordinate
6 under the National Association of Insurance
7 Commissioners' coordination of benefit rules, shall
8 approximate the benefits that would be provided to a
9 similarly situated employee-beneficiary not eligible
10 for medicare;

11 (4) All employee-beneficiaries or dependent-beneficiaries
12 who are eligible to enroll in the medicare part B
13 medical insurance plan shall enroll in that plan as a
14 condition of receiving contributions and participating
15 in benefits plans under this chapter. This paragraph
16 shall apply to retired employees, their spouses [7] or
17 reciprocal beneficiaries, and the surviving spouses or
18 reciprocal beneficiaries of deceased retirees and
19 employees killed in the performance of duty; and

20 (5) The board shall determine which of the employee-
21 beneficiaries and dependent-beneficiaries, who are not
22 enrolled in the medicare part B medical insurance



1 plan, may participate in the plans offered by the
2 fund."

3 SECTION 6. Section 87A-32, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The State, through the department of budget and
6 finance, and the counties, through their respective departments
7 of finance, shall pay to the fund a monthly contribution equal
8 to the amount established under chapter 89C or specified in the
9 applicable public sector collective bargaining agreements,
10 whichever is appropriate, for each of their respective employee-
11 beneficiaries and employee-beneficiaries with dependent-
12 beneficiaries, which shall be used toward the payment of costs
13 of a health benefits plan; provided that:

14 (1) The monthly contribution shall be a specified dollar
15 amount;

16 (2) The monthly contribution shall not exceed the actual
17 cost of a health benefits plan;

18 (3) If both husband and wife or reciprocal beneficiaries
19 are employee-beneficiaries, the total contribution by
20 the State or the county shall not exceed the monthly
21 contribution for a family plan; and



1 (4) If the State or any of the counties establish
2 cafeteria plans in accordance with Title 26, United
3 States Code section 125, the Internal Revenue Code of
4 1986, as amended, and part II of chapter 78, the
5 monthly contribution for those employee-beneficiaries
6 who participate in a cafeteria plan shall be made
7 through the cafeteria plan, and the payments made by
8 the State or counties shall include their respective
9 contributions to the fund and their employee-
10 beneficiary's share of the cost of the employee-
11 beneficiary's health benefits plan."

12 SECTION 7. Section 87A-33, Hawaii Revised Statutes, is
13 amended by amending subsections (b) and (c) to read as follows:

14 "(b) Effective July 1, 2003, there is established a base
15 monthly contribution for health benefit plans that the State,
16 through the department of budget and finance, and the counties,
17 through their respective departments of finance, shall pay to
18 the fund, up to the following:

19 (1) \$218 for each employee-beneficiary enrolled in
20 supplemental medicare self plans;

21 (2) \$671 for each employee-beneficiary enrolled in
22 supplemental medicare family plans;



- 1 (3) \$342 for each employee-beneficiary enrolled in non-
- 2 medicare self plans; and
- 3 (4) \$928 for each employee-beneficiary enrolled in non-
- 4 medicare family plans.

5 The monthly contribution by the State or county shall not
6 exceed the actual cost of the health benefits plan or plans. If
7 both husband and wife or reciprocal beneficiaries are employe-
8 beneficiaries, the total contribution by the State or county
9 shall not exceed the monthly contribution for a supplemental
10 medicare family or non-medicare family plan, as appropriate.

11 (c) Effective July 1, 2004, there is established a base
12 monthly contribution for health benefit plans that the State,
13 through the department of budget and finance, and the counties,
14 through their respective departments of finance, shall pay to
15 the fund, up to the following:

- 16 (1) \$254 for each employee-beneficiary enrolled in
- 17 supplemental medicare self plans;
- 18 (2) \$787 for each employee-beneficiary enrolled in
- 19 supplemental medicare family plans;
- 20 (3) \$412 for each employee-beneficiary enrolled in non-
- 21 medicare self plans; and



1 (4) \$1,089 for each employee-beneficiary enrolled in non-
2 medicare family plans.

3 The monthly contribution by the State or county shall not
4 exceed the actual cost of the health benefit plan or plans and
5 shall not be required to cover increased benefits above those
6 initially contracted for by the fund for plan year 2004-2005.
7 If both husband and wife or reciprocal beneficiaries are
8 employee-beneficiaries, the total contribution by the State or
9 county shall not exceed the monthly contribution for a
10 supplemental medicare family or non-medicare family plan, as
11 appropriate."

12 SECTION 8. Section 87A-34, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The State, through the department of budget and
15 finance, and the counties, through their respective departments
16 of finance, shall pay to the fund a monthly contribution equal
17 to one-half of the base monthly contribution set forth under
18 section 87A-33(b) for retired employees enrolled in medicare or
19 non-medicare health benefits plans. If both husband and wife or
20 reciprocal beneficiaries are employee-beneficiaries, the total
21 contribution by the State or county shall not exceed the monthly



1 contribution for supplemental medicare family or non-medicare
2 family plan, as appropriate."

3 SECTION 9. Section 87A-35, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The State, through the department of budget and
6 finance, and the counties, through their respective departments
7 of finance, shall pay to the fund:

8 (1) For retired employees enrolled in medicare or non-
9 medicare health benefit plans with ten or more years
10 but fewer than fifteen years of service, a monthly
11 contribution equal to one-half of the base monthly
12 contribution set forth under section 87A-33(b); and

13 (2) For retired employees enrolled in medicare or non-
14 medicare health benefit plans with at least fifteen
15 but fewer than twenty-five years of service, a monthly
16 contribution of seventy-five per cent of the base
17 monthly contribution set forth under section 87A-
18 33(b).

19 If both husband and wife or reciprocal beneficiaries are
20 employee-beneficiaries, the total contribution by the State or
21 county shall not exceed the monthly contribution for a



1 supplemental medicare family or non-medicare family plan, as
2 appropriate."

3 SECTION 10. Section 87A-36, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The State, through the department of budget and
6 finance, and the counties, through their respective departments
7 of finance, shall pay to the fund:

8 (1) For retired employees based on the self plan with ten
9 or more years but fewer than fifteen years of service,
10 a monthly contribution equal to one-half of the base
11 medicare or non-medicare monthly contribution set
12 forth under section 87A-33(b);

13 (2) For retired employees based on the self plan with at
14 least fifteen but fewer than twenty-five years of
15 service, a monthly contribution equal to seventy-five
16 per cent of the base medicare or non-medicare monthly
17 contribution set forth under section 87A-33(b);

18 (3) For retired employees based on the self plan with
19 twenty-five or more years of service, a monthly
20 contribution equal to [~~one hundred~~] one hundred per
21 cent of the base medicare or non-medicare monthly
22 contribution set forth under section 87A-33(b); and



1 (4) One-half of the monthly contributions for the
2 employee-beneficiary or employee-beneficiary with
3 dependent-beneficiaries upon the death of the
4 employee, as defined in paragraph (1)(E) of the
5 definition of "employee" in section 87A-1.

6 If both husband and wife or reciprocal beneficiaries are
7 employee-beneficiaries, the total contribution by the State or
8 county shall not exceed the monthly contribution for two
9 supplemental medicare self or non-medicare self plans, as
10 appropriate."

11 SECTION 11. Section 231-57, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§~~231-57 ~~§~~ **Apportionment of joint refunds.** In the
14 case of a setoff against a joint income tax refund, the State
15 may make separate refunds of withheld taxes upon request by a
16 husband or wife or reciprocal beneficiary who has filed the
17 joint return. The refund payable to each spouse or reciprocal
18 beneficiary shall be proportioned to the gross earnings of each
19 shown by the information returns filed by the employer or
20 otherwise shown to the satisfaction of the State."



1 SECTION 12. Section 235-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Reciprocal beneficiary" means two adults who are parties
5 to a valid reciprocal beneficiary relationship and meet the
6 requisites for a valid reciprocal beneficiary relationship as
7 defined in section 572C-4."

8 SECTION 13. Section 235-2.4, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Section 63 (with respect to taxable income defined)
11 of the Internal Revenue Code shall be operative for the purposes
12 of this chapter, subject to the following:

13 (1) Sections 63(c)(1)(B) (relating to the additional
14 standard deduction), 63(c)(1)(C) (relating to the real
15 property tax deduction), 63(c)(1)(D) (relating to the
16 disaster loss deduction), 63(c)(4) (relating to
17 inflation adjustments), 63(c)(7) (defining the real
18 property tax deduction), 63(c)(8) (defining the
19 disaster loss deduction), and 63(f) (relating to
20 additional amounts for the aged or blind) of the
21 Internal Revenue Code shall not be operative for
22 purposes of this chapter;



1 (2) Section 63(c)(2) (relating to the basic standard
2 deduction) of the Internal Revenue Code shall be
3 operative, except that the standard deduction amounts
4 provided therein shall instead mean:

5 (A) \$4,000 in the case of:

6 (i) A joint return as provided by section 235-
7 93; or

8 (ii) A surviving spouse (as defined in Section
9 2(a) of the Internal Revenue Code) [~~+~~] or
10 reciprocal beneficiary;

11 (B) \$2,920 in the case of a head of household (as
12 defined in Section 2(b) of the Internal Revenue
13 Code);

14 (C) \$2,000 in the case of an individual who is not
15 married and not in a reciprocal beneficiary
16 relationship, and who is not a surviving spouse,
17 surviving reciprocal beneficiary, or head of
18 household; or

19 (D) \$2,000 in the case of a married individual or
20 reciprocal beneficiary filing a separate return;

21 (3) Section 63(c)(5) (limiting the basic standard
22 deduction in the case of certain dependents) of the



1 Internal Revenue Code shall be operative, except that
2 the limitation shall be the greater of \$500 or such
3 individual's earned income; and

4 (4) The standard deduction amount for nonresidents shall
5 be calculated pursuant to section 235-5."

