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## A BILL FOR AN ACT

RELATING TO RECIPROCAL BENEFICIARIES.

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

1           SECTION 1. Chapter 572C, Hawaii Revised Statutes, is  
2 amended by adding four new sections to be appropriately  
3 designated and to read as follows:

4           "§572C-           Rights upon death of reciprocal beneficiary.

5           The surviving party to a reciprocal beneficiary relationship,  
6           following the death of the other party, shall have the same  
7           rights, protections, and benefits, and shall be subject to the  
8           same responsibilities, obligations, and duties under law as a  
9           married individual upon the death of the individual's husband or  
10           wife.

11           §572C-           Retirement; beneficiary designation. A party  
12           to a reciprocal beneficiary relationship shall be able to name  
13           his or her reciprocal beneficiary as the beneficiary of any  
14           pension, profit-sharing, retirement, or other employment-related  
15           benefit plan qualifying under Section 401(a) of the Internal  
16           Revenue Code and the Employee Retirement Income Security Act of  
17           1974, as amended, to which the party is a participant or member.



1           §572C- Adoption of federal law. To the extent that  
2 provisions of Hawaii law adopt, refer to, or rely upon,  
3 provisions of federal law that would cause reciprocal  
4 beneficiaries to be treated differently than spouses, reciprocal  
5 beneficiaries shall be treated under Hawaii law as if federal  
6 law recognized reciprocal beneficiaries in the same manner as  
7 spouses.

8           §572C- Group insurance; dependant coverage. (a) An  
9 insurer who offers group health insurance that includes  
10 hospital, medical, or surgical expense benefits for employers  
11 shall provide equal coverage, under the same terms and  
12 conditions, to the spouse or reciprocal beneficiary of an  
13 employee, insured, or policyholder, and shall inform employers  
14 of this coverage. A policy may not offer or provide coverage  
15 for the reciprocal beneficiary of an employee, insured, or  
16 policyholder that is not equal to the coverage provided to the  
17 spouse of an employee, insured, or policyholder.

18           (b) An employer who offers insurance coverage for the  
19 spouses of employees shall offer equal insurance coverage to the  
20 reciprocal beneficiary of employees as provided in subsection  
21 (a).



1       (c) The insurer of a policy for group health insurance for  
2 an employer may require that the employee, insured, or  
3 policyholder party to a reciprocal beneficiary relationship  
4 verify the status of the reciprocal beneficiary relationship by  
5 providing to the insurer a copy of a valid declaration of  
6 reciprocal beneficiary relationship filed with the director of  
7 health pursuant to section 572C-5 or an equivalent document  
8 issued by an authorized agency of another state under which the  
9 reciprocal beneficiary relationship was created, and may also  
10 require that the employee, insured, or policyholder party to a  
11 reciprocal beneficiary relationship notify the insurer upon the  
12 termination of the reciprocal beneficiary relationship; provided  
13 that an insurer may only require such information if it also  
14 requests the same from an employee, insured, or policyholder  
15 whose spouse is provided coverage.

16       (d) A group health insurance policy subject to the  
17 provisions of this section that is issued, amended, delivered,  
18 or renewed within the State after December 31, 2010, shall  
19 provide the same coverage to a reciprocal beneficiary as to a  
20 spouse of an employee, insured, or policyholder.

21       (e) Nothing in this section shall be construed to expand  
22 the requirements of Title 26 United States Code Section 4980B,



1 Title 29 United States Code Section 1161, Title 42 United States  
2 Code Section 300bb-1, or the Consolidated Omnibus Budget  
3 Reconciliation Act of 1985, as these provisions are or may later  
4 be amended."

5 SECTION 2. Sections 76-103, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§76-103 Veteran's preference.** The extent to which  
8 veteran's preference shall be given to veterans, to disabled  
9 veterans, to spouses of disabled veterans, to reciprocal  
10 beneficiaries of disabled veterans, [and] to surviving spouses  
11 of deceased [servicemen] service members who have not remarried,  
12 and to surviving reciprocal beneficiaries of deceased service  
13 members who have not entered into a subsequent marriage or  
14 reciprocal beneficiary relationship, shall be provided by rules  
15 [and regulations.]; provided that a surviving spouse and  
16 reciprocal beneficiary of a service member shall have the same  
17 preference."

18 SECTION 3. Section 87A-1, Hawaii Revised Statutes, is  
19 amended by amending the definitions of "dependent-beneficiary,"  
20 "employee-beneficiary," and "qualified beneficiary" to read as  
21 follows:

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



1 (1) Spouse;

2 (2) Reciprocal beneficiary;

3 [~~(2)~~] (3) [~~Unmarried child~~] Child not married or not in a  
4 reciprocal beneficiary relationship deemed eligible by  
5 the board, including a legally adopted child,  
6 stepchild, foster child, or recognized natural child  
7 who lives with the employee-beneficiary; and

8 [~~(3)~~] (4) [~~Unmarried child~~] Child not married or not in a  
9 reciprocal beneficiary relationship regardless of age  
10 who is incapable of self-support because of a mental  
11 or physical incapacity, which existed prior to the  
12 [~~unmarried~~] child's reaching the age of nineteen  
13 years.

