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# A BILL FOR AN ACT

RELATING TO FAMILY COURT.

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

1 SECTION 1. Section 580-10, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) When a complaint for annulment, divorce, or  
4 separation[~~,~~] is filed in this State, [~~the court,~~] on an  
5 application by either party, supported by affidavit or a  
6 statement made under penalty of perjury, the court, without a  
7 hearing, [~~may enjoin~~] shall:

8 (1) Order each of the parties to that action to timely  
9 provide to the other party full financial and property  
10 disclosure on forms provided by the court; and

11 (2) Order and restrain each of the parties to that action  
12 from transferring, encumbering, wasting, or otherwise  
13 disposing of any of their property, whether real,  
14 personal, or mixed, over and above current income,  
15 except as necessary for the ordinary course of a  
16 business or for usual current living expenses, without  
17 the consent and concurrence of the other party to such  
18 action for divorce, or further specific order of the



1 court. Where [~~such~~] restraining orders are issued  
2 against the other party to the action, [~~such person~~]  
3 the non-filing party shall be served promptly with the  
4 financial restraining order and shall be entitled to a  
5 prompt hearing to show cause why [~~such~~] the order  
6 should not be enforced."

7 SECTION 2. Section 580-47, Hawaii Revised Statutes, is  
8 amended as follows:

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

10 "(a) Upon granting a divorce, or thereafter if, in  
11 addition to the powers granted in subsections (c) and (d),  
12 jurisdiction of those matters is reserved under the decree by  
13 agreement of both parties or by order of court after finding  
14 that good cause exists, the court may make any further orders as  
15 shall appear just and equitable (1) compelling the parties or  
16 either of them to provide for the support, maintenance, and  
17 education of the children of the parties; (2) compelling either  
18 party to provide for the support and maintenance of the other  
19 party; (3) finally dividing and distributing the estate of the  
20 parties, real, personal, or mixed, whether community, joint, or  
21 separate; and (4) allocating, as between the parties, the  
22 responsibility for the payment of the debts of the parties



1 whether community, joint, or separate, and the attorney's fees,  
2 costs, and expenses incurred by each party by reason of the  
3 divorce. In making these further orders, the court shall take  
4 into consideration: the respective merits of the parties, the  
5 relative abilities of the parties; the condition in which each  
6 party will be left by the divorce, the burdens imposed upon  
7 either party for the benefit of the children of the parties, the  
8 concealment of or failure to disclose income or an asset, or  
9 violation of a restraining order issued under section 580-10(a)  
10 or (b), if any, by either party, and all other circumstances of  
11 the case. In establishing the amounts of child support, the  
12 court shall use the guidelines established under section 576D-  
13 7. Provision may be made for the support, maintenance, and  
14 education of an adult or minor child and for the support,  
15 maintenance, and education of an incompetent adult child whether  
16 or not the petition is made before or after the child has  
17 attained the age of majority. In those cases where child  
18 support payments are to continue due to the adult child's  
19 pursuance of education, the agency, three months prior to the  
20 adult child's nineteenth birthday, shall send notice by regular  
21 mail to the adult child and the custodial parent that  
22 prospective child support will be suspended unless proof is



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

14 In addition to any other relevant factors considered, the  
15 court, in ordering spousal support and maintenance, shall  
16 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;
- 21 (4) Standard of living established during the marriage;
- 22 (5) Age of the parties;



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

17 The court may order support and maintenance to a party for  
18 an indefinite period or until further order of the court;  
19 provided that in the event the court determines that support and  
20 maintenance shall be ordered for a specific duration wholly or  
21 partly based on competent evidence as to the amount of time  
22 which will be required for the party seeking support and



1 maintenance to secure adequate training, education, skills, or  
2 other qualifications necessary to qualify for appropriate  
3 employment, whether intended to qualify the party for a new  
4 occupation, update or expand existing qualification, or  
5 otherwise enable or enhance the employability of the party, the  
6 court shall order support and maintenance for a period  
7 sufficient to allow completion of the training, education,  
8 skills, or other activity, and shall allow, in addition,  
9 sufficient time for the party to secure appropriate employment."

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

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



1 the burdens imposed upon either party for the benefit of the  
2 children of the parties, the concealment of or failure to  
3 disclose income or an asset, or violation of a restraining order  
4 issued under section 580-10(a) or (b), if any, by either party,  
5 and all other circumstances of the case."

6 SECTION 3. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on October 1, 2011.



**Report Title:**

Family Court; Divorce; Restraining Order

**Description:**

Authorizes family court to issue financial restraining orders, and consider the concealment of or failure to disclose income or an asset, or violation of a restraining order in ordering payment of attorney fees and costs and issuing further support orders. Effective October 1, 2011. (HB909 CD1)

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