6 SECTION 14. Section 235-4, Hawaii Revised Statutes, is
7 amended by amending subsections (b) and (c) to read as follows:

8 "(b) Nonresidents. In the case of a nonresident, the tax
9 applies to the income received or derived from property owned,
10 personal services performed, trade, or business carried on, and
11 any and every other source in the State.

12 In the case of a nonresident spouse or reciprocal
13 beneficiary filing a joint return with a resident spouse [7] or
14 reciprocal beneficiary, the tax applies to the entire income of
15 the nonresident spouse or reciprocal beneficiary computed
16 without regard to source in the State.

17 (c) Change of status. Except where a joint return is
18 filed, when the status of a taxpayer changes during the taxable
19 year from resident to nonresident, or from nonresident to
20 resident, the tax imposed by this chapter applies to the entire
21 income earned during the period of residence in the manner
22 provided in subsection (a) [~~of this section~~] and during the



1 period of nonresidence the tax shall apply upon the income
2 received or derived as a nonresident in the manner provided in
3 subsection (b) [~~of this section,~~]; provided that if it cannot be
4 determined whether income was received or derived during the
5 period of residence or during the period of nonresidence, there
6 shall be attributed to the State such portion of the income as
7 is determined by applying to such income for the whole taxable
8 year the ratio which the period of residence in the State bears
9 to the whole taxable year, unless the taxpayer shows to the
10 satisfaction of the department of taxation that the result is to
11 attribute to the state income, dependent upon residence,
12 received or derived during the period of nonresidence, in which
13 event the amount of income as to which such showing is made
14 shall be excluded.

15 The apportionment of income provided by this subsection
16 shall not apply where one spouse or reciprocal beneficiary is a
17 resident of this State and a joint return is filed with the
18 nonresident spouse or reciprocal beneficiary in which event the
19 tax shall be computed on their aggregate income in the manner
20 provided in section 235-52 without regard to source in the
21 State. Where, however, both spouses or reciprocal beneficiaries
22 change their status from resident to nonresident or from



1 nonresident to resident, their income shall be apportioned in
2 the manner provided in this subsection."

3 SECTION 15. Section 235-5.5, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsections (a) and (b) to read:

6 "(a) There shall be allowed as a deduction from gross
7 income the amount, not to exceed \$5,000, paid in cash during the
8 taxable year by an individual taxpayer to an individual housing
9 account established for the individual's benefit to provide
10 funding for the purchase of the individual's first principal
11 residence. A deduction not to exceed \$10,000 shall be allowed
12 for a married couple or reciprocal beneficiaries filing a joint
13 return. No deduction shall be allowed on any amounts
14 distributed less than three hundred sixty-five days from the
15 date on which a contribution is made to the account. Any
16 deduction claimed for a previous taxable year for amounts
17 distributed less than three hundred sixty-five days from the
18 date on which a contribution was made shall be disallowed and
19 the amount deducted shall be included in the previous taxable
20 year's gross income and the tax reassessed. The interest paid
21 or accrued within the taxable year on the account shall not be
22 included in the individual's gross income. For purposes of this



1 section, the term "first principal residence" means a
2 residential property purchased with the payment or distribution
3 from the individual housing account which shall be owned and
4 occupied as the only home by an individual who did not have any
5 interest in, individually, or whose spouse or reciprocal
6 beneficiary did not have any interest in, if the individual is
7 married[7] or in a reciprocal beneficiary relationship, a
8 residential property within the last five years of opening the
9 individual housing account.

10 In the case of a married couple or parties in a reciprocal
11 beneficiary relationship filing separate returns, the sum of the
12 deductions allowable to each of them for the taxable year shall
13 not exceed \$5,000, or \$10,000 for a joint return, for amounts
14 paid in cash, excluding interest paid or accrued thereon.

15 The amounts paid in cash allowable as a deduction under
16 this section to an individual for all taxable years shall not
17 exceed \$25,000, excluding interest paid or accrued. In the case
18 of married individuals or reciprocal beneficiaries having
19 separate individual housing accounts, the sum of the separate
20 accounts and the deduction under this section shall not exceed
21 \$25,000, excluding interest paid or accrued thereon.



1 (b) For purposes of this section, the term "individual
2 housing account" means a trust created or organized in Hawaii
3 for the exclusive benefit of an individual, or, in the case of a
4 married individual[7] or reciprocal beneficiary, for the
5 exclusive benefit of the individual and spouse or reciprocal
6 beneficiary jointly, but only if the written governing
7 instrument creating the trust meets the following requirements:

8 (1) Contributions shall not be accepted for the taxable
9 year in excess of \$5,000 (or \$10,000 in the case of a
10 joint return) or in excess of \$25,000 for all taxable
11 years, exclusive of interest paid or accrued;

12 (2) The trustee is a bank, a savings and loan association,
13 a credit union, or a depository financial services
14 loan company, chartered, licensed, or supervised under
15 federal or state law, whose accounts are insured by
16 the Federal Deposit Insurance Corporation, the
17 National Credit Union Administration, or any agency of
18 this State or any federal agency established for the
19 purpose of insuring accounts in these financial
20 institutions. The financial institution must actively
21 make residential real estate mortgage loans in Hawaii;



- 1 (3) The assets of the trust shall be invested only in
2 fully insured savings or time deposits. Funds held in
3 the trust may be commingled for purposes of
4 investment, but individual records shall be maintained
5 by the trustee for each individual housing account
6 holder which show all transactions in detail;
- 7 (4) The entire interest of an individual [~~or~~], married
8 couple, or reciprocal beneficiaries for whose benefit
9 the trust is maintained shall be distributed to the
10 individual [~~or~~], couple, or reciprocal beneficiaries
11 not later than one hundred twenty months after the
12 date on which the first contribution is made to the
13 trust;
- 14 (5) Except as provided in subsection (g), the trustee
15 shall not distribute the funds in the account unless
16 it (A) verifies that the money is to be used for the
17 purchase of a first principal residence located in
18 Hawaii, and provides that the instrument of payment is
19 payable to the mortgagor, construction contractor, or
20 other vendor of the property purchased; or (B)
21 withholds an amount equal to ten per cent of the
22 amount withdrawn from the account and remits this



1 amount to the director within ten days after the date
2 of the withdrawal. The amount so withheld shall be
3 applied to the liability of the taxpayer under
4 subsections (c) and (e); and

5 (6) If any amounts are distributed before the expiration
6 of three hundred sixty-five days from the date on
7 which a contribution is made to the account, the
8 trustee shall so notify in writing the taxpayer and
9 the director. If the trustee makes the verification
10 required in paragraph (5) (A), then the department
11 shall disallow the deduction under subsection (a) and
12 subsections (c), (e), and (f) shall not apply to that
13 amount. If the trustee withholds an amount under
14 paragraph (5) (B), then the department shall disallow
15 the deduction under subsection (a) and subsection (e)
16 shall apply, but subsection (c) shall not apply."

17 2. By amending subsections (g) and (h) to read:

18 "(g) No tax liability shall be imposed under this section
19 if:

20 (1) The payment or distribution is attributable to the
21 individual dying or becoming totally disabled; or



1 (2) Residential property subject to subsection (f) is
2 transferred by will or by operation of law or sold due
3 to the death or total disability of an individual or
4 an individual's spouse[7] or reciprocal beneficiary,
5 subject to the following:

6 An individual shall not be considered to be totally
7 disabled unless proof is furnished of the total disability in
8 the form and manner as the director may require.

9 Upon the death of an individual for whose benefit an
10 individual housing account has been established, the funds in
11 the account shall be payable to the estate of the individual;
12 provided that if the account was held jointly by the decedent
13 and a spouse or reciprocal beneficiary of the decedent, the
14 account shall terminate and be paid to the surviving spouse[7]
15 or reciprocal beneficiary; or, if the surviving spouse or
16 reciprocal beneficiary so elects, the spouse or reciprocal
17 beneficiary may continue the account as an individual housing
18 account. Upon the total disability of an individual for whose
19 benefit an individual housing account has been established, the
20 individual or the individual's authorized representative may
21 elect to continue the account or terminate the account and be
22 paid the assets; provided that if the account was held jointly



1 by a totally disabled person and a spouse or reciprocal
 2 beneficiary of that person, then the spouse or reciprocal
 3 beneficiary, or an authorized representative of the spouse or
 4 reciprocal beneficiary may elect to continue the account or
 5 terminate the account and be paid the assets.

6 (h) If the individual for whose benefit the individual
 7 housing account was established subsequently marries or enters
 8 into a reciprocal beneficiary relationship with a person who has
 9 or has had any interest in residential property, the
 10 individual's housing account shall be terminated, the funds
 11 therein shall be distributed to the individual, and the amount
 12 of the funds shall be includable in the individual's gross
 13 income for the taxable year in which [~~such~~] the marriage took
 14 place[+] or the reciprocal beneficiary relationship was entered
 15 into; provided that the tax liability defined under subsection
 16 (f) shall not be imposed."

