
A BILL FOR AN ACT

RELATING TO LEGAL RELATIONSHIPS.

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

1 SECTION 1. The intent of this Act is to recognize civil
2 unions in Hawaii. By establishing the status of civil unions in
3 our State, it is not the legislature's intent to revise the
4 definition or eligibility requirements of marriage under chapter
5 572, Hawaii Revised Statutes.

6 SECTION 2. The Hawaii Revised Statutes is amended by
7 adding a new chapter to be appropriately designated and to read
8 as follows:

9 "CHAPTER A

10 CIVIL UNIONS

11 §A-1 Definitions. For the purposes of this chapter:

12 "Declaration of civil union" means a statement in a form
13 issued by the director that declares the intent of two people to
14 enter into a civil union.

15 "Director" means the director of health.

16 "Civil union partners" means two adults who are parties to
17 a valid civil union and meet the requisites for a valid civil
18 union as provided in section A-2.



1 §A-2 Requisites of a valid civil union. To enter into a
2 valid civil union, it shall be necessary that:

- 3 (1) Each of the parties be at least eighteen years old;
4 (2) Neither of the parties be a spouse in a marriage, a
5 party to a reciprocal beneficiary relationship, or a
6 partner in another civil union;
7 (3) The parties be of the same sex; provided that the
8 respective parties do not stand in relation to each
9 other of ancestor and descendant of any degree
10 whatsoever, brothers and sisters of the half as well
11 as to the whole blood, uncle and nephew, aunt and
12 niece, whether the relationship is the result of the
13 issue of parents married or not married to each other;
14 (4) Consent of either party to the civil union has not
15 been obtained by force, duress, or fraud; and
16 (5) Each of the parties sign and file a declaration of
17 civil union as provided in section A-4.

18 §A-3 Persons under control of conservator or guardian.

- 19 (a) No civil union license may be issued to any applicant under
20 the supervision or control of a conservator or guardian,
21 appointed in accordance with chapter 560, unless the written



1 consent of the conservator or guardian, signed and notarized, is
2 filed with the agent.

3 (b) Any person who enters into a civil union without the
4 consent provided for in subsection (a) shall acquire no rights,
5 by that civil union, in the property of any person who was under
6 the control or supervision of a conservator or guardian at the
7 time the civil union was entered into.

8 **§A-4 Declaration as partners to a civil union; filing**
9 **fees; records.** (a) Two persons, who meet the criteria set out
10 in section A-2, may enter into a civil union and shall declare
11 their relationship as partners to a civil union by filing a
12 signed notarized declaration of civil union with the director.
13 For the filing of the declaration, the director shall collect a
14 fee of \$8, which shall be remitted to the director of finance
15 for deposit into the general fund. By signing the declaration,
16 two people swear under penalty of perjury that they meet the
17 requirements for a valid civil union. By signing the
18 declaration, two people swear under penalty of perjury that they
19 meet the requirements for a valid civil union.

20 (b) Upon the payment of the fee, the director shall file
21 the declaration and provide a certificate of civil union to each
22 party named on the declaration. The director shall maintain a



1 record of each declaration of civil union filed and each
2 certificate of civil union issued by the director.

3 **§A-5 Rights and obligations.** Upon the issuance of a
4 certificate of civil union, the parties named in the certificate
5 shall be entitled to those rights and obligations provided by
6 law to civil union partners.

7 **§A-6 Civil union partner liabilities.** Both partners to a
8 civil union shall be bound to maintain, provide for, and support
9 one another during the civil union and shall be liable for all
10 debts contracted by one another for necessities for themselves,
11 one another, or their family during the civil union; provided
12 that when a support or maintenance obligation, however
13 designated, is imposed upon a civil union partner under this
14 chapter or any other law, the amount of the obligation shall be
15 determined by the appropriate court as provided in section B-28.

16 **§A-7 May be personal representative, guardian, trustee, or**
17 **other fiduciary.** A partner to a civil union may be a personal
18 representative, guardian, trustee, custodian, or other fiduciary
19 and may bind the person's self and the estate the person
20 represents without any act or assent on the part of the person's
21 partner.



1 SA-8 Civil unions performed in other jurisdictions. All
2 unions between two individuals not recognized under section 572-
3 3 shall be recognized as civil unions provided that the
4 relationship meets the eligibility requirements of this
5 chapter."

6 SECTION 3. The Hawaii Revised Statutes is amended by
7 adding a new chapter to be appropriately designated and to read
8 as follows:

9 "CHAPTER B

10 TERMINATION OF CIVIL UNIONS

11 PART I. GENERAL PROVISIONS

12 SB-1 Jurisdiction; hearing. Exclusive original
13 jurisdiction in matters terminating a civil union, subject to
14 section 603-37 as to change of venue, and subject also to appeal
15 according to law, is conferred upon the family court of the
16 circuit in which the applicant has been domiciled or has been
17 physically present for a continuous period of at least three
18 consecutive months prior to the application therefor. No
19 absolute termination of a civil union shall be granted for any
20 cause unless either party to the civil union has been domiciled
21 or has been physically present in the State for a continuous
22 period of not less than six months prior to the application for



1 termination. A person who may be residing on any military or
2 federal base, installation, or reservation within the State or
3 who may be present in the State under military orders shall not
4 thereby be prohibited from meeting the requirements of this
5 section.

6 §B-2 Commencement of action; summons. An action for
7 termination of a civil union is commenced by filing a complaint
8 with the court, which complaint shall be signed and sworn to by
9 the applicant and shall set forth sufficient facts to constitute
10 a claim for relief. Upon the filing of the complaint, the clerk
11 shall issue a summons and deliver it for service to a person
12 authorized to serve process in civil actions. The summons
13 shall:

- 14 (1) Be signed by the clerk and be under the seal of the
15 court;
- 16 (2) Contain the name of the court and the names of the
17 parties;
- 18 (3) Be directed to the defendant;
- 19 (4) State the name and address of the plaintiff's
20 attorney, if any, otherwise the plaintiff's address,
21 and the time within which the defendant is required to
22 appear and defend, which shall not be less than twenty



1 days after the service of the summons and complaint
2 upon the defendant; and

3 (5) Notify the defendant that in case of the defendant's
4 failure to appear and defend, as required, further
5 proceedings may be taken, including judgment for the
6 relief demanded in the complaint, without further
7 notice to the defendant.

8 Alternative complaints for termination of a civil union may be
9 set forth or combined in one complaint.

10 **§B-3 Service.** (a) The complaint for termination of a
11 civil union and the summons shall be served by an authorized
12 process server on the defendant personally if the defendant is
13 within the State, unless the defendant enters an appearance in
14 the case, and except as hereinafter otherwise provided.

15 (b) If service by an authorized process server is not
16 feasible or is inconvenient or if the defendant is outside of
17 the State, the court may authorize the service to be made by any
18 other responsible person, or the court may authorize notice of
19 the pendency of the action and of a time and place of hearing,
20 which shall be not less than twenty days after the giving of
21 personal notice, to be given to the defendant personally by such
22 person and in such manner as the court shall designate and the



1 case may be heard and determined at or after the time specified
2 in the notice.

3 (c) If the defendant is outside of the circuit, the court
4 may authorize service by registered or certified mail, with
5 request for a return receipt and direction to deliver to
6 addressee only. The return receipt signed by the defendant
7 shall be prima facie evidence that the defendant accepted
8 delivery of the complaint and summons on the date set forth on
9 the receipt. Actual receipt by the defendant of the complaint
10 and summons sent by registered or certified mail shall be
11 equivalent to personal service on the defendant by an authorized
12 process server as of the date of the receipt.

13 (d) If it appears that the defendant has refused to accept
14 service by mail, or is in concealment or otherwise evading
15 service, or that the plaintiff does not know the address or
16 residence of the defendant and has not been able to ascertain
17 the same after reasonable and due inquiry and search for at
18 least fifteen days either before or after the filing of the
19 complaint, the court may authorize notice of the pendency of the
20 action and of a time and place of hearing, which shall not be
21 less than twenty days after the last publication of the
22 published notice, to be given to the defendant by publication



1 thereof at least once in each of three successive weeks in a
2 newspaper suitable for the advertisement of notices of judicial
3 proceedings, published in the State, and the case may be heard
4 and determined at or after the time specified in the notice.

5 (e) If the plaintiff, as a result of impoverishment, is
6 unable to publish notice as required by subsection (d), the
7 plaintiff shall file an affidavit attesting to impoverishment
8 and to the fact that, after due and diligent search, the
9 whereabouts of the individual sought to be served are unknown.
10 Upon those filings, the court shall order that service be made
11 by forwarding a certified copy of the pleadings and process to
12 the individual at the last known address by registered or
13 certified mail, with a return receipt requested and a directive
14 to deliver to addressee only, sending a certified copy of the
15 pleadings and process to the defendant's closest known relative,
16 if any can be found, and by posting a copy of the pleadings and
17 process at the courthouse in which the pleadings and process has
18 been filed. Service shall be completed thirty days after
19 mailing. The plaintiff shall attest to the fact of the mailing
20 and the date thereof by affidavit, attaching the sender's
21 receipt for that mail and, if available, the return receipt and
22 envelope.



1 **§B-4 Personal judgment against absent defendant.** In any
2 proceeding in the family court, the court shall have the power
3 to render a personal judgment against a party who is outside of
4 this State and over whom jurisdiction is acquired by service of
5 process in the manner set forth in section B-3(b) or (c), if the
6 party was personally served with a copy of the summons or order
7 to show cause and complaint or other pleading upon which the
8 judgment is based and if the party was a domiciliary of this
9 State at the time:

- 10 (1) That the cause of action that is the subject of the
11 proceeding arose;
12 (2) Of the commencement of the proceeding; or
13 (3) Of service.

14 **§B-5 Cross-complaint.** In any action for termination of a
15 civil union, a cross-complaint for termination of a civil union
16 may be filed and affirmative relief granted thereon as fully and
17 effectually as on an original complaint. The cross-complaint
18 shall be signed and sworn to by the cross-complainant and shall
19 be served in the same manner as an original complaint.

20 **§B-6 Proof.** Upon the hearing of every complaint for
21 termination of a civil union, the court shall require exact
22 legal proof upon every point, notwithstanding the consent of the



1 parties. Where the matter is uncontested and the court, in its
2 discretion, waives the need for a hearing, then the court shall
3 require exact legal proof upon every point by affidavit.

4 **§B-7 Guardian ad litem for incompetent defendant.** In any
5 case where the court has reason to believe that the defendant in
6 an action for termination of a civil union is not fully
7 competent to conduct the defendant's defense or to comprehend
8 the nature of the proceedings, the court may appoint a guardian
9 ad litem to represent the interests of the defendant. The court
10 may assess the reasonable fees and expenses of the guardian ad
11 litem as costs of the action, payable in whole or in part by
12 either or both parties as the circumstances may justify.