14 "Employee-beneficiary" means:

15 (1) An employee;

16 (2) The beneficiary of an employee who is killed in the  
17 performance of the employee's duty;

18 (3) An employee who retired prior to 1961;

19 (4) The beneficiary of a retired member of the employees'  
20 retirement system; a county pension system; or a  
21 police, firefighters, or bandsmen pension system of



1 the State or a county, upon the death of the retired  
2 member;

3 (5) The surviving child of a deceased retired employee, if  
4 the child is unmarried and not in a reciprocal  
5 beneficiary relationship and under the age of  
6 nineteen; [~~or~~]

7 (6) The surviving spouse of a deceased retired employee, if  
8 the surviving spouse does not subsequently remarry[+]  
9 or enter into a reciprocal beneficiary relationship;  
10 or

11 (7) The surviving reciprocal beneficiary of a deceased  
12 retired employee, if the surviving reciprocal  
13 beneficiary does not subsequently marry or enter into  
14 a reciprocal beneficiary relationship;

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

19 "Qualified-beneficiary" means, for purposes of the long-term  
20 care benefits plan, a former employee or an employee who is not  
21 eligible for benefits due to a reduction in work hours, including  
22 the spouse, divorced spouse, reciprocal beneficiary,



1 former reciprocal beneficiary, parents, grandparents, in-law  
2 parents, parents of a reciprocal beneficiary, [and] in-law  
3 grandparents, and grandparents of a reciprocal beneficiary of an  
4 employee or retiree; provided that the beneficiary was enrolled  
5 in the plan before the employee or former employee became  
6 ineligible for benefits."

7 SECTION 4. Section 88-163, Hawaii Revised Statutes, is  
8 amended by amending subsection (c) to read as follows:

9 "(c) On the remarriage or entry into a new reciprocal  
10 beneficiary relationship of any widow or reciprocal beneficiary  
11 entitled to the benefits of any sum, or in the event of any  
12 father or mother, brothers or sisters ceasing to be dependents,  
13 then the payments to them shall cease."

14 SECTION 5. Section 235-2.4, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

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

19 (1) Sections 63(c)(1)(B) (relating to the additional  
20 standard deduction), 63(c)(1)(C) (relating to the real  
21 property tax deduction), 63(c)(1)(D) (relating to the  
22 disaster loss deduction), 63(c)(1)(E) (relating to the



1 motor vehicle sales tax deduction), 63(c)(4) (relating  
2 to inflation adjustments), 63(c)(7) (defining the real  
3 property tax deduction), 63(c)(8) (defining the  
4 disaster loss deduction), 63(c)(9) (defining the motor  
5 vehicle sales tax deduction), and 63(f) (relating to  
6 additional amounts for the aged or blind) of the  
7 Internal Revenue Code, as amended, shall not be  
8 operative for purposes of this chapter;

9 (2) Section 63(c)(2) (relating to the basic standard  
10 deduction) of the Internal Revenue Code, as amended,  
11 shall be operative, except that the standard deduction  
12 amounts provided therein shall instead mean:

13 (A) \$4,400 in the case of:

14 (i) A joint return as provided by section 235-  
15 93; or

16 (ii) A surviving spouse [+], as defined in  
17 [section] Section 2(a) of the Internal  
18 Revenue Code[+], as amended, or surviving  
19 reciprocal beneficiary;

20 (B) \$3,212 in the case of a head of household (as  
21 defined in [section] Section 2(b) of the Internal  
22 Revenue Code);





1 (C) \$2,200 in the case of an individual who is not  
2 married and not in a reciprocal beneficiary  
3 relationship, and who is not a surviving spouse,  
4 a surviving reciprocal beneficiary, or head of  
5 household; or

6 (D) \$2,200 in the case of a married individual or a  
7 party to a reciprocal beneficiary relationship  
8 filing a separate return;

9 (3) Section 63(c)(5) (limiting the basic standard  
10 deduction in the case of certain dependents) of the  
11 Internal Revenue Code shall be operative, except that  
12 the limitation shall be the greater of \$500 or such  
13 individual's earned income; and

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

16 SECTION 6. Section 235-52, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§235-52 Tax in case of joint return or return of surviving**  
19 **spouse[-] or reciprocal beneficiary.** In the case of a joint  
20 return of a husband and wife or the parties to a reciprocal  
21 beneficiary relationship under section 235-93, the tax imposed,  
22 as near as may be, by this chapter shall be twice the tax which



1 would be imposed if the taxable income were cut in half. For the  
2 purposes of this section and section 235-53, a return of a  
3 surviving spouse, as defined in the Internal Revenue Code, or a  
4 surviving reciprocal beneficiary shall be treated as a joint  
5 return of a husband and wife or the parties to a reciprocal  
6 beneficiary relationship under section 235-93."

7 SECTION 7. Section 235-93, Hawaii Revised Statutes, is  
8 amended by amending subsections (a) and (b) to read as follows:

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

20 (b) If an individual has filed a separate return for a  
21 taxable year for which a joint return could have been made by



1 the taxpayer and the taxpayer's spouse[~~r~~] or reciprocal  
2 beneficiary, an election thereafter to make a joint return for  
3 the taxable year shall be made only upon compliance with rules  
4 of the department of taxation, which may limit the election and  
5 prescribe the terms and provisions applicable in such cases as  
6 nearly as may be in conformity with the Internal Revenue Code."

