
A BILL FOR AN ACT

RELATING TO MILITARY BENEFITS.

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

1 SECTION 1. Chapter 571, Hawaii Revised Statutes, is
2 amended by adding a new section to Part V to be appropriately
3 designated and to read as follows:

4 "§571- Divorce; division of property; military
5 retirement benefits; disability-related waiver. In making a
6 disposition of property pursuant to sections 510-9 or 580-47, or
7 any other provision of law relating to the dissolution of
8 marriage, a court shall not:

9 (1) Consider any federal disability benefits awarded to a
10 veteran for service-connected disabilities pursuant to
11 Title 38 United States Code chapter 11;

12 (2) Indemnify the veteran's spouse or former spouse for
13 any prejudgment or postjudgment waiver or reduction in
14 military retirement or retainer pay related to receipt
15 of the disability benefits; or

16 (3) Award any other income or property of the veteran to
17 the veteran's spouse or former spouse for any
18 prejudgment or postjudgment waiver or reduction in



1 military retirement or retainer pay related to receipt
2 of the disability benefits."

3 SECTION 2. Section 510-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§510-9 Divorce; division of property. In the event of
6 the dissolution of marriage by decree of any court of competent
7 jurisdiction[7] and subject to section 571- , community
8 property shall be divided between the parties by the court
9 granting the decree, in such proportions as the court, from the
10 facts in the case, deems just and equitable, and such division
11 shall be subject to revision on appeal in all respects including
12 the exercise of discretion by the court below."

13 SECTION 3. Section 580-47, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

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



1 party to provide for the support and maintenance of the other
2 party; (3) subject to section 571- , finally dividing and
3 distributing the estate of the parties, real, personal, or
4 mixed, whether community, joint, or separate; and (4)
5 allocating, as between the parties, the responsibility for the
6 payment of the debts of the parties whether community, joint, or
7 separate, and the attorney's fees, costs, and expenses incurred
8 by each party by reason of the divorce. In making these further
9 orders, the court shall take into consideration: the respective
10 merits of the parties, the relative abilities of the parties,
11 the condition in which each party will be left by the divorce,
12 the burdens imposed upon either party for the benefit of the
13 children of the parties, and all other circumstances of the
14 case. In establishing the amounts of child support, the court
15 shall use the guidelines established under section 576D-7.

16 Provision may be made for the support, maintenance, and
17 education of an adult or minor child and for the support,
18 maintenance, and education of an incompetent adult child whether
19 or not the petition is made before or after the child has
20 attained the age of majority. In those cases where child
21 support payments are to continue due to the adult child's
22 pursuance of education, the agency, three months prior to the



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

17 In addition to any other relevant factors considered, the
18 court, in ordering spousal support and maintenance, shall
19 consider the following factors:

- 20 (1) Financial resources of the parties;
- 21 (2) Ability of the party seeking support and maintenance
22 to meet his or her needs independently;



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

20 The court may order support and maintenance to a party for
21 an indefinite period or until further order of the court;
22 provided that in the event the court determines that support and



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

13 SECTION 4. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

John M. ...
9M...

[Handwritten signatures]

H.B. NO. 1111

A handwritten signature in black ink, appearing to be 'J. C.', written in a cursive style.

JAN 24 2011



Report Title:

Divorce; Division of Property; Military Disability Benefits

Description:

Prohibits courts, in making a disposition of property pursuant to a divorce decree, from considering federal disability benefits awarded to a military veteran.

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