13 **§B-8 Examination of parties to prevent collusion.** Upon
14 the hearing of any complaint for the termination of a civil
15 union, the court may examine either or both of the parties, upon
16 oath, in order to prevent collusion.

17 **§B-9 Procedure when collusion suspected.** If there is any
18 reason to suspect collusion, or that important testimony can be
19 procured that has not been produced, the court shall continue
20 the cause from time to time while the reason for suspicion
21 continues. The attorney general or other prosecuting officer



1 and parties not of record shall be heard, to establish the fact
2 of collusion or of the existence of testimony not produced.

3 **§B-10 Temporary support; other expenses.** After the filing
4 of a complaint for termination of a civil union the court may
5 make orders relative to the personal liberty and support of
6 either partner to a civil union, pending the complaint, as the
7 court may deem fair and reasonable and may enforce the orders by
8 summary process. The court may also compel either partner to a
9 civil union to advance reasonable amounts for the compensation
10 of witnesses and other expenses of the trial, including
11 attorney's fees, to be incurred by the other partner to the
12 civil union and may from time to time amend and revise the
13 orders.

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



1 current living expenses, without the consent and concurrence of
2 the other party to the action for termination of a civil union
3 or further specific order of the court. Where restraining
4 orders are issued against the other party to the action, the
5 person shall be served promptly with the order and shall be
6 entitled to a prompt hearing to show cause why the order should
7 not be enforced.

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

17 (c) In all actions for termination of a civil union, the
18 court shall have the power to appoint a master, or masters, to
19 make preliminary findings and to report to the court on any
20 issue. The written reports of a master shall be available to
21 interested parties and may be received in evidence if no
22 objection is made or, if objection is made, may be received in



1 evidence, provided the person or persons responsible for the
2 reports are available for cross-examination as to any matter
3 contained therein. When a report is received in evidence, any
4 party may introduce other evidence supplementing, supporting,
5 modifying, or rebutting the whole or any part of the report.

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



1 (e) A knowing or intentional violation of a restraining
2 order issued pursuant to this section is a misdemeanor. A
3 person convicted under this section shall undergo domestic
4 violence intervention at any available domestic violence program
5 as ordered by the court. The court additionally shall sentence
6 a person convicted under this section as follows:

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

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

21 Upon conviction and sentencing of the defendant, the court
22 shall order that the defendant immediately be incarcerated to



1 serve the mandatory minimum sentence imposed; provided that the
2 defendant may be admitted to bail pending appeal pursuant to
3 chapter 804. The court may stay the imposition of the sentence
4 if special circumstances exist.

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

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

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



1 §B-12 Care, custody, education, and maintenance of
2 children pendente lite. During the pendency of any action for
3 termination of a civil union, the court may make orders
4 concerning the care, custody, education, and maintenance of the
5 minor children of the parties to the action as law and justice
6 may require and may enforce the orders by summary process. The
7 court may revise and amend the orders from time to time.

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

16 §B-14 Security and enforcement of maintenance and alimony.
17 Whenever the court makes an order or decree requiring a partner
18 to a civil union to provide for the care, maintenance, and
19 education of children, or for an allowance to the other partner
20 to a civil union, the court may require the person subject to
21 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 **§B-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 partner to a civil union or child support or both,
17 except that fees may be charged as provided for by chapter 576D.

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



PART II. TERMINATION

§B-21 Termination. The family court shall decree a termination of a civil union upon the application of either party when the court finds:

- (1) The civil union is irretrievably broken; or
- (2) The parties have lived separate and apart for a continuous period of two years or more immediately preceding the application, there is no reasonable likelihood that cohabitation will be resumed, and the court is satisfied that, in the particular circumstances of the case, it would not be harsh and oppressive to the defendant or contrary to the public interest to terminate a civil union on this ground on the complaint of the plaintiff.

§B-22 Battered partner to a civil union; exemption from mediation in termination proceedings. (a) In contested termination proceedings where there are allegations of abuse of a partner to a civil union, the court shall not require a party alleging the abuse to participate in any component of any mediation program against the wishes of that party.

(b) A mediator who receives a referral or order from a court to conduct mediation shall screen for the occurrence of



1 family violence between the parties. A mediator shall not
2 engage in mediation when it appears to the mediator or when
3 either party asserts that family violence has occurred unless:

4 (1) Mediation is authorized by the victim of the alleged
5 family violence;

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

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

17 (c) In a proceeding concerning the custody or visitation
18 of a child, if a protective order is in effect, the court shall
19 not require a party alleging family violence to participate in
20 any component of any mediation program against the wishes of
21 that party.



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

5 (1) Mediation is authorized by the victim of the alleged
6 family violence;

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

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

18 **§B-23 Irretrievable breakdown.** (a) If both of the
19 parties by complaint or otherwise have stated under oath or
20 affirmation that the civil union is irretrievably broken, or one
21 of the parties has so stated and the other has not denied it,
22 the court, after hearing, shall make a finding whether the civil



1 union is irretrievably broken. The court, in its discretion,
2 may waive a hearing on an uncontested complaint for termination
3 of a civil union and admit proof by affidavit.

4 (b) If one of the parties has denied under oath or
5 affirmation that the civil union is irretrievably broken, the
6 court shall consider all relevant factors, including the
7 circumstances that gave rise to the filing of the complaint and
8 the prospect of reconciliation, and shall:

- 9 (1) Make a finding whether the civil union is
- 10 irretrievably broken, or
- 11 (2) Continue the matter for further hearing not less than
- 12 thirty or more than sixty days later, or as soon
- 13 thereafter as the matter may be reached on the court's
- 14 calendar, and may suggest to the parties that they
- 15 seek counseling. At the adjourned hearing, the court
- 16 shall make a finding whether the civil union is
- 17 irretrievably broken.

18 §B-24 Recrimination no defense. Recrimination shall not
19 be a defense to an application for termination of a civil union.

20 §B-25 Persons affected with Hansen's disease represented
21 by attorney general. Upon application of the director of
22 health, the attorney general or the attorney general's deputies



1 shall represent any person affected with Hansen's disease
2 detained at any hospital, settlement, or place for the care and
3 treatment of persons affected with Hansen's disease in
4 proceedings for termination of a civil union.

5 §B-26 Decree. If, after a full hearing, the court is of
6 opinion that a civil union ought to be terminated, a decree
7 shall be signed, filed, and entered. The court, in its
8 discretion, may waive a hearing on an uncontested complaint for
9 termination of a civil union and admit proof by affidavit. A
10 decree dissolving the civil union, shall take effect from and
11 after the time as may be fixed by the court, provided that the
12 time so fixed shall not be more than one month from and after
13 the date of the decree.

14 §B-27 Final judgment; nunc pro tunc entry; validation of
15 certain civil unions. Whenever either party to an action to
16 terminate a civil union is entitled to a final decree dissolving
17 the civil union, but by mistake, negligence, or inadvertence the
18 final decree has not been entered, the court on motion of either
19 party or upon its own motion may cause a final decree to be
20 entered granting the termination of the civil union as of the
21 date when the decree could have been entered. Upon the entry of
22 the final decree, the parties to the action to terminate the



1 civil union shall be deemed to have been restored to the status
2 of single persons as of the date set forth in the final decree,
3 and any civil union of either party after the date of the final
4 decree shall not be subject to attack on the grounds that the
5 civil union was contracted at a time when the party was a
6 partner to the terminated civil union. The court may cause a
7 final decree to be entered nunc pro tunc as provided in this
8 section even though another final decree may have been entered
9 previously but by mistake, negligence, or inadvertence was not
10 entered as soon as a final decree could have been entered.

11 §B-28 Support orders; division of property. (a) Upon
12 termination of a civil union, or thereafter if, in addition to
13 the powers granted in subsections (c) and (d), jurisdiction of
14 those matters is reserved under the decree by agreement of both
15 parties or by order of court after finding that good cause
16 exists, the court may make any further orders as shall appear
17 just and equitable:

18 (1) Compelling the parties or either of them to provide
19 for the support, maintenance, and education of the
20 children of the parties;

21 (2) Compelling either party to provide for the support and
22 maintenance of the other party;



1 (3) Finally dividing and distributing the estate of the
2 parties, real, personal, or mixed, whether joint or
3 separate; and

4 (4) Allocating, as between the parties, the responsibility
5 for the payment of the debts of the parties, whether
6 joint or separate, and the attorney's fees, costs, and
7 expenses incurred by each party by reason of the
8 action to terminate the civil union. In making these
9 further orders, the court shall take into
10 consideration: the respective merits of the parties,
11 the relative abilities of the parties, the condition
12 in which each party will be left by the termination of
13 the civil union, and all other circumstances of the
14 burdens imposed upon either party for the benefit of
15 the children of the parties, and all other
16 circumstances of the case. In establishing the
17 amounts of child support, the court shall use the
18 guidelines established under section 576D-7.
19 Provision may be made for the support, maintenance,
20 and education of an adult or minor child and for the
21 support, maintenance, and education of an incompetent
22 adult child, whether or not the petition is made



1 before or after the child has attained the age of
2 majority. In those cases where child support payments
3 are to continue due to the adult child's pursuance of
4 education, the agency, three months prior to the adult
5 child's nineteenth birthday, shall send notice by
6 regular mail to the adult child and the custodial
7 parent that prospective child support shall be
8 suspended unless proof is provided by the custodial
9 parent or adult child to the child support enforcement
10 agency, prior to the child's nineteenth birthday, that
11 the child is presently enrolled as a full-time student
12 in school or has been accepted into and plans to
13 attend as a full-time student for the next semester a
14 post-high school university, college, or vocational
15 school. If the custodial parent or adult child fails
16 to do so, prospective child support payments may be
17 automatically suspended by the child support
18 enforcement agency, hearings officer, or court upon
19 the child reaching the age of nineteen years. In
20 addition, if applicable, the agency, hearings officer,
21 or court may issue an order terminating existing



1 assignments against the responsible parent's income
2 and income assignment orders.