7 SECTION 8. Section 383-7, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) "Employment" shall not include:

10 (1) Agricultural labor as defined in section 383-9 if it  
11 is performed by an individual who is employed by an  
12 employing unit:

13 (A) That, during each calendar quarter in both the  
14 current and the preceding calendar years, paid  
15 less than \$20,000 in cash remuneration to  
16 individuals employed in agricultural labor,  
17 including labor performed by an alien referred to  
18 in subparagraph (C); and

19 (B) That had, in each of the current and the  
20 preceding calendar years:

21 (i) No more than nineteen calendar weeks,  
22 whether consecutive or not, in which



- 1 agricultural labor was performed by its  
2 employees, including labor performed by an  
3 alien referred to in subparagraph (C); or  
4 (ii) No more than nine individuals in its employ  
5 performing agricultural labor in any one  
6 calendar week, whether or not the same  
7 individuals performed the labor in each  
8 week, including labor performed by an alien  
9 referred to in subparagraph (C); or  
10 (C) If such agricultural labor is performed by an  
11 individual who is an alien admitted to the United  
12 States to perform agricultural labor pursuant to  
13 Sections 214(c) and 101(a)(15)(H) of the  
14 Immigration and Nationality Act;  
15 (2) Domestic service in a private home, local college  
16 club, or local chapter of a college fraternity or  
17 sorority as set forth in [~~section~~] Section 3306(c)(2)  
18 of the Internal Revenue Code of 1986, as amended;  
19 (3) Service not in the course of the employing unit's  
20 trade or business performed in any calendar quarter by  
21 an individual, unless the cash remuneration paid for  
22 the service is \$50 or more and the service is



1 performed by an individual who is regularly employed  
2 by the employing unit to perform the service. For the  
3 purposes of this paragraph, an individual shall be  
4 deemed to be regularly employed to perform service not  
5 in the course of an employing unit's trade or business  
6 during a calendar quarter if:

7 (A) On each of some twenty-four days during the  
8 quarter the individual performs the service for  
9 some portion of the day; or

10 (B) The individual was regularly employed as  
11 determined under subparagraph (A) by the  
12 employing unit in the performance of the service  
13 during the preceding calendar quarter;

14 (4) (A) Service performed on or in connection with a  
15 vessel not an American vessel, if the individual  
16 performing the service is employed on and in  
17 connection with the vessel when outside the United  
18 States;

19 (B) Service performed by an individual in (or as an  
20 officer or member of the crew of a vessel while  
21 it is engaged in) the catching, taking,  
22 harvesting, cultivating, or farming of any kind



1 of fish, shellfish, crustacea, sponges, seaweeds,  
2 or other aquatic forms of animal and vegetable  
3 life, including service performed as an ordinary  
4 incident thereto, except:

5 (i) The service performed in connection with a  
6 vessel of more than ten net tons (determined  
7 in the manner provided for determining the  
8 register tonnage of merchant vessels under  
9 the laws of the United States);

10 (ii) The service performed in connection with a  
11 vessel of ten net tons or less (determined  
12 in the manner provided for determining the  
13 register tonnage of merchant vessels under  
14 the laws of the United States) by an  
15 individual who is employed by an employing  
16 unit which had in its employ one or more  
17 individuals performing the service for some  
18 portion of a day in each of twenty calendar  
19 weeks all occurring, whether consecutive or  
20 not, in either the current or the preceding  
21 calendar year; and



- 1           (iii) Service performed in connection with the  
2           catching or taking of salmon or halibut for  
3           commercial purposes;
- 4       (5) Service performed by an individual in the employ of  
5       the individual's son, daughter, [~~or~~] spouse, or  
6       reciprocal beneficiary, and service performed by a  
7       child under the age of twenty-one in the employ of the  
8       child's [~~father or mother,~~] parent;
- 9       (6) Service performed in the employ of the United States  
10       government or an instrumentality of the United States  
11       exempt under the Constitution of the United States  
12       from the contributions imposed by this chapter, except  
13       that to the extent that the Congress of the United  
14       States permits states to require any instrumentalities  
15       of the United States to make payments into an  
16       unemployment fund under a state unemployment  
17       compensation law, all of the provisions of this  
18       chapter shall apply to those instrumentalities, and to  
19       services performed for those instrumentalities, in the  
20       same manner, to the same extent, and on the same terms  
21       as to all other employers, employing units,  
22       individuals, and services; provided that if this State



1 is not certified for any year by the Secretary of  
2 Labor under [~~section~~] Section 3304(c) of the federal  
3 Internal Revenue Code, as amended, the payments  
4 required of those instrumentalities with respect to  
5 that year shall be refunded by the department of labor  
6 and industrial relations from the fund in the same  
7 manner and within the same period as is provided in  
8 section 383-76 with respect to contributions  
9 erroneously collected;

10 (7) Service performed in the employ of any other state, or  
11 any political subdivision thereof, or any  
12 instrumentality of any one or more of the foregoing  
13 which is wholly owned by one or more states or  
14 political subdivisions; and any service performed in  
15 the employ of any instrumentality of one or more other  
16 states or their political subdivisions to the extent  
17 that the instrumentality is, with respect to the  
18 service, exempt from the tax imposed by [~~section~~]  
19 Section 3301 of the Internal Revenue Code of 1986, as  
20 amended;