17 SECTION 16. Section 235-7, Hawaii Revised Statutes, is
 18 amended by amending subsection (a) to read as follows:

19 "(a) There shall be excluded from gross income, adjusted
 20 gross income, and taxable income:

21 (1) Income not subject to taxation by the State under the
 22 Constitution and laws of the United States;



- 1 (2) Rights, benefits, and other income exempted from
2 taxation by section 88-91, having to do with the state
3 retirement system, and the rights, benefits, and other
4 income, comparable to the rights, benefits, and other
5 income exempted by section 88-91, under any other
6 public retirement system;
- 7 (3) Any compensation received in the form of a pension for
8 past services;
- 9 (4) Compensation paid to a patient affected with Hansen's
10 disease employed by the State or the United States in
11 any hospital, settlement, or place for the treatment
12 of Hansen's disease;
- 13 (5) Except as otherwise expressly provided, payments made
14 by the United States or this State, under an act of
15 Congress or a law of this State, which by express
16 provision or administrative regulation or
17 interpretation are exempt from both the normal and
18 surtaxes of the United States, even though not so
19 exempted by the Internal Revenue Code itself;
- 20 (6) Any income expressly exempted or excluded from the
21 measure of the tax imposed by this chapter by any
22 other law of the State, it being the intent of this



1 chapter not to repeal or supersede any express
2 exemption or exclusion;

3 (7) Income received by each member of the reserve
4 components of the Army, Navy, Air Force, Marine Corps,
5 or Coast Guard of the United States of America, and
6 the Hawaii national guard as compensation for
7 performance of duty, equivalent to pay received for
8 forty-eight drills (equivalent of twelve weekends) and
9 fifteen days of annual duty, at an:

10 (A) E-1 pay grade after eight years of service;
11 provided that this subparagraph shall apply to
12 taxable years beginning after December 31, 2004;

13 (B) E-2 pay grade after eight years of service;
14 provided that this subparagraph shall apply to
15 taxable years beginning after December 31, 2005;

16 (C) E-3 pay grade after eight years of service;
17 provided that this subparagraph shall apply to
18 taxable years beginning after December 31, 2006;

19 (D) E-4 pay grade after eight years of service;
20 provided that this subparagraph shall apply to
21 taxable years beginning after December 31, 2007;

22 and



S.B. NO. 2851

- 1 (E) E-5 pay grade after eight years of service;
2 provided that this subparagraph shall apply to
3 taxable years beginning after December 31, 2008;
- 4 (8) Income derived from the operation of ships or aircraft
5 if the income is exempt under the Internal Revenue
6 Code pursuant to the provisions of an income tax
7 treaty or agreement entered into by and between the
8 United States and a foreign country; provided that the
9 tax laws of the local governments of that country
10 reciprocally exempt from the application of all of
11 their net income taxes, the income derived from the
12 operation of ships or aircraft that are documented or
13 registered under the laws of the United States;
- 14 (9) The value of legal services provided by a prepaid
15 legal service plan to a taxpayer, the taxpayer's
16 spouse, the taxpayer's reciprocal beneficiary, and the
17 taxpayer's dependents;
- 18 (10) Amounts paid, directly or indirectly, by a prepaid
19 legal service plan to a taxpayer as payment or
20 reimbursement for the provision of legal services to
21 the taxpayer, the taxpayer's spouse, the taxpayer's
22 reciprocal beneficiary, and the taxpayer's dependents;



1 (11) Contributions by an employer to a prepaid legal
2 service plan for compensation (through insurance or
3 otherwise) to the employer's employees for the costs
4 of legal services incurred by the employer's
5 employees, their spouses, their reciprocal
6 beneficiaries, and their dependents;

7 (12) Amounts received in the form of a monthly surcharge by
8 a utility acting on behalf of an affected utility
9 under section 269-16.3 shall not be gross income,
10 adjusted gross income, or taxable income for the
11 acting utility under this chapter. Any amounts
12 retained by the acting utility for collection or other
13 costs shall not be included in this exemption; and

14 (13) One hundred per cent of the gain realized by a fee
15 simple owner from the sale of a leased fee interest in
16 units within a condominium project, cooperative
17 project, or planned unit development to the
18 association of owners under chapter 514A or 514B, or
19 the residential cooperative corporation of the
20 leasehold units.

21 For purposes of this paragraph:



1 "Fee simple owner" shall have the same meaning as
2 provided under section 516-1; provided that it shall
3 include legal and equitable owners;

4 "Legal and equitable owner", and "leased fee
5 interest" shall have the same meanings as provided
6 under section 516-1; and

7 "Condominium project" and "cooperative project"
8 shall have the same meanings as provided under section
9 514C-1."

10 SECTION 17. Section 235-7.5, Hawaii Revised Statutes, is
11 amended by amending subsection (e) to read as follows:

12 "(e) For purposes of this section, the parent whose
13 taxable income shall be taken into account shall be:

14 (1) In the case of parents who are not married (within the
15 meaning of section 235-93), the custodial parent
16 (within the meaning of section 152(e) (with respect to
17 the support test in case of child of divorced parents,
18 etc.) of the Internal Revenue Code) of the child, and

19 (2) In the case of married individuals or reciprocal
20 beneficiaries filing separately, the individual with
21 the greater taxable income."



1 SECTION 18. Section 235-51, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) There is hereby imposed on the taxable income of (1)
5 every taxpayer who files a joint return under section 235-93;
6 and (2) every surviving spouse or surviving reciprocal
7 beneficiary a tax determined in accordance with the following
8 table:

9 In the case of any taxable year beginning after December
10 31, 2001:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.40% of taxable income
Over \$4,000 but not over \$8,000	\$56.00 plus 3.20% of excess over \$4,000
Over \$8,000 but not over \$16,000	\$184.00 plus 5.50% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$624.00 plus 6.40% of excess over \$16,000
Over \$24,000 but not over \$32,000	\$1,136.00 plus 6.80% of excess over \$24,000
Over \$32,000 but not over \$40,000	\$1,680.00 plus 7.20% of excess over \$32,000



S.B. NO. 2851

1	Over \$40,000 but	\$2,256.00 plus 7.60% of
2	not over \$60,000	excess over \$40,000
3	Over \$60,000 but	\$3,776.00 plus 7.90% of
4	not over \$80,000	excess over \$60,000
5	Over \$80,000	\$5,356.00 plus 8.25% of
6		excess over \$80,000.

7 In the case of any taxable year beginning after December
8 31, 2006:

9	If the taxable income is:	The tax shall be:
10	Not over \$4,800	1.40% of taxable income
11	Over \$4,800 but	\$67.00 plus 3.20% of
12	not over \$9,600	excess over \$4,800
13	Over \$9,600 but	\$221.00 plus 5.50% of
14	not over \$19,200	excess over \$9,600
15	Over \$19,200 but	\$749.00 plus 6.40% of
16	not over \$28,800	excess over \$19,200
17	Over \$28,800 but	\$1,363.00 plus 6.80% of
18	not over \$38,400	excess over \$28,800
19	Over \$38,400 but	\$2,016.00 plus 7.20% of
20	not over \$48,000	excess over \$38,400
21	Over \$48,000 but	\$2,707.00 plus 7.60% of
22	not over \$72,000	excess over \$48,000



S.B. NO. 2851

1 Over \$72,000 but \$4,531.00 plus 7.90% of
2 not over \$96,000 excess over \$72,000
3 Over \$96,000 \$6,427.00 plus 8.25% of
4 excess over \$96,000.

5 In the case of any taxable year beginning after December
6 31, 2008:

7	If the taxable income is:	The tax shall be:
8	Not over \$4,800	1.40% of taxable income
9	Over \$4,800 but	\$67.00 plus 3.20% of
10	not over \$9,600	excess over \$4,800
11	Over \$9,600 but	\$221.00 plus 5.50% of
12	not over \$19,200	excess over \$9,600
13	Over \$19,200 but	\$749.00 plus 6.40% of
14	not over \$28,800	excess over \$19,200
15	Over \$28,800 but	\$1,363.00 plus 6.80% of
16	not over \$38,400	excess over \$28,800
17	Over \$38,400 but	\$2,016.00 plus 7.20% of
18	not over \$48,000	excess over \$38,400
19	Over \$48,000 but	\$2,707.00 plus 7.60% of
20	not over \$72,000	excess over \$48,000
21	Over \$72,000 but	\$4,531.00 plus 7.90% of



1	not over \$96,000	excess over \$72,000
2	Over \$96,000 but	\$6,427.00 plus 8.25% of
3	not over \$300,000	excess over \$96,000
4	Over \$300,000 but	\$23,257.00 plus 9.00% of
5	not over \$350,000	excess over \$300,000
6	Over \$350,000 but	\$27,757.00 plus 10.00% of
7	not over \$400,000	excess over \$350,000
8	Over \$400,000	\$32,757.00 plus 11.00% of
9		excess over \$400,000."

10 2. By amending subsection (c) to read:

11 (c) There is hereby imposed on the taxable income of (1)
12 every unmarried individual (other than a surviving spouse,
13 surviving reciprocal beneficiary, or the head of a household)
14 and (2) on the taxable income of every married individual or
15 reciprocal beneficiary who does not make a single return jointly
16 with the individual's spouse or reciprocal beneficiary under
17 section 235-93 a tax determined in accordance with the following
18 table:

19 In the case of any taxable year beginning after December
20 31, 2001:

21	If the taxable income is:	The tax shall be:
22	Not over \$2,000	1.40% of taxable income



S.B. NO. 2851

1	Over \$2,000 but	\$28.00 plus 3.20% of
2	not over \$4,000	excess over \$2,000
3	Over \$4,000 but	\$92.00 plus 5.50% of
4	not over \$8,000	excess over \$4,000
5	Over \$8,000 but	\$312.00 plus 6.40% of
6	not over \$12,000	excess over \$8,000
7	Over \$12,000 but	\$568.00 plus 6.80% of
8	not over \$16,000	excess over \$12,000
9	Over \$16,000 but	\$840.00 plus 7.20% of
10	not over \$20,000	excess over \$16,000
11	Over \$20,000 but	\$1,128.00 plus 7.60% of
12	not over \$30,000	excess over \$20,000
13	Over \$30,000 but	\$1,888.00 plus 7.90% of
14	not over \$40,000	excess over \$30,000
15	Over \$40,000	\$2,678.00 plus 8.25% of
16		excess over \$40,000.
17	In the case of any taxable year beginning after December	
18	31, 2006:	
19	If the taxable income is:	The tax shall be:
20	Not over \$2,400	1.40% of taxable income
21	Over \$2,400 but	\$34.00 plus 3.20% of
22	not over \$4,800	excess over \$2,400