3 (b) In addition to any other relevant factors considered
4 under this section, the court, in ordering support and
5 maintenance for a partner to a civil union, also shall consider
6 the following factors:

- 7 (1) Financial resources of the parties;
- 8 (2) Ability of the party seeking support and maintenance
9 to meet the party's needs independently;
- 10 (3) Duration of the civil union;
- 11 (4) Standard of living established during the civil union;
- 12 (5) Age of the parties;
- 13 (6) Physical and emotional condition of the parties;
- 14 (7) Usual occupation of the parties during the civil
15 union;
- 16 (8) Vocational skills and employability of the party
17 seeking support and maintenance;
- 18 (9) Needs of the parties;
- 19 (10) Custodial and child support responsibilities;
- 20 (11) Ability of the party from whom support and maintenance
21 is sought to meet that party's own needs while meeting



1 the needs of the party seeking support and
2 maintenance;

3 (12) Other factors that measure the financial condition in
4 which the parties will be left as the result of the
5 action under which the determination of maintenance is
6 made; and

7 (13) Probable duration of the need of the party seeking
8 support and maintenance.

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



1 and shall allow, in addition, sufficient time for the party to
2 secure appropriate employment.

3 (d) An order as to the custody, management, and division
4 of property and as to the payment of debts and the attorney's
5 fees, costs, and expenses incurred in the action to terminate a
6 civil union shall be final and conclusive as to both parties,
7 subject only to appeal as in civil cases. The court, at all
8 times including during the pendency of any appeal, shall have
9 the power to grant any and all orders that may be necessary to
10 protect and provide for the support and maintenance of the
11 parties and any children of the parties to secure justice, to
12 compel either party to advance reasonable amounts for the
13 expenses of the appeal, including attorney's fees to be incurred
14 by the other party, and to amend and revise any orders from time
15 to time.

16 (e) No order entered under the authority of subsection (a)
17 or entered thereafter revising an order that provides for the
18 support, maintenance, and education of the children of the
19 parties shall impair the power of the court, from time to time,
20 to revise its orders providing for the support, maintenance, and
21 education of the children of the parties upon a showing of a
22 change in the circumstances of either party or any child of the



1 parties since the entry of any prior order relating to the
2 support, maintenance, and education. The establishment of the
3 guidelines or the adoption of any modifications made to the
4 guidelines set forth in section 576D-7 may constitute a change
5 in circumstances sufficient to permit review of the support
6 order. A material change of circumstances will be presumed if
7 support as calculated pursuant to the guidelines is either ten
8 per cent greater or less than the support amount in the
9 outstanding support order. The need to provide for the child's
10 health care needs through health insurance or other means shall
11 be a basis for petitioning for a modification of the support
12 order. The most current guidelines shall be used to calculate
13 the amount of the child support obligation.

14 (f) Upon the motion of either party supported by an
15 affidavit setting forth in particular a material change in the
16 physical or financial circumstances of either party, or upon a
17 showing of other good cause, the moving party, in the discretion
18 of the court and upon adequate notice to the other party, may be
19 granted a hearing. The fact that the moving party is in default
20 or arrears in the performance of any act or payment of any sums
21 theretofore ordered to be done or paid by the party shall not
22 necessarily constitute a bar to the granting of the hearing.



1 The court, upon such hearing and for good cause shown, may amend
2 or revise any order and shall consider all proper circumstances
3 in determining the amount of the allowance, if any, that shall
4 be ordered.

5 (g) The responsible parent or the custodial parent shall
6 have a right to petition the family court or the child support
7 enforcement agency not more than once every three years for
8 review and adjustment of the child support order, without having
9 to show a change in circumstances. The responsible or custodial
10 parent shall not be precluded from petitioning the family court
11 or the child support enforcement agency for review and
12 adjustment more than once in any three-year period if the second
13 or subsequent request is supported by proof of a substantial or
14 material change of circumstances.

15 (h) Attorney's fees and costs. The court hearing any
16 motion for orders either revising an order for the custody,
17 support, maintenance, and education of the children of the
18 parties, or an order for the support and maintenance of one
19 party by the other, or a motion for an order to enforce any
20 order, or any order made under subsection (a) of this section
21 may make orders requiring either party to pay or contribute to
22 the payment of the attorney's fees, costs, and expenses of the



1 other party relating to the motion and hearing as appears just
2 and equitable after consideration of the respective merits of
3 the parties, the relative abilities of the parties, the economic
4 condition of each party at the time of the hearing, the burdens
5 imposed upon either party for the benefit of the children of the
6 parties, and all other circumstances of the case.

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

18 §B-30 Support of insane partner after termination of a
19 civil union. In every action for termination of a civil union
20 where a decree is granted to the plaintiff and the defendant is
21 insane at the time of the decree, the court, at any time after
22 entering the decree, may revise and alter the decree so far as



1 the support and maintenance of the insane person is concerned
2 and may provide for maintenance by the plaintiff out of any
3 property or earnings acquired by the plaintiff subsequently, as
4 well as previously, to the decree of termination. In its
5 discretion, the court making the order for maintenance may
6 require the plaintiff to give security to the satisfaction of
7 the court for the faithful execution of the order.

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

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



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

7 §B-32 Civil union after termination. Whenever a civil
8 union is terminated by decree, either party to the civil union
9 may enter into a subsequent civil union at any time.

10 §B-33 Property rights following termination of a civil
11 union. (a) Every decree terminating a civil union that does
12 not specifically recite that the final division of the property
13 of the parties is reserved for further hearing, decision, and
14 orders shall finally divide the property of the parties to the
15 action.

16 (b) Following the entry of a decree of termination of a
17 civil union in which the final division of the property of the
18 parties to the action is reserved for further hearings,
19 decisions, and orders, notwithstanding the provisions of section
20 560:2-802, or any other provisions of the law to the contrary,
21 each party to the action shall continue to have all of the
22 rights to and interests in the property of the other party to



1 the action as provided by chapter 560, or as otherwise provided
2 by law to the same extent the party would have had such rights
3 or interests if the decree terminating the civil union had not
4 been entered, until the entry of a decree or order finally
5 dividing the property of the parties to the action to terminate
6 a civil union or as provided in subsection (d) of this section.

7 (c) When a party to an action to terminate a civil union
8 has entered into a subsequent civil union or marriage following
9 the entry of a decree of termination of a civil union, in which
10 the final division of the property of the parties is reserved
11 for further hearings, decisions, and orders, but prior to the
12 entry of a decree or order finally dividing the property owned
13 by the parties to that action, notwithstanding the provisions of
14 chapter 560, the present partner or spouse of the party to the
15 former civil union shall have none of the rights or interests in
16 the former partner's real property or personal estate as
17 provided in chapter 560 or as otherwise provided by law, until
18 such time as the decree or order shall be entered finally
19 dividing the property owned by the parties or either of them as
20 of the effective date of the entry of the decree of termination
21 of the prior civil union. Upon the entry of a decree or order
22 finally dividing the property of the parties to an action to



1 terminate a civil union in which a decree of termination has
2 been entered, the present partner or spouse of a party who has
3 entered into a subsequent civil union or marriage shall have all
4 of the rights of a partner or spouse as provided by chapter 560,
5 or as otherwise provided by law, in and to the property of the
6 partner or spouse as is vested in the partner or spouse by the
7 decree or order finally dividing the property of the parties, or
8 either of them, as of the effective date of the entry of the
9 decree of termination of the prior civil union.

10 (d) Following the entry of a decree of termination of a
11 civil union, or the entry of a decree or order finally dividing
12 the property of the parties to an action to terminate a civil
13 union if the same is reserved in the decree of termination, or
14 the elapse of one year after entry of a decree or order
15 reserving the final division of property of the party, a partner
16 to a terminated civil union shall not be entitled to dower or
17 curtesy in the former partner's real estate, or any part
18 thereof, nor to any share of the former partner's personal
19 estate."

20 SECTION 4. Chapter 651, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:



1 "§651- Effect of termination of a civil union;
2 reconciliation. Following the entry of a decree terminating a
3 civil union, each civil union partner may claim a separate real
4 property exemption under this part as a person. A subsequent
5 reconciliation of the civil union partners when evidenced by a
6 dismissal of the termination action shall cancel a separate
7 claim for a real property exemption, and the civil union
8 partners shall have one real property exemption."

9 SECTION 5. Section 11-72, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) In assigning the precinct officials, the following
12 criteria shall be followed:

- 13 (1) The precinct officials shall be registered voters of
14 the precinct in which they serve; but if qualified
15 persons in the precinct or representative district are
16 not readily available to serve, they may be chosen
17 from without the precinct or representative district,
18 or if qualified persons either in or without the
19 precinct or representative district are not available
20 to serve, the chief election officer may designate
21 precinct officials who are not registered voters if
22 the persons so designated are otherwise qualified and

1 shall have attained the age of sixteen years on or
2 before June 30, of the year of the election in which
3 they are appointed to work;

4 (2) The chief election officer may designate more precinct
5 officials than are needed in order to create a pool of
6 qualified precinct officials who may be assigned to
7 fill vacancies or to perform their duties as needed in
8 any precinct;

9 (3) No parent, spouse, reciprocal beneficiary, civil union
10 partner, child, or sibling of a candidate shall be
11 eligible to serve as a precinct official in any
12 precinct in which votes may be cast for the candidate;
13 nor shall any candidate for any elective office be
14 eligible to serve as a precinct official in the same
15 election in which the person is a candidate. No
16 candidate who failed to be nominated in the primary or
17 special primary election shall be eligible to serve as
18 a precinct official in the general election next
19 following; and

20 (4) The chairperson of the precinct officials shall be the
21 first named precinct official on the list prepared by



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1 the chief election officer. The remainder of the
2 precinct officials shall be apportioned as follows:

3 (A) The total votes cast, except those cast for
4 nonpartisan candidates, for all of the following
5 offices that were on the ballot in the next
6 preceding general election shall be divided into
7 the total votes cast for all the candidates of
8 each party for these offices: president and
9 vice-president, United States senator, United
10 States representative, governor and lieutenant
11 governor, state senator, and state
12 representative;

13 (B) If a party's proportion of votes cast exceeds
14 fifty per cent, its share shall be one-half of
15 the precinct officials. The remaining one-half
16 shall be divided among the remaining parties in
17 proportion to their respective total of votes
18 cast for the offices set forth in subparagraph

19 (A);

20 (C) In the case of the above division resulting in
21 parties having fractional positions, a whole



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1 position shall go to the party with the larger
 2 number of votes cast; and

3 (D) Newly qualified parties may be assigned up to ten
 4 per cent of the total positions available at the
 5 discretion of the chief election officer."

6 SECTION 6. Section 11-302, Hawaii Revised Statutes, is
 7 amended by amending the definition of "immediate family" as
 8 follows:

9 "Immediate family" means a candidate's spouse [øx],
 10 reciprocal beneficiary, [~~as defined in section 572C-3,~~] or civil
 11 union partner, and any child, parent, grandparent, brother, or
 12 sister of the candidate, and the spouses [øx], reciprocal
 13 beneficiaries, or civil union partners of such persons. For the
 14 purposes of this part, "reciprocal beneficiaries" shall have the
 15 same meaning as in section 572C-3 and "civil union partners"
 16 shall have the same meaning as in section A-1."