1 (8) Service with respect to which unemployment  
2 compensation is payable under an unemployment system  
3 established by an act of Congress;

4 (9) (A) Service performed in any calendar quarter in the  
5 employ of any organization exempt from income tax  
6 under ~~[section]~~ Section 501(a) of the ~~[federal]~~  
7 Internal Revenue Code, as amended, (other than an  
8 organization described in section 401(a) or ~~[under~~  
9 ~~section]~~ Section 521 of the Internal Revenue Code, as  
10 amended), if:

11 (i) The remuneration for the service is less  
12 than \$50; or

13 (ii) The service is performed by a fully  
14 ordained, commissioned, or licensed minister  
15 of a church in the exercise of the  
16 minister's ministry or by a member of a  
17 religious order in the exercise of duties  
18 required by the order;

19 (B) Service performed in the employ of a school,  
20 college, or university, if the service is  
21 performed by a student who is enrolled and is



- 1                   regularly attending classes at the school,  
2                   college, or university; or
- 3           (C) Service performed by an individual who is  
4                   enrolled at a nonprofit or public educational  
5                   institution which normally maintains a regular  
6                   faculty and curriculum and normally has a  
7                   regularly organized body of students in  
8                   attendance at the place where its educational  
9                   activities are carried on as a student in a full-  
10                  time program, taken for credit at the  
11                  institution, which combines academic instruction  
12                  with work experience, if the service is an  
13                  integral part of such program, and the  
14                  institution has so certified to the employer,  
15                  except that this subparagraph shall not apply to  
16                  service performed in a program established for or  
17                  on behalf of an employer or group of employers;
- 18           (10) Service performed in the employ of a foreign  
19                  government, including service as a consular or other  
20                  officer or employee of a nondiplomatic representative;
- 21           (11) Service performed in the employ of an instrumentality  
22                  wholly owned by a foreign government:



1 (A) If the service is of a character similar to that  
2 performed in foreign countries by employees of  
3 the United States government or of an  
4 instrumentality thereof; and

5 (B) If the United States Secretary of State has  
6 certified or certifies to the United States  
7 Secretary of the Treasury that the foreign  
8 government, with respect to whose instrumentality  
9 exemption is claimed, grants an equivalent  
10 exemption with respect to similar service  
11 performed in the foreign country by employees of  
12 the United States government and of  
13 instrumentalities thereof;

14 (12) Service performed as a student nurse in the employ of  
15 a hospital or a nurses' training school by an  
16 individual who is enrolled and is regularly attending  
17 classes in a nurses' training school chartered or  
18 approved pursuant to state law; and service performed  
19 as an intern in the employ of a hospital by an  
20 individual who has completed a four-year course in a  
21 medical school chartered or approved pursuant to state  
22 law;



- 1 (13) Service performed by an individual for an employing  
2 unit as an insurance producer, if all service  
3 performed by the individual for the employing unit is  
4 performed for remuneration solely by way of  
5 commission;
- 6 (14) Service performed by an individual under the age of  
7 eighteen in the delivery or distribution of newspapers  
8 or shopping news, not including delivery or  
9 distribution to any point for subsequent delivery or  
10 distribution;
- 11 (15) Service covered by an arrangement between the  
12 department and the agency charged with the  
13 administration of any other state or federal  
14 unemployment compensation law pursuant to which all  
15 services performed by an individual for an employing  
16 unit during the period covered by the employing unit's  
17 duly approved election[7] are deemed to be performed  
18 entirely within the agency's state;
- 19 (16) Service performed by an individual who, pursuant to  
20 the Federal Economic Opportunity Act of 1964, is not  
21 subject to the federal laws relating to unemployment  
22 compensation;



- 1       (17) Service performed by an individual for an employing  
2           unit as a real estate salesperson, if all service  
3           performed by the individual for the employing unit is  
4           performed for remuneration solely by way of  
5           commission;
- 6       (18) Service performed by a registered sales representative  
7           for a registered travel agency, when the service  
8           performed by the individual for the travel agent is  
9           performed for remuneration by way of commission;
- 10      (19) Service performed by a vacuum cleaner salesperson for  
11           an employing unit, if all services performed by the  
12           individual for the employing unit are performed for  
13           remuneration solely by way of commission;
- 14      (20) Service performed for a family-owned private  
15           corporation organized for profit that employs only  
16           members of the family who each own at least fifty per  
17           cent of the shares issued by the corporation; provided  
18           that:
  - 19           (A) The private corporation elects to be excluded  
20               from coverage under this chapter;
  - 21           (B) The election for exclusion shall apply to all  
22               shareholders and under the same circumstances;