S.B. NO. 2891

1	Over \$4,800 but	\$110.00 plus 5.50% of
2	not over \$9,600	excess over \$4,800
3	Over \$9,600 but	\$374.00 plus 6.40% of
4	not over \$14,400	excess over \$9,600
5	Over \$14,400 but	\$682.00 plus 6.80% of
6	not over \$19,200	excess over \$14,400
7	Over \$19,200 but	\$1,008.00 plus 7.20% of
8	not over \$24,000	excess over \$19,200
9	Over \$24,000 but	\$1,354.00 plus 7.60% of
10	not over \$36,000	excess over \$24,000
11	Over \$36,000 but	\$2,266.00 plus 7.90% of
12	not over \$48,000	excess over \$36,000
13	Over \$48,000	\$3,214.00 plus 8.25% of
14		excess over \$48,000.
15	In the case of any taxable year beginning after December	
16	31, 2008:	
17	If the taxable income is:	The tax shall be:
18	Not over \$2,400	1.40% of taxable income
19	Over \$2,400 but	\$34.00 plus 3.20% of
20	not over \$4,800	excess over \$2,400
21	Over \$4,800 but	\$110.00 plus 5.50% of
22	not over \$9,600	excess over \$4,800



S.B. NO. 2851

1	Over \$9,600 but	\$374.00 plus 6.40% of
2	not over \$14,400	excess over \$9,600
3	Over \$14,400 but	\$682.00 plus 6.80% of
4	not over \$19,200	excess over \$14,400
5	Over \$19,200 but	\$1,008.00 plus 7.20% of
6	not over \$24,000	excess over \$19,200
7	Over \$24,000 but	\$1,354.00 plus 7.60% of
8	not over \$36,000	excess over \$24,000
9	Over \$36,000 but	\$2,266.00 plus 7.90% of
10	not over \$48,000	excess over \$36,000
11	Over \$48,000 but	\$3,214.00 plus 8.25% of
12	not over \$150,000	excess over \$48,000
13	Over \$150,000 but	\$11,629.00 plus 9.00% of
14	not over \$175,000	excess over \$150,000
15	Over \$175,000 but	\$13,879.00 plus 10.00% of
16	not over \$200,000	excess over \$175,000
17	Over \$200,000	\$16,379.00 plus 11.00% of
18		excess over \$200,000."

19 SECTION 19. Section 235-52, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "§235-52 Tax in case of joint return or return of
 22 surviving spouse[-] or surviving reciprocal beneficiary. In the



1 case of a joint return of a husband and wife or reciprocal
2 beneficiaries under section 235-93, the tax imposed, as near as
3 may be, by this chapter shall be twice the tax which would be
4 imposed if the taxable income were cut in half. For purposes of
5 this section and section 235-53, a return of a surviving spouse,
6 as defined in the Internal Revenue Code, or surviving reciprocal
7 beneficiary shall be treated as a joint return of a husband and
8 wife or reciprocal beneficiaries under section 235-93."

9 SECTION 20. Section 235-54, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) In computing the taxable income of any individual,
12 there shall be deducted, in lieu of the personal exemptions
13 allowed by the Internal Revenue Code, personal exemptions
14 computed as follows: Ascertain the number of exemptions which
15 the individual can lawfully claim under the Internal Revenue
16 Code, add an additional exemption for the taxpayer or the
17 taxpayer's spouse or reciprocal beneficiary who is sixty-five
18 years of age or older within the taxable year, and multiply that
19 number by \$1,144, for taxable years beginning after December 31,
20 1984. A nonresident shall prorate the personal exemptions on
21 account of income from sources outside the State as provided in
22 section 235-5. In the case of an individual with respect to



1 whom an exemption under this section is allowable to another
2 taxpayer for a taxable year beginning in the calendar year in
3 which the individual's taxable year begins, the personal
4 exemption amount applicable to such individual under this
5 subsection for such individual's taxable year shall be zero.

6 SECTION 21. Section 235-55.6, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (b) to read:

9 "(b) Definitions of qualifying individual and employment-
10 related expenses. For purposes of this section:

11 (1) Qualifying individual. The term "qualifying
12 individual" means:

13 (A) A dependent of the taxpayer who is under the age
14 of thirteen and with respect to whom the taxpayer
15 is entitled to a deduction under section 235-
16 54(a),

17 (B) A dependent of the taxpayer who is physically or
18 mentally incapable of caring for oneself, or

19 (C) The spouse or reciprocal beneficiary of the
20 taxpayer, if the spouse or reciprocal beneficiary
21 is physically or mentally incapable of caring for
22 oneself.



1 (2) Employment-related expenses.

2 (A) In general. The term "employment-related
3 expenses" means amounts paid for the following
4 expenses, but only if such expenses are incurred
5 to enable the taxpayer to be gainfully employed
6 for any period for which there are one or more
7 qualifying individuals with respect to the
8 taxpayer:

- 9 (i) Expenses for household services, and
- 10 (ii) Expenses for the care of a qualifying
11 individual.

12 Such term shall not include any amount paid for
13 services outside the taxpayer's household at a
14 camp where the qualifying individual stays
15 overnight.

16 (B) Exception. Employment-related expenses described
17 in subparagraph (A) which are incurred for
18 services outside the taxpayer's household shall
19 be taken into account only if incurred for the
20 care of:

- 21 (i) A qualifying individual described in
22 paragraph (1)(A), or



1 (ii) A qualifying individual (not described in
2 paragraph (1) (A)) who regularly spends at
3 least eight hours each day in the taxpayer's
4 household.

5 (C) Dependent care centers. Employment-related
6 expenses described in subparagraph (A) which are
7 incurred for services provided outside the
8 taxpayer's household by a dependent care center
9 (as defined in subparagraph (D)) shall be taken
10 into account only if:

11 (i) Such center complies with all applicable
12 laws, rules, and regulations of this State,
13 if the center is located within the
14 jurisdiction of this State; or

15 (ii) Such center complies with all applicable
16 laws, rules, and regulations of the
17 jurisdiction in which the center is located,
18 if the center is located outside the State;
19 and

20 (iii) The requirements of subparagraph (B) are
21 met.



1 (D) Dependent care center defined. For purposes of
2 this paragraph, the term "dependent care center"
3 means any facility which:

4 (i) Provides care for more than six individuals
5 (other than individuals who reside at the
6 facility), and

7 (ii) Receives a fee, payment, or grant for
8 providing services for any of the
9 individuals (regardless of whether such
10 facility is operated for profit)."

11 2. By amending subsections (d) and (e) to read:

12 "(d) Earned income limitation.

13 (1) In general. Except as otherwise provided in this
14 subsection, the amount of the employment-related
15 expenses incurred during any taxable year which may be
16 taken into account under subsection (a) shall not
17 exceed:

18 (A) In the case of an individual who is not married
19 or not in a reciprocal beneficiary relationship
20 at the close of such year, such individual's
21 earned income for such year, or



1 (B) In the case of an individual who is married or in
2 a reciprocal beneficiary relationship at the
3 close of such year, the lesser of such
4 individual's earned income or the earned income
5 of the individual's spouse or reciprocal
6 beneficiary for such year.

7 (2) Special rule for spouse or reciprocal beneficiary who
8 is a student or incapable of caring for oneself. In
9 the case of a spouse or reciprocal beneficiary who is
10 a student or a qualified individual described in
11 subsection (b) (1) (C), for purposes of paragraph (1),
12 [~~such~~] the spouse or reciprocal beneficiary shall be
13 deemed for each month during which [~~such~~] the spouse
14 or reciprocal beneficiary is a full-time student at an
15 educational institution, or is [~~such~~] a qualifying
16 individual, to be gainfully employed and to have
17 earned income of not less than:

18 (A) \$200 if subsection (c) (1) applies for the taxable
19 year, or

20 (B) \$400 if subsection (c) (2) applies for the taxable
21 year.



1 In the case of any husband and wife [7] or parties in a
2 reciprocal beneficiary relationship, this paragraph
3 shall apply with respect to only one spouse or
4 reciprocal beneficiary for any one month.

5 (e) Special rules. For purposes of this section:

6 (1) Maintaining household. An individual shall be treated
7 as maintaining a household for any period only if over
8 half the cost of maintaining the household for the
9 period is furnished by the individual (or, if the
10 individual is married or in a reciprocal beneficiary
11 relationship during the period, is furnished by the
12 individual and the individual's spouse [77] or
13 reciprocal beneficiary).

14 (2) Married couples [~~must~~] and reciprocal beneficiaries
15 shall file joint return. If the taxpayer is married
16 or in a reciprocal beneficiary relationship at the
17 close of the taxable year, the credit shall be allowed
18 under subsection (a) only if the taxpayer and the
19 taxpayer's spouse or reciprocal beneficiary file a
20 joint return for the taxable year.

21 (3) Marital status. An individual legally separated from
22 the individual's spouse under a decree of divorce or



S.B. NO. 2851

1 of separate maintenance shall not be considered as
2 married.

3 (4) Certain married individuals living apart. If:

4 (A) An individual who is married and who files a
5 separate return:

6 (i) Maintains as the individual's home a
7 household that constitutes for more than
8 one-half of the taxable year the principal
9 place of abode of a qualifying individual,
10 and

11 (ii) Furnishes over half of the cost of
12 maintaining the household during the taxable
13 year, and

14 (B) During the last six months of the taxable year
15 the individual's spouse is not a member of the
16 household,

17 the individual shall not be considered as married.