17 SECTION 7. Section 76-103, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "§76-103 Veteran's preference. The extent to which
 20 veteran's preference shall be given to veterans, to disabled
 21 veterans, to spouses of disabled veterans, to civil union
 22 partners of disabled veterans, [~~and~~] to surviving spouses of



1 deceased servicemen who have not remarried, and to surviving
 2 civil union partners of deceased servicemen who have not entered
 3 into a subsequent civil union shall be provided by rules [~~and~~
 4 ~~regulations~~]."

5 SECTION 8. Section 87A-1, Hawaii Revised Statutes, is
 6 amended by amending the definitions of "dependent-beneficiary",
 7 "employee-beneficiary", and "qualified beneficiary" to read as
 8 follows:

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

- 10 (1) Spouse;
- 11 (2) Partner in a civil union;
- 12 (3) [Unmarried child] Child not married or not in a civil
 13 union deemed eligible by the board, including a
 14 legally adopted child, stepchild, foster child, or
 15 recognized natural child who lives with the employee-
 16 beneficiary; and
- 17 ~~[-(3)]~~ (4) [Unmarried child] Child not married or not in a
 18 civil union regardless of age who is incapable of
 19 self-support because of a mental or physical
 20 incapacity, [~~which~~] that existed prior to the
 21 [~~unmarried~~] child's reaching the age of nineteen
 22 years.



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



1 by the board to participate in a health benefits plan or long-
2 term care benefits plan under this chapter.

3 "Qualified-beneficiary" means, for purposes of the long-
4 term care benefits plan, a former employee or an employee who is
5 not eligible for benefits due to a reduction in work hours,
6 including the spouse, divorced spouse, civil union partner,
7 former civil union partner, parents, grandparents, in-law
8 parents, and in-law grandparents of an employee or retiree;
9 provided that the beneficiary was enrolled in the plan before
10 the employee or former employee became ineligible for benefits."

11 SECTION 9. Section 87A-18, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) The board may establish a long-term care benefits
14 plan or plans for employee-beneficiaries; the spouses, civil
15 union partners, parents, grandparents, in-law parents, and in-
16 law grandparents of employee-beneficiaries; and qualified-
17 beneficiaries. The plan or plans shall be at no cost to
18 employers and shall comply with article 10H of chapter 431.

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

21 (1) Employee-beneficiaries and their spouses, civil union
22 partners, parents, and grandparents;



- 1 (2) Employee-beneficiary in-law parents and
- 2 grandparents[?] and
- 3 (3) Qualified-beneficiaries who enroll between the ages of
- 4 twenty and eighty-five,
- 5 who comply with the plan's age, enrollment, medical
- 6 underwriting, and contribution requirements."

7 SECTION 10. Section 87A-23, Hawaii Revised Statutes, is

8 amended to read as follows:

9 "§87A-23 Health benefits plan supplemental to medicare.

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

11 into account benefits available to an employee-beneficiary and

12 spouse or civil union partner under medicare, subject to the

13 following conditions:

- 14 (1) There shall be no duplication of benefits payable
- 15 under medicare. The plan under this section, which
- 16 shall be secondary to medicare, when combined with
- 17 medicare and any other plan to which the health
- 18 benefits plan is subordinate under the National
- 19 Association of Insurance Commissioners' coordination
- 20 of benefit rules, shall provide benefits that
- 21 approximate those provided to a similarly situated
- 22 beneficiary not eligible for medicare;

1 (2) The State, through the department of budget and
2 finance, and the counties, through their respective
3 departments of finance, shall pay to the fund a
4 contribution equal to an amount not less than the
5 medicare part B premium, for each of the following who
6 are enrolled in the medicare part B medical insurance
7 plan: (A) an employee-beneficiary who is a retired
8 employee, (B) an employee-beneficiary's spouse or
9 civil union partner while the employee-beneficiary is
10 living, and (C) an employee-beneficiary's spouse^[7] or
11 civil union partner, after the death of the employee-
12 beneficiary, if the spouse or civil union partner
13 qualifies as an employee-beneficiary. For purposes of
14 this section, a "retired employee" means retired
15 members of the employees' retirement system; a county
16 pension system; or a police, firefighters, or bandsmen
17 pension system of the State or a county as set forth
18 in chapter 88. If the amount reimbursed by the fund
19 under this section is less than the actual cost of the
20 medicare part B medical insurance plan due to an
21 increase in the medicare part B medical insurance plan
22 rate, the fund shall reimburse each employee-



1 beneficiary and employee-beneficiary's spouse or civil
2 union partner for the cost increase within thirty days
3 of the rate change. Each employee-beneficiary and
4 employee-beneficiary's spouse or civil union partner
5 who becomes entitled to reimbursement from the fund
6 for medicare part B premiums after July 1, 2006, shall
7 designate a financial institution account into which
8 the fund shall be authorized to deposit
9 reimbursements. This method of payment may be waived
10 by the fund if another method is determined to be more
11 appropriate;

12 (3) The benefits available under this plan, when combined
13 with benefits available under medicare or any other
14 coverage or plan to which this plan is subordinate
15 under the National Association of Insurance
16 Commissioners' coordination of benefit rules, shall
17 approximate the benefits that would be provided to a
18 similarly situated employee-beneficiary not eligible
19 for medicare;

20 (4) All employee-beneficiaries or dependent-beneficiaries
21 who are eligible to enroll in the medicare part B
22 medical insurance plan shall enroll in that plan as a



1 condition of receiving contributions and participating
2 in benefits plans under this chapter. This paragraph
3 shall apply to retired employees, their spouses [7] or
4 civil union partners, and the surviving spouses or
5 civil union partners of deceased retirees and
6 employees killed in the performance of duty; and

- 7 (5) The board shall determine which of the employee-
8 beneficiaries and dependent-beneficiaries, who are not
9 enrolled in the medicare part B medical insurance
10 plan, may participate in the plans offered by the
11 fund."

12 SECTION 11. Section 87A-32, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) 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 the amount established under chapter 89C or specified in the
18 applicable public sector collective bargaining agreements,
19 whichever is appropriate, for each of their respective employee-
20 beneficiaries and employee-beneficiaries with dependent-
21 beneficiaries, which shall be used toward the payment of costs
22 of a health benefits plan; provided that:



- 1 (1) The monthly contribution shall be a specified dollar
2 amount;
- 3 (2) The monthly contribution shall not exceed the actual
4 cost of a health benefits plan;
- 5 (3) If both husband and wife, or both partners in a civil
6 union, are employee-beneficiaries, the total
7 contribution by the State or the county shall not
8 exceed the monthly contribution for a family plan; and
- 9 (4) If the State or any of the counties establish
10 cafeteria plans in accordance with Title 26, United
11 States Code section 125, the Internal Revenue Code of
12 1986, as amended, and part II of chapter 78, the
13 monthly contribution for those employee-beneficiaries
14 who participate in a cafeteria plan shall be made
15 through the cafeteria plan, and the payments made by
16 the State or counties shall include their respective
17 contributions to the fund and their employee-
18 beneficiary's share of the cost of the employee-
19 beneficiary's health benefits plan."

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



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

- 6 (1) \$218 for each employee-beneficiary enrolled in
7 supplemental medicare self plans;
- 8 (2) \$671 for each employee-beneficiary enrolled in
9 supplemental medicare family plans;
- 10 (3) \$342 for each employee-beneficiary enrolled in non-
11 medicare self plans; and
- 12 (4) \$928 for each employee-beneficiary enrolled in non-
13 medicare family plans.

14 The monthly contribution by the State or county shall not
15 exceed the actual cost of the health benefits plan or plans. If
16 both husband and wife, or both partners in a civil union, are
17 employee-beneficiaries, the total contribution by the State or
18 county shall not exceed the monthly contribution for a
19 supplemental medicare family or non-medicare family plan, as
20 appropriate.

21 (c) Effective July 1, 2004, there is established a base
22 monthly contribution for health benefit plans that the State,



1 through the department of budget and finance, and the counties,
2 through their respective departments of finance, shall pay to
3 the fund, up to the following:

- 4 (1) \$254 for each employee-beneficiary enrolled in
5 supplemental medicare self plans;
- 6 (2) \$787 for each employee-beneficiary enrolled in
7 supplemental medicare family plans;
- 8 (3) \$412 for each employee-beneficiary enrolled in non-
9 medicare self plans; and
- 10 (4) \$1,089 for each employee-beneficiary enrolled in non-
11 medicare family plans.

12 The monthly contribution by the State or county shall not
13 exceed the actual cost of the health benefit plan or plans and
14 shall not be required to cover increased benefits above those
15 initially contracted for by the fund for plan year 2004-2005.
16 If both husband and wife, or both partners in a civil union, are
17 employee-beneficiaries, the total contribution by the State or
18 county shall not exceed the monthly contribution for a
19 supplemental medicare family or non-medicare family plan, as
20 appropriate."

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



1 "(b) The State, through the department of budget and
2 finance, and the counties, through their respective departments
3 of finance, shall pay to the fund a monthly contribution equal
4 to one-half of the base monthly contribution set forth under
5 section 87A-33(b) for retired employees enrolled in medicare or
6 non-medicare health benefits plans. If both husband and wife, or
7 both partners in a civil union, are employee-beneficiaries, the
8 total contribution by the State or county shall not exceed the
9 monthly contribution for supplemental medicare family or non-
10 medicare family plan, as appropriate."

11 SECTION 14. Section 87A-35, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The State, through the department of budget and
14 finance, and the counties, through their respective departments
15 of finance, shall pay to the fund:

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

21 (2) For retired employees enrolled in medicare or non-
22 medicare health benefit plans with at least fifteen



1 but fewer than twenty-five years of service, a monthly
2 contribution of seventy-five per cent of the base
3 monthly contribution set forth under section 87A-
4 33 (b) .

5 If both husband and wife, or both partners in a civil union, are
6 employee-beneficiaries, the total contribution by the State or
7 county shall not exceed the monthly contribution for a
8 supplemental medicare family or non-medicare family plan, as
9 appropriate."

10 SECTION 15. Section 87A-36, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The State, through the department of budget and
13 finance, and the counties, through their respective departments
14 of finance, shall pay to the fund:

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

20 (2) For retired employees based on the self plan with at
21 least fifteen but fewer than twenty-five years of
22 service, a monthly contribution equal to seventy-five



1 per cent of the base medicare or non-medicare monthly
2 contribution set forth under section 87A-33(b);

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

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

13 If both husband and wife, or both partners in a civil
14 union, are employee-beneficiaries, the total contribution by the
15 State or county shall not exceed the monthly contribution for
16 two supplemental medicare self or non-medicare self plans, as
17 appropriate."