- 1 (C) No more than two members of a family may be
- 2 eligible per entity for exclusion under this
- 3 paragraph;
- 4 (D) The exclusion shall be irrevocable for five
- 5 years;
- 6 (E) The family-owned private corporation presents to
- 7 the department proof that it has paid federal
- 8 unemployment insurance taxes as required by
- 9 federal law; and
- 10 (F) The election to be excluded from coverage shall
- 11 be effective the first day of the calendar
- 12 quarter in which the application and all
- 13 substantiating documents requested by the
- 14 department are filed with the department;
- 15 (21) Service performed by a direct seller as defined in
- 16 [~~section~~] Section 3508 of the Internal Revenue Code of
- 17 1986, as amended;
- 18 (22) Service performed by an election official or election
- 19 worker as defined in [~~section~~] Section 3309(b)(3)(F)
- 20 of the Internal Revenue Code of 1986, as amended;
- 21 (23) Service performed by an inmate or any person committed
- 22 to a penal institution; and



1           (24) Domestic in-home and community-based services for  
2           persons with developmental disabilities and mental  
3           retardation under the medicaid home and community-  
4           based services program pursuant to [~~title~~] Title 42  
5           Code of Federal Regulations sections 440.180 and  
6           441.300, and [~~title~~] Title 42 Code of Federal  
7           Regulations, part 434, subpart A, as amended, and  
8           identified as chore, personal assistance and  
9           habilitation, residential habilitation, supported  
10          employment, respite, and skilled nursing services, as  
11          the terms are defined and amended from time to time by  
12          the department of human services, performed by an  
13          individual whose services are contracted by a  
14          recipient of social service payments and who  
15          voluntarily agrees in writing to be an independent  
16          contractor of the recipient of social service payments  
17          unless the individual is an employee and not an  
18          independent contractor of the recipient of social  
19          service payments under the Federal Unemployment Tax  
20          Act."

21           SECTION 9. Section 386-43, Hawaii Revised Statutes, is  
22          amended by amending subsections (a) and (b) to read as follows:



1           (a) The weekly benefits to dependents shall continue:

2           To a surviving spouse or reciprocal beneficiary until  
3 death, remarriage, marriage, or entry into a new reciprocal  
4 beneficiary relationship with two years' compensation in one sum  
5 upon remarriage, marriage, or entry into a new reciprocal  
6 beneficiary relationship.

7           To or for a child, (1) so long as unmarried, until  
8 attainment of the age of eighteen, or (2) so long as unmarried,  
9 until attainment of the age of twenty if the child is a full-time  
10 student at a high school, business school, technical school, or  
11 unmarried and under twenty-two years if the child is a full-time  
12 undergraduate student at a college, or (3) so long as unmarried,  
13 until termination of the child's incapability of self-support,  
14 or (4) until marriage, except that in the case of a married  
15 child under eighteen, weekly benefits shall continue during the  
16 period of actual dependency until attainment of the age of  
17 eighteen.

18           To a parent or grandparent, for the duration, whether  
19 continuous or not, of such actual dependency, provided that the  
20 amount of the weekly benefits shall at no time exceed the amount  
21 payable at the time of death.





1 To or for a grandchild, brother, or sister, for the period  
2 in which he or she remains actually and wholly dependent until  
3 attainment of the age of eighteen or termination of the  
4 incapability of self-support.

5 (b) The aggregate weekly benefits payable on account of  
6 any one death shall not exceed the product of 312 times the  
7 effective maximum weekly benefit rate prescribed in section 386-  
8 31, [~~but~~] except this limitation shall not apply with respect to  
9 benefits to a surviving spouse or reciprocal beneficiary who is  
10 physically or mentally incapable of self-support and unmarried or  
11 has not entered into a reciprocal beneficiary relationship as  
12 long as he or she remains in that condition, and shall not apply  
13 to benefits to a child and to benefits to an unmarried child or  
14 a child who has not entered into a reciprocal beneficiary  
15 relationship over eighteen incapable of self-support, as long as  
16 he or she is otherwise entitled to such compensation."

17 SECTION 10. Section 392-5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§392-5 Excluded services.** "Employment" as defined in  
20 section 392-3 shall not include:

21 (1) Domestic service in a private home, local college  
22 club, or local chapter of a college fraternity or



1 sorority, performed in any calendar quarter by an  
2 individual if the cash remuneration paid by the  
3 employer for such service is less than \$225;

4 (2) Service not in the course of the employer's trade or  
5 business performed in any calendar quarter by an  
6 individual, unless the cash remuneration paid for the  
7 service is \$50 or more and the service is performed by  
8 an individual who is regularly employed by the  
9 employer to perform the service. An individual shall  
10 be deemed to be regularly employed to perform a  
11 service not in the course of the employer's trade or  
12 business during a calendar quarter only if:

13 (A) On each of some twenty-four days during the  
14 quarter the individual performs the service for  
15 some portion of the day; or

16 (B) The individual was regularly employed, as  
17 [~~determined~~] defined under subparagraph (A), by  
18 the employer in the performance of the service  
19 during the preceding calendar quarter;

20 (3) Service performed on or in connection with a vessel  
21 [~~not~~], except an American vessel, if the individual  
22 performing the service is employed on and in



1 connection with the vessel when outside the United  
2 States;

3 (4) Service performed by an individual in (or as an  
4 officer or member of the crew of a vessel while it is  
5 engaged in) the catching, taking, harvesting,  
6 cultivating, or farming of any kind of fish,  
7 shellfish, crustacea, sponges, seaweeds, or other  
8 aquatic forms of animal and vegetable life, including  
9 service performed as an ordinary incident thereto,  
10 except:

11 (A) The service performed in connection with a vessel  
12 of more than ten net tons (determined in the  
13 manner provided for determining the register  
14 tonnage of merchant vessels under the laws of the  
15 United States);

16 (B) The service performed in connection with a vessel  
17 of ten net tons or less (determined in the manner  
18 provided for determining the register tonnage of  
19 merchant vessels under the laws of the United  
20 States) by an individual who is employed by an  
21 employer who, for some portion in each of twenty  
22 different calendar weeks in either the current or



1 preceding calendar year, had in the employer's  
2 employ one or more persons performing the  
3 service, whether or not the weeks were  
4 consecutive and whether or not the same  
5 individuals performed the service in each week;  
6 and

7 (C) The service performed in connection with the  
8 catching or taking of salmon or halibut for  
9 commercial purposes;

10 (5) Service performed by an individual in the employ of  
11 the individual's son, daughter, [~~or~~] spouse, or  
12 reciprocal beneficiary, and service performed by a  
13 child under the age of twenty-one in the employ of the  
14 child's [~~father or mother,~~] parent;

15 (6) Service performed in the employ of the United States  
16 government or an instrumentality of the United States  
17 exempt under the Constitution of the United States  
18 from the contributions imposed by this chapter;

19 (7) Service performed in the employ of any other state, or  
20 any political subdivision thereof, or any  
21 instrumentality of any one or more of the foregoing  
22 that is wholly owned by one or more such states or



1 political subdivisions; and any service performed in  
2 the employ of any instrumentality of one or more other  
3 states or their political subdivisions to the extent  
4 that the instrumentality is, with respect to such  
5 service, exempt from the tax imposed by [~~section~~]  
6 Section 3301 of the Internal Revenue Code of 1986, as  
7 amended;

8 (8) Service with respect to which temporary disability  
9 compensation is payable for sickness under a temporary  
10 disability insurance system established by an act of  
11 Congress;

12 (9) Service performed in any calendar quarter in the  
13 employ of any nonprofit organization exempt from  
14 income tax under [~~section~~] Section 501 of the Internal  
15 Revenue Code of 1986, as amended, if:

16 (A) The remuneration for such service is less than  
17 \$50;

18 (B) The service is performed by a student who is  
19 enrolled and is regularly attending classes at a  
20 school, college, or university;

21 (C) The service is performed by a duly ordained,  
22 commissioned, or licensed minister or licensed



1 minister of a church in the exercise of the  
2 minister's ministry, or by a member of a  
3 religious order in the exercise of nonsecular  
4 duties required by the order; or

5 (D) The service is performed for a church by an  
6 employee who fails to meet the eligibility  
7 requirements of section 392-25;

8 (10) Service performed in the employ of a voluntary  
9 employees' beneficiary association providing for the  
10 payment of life, sick, accident, or other benefits to  
11 the members of the association or their dependents,  
12 if:

13 (A) No part of its net earnings inures (other than  
14 through such payments) to the benefit of any  
15 private shareholder or individual; and

16 (B) Eighty-five per cent or more of its income  
17 consists of amounts collected from members and  
18 amounts contributed by the employer of the  
19 members for the sole purpose of making such  
20 payments and meeting expenses;

21 (11) Service performed in the employ of a voluntary  
22 employees' beneficiary association providing for the



1 payment of life, sick, accident, or other benefits to  
2 the members of the association or their dependents or  
3 their designated beneficiaries, if:

4 (A) Admission to membership in the association is  
5 limited to individuals who are officers or  
6 employees of the United States government; and

7 (B) No part of the net earnings of the association  
8 inures (other than through such payments) to the  
9 benefit of any private shareholder or individual;

10 (12) Service performed in the employ of a school, college,  
11 or university, not exempt from income tax under  
12 [~~section~~] Section 501 of the Internal Revenue Code of  
13 1986, as amended, if the service is performed by a  
14 student who is enrolled and is regularly attending  
15 classes at the school, college, or university;

16 (13) Service performed in the employ of any instrumentality  
17 wholly owned by a foreign government, if:

18 (A) The service is of a character similar to that  
19 performed in foreign countries by employees of  
20 the United States government or of an  
21 instrumentality thereof; and



- 1           (B) The United States Secretary of State has  
2           certified or certifies to the United States  
3           Secretary of the Treasury that the foreign  
4           government, with respect to whose instrumentality  
5           exemption is claimed, grants an equivalent  
6           exemption with respect to similar service  
7           performed in the foreign country by employees of  
8           the United States government and of  
9           instrumentalities thereof;
- 10          (14) Service performed as a student nurse in the employ of  
11          a hospital or a nurses' training school by an  
12          individual who is enrolled and is regularly attending  
13          classes in a nurses' training school chartered or  
14          approved pursuant to state law; and service performed  
15          as an intern in the employ of a hospital by an  
16          individual who has completed a [~~four years~~] four-year  
17          course in a medical school chartered or approved  
18          pursuant to state law;
- 19          (15) Service performed by an individual for an employer as  
20          an insurance producer, if all such service performed  
21          by the individual for the employer is performed for  
22          remuneration solely by way of commission;