18 (5) Special dependency test in case of divorced parents,
19 etc. If:

20 (A) Paragraph (2) or (4) of section 152(e) of the
21 Internal Revenue Code of 1986, as amended,



S.B. NO. 2851

1 applies to any child with respect to any calendar
2 year, and

3 (B) The child is under age thirteen or is physically
4 or mentally incompetent of caring for the child's
5 self,

6 in the case of any taxable year beginning in the
7 calendar year, the child shall be treated as a
8 qualifying individual described in subsection
9 (b) (1) (A) or (B) (whichever is appropriate) with
10 respect to the custodial parent (within the meaning of
11 section 152(e) (1) of the Internal Revenue Code of
12 1986, as amended), and shall not be treated as a
13 qualifying individual with respect to the noncustodial
14 parent.

15 (6) Payments to related individuals. No credit shall be
16 allowed under subsection (a) for any amount paid by
17 the taxpayer to an individual:

18 (A) With respect to whom, for the taxable year, a
19 deduction under section 151(c) of the Internal
20 Revenue Code of 1986, as amended (relating to
21 deduction for personal exemptions for dependents)
22 is allowable either to the taxpayer or the



1 taxpayer's spouse [7] or reciprocal beneficiary;

2 or

3 (B) Who is a child of the taxpayer (within the
4 meaning of section 151(c)(3) of the Internal
5 Revenue Code of 1986, as amended) who has not
6 attained the age of nineteen at the close of the
7 taxable year.

8 For purposes of this paragraph, the term "taxable
9 year" means the taxable year of the taxpayer in which
10 the service is performed.

11 (7) Student. The term "student" means an individual who,
12 during each of five calendar months during the taxable
13 year, is a full-time student at an educational
14 organization.

15 (8) Educational organization. The term "educational
16 organization" means a school operated by the
17 department of education under chapter 302A, an
18 educational organization described in section
19 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986,
20 as amended, or a university, college, or community
21 college.



- 1 (9) Identifying information required with respect to
2 service provider. No credit shall be allowed under
3 subsection (a) for any amount paid to any person
4 unless:
- 5 (A) The name, address, taxpayer identification
6 number, and general excise tax license number of
7 the person are included on the return claiming
8 the credit,
- 9 (B) If the person is located outside the State, the
10 name, address, and taxpayer identification
11 number, if any, of the person and a statement
12 indicating that the service provider is located
13 outside the State and that the general excise tax
14 license and, if applicable, the taxpayer
15 identification numbers are not required, or
- 16 (C) If the person is an organization described in
17 section 501(c)(3) of the Internal Revenue Code
18 and exempt from tax under section 501(a) of the
19 Internal Revenue Code, the name and address of
20 the person are included on the return claiming
21 the credit.



1 In the case of a failure to provide the information
2 required under the preceding sentence, the preceding
3 sentence shall not apply if it is shown that the
4 taxpayer exercised due diligence in attempting to
5 provide the information so required."

6 SECTION 22. Section 235-55.7, Hawaii Revised Statutes, is
7 amended by amending subsection (e) to read as follows:

8 "(e) The tax credits shall be deductible from the
9 taxpayer's individual net income tax for the tax year in which
10 the credits are properly claimed; provided that a husband and
11 wife or reciprocal beneficiaries filing separate returns for a
12 taxable year for which a joint return could have been made by
13 them shall claim only the tax credits to which they would have
14 been entitled had a joint return been filed. In the event the
15 allowed tax credits exceed the amount of the income tax payments
16 due from the taxpayer, the excess of credits over payments due
17 shall be refunded to the taxpayer; provided that allowed tax
18 credits properly claimed by an individual who has no income tax
19 liability shall be paid to the individual; and provided further
20 that no refunds or payments on account of the tax credits
21 allowed by this section shall be made for amounts less than \$1."



S.B. NO. 2851

1 SECTION 23. Section 235-55.85, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Each resident individual taxpayer may claim a
4 refundable food/excise tax credit multiplied by the number of
5 qualified exemptions to which the taxpayer is entitled in
6 accordance with the table below; provided that a husband and
7 wife or reciprocal beneficiaries filing separate tax returns for
8 a taxable year for which a joint return could have been filed by
9 them shall claim only the tax credit to which they would have
10 been entitled had a joint return been filed.

Adjusted gross income:	Credit per exemption:
Under \$5,000	\$85
\$5,000 under \$10,000	75
\$10,000 under \$15,000	65
\$15,000 under \$20,000	55
\$20,000 under \$30,000	45
\$30,000 under \$40,000	35
\$40,000 under \$50,000	25
\$50,000 and over	0."

20 SECTION 24. Section 235-61, Hawaii Revised Statutes, is
21 amended as follows:

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



1 "(c) For each withholding period (whether weekly,
2 biweekly, monthly, or otherwise) the amount of tax to be
3 withheld under this section shall be at a rate which, for the
4 taxable year, will yield the tax imposed by section 235-51 upon
5 each employee's annual wage, as estimated from the employee's
6 current wage in any withholding period, but for the purposes of
7 this subsection of the rates provided by section 235-51 the
8 maximum to be taken into consideration shall be eight per cent.
9 The tax for the taxable year shall be calculated upon the
10 following assumptions:

- 11 (1) That the employee's annual wage, as estimated from the
12 employee's current wage in the withholding period,
13 will be the employee's sole income for the taxable
14 year;
- 15 (2) That there will be no deductions therefrom in
16 determining adjusted gross income;
- 17 (3) That in determining taxable income there shall be a
18 standard deduction allowance which shall be an amount
19 equal to one exemption (or more than one exemption if
20 so prescribed by the director) unless (A) the taxpayer
21 is married or in a reciprocal beneficiary relationship
22 and the taxpayer's spouse or reciprocal beneficiary is



1 an employee receiving wages subject to withholding, or
2 (B) the taxpayer has withholding exemption
3 certificates in effect with respect to more than one
4 employer. For the purposes of this section, any
5 standard deduction allowance under this paragraph
6 shall be treated as if it were denominated a
7 withholding exemption;

8 (4) That in determining taxable income there also will be
9 deducted the amount of exemptions and withholding
10 allowances granted to the employee in the computation
11 of taxable income, as shown by a certificate to be
12 filed with the employer as provided by subsection (f);
13 and

14 (5) If it appears from the certificate filed pursuant to
15 subsection (f) that the employee, under section 235-
16 93, is entitled to make a joint return, that the
17 employee and the employee's spouse or reciprocal
18 beneficiary will so elect."

19 2. By amending subsections (f) and (g) to read:

20 "(f) On or before the date of the commencement of
21 employment with an employer, the employee shall furnish the
22 employer with a signed certificate relating to the number of



1 exemptions which the employee claims, which shall in no event
2 exceed the number to which the employee is entitled on the basis
3 of the existing facts, and also showing whether the employee is
4 married or in a reciprocal beneficiary relationship and is,
5 under section 235-93, entitled to make a joint return. The
6 certificate shall be in such form and contain such information
7 as may be prescribed by the department.

8 If, on any day during the calendar year, there is a change
9 in the employee's marital or reciprocal beneficiary status and
10 the employee no longer is entitled to make a joint return, or
11 the number of exemptions to which the employee is entitled is
12 less than the number of exemptions claimed by the employee on
13 the certificate then in effect with respect to the employee, the
14 employee shall within ten days thereafter furnish the employer
15 with a new certificate showing the employee's present marital or
16 reciprocal beneficiary status, or relating to the number of
17 exemptions which the employee then claims, which shall in no
18 event exceed the number to which the employee is entitled on the
19 basis of the existing facts. If, on any day during the calendar
20 year, there is a change in the employee's marital or reciprocal
21 beneficiary status and though previously not entitled to make a
22 joint return the employee now is so entitled, or the number of



1 exemptions to which the employee is entitled is greater than the
2 number of exemptions claimed, the employee may furnish the
3 employer with a new certificate showing the employee's present
4 marital or reciprocal beneficiary status, or relating to the
5 number of exemptions which the employee then claims, which shall
6 in no event exceed the number to which the employee is entitled
7 on the basis of the existing facts.

8 Such certificate shall take effect at the times set forth
9 in the Internal Revenue Code.

10 (g) In determining the deduction allowed by subsection
11 (c)(4) an employee shall be entitled to withholding allowances
12 or additional reductions in withholding under this subsection.
13 In determining the number of additional withholding allowances
14 or the amount of additional reductions in withholding under this
15 subsection, the employee may take into account (to the extent
16 and in the manner provided by rules) estimated itemized
17 deductions and tax credits allowable under this chapter; and
18 such additional deductions and other items as may be specified
19 by the director in rules. For the purposes of this subsection a
20 fractional number shall not be taken into account unless it
21 amounts to one-half or more, in which case it shall be increased
22 to the next whole number.



1 (1) As used in this subsection, unless the context
2 otherwise requires:

3 (A) "Estimated itemized deductions" means the
4 aggregate amount which the employee reasonably
5 expects will be allowed as deductions under
6 sections 235-2.3, 235-2.4, 235-2.45, and 235-7,
7 other than the deductions referred to in Internal
8 Revenue Code section 151 and those deductions
9 required to be taken into account in determining
10 adjusted gross income under Internal Revenue Code
11 section 62(a) (with the exception of paragraph 10
12 thereof) for the estimation year. In no case
13 shall the aggregate amount be greater than the
14 sum of:

15 (i) The amount of the deductions reflected in
16 the employee's net income tax return for the
17 taxable year preceding the estimation year
18 of (if a return has not been filed for the
19 preceding taxable year at the time the
20 withholding exemption certificate is
21 furnished the employer) the second taxable
22 year preceding the estimation year; or



S.B. NO. 2851

- 1 (ii) The amount of estimated itemized deductions
2 and tax credits allowable under this chapter
3 and any additional deductions to which
4 entitled; and
- 5 (iii) The amount of the employee's determinable
6 additional deductions for the estimation
7 year.
- 8 (B) "Estimated wages" means the aggregate amount
9 which the employee reasonably expects will
10 constitute wages for the estimation year[+].
- 11 (C) "Determinable additional deductions" means those
12 estimated itemized deductions which:
- 13 (i) Are in excess of the deductions referred to
14 in subparagraph (A) reflected on the
15 employee's net income tax return for the
16 taxable year preceding the estimation year;
17 and
- 18 (ii) Are demonstrably attributable to an
19 identifiable event during the estimation
20 year or the preceding taxable year which can
21 reasonably be expected to cause an increase



1 in the amount of such deductions on the net
2 income tax return for the estimation year.