18 SECTION 16. Section 88-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§88-1 Restrictions. The provisions of this section shall
21 be applicable to every pension and to every recipient or
22 beneficiary thereof, granted or provided for by any special act



1 of the legislature (other than benefits, or the recipients
2 thereof, payable to beneficiaries or retirants of the employees'
3 retirement system under parts II, VII, and VIII) whether the
4 pension be payable by the State or by any county, or by any
5 board, commission, bureau, department, or other agency thereof:

6 (1) No recipient or beneficiary shall be permitted to draw
7 any pension, or any portion thereof, in excess of \$50
8 per month, while the recipient or beneficiary is
9 holding any salaried position or office in, under or
10 by authority of the United States, the State, or any
11 political subdivision thereof. This paragraph shall
12 not apply to any recipient or beneficiary who is
13 elected to the legislature or to the council of any
14 county.

15 (2) If the recipient or beneficiary is a surviving spouse
16 [~~or~~], reciprocal beneficiary, or civil union partner,
17 the pension so granted shall cease when the surviving
18 spouse [~~or~~], reciprocal beneficiary, or civil union
19 partner, remarries, marries, or enters into a new
20 reciprocal beneficiary relationship[~~-~~] or civil union.

21 (3) Any pension payable to any minor shall cease when the
22 minor reaches the age of eighteen years.



1 (4) If any recipient or beneficiary of a pension, having a
2 spouse ~~[or]~~, reciprocal beneficiary, or civil union
3 partner at the time the pension was first granted to
4 the recipient or beneficiary dies, then the spouse
5 ~~[or]~~, reciprocal beneficiary, or civil union partner,
6 as long as the spouse ~~[or]~~, reciprocal beneficiary, or
7 civil union partner remains unmarried ~~[or]~~, not in a
8 reciprocal beneficiary relationship, or not in a civil
9 union, shall be paid sixty per cent of the amount of
10 the pension payable to the beneficiary."

11 SECTION 17. Section 88-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§88-4 Medical aid, etc., when free. Every recipient of
14 any retirement allowance or pension payable by the State or by
15 any county or by any other governmental body or agency created
16 by or under the laws of the State who is actually and solely
17 dependent upon the recipient's retirement allowance or pension
18 for the recipient's maintenance and support or whose total
19 income in whatever form or from whatever source received,
20 including but not limited to, the recipient's retirement
21 allowance or pension and any income of the recipient's spouse
22 ~~[or]~~, reciprocal beneficiary, or civil union partner is less



1 than \$2,400 a year shall, for the recipient and the recipient's
 2 spouse [~~or~~], reciprocal beneficiary, or civil union partner, be
 3 entitled to free medical treatment from any government physician
 4 employed by the State or any county and to free hospitalization
 5 at any state hospital or at a hospital where county patients are
 6 treated at county expense in the county wherein the recipient
 7 resides.

8 Whenever a retirant or pensioner having a spouse [~~or~~],
 9 reciprocal beneficiary, or civil union partner dies, then the
 10 spouse [~~or~~], reciprocal beneficiary, or civil union partner
 11 shall be eligible for benefits under this section as long as the
 12 spouse [~~or~~], reciprocal beneficiary, or civil union partner
 13 remains unmarried and does not enter into a new reciprocal
 14 beneficiary relationship[~~, shall be eligible for benefits under~~
 15 ~~this section.~~] or civil union."

16 SECTION 18. Section 88-5, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "§88-5 List of pensioners, who shall provide. The proper
 19 department of each county shall determine who is entitled to
 20 benefits under section 88-4 and shall provide to any government
 21 physician employed by the State or any county, and any county
 22 hospital or a hospital where county patients are treated at



1 county expense in the county wherein the pensioner or
 2 beneficiary resides, a current list of pensioners and their
 3 ~~[+] spouses~~, reciprocal beneficiaries, or civil union
 4 partners who are entitled to benefits under section 88-4. Upon
 5 request, the state retirement system shall provide to the proper
 6 departments of each county such information as may be required
 7 to administer section 88-4."

8 SECTION 19. Section 88-83, Hawaii Revised Statutes, is
 9 amended by amending subsections (c) and (d) to read as follows:

10 "(c) No election by a member under this section shall take
 11 effect unless:

12 (1) The spouse ~~[œ]~~, reciprocal beneficiary, or civil
 13 union partner of the member is furnished written
 14 notification that:

15 (A) Specifies the retirement date, the benefit option
 16 selected, and the beneficiary designated by the
 17 member;

18 (B) Provides information indicating the effect of the
 19 election; and

20 (C) Is determined adequate by rules adopted by the
 21 board in accordance with chapter 91;



1 (2) The member selects option 2 or option 3 and designates
2 the spouse [~~or~~], reciprocal beneficiary, or civil
3 union partner as the beneficiary; or

4 (3) It is established to the satisfaction of the board
5 that the notice required under paragraph (1) cannot be
6 provided because:

7 (A) There is no spouse [~~or~~], reciprocal
8 beneficiary [~~+~~], or civil union partner;

9 (B) The spouse [~~or~~], reciprocal beneficiary, or civil
10 union partner cannot be located;

11 (C) The member has failed to notify the system that
12 the member has a spouse [~~or~~], reciprocal
13 beneficiary, or civil union partner, or has
14 failed to provide the system with the name and
15 address of the member's spouse [~~or~~], reciprocal
16 beneficiary [~~+~~], or civil union partner; or

17 (D) Of other reasons, as established by board rules
18 adopted in accordance with chapter 91.

19 Any notice provided to a spouse [~~or~~], reciprocal
20 beneficiary, or civil union partner, or determination
21 that the notification of a spouse [~~or~~], reciprocal
22 beneficiary, or civil union partner, cannot be



1 provided, shall be effective only with respect to that
 2 spouse [x], reciprocal beneficiary[-], or civil union
 3 partner. The system will rely upon the
 4 representations made by a member as to whether the
 5 member has a spouse [x], reciprocal beneficiary, or
 6 civil union partner and the name and address of the
 7 member's spouse [x], reciprocal beneficiary[-], or
 8 civil union partner.

9 (d) Each member, within a reasonable period of time before
 10 the member's retirement date, shall be provided a written
 11 explanation of:

- 12 (1) The terms and conditions of the various benefit
 13 options;
- 14 (2) The rights of the member's spouse [x], reciprocal
 15 beneficiary, or civil union partner under subsection
 16 (c) to be notified of the member's election of a
 17 benefit option; and
- 18 (3) The member's right to make, and the effect of, a
 19 revocation of an election of a benefit option."

20 SECTION 20. Section 88-84, Hawaii Revised Statutes, is
 21 amended by amending subsection (b) to read as follows:



1 "(b) If the member's designation of beneficiary is void as
2 specified in section 88-93, or if the member did not designate a
3 beneficiary, there shall be payable:

4 (1) To the surviving spouse [~~or~~], reciprocal beneficiary,
5 or civil union partner, a benefit as specified under
6 subsection (a) (1), (2), or (3);

7 (2) To the deceased member's children under age eighteen,
8 if there is no surviving spouse [~~or~~], reciprocal
9 beneficiary, or civil union partner, an equally
10 divided benefit as specified under subsection (a) (1);

11 or

12 (3) To the deceased member's estate, if there is no
13 surviving spouse [~~or~~], reciprocal beneficiary, or
14 civil union partner and no children under the age of
15 eighteen, a benefit as specified under subsection
16 (a) (1)."

17 SECTION 21. Section 88-85, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) In the case of an accidental death as determined by
20 the board pursuant to section 88-85.5, there shall be paid to
21 the member's designated beneficiary or to the member's estate
22 the amount of the member's accumulated contributions and there



1 shall be paid in lieu of the ordinary death benefit payable
2 under section 88-84, a pension of one-half of the average final
3 compensation of the member:

4 (1) To the surviving spouse [~~or~~], reciprocal beneficiary,
5 or civil union partner of the member to continue until
6 the surviving spouse [~~or~~], reciprocal beneficiary, or
7 civil union partner remarries, marries, or enters into
8 a new reciprocal beneficiary relationship[+] or civil
9 union;

10 (2) If there be no surviving spouse [~~or~~], reciprocal
11 beneficiary, or civil union partner, or if the
12 surviving spouse [~~or~~], reciprocal beneficiary, or
13 civil union partner dies or remarries, marries, or
14 enters into a new reciprocal beneficiary relationship
15 or civil union before any child of the deceased member
16 shall have attained the age of eighteen years, then to
17 the deceased member's child or children under the age
18 of eighteen, divided in the manner as the board in its
19 discretion shall determine, to continue as a joint and
20 survivor pension of one-half of the deceased member's
21 final compensation until every child dies, or attains
22 the age of eighteen; or



1 (3) If there is no surviving spouse [~~or~~], reciprocal
 2 beneficiary, or civil union partner, or child under
 3 the age of eighteen years surviving the deceased
 4 member, then to the deceased member's dependent father
 5 or dependent mother, as the deceased member shall have
 6 nominated by written designation duly acknowledged and
 7 filed with the board, or if there is no nomination,
 8 then to the deceased member's dependent father or to
 9 the deceased member's dependent mother as the board,
 10 in its discretion, shall direct to continue for life.

11 The pension shall be effective on the first day of the month
 12 following the member's death, except for the month of December,
 13 when benefits shall be effective on the first or last day of the
 14 month."

15 SECTION 22. Section 88-93, Hawaii Revised Statutes, is
 16 amended by amending the title and subsection (a) to read as
 17 follows:

18 "§88-93 Named beneficiaries by members and by former
 19 employees; effect of marriage, entry into reciprocal beneficiary
 20 relationship[~~]~~ or civil union, divorce, termination of
 21 reciprocal beneficiary relationship[~~]~~ or civil union, or death.



1 (a) All written designations of beneficiaries for members and
2 for former employees shall become null and void when:

3 (1) The beneficiary predeceases the member or former
4 employee;

5 (2) The member or former employee is divorced from the
6 beneficiary;

7 (3) The member or former employee is unmarried, and
8 subsequently marries; [~~or~~]

9 (4) The member or former employee enters into or
10 terminates a reciprocal beneficiary relationship[~~-~~];
11 or

12 (5) The member or former employee enters into or
13 terminates a civil union.