- 1           (16) Service performed by an individual under the age of  
2                   eighteen in the delivery or distribution of newspapers  
3                   or shopping news, not including delivery or  
4                   distribution to any point for subsequent delivery or  
5                   distribution;
- 6           (17) Service covered by an arrangement between the  
7                   department and the agency charged with the  
8                   administration of any other state or federal  
9                   unemployment compensation law pursuant to which all  
10                  services performed by an individual for an employer  
11                  during the period covered by the employer's duly  
12                  approved election, are deemed to be performed entirely  
13                  within the agency's state;
- 14          (18) Service performed by an individual who, pursuant to  
15                  the Federal Economic Opportunity Act of 1964, is not  
16                  subject to the federal laws relating to unemployment  
17                  compensation;
- 18          (19) Domestic in-home and community-based services for  
19                  persons with developmental disabilities and mental  
20                  retardation under the medicaid home and community-  
21                  based services program pursuant to Title 42 Code of  
22                  Federal Regulations [~~sections~~] Sections 440.180 and



1 441.300, and Title 42 Code of Federal Regulations,  
2 Part 434, Subpart A, as amended, and identified as  
3 chore, personal assistance and habilitation,  
4 residential habilitation, supported employment,  
5 respite, and skilled nursing services, as the terms  
6 are defined by the department of human services,  
7 performed by an individual whose services are  
8 contracted by a recipient of social service payments  
9 and who voluntarily agrees in writing to be an  
10 independent contractor of the recipient of social  
11 service payments;

12 (20) Service performed by a vacuum cleaner salesperson for  
13 an employing unit, if all such services performed by  
14 the individual for such employing unit are performed  
15 for remuneration solely by way of commission; or

16 (21) Service performed by an individual for an employer as  
17 a real estate salesperson or as a real estate broker,  
18 if all the service performed by the individual for the  
19 employer is performed for remuneration solely by way  
20 of commission."

21 SECTION 11. Section 393-5, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           **"§393-5 Excluded services.** "Employment" as defined in  
2 section 393-3 does not include:

3           (1) Service performed by an individual in the employ of an  
4 employer who, by the laws of the United States, is  
5 responsible for the care and cost in connection with  
6 such service;

7           (2) Service performed by an individual in the employ of  
8 the individual's spouse, reciprocal beneficiary, son,  
9 or daughter, and service performed by an individual  
10 under the age of twenty-one in the employ of the  
11 individual's [~~father or mother,~~] parent;

12           (3) Service performed in the employ of a voluntary  
13 [~~employee's~~] employees' beneficiary association  
14 providing for the payment of life, sick, accident, or  
15 other benefits to the members of the association or  
16 their dependents or their designated beneficiaries,  
17 if:

18           (A) Admission to membership in the association is  
19 limited to individuals who are officers or  
20 employees of the United States government; and

21           (B) No part of the net earnings of the association  
22 inures (other than through such payments) to the



1 benefits of any private shareholder or

2 individual;

3 (4) Service performed by an individual for an employer as  
4 an insurance agent or as an insurance solicitor if all  
5 service performed by the individual for the employer  
6 is performed for remuneration by way of commission;

7 (5) Service performed by an individual for an employer as  
8 a real estate salesperson or as a real estate broker  
9 if all service performed by the individual for the  
10 employer is performed for remuneration by way of  
11 commission;

12 (6) Service performed by an individual who, pursuant to  
13 the Federal Economic Opportunity Act of 1964, is not  
14 subject to the provisions of law relating to federal  
15 employment, including unemployment compensation; and

16 (7) Domestic in-home and community-based services for  
17 persons with developmental disabilities and mental  
18 retardation under the medicaid home and community-based  
19 services program pursuant to Title 42 Code of Federal  
20 Regulations [~~sections~~] Sections 440.180 and 441.300,  
21 and Title 42 Code of Federal Regulations, Part 434,  
22 Subpart A, as amended, and identified as chore,



1 personal assistance and habilitation, residential  
2 habilitation, supported employment, respite, and  
3 skilled nursing services, as the terms are defined and  
4 amended from time to time by the department of human  
5 services, performed by an individual whose services  
6 are contracted by a recipient of social service  
7 payments and who voluntarily agrees in writing to be  
8 an independent contractor of the recipient of social  
9 service payments."

10 SECTION 12. Section 575-3, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§575-3 Complaint.** Proceedings under this chapter may be  
13 instituted upon complaint made under oath or affirmation by the  
14 spouse, reciprocal beneficiary, child, or children, or [~~either~~]  
15 any of them, by the child support enforcement agency, or by any  
16 other person or persons, or organization, against any person  
17 guilty of either of the above named offenses."

18 SECTION 13. Section 575-4, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§575-4 Evidence; marriage, reciprocal beneficiaries,**  
21 **paternity, etc.**



1 No other or greater evidence shall be required to prove the  
2 marriage of the spouses, reciprocal beneficiary relationship  
3 status of the reciprocal beneficiary relationship, or that the  
4 defendant is the parent of the child or children, than is  
5 required to prove such facts in a civil action. In no  
6 prosecution under this chapter shall any statute or rule of law  
7 prohibiting the disclosure of confidential communications  
8 between spouses or reciprocal beneficiaries apply, and both  
9 spouses or reciprocal beneficiaries shall be competent and  
10 compellable witnesses to testify against each other to any and  
11 all relevant matters, including the fact of [~~such~~] the marriage  
12 or registration of the reciprocal beneficiary relationship and  
13 the parentage of [~~such~~] the child or children; provided that  
14 neither shall be compelled to give self-incriminating evidence.  
15 Proof of the desertion of the spouse, reciprocal beneficiary,  
16 child, or children in destitute or necessitous circumstances, or  
17 of neglect or refusal to provide for the support and maintenance  
18 of the spouse, reciprocal beneficiary, child, or children, shall  
19 be prima facie evidence that the desertion, neglect, or refusal  
20 is wilful."