3 (D) "Estimation year", in the case of an employee who
4 files the employee's return on the basis of a
5 calendar year, means the calendar year in which
6 the wages are paid; provided that in the case of
7 an employee who files the employee's return on a
8 basis other than the calendar year, the
9 employee's estimation year, and the amounts
10 deducted and withheld to be governed by the
11 estimation year, shall be determined under rules
12 prescribed by the director of taxation.

13 (2) Under this subsection, the following special rules
14 shall apply:

15 (A) Married individuals[-] or reciprocal
16 beneficiaries. The number of withholding
17 allowances to which a husband and wife or
18 reciprocal beneficiaries are entitled under this
19 subsection shall be determined on the basis of
20 their combined wages and deductions. This
21 subparagraph shall not apply to a husband and
22 wife or reciprocal beneficiaries who filed



1 separate returns for the taxable year preceding
2 the estimation year and who reasonably expect to
3 file separate returns for the estimation year;

4 (B) Limitation. In the case of employees whose
5 estimated wages are at levels at which the
6 amounts deducted and withheld under this chapter
7 generally are insufficient (taking into account a
8 reasonable allowance for deductions and
9 exceptions) to offset the liability for tax under
10 this chapter with respect to the wages from which
11 the amounts are deducted and withheld, the
12 director may by rule reduce the withholding
13 allowances to which those employees would, but
14 for this subparagraph, be entitled under this
15 subsection;

16 (C) Treatment of allowances. For purposes of this
17 chapter, any withholding allowance under this
18 subsection shall be treated as if it were
19 denominated a withholding exemption.

20 (3) The director may prescribe tables by rule under
21 chapter 91 pursuant to which employees shall determine



1 the number of withholding allowances to which they are
2 entitled under this subsection."

3 SECTION 25. Section 235-93, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) A husband and wife, having that status for purposes
6 of the Internal Revenue Code and entitled to make a joint
7 federal return for the taxable year, and reciprocal
8 beneficiaries who entered into the reciprocal beneficiary
9 relationship during or prior to the taxable year may make a
10 single return jointly of taxes under this chapter for the
11 taxable year. In that case the tax shall be computed on their
12 aggregate income as provided in section 235-52, and the
13 liability with respect to the tax shall be joint and several.
14 For purposes of this chapter "aggregate income" means the income
15 of both spouses or reciprocal beneficiaries without regard to
16 source in the State.

17 (b) If an individual has filed a separate return for a
18 taxable year for which a joint return could have been made by
19 the taxpayer and the taxpayer's spouse~~[7]~~ or reciprocal
20 beneficiary, an election thereafter to make a joint return for
21 the taxable year shall be made only upon compliance with rules
22 of the department of taxation, which may limit the election and



1 prescribe the terms and provisions applicable in such cases as
2 nearly as may be in conformity with the Internal Revenue Code."

3 SECTION 26. Section 235-102.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§235-102.5 Income check-off authorized. (a) Any
6 individual whose state income tax liability for any taxable year
7 is \$3 or more may designate \$3 of the liability to be paid over
8 to the Hawaii election campaign fund, any other law to the
9 contrary notwithstanding, when submitting a state income tax
10 return to the department. In the case of a joint return of a
11 husband and wife or reciprocal beneficiaries having a state
12 income tax liability of \$6 or more, each spouse or reciprocal
13 beneficiary may designate that \$3 be paid to the fund. The
14 director of taxation shall revise the individual state income
15 tax form to allow the designation of contributions to the fund
16 on the face of the tax return and immediately above the
17 signature lines. An explanation shall be included which clearly
18 states that the check-off does not constitute an additional tax
19 liability. If no designation was made on the original tax
20 return when filed, a designation may be made by the individual
21 on an amended return filed within twenty months and ten days
22 after the due date for the original return for such taxable



1 year. A designation once made whether by an original or amended
2 return may not be revoked.

3 (b) Notwithstanding any law to the contrary, any
4 individual whose state income tax refund for any taxable year is
5 \$2 or more may designate \$2 of the refund to be deposited into
6 the school-level minor repairs and maintenance special fund
7 established by section 302A-1504.5, when submitting a state
8 income tax return to the department. In the case of a joint
9 return of a husband and wife or reciprocal beneficiaries having
10 a state income tax refund of \$4 or more, each spouse or
11 reciprocal beneficiary may designate that \$2 be deposited into
12 the special fund. The director of taxation shall revise the
13 individual state income tax return form to allow the designation
14 of contributions to the special fund on the face of the tax
15 return and immediately above the signature lines. If no
16 designation was made on the original tax return when filed, a
17 designation may be made by the individual on an amended return
18 filed within twenty months and ten days after the due date for
19 the original return for such taxable year. A designation once
20 made, whether by an original or amended return, may not be
21 revoked.



1 (c) Notwithstanding any law to the contrary, any
2 individual whose state income tax refund for any taxable year is
3 \$2 or more may designate \$2 of the refund to be paid over to the
4 libraries special fund established by section 312-3.6, when
5 submitting a state income tax return to the department. In the
6 case of a joint return of a husband and wife or reciprocal
7 beneficiaries having a state income tax refund of \$4 or more,
8 each spouse or reciprocal beneficiary may designate that \$2 be
9 deposited into the special fund. The director of taxation shall
10 revise the individual state income tax form to allow the
11 designation of contributions to the fund on the face of the tax
12 return and immediately above the signature lines. If no
13 designation was made on the original tax return when filed, a
14 designation may be made by the individual on an amended return
15 filed within twenty months and ten days after the due date for
16 the original return for such taxable year. A designation once
17 made, whether by an original or amended return, may not be
18 revoked.

19 (d) Notwithstanding any law to the contrary, any
20 individual whose state income tax refund for any taxable year is
21 \$5 or more may designate \$5 of the refund to be paid over as
22 follows:



- 1 (1) One-third to the Hawaii children's trust fund under
 - 2 section 350B-2; and
 - 3 (2) Two-thirds to be divided equally among:
 - 4 (A) The domestic violence and sexual assault special
 - 5 fund under the department of health in section
 - 6 321-1.3;
 - 7 (B) The spouse and child abuse special account under
 - 8 the department of human services in section
 - 9 346-7.5; and
 - 10 (C) The spouse and child abuse special account under
 - 11 the judiciary in section 601-3.6.
- 12 When designated by a taxpayer submitting a state income tax
- 13 return to the department, the department of budget and finance
- 14 shall allocate the moneys among the several funds as provided in
- 15 this subsection. In the case of a joint return of a husband and
- 16 wife or reciprocal beneficiaries having a state income tax
- 17 refund of \$10 or more, each spouse or reciprocal beneficiary may
- 18 designate that \$5 be paid over as provided in this subsection.
- 19 The director of taxation shall revise the individual state
- 20 income tax form to allow the designation of contributions
- 21 pursuant to this subsection on the face of the tax return and
- 22 immediately above the signature lines. If no designation was



1 made on the original tax return when filed, a designation may be
2 made by the individual on an amended return filed within twenty
3 months and ten days after the due date for the original return
4 for such taxable year. A designation once made, whether by an
5 original or amended return, may not be revoked."

6 SECTION 27. Section 235-110.6, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The tax credit claimed under this section by the
9 principal operator shall be deductible from the principal
10 operator's individual or corporate income tax liability, if any,
11 for the tax year in which the credit is properly claimed;
12 provided that a husband and wife or reciprocal beneficiaries
13 filing separate returns for a taxable year for which a joint
14 return could have been made by them shall claim only the tax
15 credit to which they would have been entitled had a joint return
16 been filed. If the tax credit claimed by the principal operator
17 under this section exceeds the amount of the income tax payments
18 due from the principal operator, the excess of credit over
19 payments due shall be refunded to the principal operator;
20 provided that the tax credit properly claimed by a principal
21 operator who has no income tax liability shall be paid to the
22 principal operator; and provided further no refunds or payments



1 on account of the tax credit allowed by this section shall be
2 made for amounts less than \$1."

3 SECTION 28. Section 576D-1, Hawaii Revised Statutes, is
4 amended by:

5 1. Adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Reciprocal beneficiary support" means a legally
8 enforceable obligation assessed against an individual for the
9 support of a reciprocal beneficiary or a former reciprocal
10 beneficiary who is living with a child or children for whom the
11 individual also owes support."

12 2. Amending the definitions of "child support" and "order
13 of support" to read as follows:

14 "Child support" means payment for the necessary support
15 and maintenance of a child as required by law that includes but
16 is not limited to spousal support or reciprocal beneficiary
17 support when being enforced in conjunction with child support or
18 medical support when a court or administrative order requires
19 the debtor parent to pay an amount in lieu of providing medical
20 insurance coverage or to reimburse for maternity and delivery
21 expenses incurred when the debtor parent's child was born.