14 Any of the above events shall operate as a complete revocation
15 of the designation and, except as provided in sections 88-84(b)
16 and 88-338(b) all benefits payable by reason of the death of the
17 member or former employee shall be payable to the member's or
18 former employee's estate unless, after the death, divorce, or
19 marriage, or entry into or termination of a reciprocal
20 beneficiary relationship[~~-~~] or civil union, the member or former
21 employee makes other provision in a written designation duly
22 executed and filed with the board."



1 SECTION 23. Section 88-163, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§88-163 Death benefits: funeral expenses; payments to
4 dependents. (a) Upon the death of any member of the police
5 force, fire department, or band, as a result of any injury
6 received or disease contracted while in the performance of his
7 duty, or when entitled to a pension under this part or who has
8 been pensioned under this part there shall be paid, for funeral
9 expenses, a sum not to exceed \$100. Should the deceased member
10 leave a dependent widow [~~or~~], reciprocal beneficiary, or civil
11 union partner and a child or children under the age of eighteen
12 years, then there shall be paid out of the system \$50 per month
13 to the widow until her death or remarriage, or to the reciprocal
14 beneficiary or civil union partner until death, marriage, or
15 entry into a new reciprocal beneficiary relationship or civil
16 union, and \$7.50 per month to the widow [~~or~~], reciprocal
17 beneficiary, or civil union partner for each child so long as
18 the child shall reside with the widow [~~or~~], reciprocal
19 beneficiary, or civil union partner or is supported by the widow
20 [~~or~~], reciprocal beneficiary[-], or civil union partner. Upon
21 the death of such widow [~~or~~], reciprocal beneficiary, or civil
22 union partner, or in the event the deceased member leaves no

1 widow [e], reciprocal beneficiary, or civil union partner, but
2 a child or children under the age of eighteen years, then there
3 shall be paid out of the system \$50 per month to the child or
4 children of the deceased member under the age of eighteen years
5 with each child, if there be more than one, receiving an equal
6 share of the \$50 per month payment plus \$7.50 per month. All
7 payments to a child of a deceased member provided for herein
8 shall cease when he or she arrives at the age of eighteen years.

9 (b) If any member of the police force, fire department, or
10 band, dies not leaving a widow [e], reciprocal beneficiary, or
11 civil union partner, but leaving a father or mother dependent
12 upon him, the father or mother [f], but not both[~~g~~—shall], upon
13 satisfactory proof of dependency being made to the board of
14 trustees, shall receive from the system a sum not exceeding \$50
15 per month. The board shall determine whether the father or
16 mother is dependent and how much of the amount herein provided
17 for shall be paid to him or her. If there be no widow [e],
18 reciprocal beneficiary, or civil union partner, and no child and
19 no father or mother, but dependent brothers or sisters, then
20 such pension shall be paid to them in such sums as shall not
21 exceed the aggregate amount of \$30 per month. All pensions
22 authorized as provided in this subsection shall be subject to



1 reduction by the board of trustees whenever, in its judgment,
2 circumstances make it reasonable, fair, or necessary. All
3 pensions so reduced may thereafter be restored or further
4 reduced as the board may deem best.

5 (c) On the remarriage or entry into a new reciprocal
6 beneficiary relationship or civil union of any widow [~~or~~],
7 reciprocal beneficiary, or civil union partner entitled to the
8 benefits of any sum, or in the event of any father or mother,
9 brothers or sisters ceasing to be dependents then the payments
10 to them shall cease."

11 SECTION 24. Section 88-189, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§88-189 Widow's, widower's, [~~and~~] reciprocal
14 beneficiary's, and civil union partner's pensions. The widow
15 and widower [~~or~~], reciprocal beneficiary, or civil union partner
16 of any deceased man or woman, who have been previously granted
17 or are found subsequent to his or her death to have been
18 entitled to a pension under this part, or to have had ten or
19 more years of service although he or she had not reached the age
20 of sixty years, shall be eligible for a pension equal to the
21 same amount, including all the bonuses provided in section 88-
22 11, and all other benefits, that the said deceased was receiving



1 or entitled to receive at the time of his or her death, and all
 2 future benefits deriving thereto, so long as the widow, widower,
 3 [~~or~~] reciprocal beneficiary, or civil union partner remains
 4 unmarried or has not entered into a new reciprocal beneficiary
 5 relationship[-] or civil union."

6 SECTION 25. Section 88-283, Hawaii Revised Statutes, is
 7 amended by amending subsections (c) and (d) to read as follows:

8 "(c) No election by a member under this section shall take
 9 effect unless:

10 (1) The spouse [~~or~~], reciprocal beneficiary, or civil
 11 union partner of the member is furnished written
 12 notification that:

13 (A) Specifies the retirement date, the benefit option
 14 selected, and the beneficiary designated by the
 15 member;

16 (B) Provides information indicating the effect of the
 17 election; and

18 (C) Is determined adequate by rules adopted by the
 19 board in accordance with chapter 91;

20 (2) The member selects option A or option B and designates
 21 the spouse [~~or~~], reciprocal beneficiary, or civil
 22 union partner as the beneficiary; or



1 (3) It is established to the satisfaction of the board
2 that the notice required under paragraph (1) cannot be
3 provided because:

4 (A) There is no spouse [~~or~~], reciprocal
5 beneficiary[+], or civil union partner;

6 (B) The spouse [~~or~~], reciprocal beneficiary, or civil
7 union partner cannot be located;

8 (C) The member has failed to notify the system that
9 the member has a spouse [~~or~~], reciprocal
10 beneficiary, or civil union partner, or has
11 failed to provide the system with the name and
12 address of the member's spouse [~~or~~], reciprocal
13 beneficiary[+], or civil union partner; or

14 (D) Of other reasons, as established by board rules
15 adopted in accordance with chapter 91.

16 Any notice provided to a spouse [~~or~~], reciprocal
17 beneficiary, or civil union partner, or determination
18 that the notification of a spouse [~~or~~], reciprocal
19 beneficiary, or civil union partner cannot be
20 provided, shall be effective only with respect to that
21 spouse [~~or~~], reciprocal beneficiary[-], or civil union
22 partner. The system shall rely upon the



1 representations made by a member as to whether the
2 member has a spouse [~~or~~], reciprocal beneficiary, or
3 civil union partner and the name and address of the
4 member's spouse [~~or~~], reciprocal beneficiary, or
5 civil union partner.

6 (d) Each member, within a reasonable period of time before
7 the member's retirement date, shall be provided a written
8 explanation of:

- 9 (1) The terms and conditions of the various benefit
10 options;
- 11 (2) The rights of the member's spouse [~~or~~], reciprocal
12 beneficiary, or civil union partner under subsection
13 (c) to be notified of the member's election of a
14 benefit option; and
- 15 (3) The member's right to make, and the effect of, a
16 revocation of an election of a benefit option."

17 SECTION 26. Section 88-286, Hawaii Revised Statutes, is
18 amended by amending subsections (a), (b), and (c) to read as
19 follows:

20 "(a) The surviving spouse [~~or~~], reciprocal beneficiary, or
21 civil union partner and children under the age of eighteen of a

1 member at the time of the member's death shall be eligible for a
2 death benefit if the member suffers either:

3 (1) An ordinary death after accumulating ten years of
4 credited service and the member dies:

5 (A) While in service; or

6 (B) While on authorized leave without pay; or

7 (2) An accidental death.

8 (b) In the case of ordinary death, the death benefit shall
9 be as follows:

10 (1) For the surviving spouse ~~[or]~~, reciprocal beneficiary,
11 or civil union partner, an allowance equal to one-half
12 of the member's accrued maximum retirement allowance
13 unreduced for age, payable until remarriage, marriage,
14 or entry into a new reciprocal beneficiary
15 relationship~~[or]~~ or civil union, as if the member had
16 retired on the first day of a month following the
17 member's death, except for the month of December when
18 retirement on the first or last day of the month shall
19 be allowed; and for each child under the age of
20 eighteen an allowance equal to ten per cent of the
21 member's accrued maximum retirement allowance
22 unreduced for age, payable until the child attains age



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1 eighteen; provided that the aggregate death benefits
2 for all the children under the age of eighteen shall
3 not exceed twenty per cent of the member's accrued
4 retirement allowance unreduced for age; or

5 (2) For the surviving spouse [~~or~~], reciprocal beneficiary,
6 or civil union partner, if the member was eligible for
7 retirement at the time of death in service, and death
8 occurred after June 30, 1990, an allowance that would
9 have been payable as if the member had retired on the
10 first day of a month following the member's death,
11 except for the month of December when retirement on
12 the first or last day of the month shall be allowed
13 and had elected to receive a retirement allowance
14 under option B of section 88-283; and

15 (3) If there is no surviving spouse [~~or~~], reciprocal
16 beneficiary, or civil union partner, each child under
17 the age of eighteen shall receive an allowance equal
18 to twenty per cent of the member's accrued maximum
19 retirement allowance unreduced for age, payable on the
20 first day of a month following the member's death,
21 except for the month of December when retirement on
22 the first or last day of the month shall be allowed,



1 until the child attains age eighteen; provided that
 2 the aggregate death benefits for all the children
 3 under the age of eighteen shall not exceed forty per
 4 cent of the member's accrued maximum retirement
 5 allowance unreduced for age.

6 For the purpose of determining eligibility for the ordinary
 7 death benefit, a year round school employee shall be considered
 8 in service during the July and August preceding a transfer to a
 9 traditional school schedule if the employee was in service for
 10 the entire prior school year and has a contract for the upcoming
 11 traditional school year. The application for ordinary death
 12 benefits shall be filed no later than three years from the date
 13 of the member's death.

14 (c) In the case of accidental death as determined by the
 15 board pursuant to section 88-85.5, the death benefit shall be
 16 effective on the first day of the month following the member's
 17 death, except for the month of December when retirement on the
 18 first or last day of the month shall be allowed, as follows:

19 (1) For the surviving spouse ~~[or]~~, reciprocal beneficiary,
 20 or civil union partner, an allowance equal to thirty
 21 per cent of the member's average final compensation,
 22 payable until remarriage, marriage, or upon entry into



1 a new reciprocal beneficiary relationship[+] or civil
2 union;

3 (2) If there is a surviving spouse [~~or~~], reciprocal
4 beneficiary, or civil union, each child under the age
5 of eighteen shall receive an allowance equal to the
6 greater of:

7 (A) Ten per cent of the member's accrued maximum
8 retirement allowance unreduced for age; provided
9 that the aggregate death benefits for all the
10 children under the age of eighteen shall not
11 exceed twenty per cent of the member's accrued
12 maximum retirement allowance unreduced for age;
13 or

14 (B) Three per cent of the member's average final
15 compensation; provided that the aggregate death
16 benefits for all the children under the age of
17 eighteen shall not exceed six per cent of the
18 member's average final compensation.