21 SECTION 14. Section 626:1-505, Hawaii Revised Statutes,  
22 is amended to read as follows:



1           **"Rule 505 Spousal privilege.** (a) Criminal proceedings.

2 In a criminal proceeding, the spouse or reciprocal beneficiary  
3 of the accused has a privilege not to testify against the  
4 accused. This privilege may be claimed only by the spouse or  
5 reciprocal beneficiary who is called to testify.

6           (b) Confidential marital communications; all proceedings.

7           (1) Definition. A "confidential marital communication" is  
8 a private communication between spouses that is not  
9 intended for disclosure to any other person. A  
10 "confidential reciprocal beneficiary communication" is  
11 a private communication between two parties to a  
12 reciprocal beneficiary relationship that is not  
13 intended for disclosure to any other person.

14           (2) Either party to a confidential marital communication  
15 or a confidential reciprocal beneficiary communication  
16 has a privilege to refuse to disclose and to prevent  
17 any other person from disclosing that communication.

18           (c) Exceptions. There is no privilege under this rule (1)  
19 in proceedings in which one spouse or reciprocal beneficiary is  
20 charged with a crime against the person or property of (A) the  
21 other, (B) a child of either, (C) a third person residing in the



1 household of either, or (D) a third person committed in the  
2 course of committing a  
3 crime against any of these, or (2) as to matters occurring prior  
4 to the marriage or establishment of the reciprocal beneficiary  
5 relationship."

6 SECTION 15. Sections 87A-23, 87A-32 through 87A-35, 111-2,  
7 235-4, 235-5.5, 235-7, 235-7.5, 235-51, 235-54, 235-55.6, 235-  
8 55.7, 235-55.85, 235-61, 235-102.5, 235-110.6, 338-1, 338-18,  
9 378-2, 560:2-205, 575-2, 651-91, and 709-903 Hawaii Revised  
10 Statutes, are amended by substituting the term "spouse or  
11 reciprocal beneficiary," "married or in a reciprocal beneficiary  
12 relationship," "married couple or the parties to a reciprocal  
13 beneficiary relationship," "married individual or party to a  
14 reciprocal beneficiary relationship," "marital status or  
15 reciprocal beneficiary relationship status," "marital  
16 communication or reciprocal beneficiary communication," "husband  
17 and with or parties to a reciprocal beneficiary relationship,"  
18 "marriage or registration of the reciprocal beneficiary  
19 relationship," "marries or enters into a reciprocal beneficiary  
20 relationship," or like term, wherever the term "spouse,"  
21 "husband and wife," "marries," "married," "marriage," "married





1 couple," "married individual," "marital status," or like term  
2 appears, as the context requires.

3 SECTION 16. If any provision of this Act, or the  
4 application thereof to any person or circumstance is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act, which can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 17. This Act shall take effect upon its approval;  
10 provided that:

11 (1) Amendments to sections 235-2.4, 235-4, 235-5.5, 235-7,  
12 235-7.5, 235-51, 235-52, 235-54, 235-55.6, 235-55.7, 235-55.85,  
13 235-61, 235-93, 235-102.5, and 235-110.6 of this Act shall apply  
14 to taxable years beginning after December 31, 2012;

15 (2) Amendments made to section 235-2.4, Hawaii Revised  
16 Statutes, under section 6 of this Act shall not be repealed when  
17 that section is repealed and reenacted on December 31, 2015, by  
18 section 6 of Act 60, Session Laws of Hawaii 2009;

19 (3) The amendments made to section 235-7, Hawaii Revised  
20 Statutes, under section 16 of this Act shall not be repealed  
21 when that section is repealed and reenacted on January 1, 2013,  
22 by section 3 of Act 166, Session Laws of Hawaii 2007;



1 (4) The amendments made to section 235-51, Hawaii Revised  
 2 Statutes, under section 16 of this Act shall not be repealed  
 3 when that section is repealed and reenacted on December 31,  
 4 2015, by section 6 of Act 60, Session Laws of Hawaii 2009;

5 (5) The amendments made to section 235-54, Hawaii Revised  
 6 Statutes, under section 16 of this Act shall not be repealed  
 7 when that section is repealed and reenacted on December 31,  
 8 2015, by section 6 of Act 60, Session Laws of Hawaii 2009, and  
 9 June 30, 2015, by section 3 of Act 14, Special Session Laws of  
 10 Hawaii 2009.

11

INTRODUCED BY:

Karen Awana

*[Handwritten signatures and initials including: K.L.T., Z.R., Linda Chingame, Cindy Flores, and others]*



**Report Title:**

Reciprocal Beneficiaries; Benefits

**Description:**

Extends certain benefits and obligations currently only applied to married individuals to parties to a reciprocal beneficiary relationship.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