1 "Order of support" means a judgment, decree, or order,
2 whether temporary, final, or subject to modification, issued by
3 a court or an administrative agency of competent jurisdiction,
4 for the support and maintenance of a child, including a child
5 who has attained the age of majority under the law of the
6 issuing state, or a child and the parent with whom the child is
7 living, which provides for monetary support, health care,
8 arrearages, or reimbursement, and which may include related
9 costs and fees, interest and penalties, income withholding,
10 attorney's fees, and other relief. An order of support may
11 include spousal or reciprocal beneficiary support when ordered
12 to be paid in conjunction with the support and maintenance of a
13 child; provided that the spousal or reciprocal beneficiary
14 support provision in an order of support shall only be enforced
15 by the agency when the support and maintenance of a child is
16 being enforced. An order of support may also include medical
17 support when the debtor parent is ordered to pay an amount in
18 lieu of providing medical insurance coverage or to reimburse for
19 maternity and delivery expenses incurred when the debtor
20 parent's child was born."

21 SECTION 29. Section 576D-10.5, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Whenever any obligor through judicial or
2 administrative process in this State or any other state has been
3 ordered to pay an allowance for the support, maintenance, or
4 education of a child, or for the support and maintenance of a
5 spouse [~~ex~~], former spouse, reciprocal beneficiary, or former
6 reciprocal beneficiary in conjunction with child support, and
7 the obligor becomes delinquent in those payments, a lien shall
8 arise on the obligor's real and personal property and the
9 obligor's real and personal property shall be subject to
10 foreclosure, distraint, seizure, and sale, or notice to withhold
11 and deliver, which shall be executed in accordance with this
12 section or applicable state law. No judicial notice or hearing
13 shall be necessary prior to creation of such a lien."

14 SECTION 30. Section 576E-1, Hawaii Revised Statutes, is
15 amended by:

16 1. Adding a new definition to be appropriately inserted
17 and to read as follows:

18 "Reciprocal beneficiary support" means a legally
19 enforceable obligation assessed against an individual for the
20 support of a reciprocal beneficiary or a former reciprocal
21 beneficiary who is living with a child or children for whom the
22 individual also owes support."



1 2. By amending the definitions of "child support" and
2 "order of support" to read as follows:

3 "Child support" means payment for the necessary support
4 and maintenance of a child as required by law that includes but
5 is not limited to spousal or reciprocal beneficiary support when
6 being enforced in conjunction with child support or medical
7 support when a court or administrative order requires the debtor
8 parent to pay an amount in lieu of providing medical insurance
9 coverage or to reimburse for maternity and delivery expenses
10 incurred when the debtor parent's child was born.

11 "Order of support" means a judgment, decree, or order,
12 whether temporary, final, or subject to modification, issued by
13 a court or an administrative agency of competent jurisdiction,
14 for the support and maintenance of a child, including a child
15 who has attained the age of majority under the law of the
16 issuing state, or a child and the parent with whom the child is
17 living, which provides for monetary support, health care,
18 arrearages, or reimbursement, and which may include related
19 costs and fees, interest and penalties, income withholding,
20 attorney's fees, and other relief. An order of support may
21 include spousal or reciprocal beneficiary support when ordered
22 to be paid in conjunction with the support and maintenance of a



1 child; provided that the spousal or reciprocal beneficiary
2 support provision in an order of support shall only be enforced
3 by the agency when the support and maintenance of a child is
4 being enforced. An order of support may also include medical
5 support when the debtor parent is ordered to pay an amount in
6 lieu of providing medical insurance coverage or to reimburse for
7 maternity and delivery expenses incurred when the debtor
8 parent's child was born."

9 SECTION 31. Section 576E-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§576E-2 Attorney general; powers.** Notwithstanding any
12 other law to the contrary, the attorney general, through the
13 agency and the office, shall have concurrent jurisdiction with
14 the court in all proceedings in which a support obligation is
15 established, modified, or enforced, including but not limited to
16 proceedings under chapters 571, 580, 584, and 576B. The
17 attorney general, through the agency and the office, may
18 establish, modify, suspend, terminate, and enforce child support
19 obligations and collect or enforce spousal or reciprocal
20 beneficiary support using the administrative process provided in
21 this chapter on all cases for which the department has a
22 responsibility under Title IV-D of the Social Security Act,



1 including but not limited to welfare and nonwelfare cases in
2 which the responsible parent is subject to the department's
3 jurisdiction, regardless of the residence of the children for
4 whom support is sought. These powers shall include but not be
5 limited to the power to:

- 6 (1) Conduct investigations into the ability of parties to
7 pay support and into nonpayment of support;
- 8 (2) Administer oaths, issue subpoenas, and require
9 production of books, accounts, documents, and
10 evidence;
- 11 (3) Establish, modify, suspend, terminate, or enforce a
12 child support order and to collect or enforce a
13 spousal or reciprocal beneficiary support order in
14 conjunction with a child support order;
- 15 (4) Determine that a party has not complied with a court
16 or administrative order of support and make
17 recommendations to the court or other agency with
18 respect to contempt or other appropriate proceedings;
- 19 (5) Establish arrearage;
- 20 (6) Establish an order for child support for periods which
21 public assistance was provided to the child or
22 children by the department of human services;



- 1 (7) Order and enforce assignment of future income under
2 section 576E-16, chapter 571, and section 576D-14;
- 3 (8) Exercise the powers and authority described in this
4 section, notwithstanding the existence of a prior
5 court or administrative order of support issued by
6 another state or foreign jurisdiction, except as
7 modified or limited by this chapter;
- 8 (9) Determine that an obligor owes past-due support with
9 respect to a child receiving assistance under a state
10 program funded under Title IV-A of the Social Security
11 Act, including Aid to Families with Dependent Children
12 and Temporary Assistance to Needy Families and
13 petition the court to issue an order that requires the
14 obligor to pay such support in accordance with a plan
15 approved by the court or, if the obligor is subject to
16 such a plan and is not incapacitated, participate in
17 work activities, as defined in 42 U.S.C. §607(d), as
18 the court deems appropriate;
- 19 (10) Order genetic testing pursuant to chapter 584 for the
20 purpose of establishing paternity, with payment of
21 costs to be made by the agency, subject to recoupment
22 by the State from the father or the mother, if



1 appropriate, if paternity is established, and to also
2 order additional testing in any case if an original
3 test result is contested, upon request and advance
4 payment by the contestant;

5 (11) Exercise the powers and authority described in this
6 section, notwithstanding the existence of a prior
7 court or administrative order of support issued by
8 another state or foreign jurisdiction, except as
9 modified or limited by this chapter and chapter 576B;
10 and

11 (12) Delegate the powers and authority described in this
12 section to hearings officers and employees of the
13 agency."

14 SECTION 32. Section 576E-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§576E-5 Commencement of administrative proceedings;**
17 **notice.** The agency shall serve a notice of administrative
18 proceedings and notice of financial responsibility upon the
19 parties prior to the issuance of an order under this chapter.
20 Where applicable, notice shall contain the following:

21 (1) A copy or statement of the order proposed to be
22 entered;



S.B. NO. 2851

- 1 (2) A statement that the parties are entitled to an
2 administrative hearing before an impartial hearings
3 officer to contest the entry of the order together
4 with an explanation of the procedure for requesting a
5 hearing;
- 6 (3) A statement of rights at the hearing together with an
7 explanation of defenses or objections which may be
8 considered by the hearings officer;
- 9 (4) A statement of the legal authority under which the
10 hearing is to be held;
- 11 (5) A statement that the property of the parties may be
12 seized or that the income of the parties may be
13 withheld for payment of support;
- 14 (6) A statement that information relating to the parties'
15 nonpayment of support may be made available to credit-
16 reporting agencies;
- 17 (7) A statement that child and spousal or reciprocal
18 beneficiary support shall be payable by an order for
19 immediate income withholding which shall be entered
20 concurrently with the administrative order pursuant to
21 section 576E-16;



1 (8) A statement that parties have the right to request
2 judicial review of a final order of a hearings officer
3 pursuant to section 576E-13;

4 (9) A statement that an administrative determination of a
5 support obligation creates a judgment by operation of
6 law upon filing of the order at the family court and
7 as such is entitled to full faith and credit in any
8 other state or jurisdiction."

9 SECTION 33. Section 576E-10, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) In exercising the powers conferred upon the attorney
12 general in section 576E-2, the hearings officers shall have the
13 authority to conduct hearings and enter the following orders:

14 (1) Child support orders which have the effect of
15 modifying, suspending, terminating, or enforcing the
16 child support provisions of orders of the family
17 courts;

18 (2) Child support orders establishing, modifying,
19 suspending, terminating, or enforcing child support
20 obligations;



- 1 (3) Orders enforcing the collection of spousal or
2 reciprocal beneficiary support when child support is
3 being established, modified, or enforced;
- 4 (4) Income withholding orders pursuant to section 576E-16;
- 5 (5) Automatic income assignment orders pursuant to
6 sections 571-52.2 and 576D-14;
- 7 (6) Interstate income withholding orders pursuant to
8 chapter 576B;
- 9 (7) State income tax refund setoff orders pursuant to
10 section 231-54;
- 11 (8) Orders determining whether Aid to Families with
12 Dependent Children pass through payments were properly
13 distributed;
- 14 (9) Orders determining whether a party should be required
15 to post bond in order to secure payment of past due
16 support pursuant to section 576D-6;
- 17 (10) Medical insurance coverage orders;
- 18 (11) Orders suspending or denying the granting, the
19 renewal, the reinstatement, or the restoration of
20 licenses or applications of an obligor or individual
21 for noncompliance with an order of support or failure
22 to comply with a subpoena or warrant relating to a



1 paternity or child support proceeding, and
2 authorizations allowing the reinstatement of suspended
3 licenses or consideration of license applications
4 pursuant to section 576D-13;

5 (12) Orders concerning whether a responsible parent's child
6 support obligation should be reported to consumer
7 credit reporting agencies pursuant to chapter 576D;
8 and

9 (13) Orders in other child support areas as authorized by
10 the attorney general."