19 The death benefit under this paragraph shall be
20 payable to each child until the child attains age
21 eighteen; and



1 (3) If there is no surviving spouse [~~e~~], reciprocal
2 beneficiary, or civil union partner, each child under
3 the age of eighteen shall receive an allowance equal
4 to the greater of:

5 (A) Twenty per cent of the member's accrued maximum
6 retirement allowance unreduced for age; provided
7 that the aggregate death benefits for all the
8 children under the age of eighteen shall not
9 exceed forty per cent of the member's accrued
10 maximum retirement allowance unreduced for age;
11 or

12 (B) Six per cent of the member's average final
13 compensation; provided that the aggregate death
14 benefits for all the children under the age of
15 eighteen shall not exceed twelve per cent of the
16 member's average final compensation.

17 The death benefit under this paragraph shall be
18 payable to each child until the child attains age
19 eighteen."

20 SECTION 27. Section 88-333, Hawaii Revised Statutes, is
21 amended by amending subsections (e) and (f) to read as follows:

1 "(e) No election by a member under this section shall take
2 effect unless:

3 (1) The spouse [~~or~~], reciprocal beneficiary, or civil
4 union partner of the member is furnished written
5 notification that:

6 (A) Specifies the retirement date, the benefit option
7 selected, and the beneficiary designated by the
8 member;

9 (B) Provides information indicating the effect of the
10 election; and

11 (C) Is determined adequate by rules adopted by the
12 board in accordance with chapter 91;

13 (2) The member selects option 2 or option 3 under section
14 88-83 and designates the spouse [~~or~~], reciprocal
15 beneficiary, or civil union partner as the
16 beneficiary; or

17 (3) It is established to the satisfaction of the board
18 that the notice required under paragraph (1) cannot be
19 provided because:

20 (A) There is no spouse [~~or~~], reciprocal
21 beneficiary[+], or civil union partner;



1 (B) The spouse [e], reciprocal beneficiary, or civil
2 union partner cannot be located;

3 (C) The member has failed to notify the system that
4 the member has a spouse [e], reciprocal
5 beneficiary, or civil union partner, or has
6 failed to provide the system with the name and
7 address of the member's spouse [e], reciprocal
8 beneficiary[+], or civil union partner; or

9 (D) Of other reasons, as established by board rules
10 adopted in accordance with chapter 91.

11 Any notice provided to a spouse [e], reciprocal
12 beneficiary, or civil union partner, or determination that the
13 notification of a spouse [e], reciprocal beneficiary, or civil
14 union partner cannot be provided shall be effective only with
15 respect to that spouse or reciprocal beneficiary. The system
16 shall rely upon the representations made by a member as to
17 whether the member has a spouse [e], reciprocal beneficiary, or
18 civil union partner and the name and address of the member's
19 spouse [e], reciprocal beneficiary[-], or civil union partner.

20 (f) Each member, within a reasonable period of time before
21 the member's retirement date, shall be provided a written
22 explanation of:



- 1 (1) The terms and conditions of the various benefit
- 2 options;
- 3 (2) The rights of the member's spouse [~~e~~], reciprocal
- 4 beneficiary, or civil union partner under subsection
- 5 (e) to be notified of the member's election of a
- 6 benefit option; and
- 7 (3) The member's right to make, and the effect of, a
- 8 revocation of an election of a benefit option."

9 SECTION 28. Section 88-338, Hawaii Revised Statutes, is
 10 amended by amending subsection (b) to read as follows:

11 "(b) If the member's designation of beneficiary is void as
 12 specified in section 88-93, or if the member did not designate a
 13 beneficiary, the death benefit in the case of ordinary death
 14 shall be payable:

- 15 (1) To the surviving spouse [~~e~~], reciprocal beneficiary,
- 16 or civil union partner, a benefit as specified under
- 17 subsection (a);
- 18 (2) To the deceased member's children under age eighteen,
- 19 if there is no surviving spouse [~~e~~], reciprocal
- 20 beneficiary, or civil union partner, an equally
- 21 divided benefit as specified under paragraph (1) or
- 22 (2) of subsection (a); or



1 (3) To the deceased member's estate, if there is no
2 surviving spouse [~~or~~], reciprocal beneficiary, or
3 civil union partner, or children under the age of
4 eighteen, a benefit as specified under paragraph (1)
5 or (2) of subsection (a)."

6 SECTION 29. Section 88-339, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) In the case of an accidental death as determined by
9 the board pursuant to section 88-85.5, there shall be paid to
10 the member's designated beneficiary or to the member's estate
11 the amount of the member's accumulated contributions and there
12 shall be paid in lieu of the ordinary death benefit payable
13 under section 88-338 a pension of one-half of the average final
14 compensation of the member:

15 (1) To the surviving spouse [~~or~~], reciprocal beneficiary,
16 or civil union partner of the member to continue until
17 the surviving spouse [~~or~~], reciprocal beneficiary, or
18 civil union partner remarries, marries, or enters into
19 a new reciprocal beneficiary relationship[+] or civil
20 union;

21 (2) If there be no surviving spouse [~~or~~], reciprocal
22 beneficiary, or civil union partner, or if the



1 surviving spouse [~~or~~], reciprocal beneficiary, or
2 civil union partner dies or remarries, marries, or
3 enters into a new reciprocal beneficiary relationship
4 or civil union before any child of the deceased member
5 shall have attained the age of eighteen years, then to
6 the deceased member's child or children under that
7 age, divided in a manner as the board in its
8 discretion shall determine, to continue as a joint and
9 survivor pension of one-half of the deceased member's
10 final compensation until every child dies, or attains
11 that age; or

- 12 (3) If there is no surviving spouse [~~or~~], reciprocal
13 beneficiary, or civil union partner and no child under
14 the age of eighteen years surviving the deceased
15 member, then to the deceased member's dependent father
16 or dependent mother, as the deceased member shall have
17 nominated by written designation duly acknowledged and
18 filed with the board, or if there is no nomination,
19 then to the deceased member's dependent father or to
20 the deceased member's dependent mother as the board,
21 in its discretion, shall direct to continue for life.



1 The pension shall be effective on the first day of the month
2 following the member's death, except for the month of December,
3 when benefits shall be effective on the first or last day of the
4 month."

5 SECTION 30. Section 105-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§105-2 Exceptions. Section 105-1 shall not apply to:

- 8 (1) The governor;
- 9 (2) The mayor of any county;
- 10 (3) Any member of a police department or a fire department
11 or of the staff of a hospital, or any officer or
12 employee of the board of water supply of the city and
13 county of Honolulu, when using a motor vehicle for a
14 personal purpose incidental to the person's service or
15 work (but not for pleasure);
- 16 (4) Any officer or employee of the State who, upon written
17 recommendation of the comptroller, is given written
18 permission by the governor to use, operate, or drive
19 for personal use (but not for pleasure) any motor
20 vehicle owned or controlled by the State;
- 21 (5) Any officer or employee of any county who, upon
22 written recommendation of the budget director, is



1 given written permission by the mayor, to use, operate
2 or drive for personal use (but not for pleasure) any
3 motor vehicle owned or controlled by the county;

- 4 (6) Any officer or employee of the State, or of any
5 county, who, in case of emergency, because of the
6 person's illness, or the person's incapacity caused by
7 accident while at work, or because of the illness of a
8 member of the person's immediate family including a
9 reciprocal beneficiary or civil union partner while
10 the person is at work, is conveyed in a motor vehicle
11 to the person's place of abode, or to a hospital or
12 other place, but every such use of such a motor
13 vehicle shall be certified to by the officer or by the
14 head of the department, commission, board, bureau,
15 agency, or instrumentality controlling or possessing
16 the motor vehicle immediately thereafter, and the
17 certificate shall be forthwith filed with the
18 comptroller, in the case of the State, or with the
19 budget director, in the case of a county; and
- 20 (7) The assigned driver of a Van Go Hawaii vehicle or any
21 other state ridesharing program vehicle."



1 SECTION 31. Section 111-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "family" to read as
3 follows:

4 "Family" means two or more individuals living together in
5 the same dwelling unit who are related to each other by blood,
6 marriage, civil union, adoption, or legal guardianship."

7 SECTION 32. Section 171-74, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§171-74 Qualifications of lessees. To qualify for a
10 residential lease under this part, the lessee shall:

11 (1) Be of legal age and have at least one person, related
12 to the lessee by blood or marriage and solely
13 dependent upon the lessee for support, who will occupy
14 the premises with the lessee; provided that this
15 requirement shall not apply to a husband and wife [~~e~~
16 ~~t~~], reciprocal beneficiaries, or civil union
17 partners, who are joint lessees, even if both are
18 employed;

19 (2) Be a citizen and a resident of the State for not less
20 than five years immediately preceding the issuance of
21 the lease;



- 1 (3) Have a gross income not in excess of \$20,000 a year,
2 including the gross income of the lessee's spouse
3 ~~[or]~~, reciprocal beneficiary[-], or civil union
4 partner. In determining gross income, the standard
5 income tax exemption for each of the lessee's
6 dependents, as determined by the income tax laws of
7 the State, shall be allowed; and
- 8 (4) Have such other qualifications as may be established
9 by the board of land and natural resources.

10 Any person who, after taking a residential lease, through
11 change or circumstances, loses the qualifications initially
12 required of the person or becomes disqualified to take a
13 residential lease, shall not thereby be required to surrender
14 the person's residential lease, but shall be entitled to
15 continue to hold the same."

16 SECTION 33. Section 171-99, Hawaii Revised Statutes, is
17 amended by amending subsection (e) to read as follows:

18 "(e) Assignment; certificate of occupation or homestead
19 lease. No existing certificate of occupation or existing
20 homestead lease, or fractional interest thereof, shall be
21 transferable or assignable except by conveyance, devise,
22 bequest, or intestate succession and with the prior approval of



1 the board of land and natural resources; provided that transfer
2 or assignment by conveyance, devise, or bequest shall be limited
3 to a member or members of the occupier's or lessee's family.

4 For the purposes of this section, "family" means the
5 spouse, reciprocal beneficiary, civil union partner, children,
6 parents, siblings, grandparents, grandchildren, nieces, nephews,
7 a parent's siblings, children of a parent's siblings, and
8 grandchildren of a parent's siblings, of the occupier or lessee.

9 . All the successors shall be subject to the performance of
10 the unperformed conditions of the certificate of occupation or
11 the homestead lease."

12 SECTION 34. Section 209-28, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Personal loans may be made for the purpose of meeting
15 necessary expenses or to satisfy serious needs of individuals
16 and families including reciprocal beneficiaries [~~which~~] and
17 civil union partners that arose as an immediate and direct
18 result of a disaster."