11 SECTION 34. Section 576E-16, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Whenever an administrative order is entered
14 establishing, modifying, or enforcing support, or establishing
15 an arrearage that has accrued under a previous judicial or
16 administrative order of support, there shall concurrently be
17 issued an order that shall operate as an assignment to the
18 agency for the benefit of the child or in the case of spousal or
19 reciprocal beneficiary support, for the benefit of a spouse
20 [~~or~~], former spouse, reciprocal beneficiary, or former
21 reciprocal beneficiary of such amounts at such times as may be
22 specified in the order, from the responsible parent's income due



1 or to become due in the future from the responsible parent's
2 employer, or successor employers, except when alternative
3 arrangements are ordered pursuant to section 576D-10. The
4 income withholding order shall be in the standard format
5 prescribed by Title IV-D of the Social Security Act, as amended
6 by the child support enforcement agency. A copy of the income
7 withholding order shall be filed in the office of the clerk of
8 the circuit court in the circuit where the order was issued
9 along with the copy of the support order as provided in section
10 576E-12."

11 SECTION 35. Section 580-47, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Upon granting a divorce, or thereafter if, in
14 addition to the powers granted in subsections (c) and (d),
15 jurisdiction of those matters is reserved under the decree by
16 agreement of both parties or by order of court after finding
17 that good cause exists, the court may make any further orders as
18 shall appear just and equitable (1) compelling the parties or
19 either of them to provide for the support, maintenance, and
20 education of the children of the parties; (2) compelling either
21 party to provide for the support and maintenance of the other
22 party; (3) finally dividing and distributing the estate of the



1 parties, real, personal, or mixed, whether community, joint, or
2 separate; and (4) allocating, as between the parties, the
3 responsibility for the payment of the debts of the parties
4 whether community, joint, or separate, and the attorney's fees,
5 costs, and expenses incurred by each party by reason of the
6 divorce. In making these further orders, the court shall take
7 into consideration: the respective merits of the parties, the
8 relative abilities of the parties, the condition in which each
9 party will be left by the divorce, the burdens imposed upon
10 either party for the benefit of the children of the parties, and
11 all other circumstances of the case. In establishing the
12 amounts of child support, the court shall use the guidelines
13 established under section 576D-7. Provision may be made for the
14 support, maintenance, and education of an adult or minor child
15 and for the support, maintenance, and education of an
16 incompetent adult child whether or not the petition is made
17 before or after the child has attained the age of majority. In
18 those cases where child support payments are to continue due to
19 the adult child's pursuance of education, the agency, three
20 months prior to the adult child's nineteenth birthday, shall
21 send notice by regular mail to the adult child and the custodial
22 parent that prospective child support will be suspended unless



1 proof is provided by the custodial parent or adult child to the
2 child support enforcement agency, prior to the child's
3 nineteenth birthday, that the child is presently enrolled as a
4 full-time student in school or has been accepted into and plans
5 to attend as a full-time student for the next semester a post-
6 high school university, college, or vocational school. If the
7 custodial parent or adult child fails to do so, prospective
8 child support payments may be automatically suspended by the
9 child support enforcement agency, hearings officer, or court
10 upon the child reaching the age of nineteen years. In addition,
11 if applicable, the agency, hearings officer, or court may issue
12 an order terminating existing assignments against the
13 responsible parent's income and income assignment orders.

14 In addition to any other relevant factors considered, the
15 court, in ordering spousal or reciprocal beneficiary support and
16 maintenance, shall consider the following factors:

- 17 (1) Financial resources of the parties;
- 18 (2) Ability of the party seeking support and maintenance
19 to meet his or her needs independently;
- 20 (3) Duration of the marriage[+] or reciprocal beneficiary
21 relationship;



- 1 (4) Standard of living established during the marriage[+]
- 2 or reciprocal beneficiary relationship;
- 3 (5) Age of the parties;
- 4 (6) Physical and emotional condition of the parties;
- 5 (7) Usual occupation of the parties during the marriage[+]
- 6 or reciprocal beneficiary relationship;
- 7 (8) Vocational skills and employability of the party
- 8 seeking support and maintenance;
- 9 (9) Needs of the parties;
- 10 (10) Custodial and child support responsibilities;
- 11 (11) Ability of the party from whom support and maintenance
- 12 is sought to meet his or her own needs while meeting
- 13 the needs of the party seeking support and
- 14 maintenance;
- 15 (12) Other factors which measure the financial condition in
- 16 which the parties will be left as the result of the
- 17 action under which the determination of maintenance is
- 18 made; and
- 19 (13) Probable duration of the need of the party seeking
- 20 support and maintenance.

21 The court may order support and maintenance to a party for
22 an indefinite period or until further order of the court;



1 provided that in the event the court determines that support and
2 maintenance shall be ordered for a specific duration wholly or
3 partly based on competent evidence as to the amount of time
4 which will be required for the party seeking support and
5 maintenance to secure adequate training, education, skills, or
6 other qualifications necessary to qualify for appropriate
7 employment, whether intended to qualify the party for a new
8 occupation, update or expand existing qualification, or
9 otherwise enable or enhance the employability of the party, the
10 court shall order support and maintenance for a period
11 sufficient to allow completion of the training, education,
12 skills, or other activity, and shall allow, in addition,
13 sufficient time for the party to secure appropriate employment."

14 SECTION 36. Section 580-51, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§580-51 Modification of alimony on [~~remarriage~~] entry
17 into new marriage or reciprocal beneficiary relationship. (a)
18 Upon [~~the remarriage~~] the entry into a new marriage or
19 reciprocal beneficiary relationship of a party in whose favor a
20 final decree or order for support and maintenance has been made,
21 all rights to receive and all duties to make payments for
22 support and maintenance shall automatically terminate for all



1 payments due after the date of the [~~remarriage,~~] the new
2 marriage or reciprocal beneficiary relationship unless the final
3 decree or order, or an agreement of the parties approved by the
4 final decree or order, provides specifically for the payments to
5 continue after such [~~remarriage,~~] new marriage or reciprocal
6 beneficiary relationship.

7 (b) The [~~remarried~~] party that enters into the new
8 marriage or reciprocal beneficiary relationship shall file a
9 notice of the [~~remarriage~~] new marriage or reciprocal
10 beneficiary relationship with the court which made the order for
11 support and maintenance and serve within thirty days of such
12 marriage[~~,~~] or reciprocal beneficiary relationship, by personal
13 service or registered or certified mail, a copy of the notice on
14 the former paying party. In any proceeding relating to the
15 payment of support and maintenance to a [~~remarried~~] party[~~,~~] who
16 has entered into a new marriage or reciprocal beneficiary
17 relationship the failure of that party to file a notice of
18 [~~remarriage~~] the new marriage or reciprocal beneficiary
19 relationship shall be considered by the court in awarding
20 attorney's fees and costs for the proceeding and in determining
21 reimbursement to the former paying party."



1 SECTION 37. Section 601-3.6, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The account shall consist of fees remitted pursuant
4 to sections 338-14.5 and 572-5, income tax remittances allocated
5 under section 235-102.5, fines collected pursuant to sections
6 ~~[[586-4(e)],]~~ -11, 580-10, [and], 586-4(e), and 586-11,
7 interest and investment earnings, grants, donations, and
8 contributions from private or public sources. All realizations
9 of the account shall be subject to the conditions specified in
10 subsection (b)."

11 SECTION 38. Section 572C-7, Hawaii Revised Statutes, is
12 repealed.

13 ~~["[§572C-7] Termination of reciprocal beneficiary~~
14 ~~relationship; filing fees and records; termination upon~~
15 ~~marriage. (a) Either party to a reciprocal beneficiary~~
16 ~~relationship may terminate the relationship by filing a signed~~
17 ~~notarized declaration of termination of reciprocal beneficiary~~
18 ~~relationship by either of the reciprocal beneficiaries with the~~
19 ~~director. For the filing of the declaration, the director shall~~
20 ~~collect a fee of \$8, which shall be remitted to the director of~~
21 ~~finance for deposit into the general fund.~~



1 ~~(b) Upon the payment of the fee, the director shall file~~
2 ~~the declaration and issue a certificate of termination of~~
3 ~~reciprocal beneficiary relationship to each party of the former~~
4 ~~relationship. The director shall maintain a record of each~~
5 ~~declaration and certificate of termination of reciprocal~~
6 ~~beneficiary relationship filed with or issued by the director.~~

7 ~~(c) Any marriage license subsequently issued by the~~
8 ~~department to any individual registered as a reciprocal~~
9 ~~beneficiary shall automatically terminate the individual's~~
10 ~~existing reciprocal beneficiary relationship.~~

11 ~~(d) If either party to a reciprocal beneficiary~~
12 ~~relationship enters into a legal marriage, the parties shall no~~
13 ~~longer have a reciprocal beneficiary relationship and shall no~~
14 ~~longer be entitled to the rights and benefits of reciprocal~~
15 ~~beneficiaries."]~~

16 SECTION 39. If any provision of this Act, or the
17 application thereof to any person or circumstance is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act, which can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



S.B. NO. 2851

1 SECTION 40. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 41. This Act shall take effect upon its approval,
4 provided that:

5 (1) The amendments made to section 235-7, Hawaii Revised
6 Statutes, by section 16 of this Act shall not be
7 repealed when section 235-7, Hawaii Revised Statutes,
8 is reenacted on January 1, 2013, pursuant to section 3
9 of Act 166, Session Laws of Hawaii 2007; and

10 (2) Sections 12 through 27 of this Act shall apply to
11 taxable years beginning after December 31, 2009.

12

INTRODUCED BY: Will Eyo

Ronny Kim
Aimee Inez
Norman Sakomfi



Report Title:

Reciprocal Beneficiaries

Description:

Extends benefits under the Hawaii Employer-Union Benefit Trust Fund to reciprocal beneficiaries, allows reciprocal beneficiaries to jointly file state income tax returns, and provides for termination of reciprocal beneficiary relationships through judicial system.