19 SECTION 35. Section 209-29, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§209-29 Eligibility for loans. Loans may be made to
2 individuals, partnerships, corporations, cooperatives, or other
3 business associations, but only if the applicant:

4 (1) Suffered loss of or damage to property in a
5 rehabilitation area as a result of a state disaster;

6 (2) For a commercial loan, had operated an industrial,
7 manufacturing, processing, wholesaling, or retailing
8 business, or professional or service business, or
9 building rental business, immediately before the
10 disaster;

11 (3) Presents a suitable program for:

12 (A) Rehabilitation or re-establishment of the
13 applicant's business to its predisaster level
14 when applying for a commercial loan; or

15 (B) Meeting necessary expenses and satisfying the
16 serious needs of the applicant and the
17 applicant's family including reciprocal
18 beneficiary and civil union partner when applying
19 for a personal loan;

20 (4) Has reasonable ability to repay the loan; and

21 (5) For a commercial loan, presents written evidence that
22 the Small Business Administration had declined an



1 application for financial assistance under the Small
2 Business Administration Disaster Loan Program or has
3 reduced the amount of the loan request; provided that
4 the declination was not due to the applicant's having
5 sufficient financial resources to rehabilitate the
6 applicant; or

- 7 (6) For a commercial loan, cannot secure any loans from
8 the Small Business Administration Disaster Loan
9 Program because the making of the loans is not covered
10 by the program, and the director of business, economic
11 development, and tourism is reasonably satisfied that
12 the applicant is not able to secure loans from private
13 lending institutions and does not have sufficient
14 financial resources to rehabilitate the applicant.

15 Paragraph (6) shall be applied in the alternative with
16 respect to paragraph (5) of this section."

17 SECTION 36. Section 231-57, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§231-57[+] Apportionment of joint refunds. In the
20 case of a setoff against a joint income tax refund, the State
21 may make separate refunds of withheld taxes upon request by a
22 husband or wife, or partner in a civil union, who has filed the



1 joint return. The refund payable to each spouse or civil union
2 partner shall be proportioned to the gross earnings of each
3 shown by the information returns filed by the employer or
4 otherwise shown to the satisfaction of the State."

5 SECTION 37. Section 235-1, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Civil union partner" or "partners in a civil union" means
9 two adults who are parties to a valid civil union and meet the
10 requisites for a valid civil union as provided in section A-2."

11 SECTION 38. Section 235-2.4, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

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

- 16 (1) Sections 63(c)(1)(B) (relating to the additional
17 standard deduction), 63(c)(1)(C) (relating to the real
18 property tax deduction), 63(c)(1)(D) (relating to the
19 disaster loss deduction), 63(c)(1)(E) (relating to the
20 motor vehicle sales tax deduction), 63(c)(4) (relating
21 to inflation adjustments), 63(c)(7) (defining the real
22 property tax deduction), 63(c)(8) (defining the



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

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

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

11 (i) A joint return as provided by section 235-
12 93; or

13 (ii) A surviving spouse (as defined in section
14 2(a) of the Internal Revenue Code) [~~+~~] or
15 surviving partner in a civil union;

16 (B) \$3,212 in the case of a head of household (as
17 defined in section 2(b) of the Internal Revenue
18 Code);

19 (C) \$2,200 in the case of an individual who is not
20 married or not in a civil union, and who is not a
21 surviving spouse, a surviving partner in a civil
22 union, or head of household; or



- 1 (D) \$2,200 in the case of a married individual or
2 civil union partner filing a separate return;
- 3 (3) Section 63(c)(5) (limiting the basic standard
4 deduction in the case of certain dependents) of the
5 Internal Revenue Code shall be operative, except that
6 the limitation shall be the greater of \$500 or such
7 individual's earned income; and
- 8 (4) The standard deduction amount for nonresidents shall
9 be calculated pursuant to section 235-5."

10 SECTION 39. Section 235-4, Hawaii Revised Statutes, is
11 amended by amending subsections (b) and (c) to read as follows:

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

16 In the case of a nonresident spouse or civil union partner
17 filing a joint return with a resident spouse~~[r]~~ or civil union
18 partner, the tax applies to the entire income of the nonresident
19 spouse or civil union partner computed without regard to source
20 in the State.

21 (c) Change of status. Except where a joint return is
22 filed, when the status of a taxpayer changes during the taxable



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

19 The apportionment of income provided by this subsection
20 shall not apply where one spouse or civil union partner is a
21 resident of this State and a joint return is filed with the
22 nonresident spouse or civil union partner in which event the tax



1 shall be computed on their aggregate income in the manner
2 provided in section 235-52 without regard to source in the
3 State. Where, however, both spouses or both partners in a civil
4 union change their status from resident to nonresident or from
5 nonresident to resident, their income shall be apportioned in
6 the manner provided in this subsection."

7 SECTION 40. Section 235-5.5, Hawaii Revised Statutes, is
8 amended as follows:

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

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



1 the amount deducted shall be included in the previous taxable
2 year's gross income and the tax reassessed. The interest paid
3 or accrued within the taxable year on the account shall not be
4 included in the individual's gross income. For purposes of this
5 section, the term "first principal residence" means a
6 residential property purchased with the payment or distribution
7 from the individual housing account which shall be owned and
8 occupied as the only home by an individual who did not have any
9 interest in, individually, or whose spouse or civil union
10 partner did not have any interest in, if the individual is
11 married[~~7~~] or in a civil union, a residential property within
12 the last five years of opening the individual housing account.

13 In the case of a married couple or partners in a civil
14 union filing separate returns, the sum of the deductions
15 allowable to each of them for the taxable year shall not exceed
16 \$5,000, or \$10,000 for a joint return, for amounts paid in cash,
17 excluding interest paid or accrued thereon.

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



1 and the deduction under this section shall not exceed \$25,000,
2 excluding interest paid or accrued thereon.

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

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

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



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



1 withholds an amount equal to ten per cent of the
2 amount withdrawn from the account and remits this
3 amount to the director within ten days after the date
4 of the withdrawal. The amount so withheld shall be
5 applied to the liability of the taxpayer under
6 subsections (c) and (e); and

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

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

20 "(g) No tax liability shall be imposed under this section
21 if:



1 (1) The payment or distribution is attributable to the
2 individual dying or becoming totally disabled; or
3 (2) Residential property subject to subsection (f) is
4 transferred by will or by operation of law or sold due
5 to the death or total disability of an individual or
6 individual's spouse[-] or civil union partner,
7 subject to the following:

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

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



1 continue the account or terminate the account and be paid the
2 assets; provided that if the account was held jointly by a
3 totally disabled person and a spouse or civil union partner of
4 that person, then the spouse or civil union partner, or an
5 authorized representative, may elect to continue the account or
6 terminate the account and be paid the assets.

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

17 SECTION 41. 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



- 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 civil union partner, 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 civil union partner, 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 civil union partners,
6 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 42. 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 civil union
20 partners filing separately, the individual with the
21 greater taxable income."



1 SECTION 43. Section 235-12.5, Hawaii Revised Statutes, is
2 amended by amending subsection (h) to read as follows:

3 "(h) Notwithstanding subsection (g), for any renewable
4 energy technology system, an individual taxpayer may elect to
5 have any excess of the credit over payments due refunded to the
6 taxpayer, if:

7 (1) All of the taxpayer's income is exempt from taxation
8 under section 235-7(a)(2) or (3); or

9 (2) The taxpayer's adjusted gross income is \$20,000 or
10 less (or \$40,000 or less if filing a tax return as
11 married filing jointly);

12 provided that tax credits properly claimed by a taxpayer who has
13 no income tax liability shall be paid to the taxpayer; and
14 provided further that no refund on account of the tax credit
15 allowed by this section shall be made for amounts less than \$1.

16 A husband and wife or partners in a civil union, who do not
17 file a joint tax return shall only be entitled to make this
18 election to the extent that they would have been entitled to
19 make the election had they filed a joint tax return.

20 The election required by this subsection shall be made in a
21 manner prescribed by the director on the taxpayer's return for
22 the taxable year in which the system is installed and placed in



1 service. A separate election may be made for each separate
2 system that generates a credit. An election once made is
3 irrevocable."

4 SECTION 44. Section 235-51, Hawaii Revised Statutes, is
5 amended as follows:

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

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

11 In the case of any taxable year beginning after
12 December 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



1	Over \$32,000 but	\$1,680.00 plus 7.20% of
2	not over \$40,000	excess over \$32,000
3	Over \$40,000 but	\$2,256.00 plus 7.60% of
4	not over \$60,000	excess over \$40,000
5	Over \$60,000 but	\$3,776.00 plus 7.90% of
6	not over \$80,000	excess over \$60,000
7	Over \$80,000	\$5,356.00 plus 8.25% of
8		excess over \$80,000.

9 In the case of any taxable year beginning after
10 December 31, 2006:

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



H.B. NO. 1453

1	Over \$48,000 but	\$2,707.00 plus 7.60% of
2	not over \$72,000	excess over \$48,000
3	Over \$72,000 but	\$4,531.00 plus 7.90% of
4	not over \$96,000	excess over \$72,000
5	Over \$96,000	\$6,427.00 plus 8.25% of
6		excess over \$96,000.

7 In the case of any taxable year beginning after December
8 31, 2008:

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



H.B. NO. 1453

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

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

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

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

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



H.B. NO. 1453

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

18 December 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



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
16 December 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



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 45. 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 civil union partner. In the



1 case of a joint return of a husband and wife or partners in a
2 civil union 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 civil
7 union partner shall be treated as a joint return of a husband
8 and wife or civil union partners under section 235-93."

9 SECTION 46. 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 of 1986, as amended, and
14 except as provided in subsection (c), personal exemptions
15 computed as follows: Ascertain the number of exemptions which
16 the individual can lawfully claim under the Internal Revenue
17 Code, add an additional exemption for the taxpayer or the
18 taxpayer's spouse or civil union partner who is sixty-five years
19 of age or older within the taxable year, and multiply that
20 number by \$1,144, for taxable years beginning after December 31,
21 1984. A nonresident shall prorate the personal exemptions on
22 account of income from sources outside the State as provided in



1 section 235-5. In the case of an individual with respect to
2 whom an exemption under this section is allowable to another
3 taxpayer for a taxable year beginning in the calendar year in
4 which the individual's taxable year begins, the personal
5 exemption amount applicable to such individual under this
6 subsection for such individual's taxable year shall be zero."

7 SECTION 47. Section 235-55.6, Hawaii Revised Statutes, is
8 amended as follows:

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

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

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

14 (A) A dependent of the taxpayer who is under the age
15 of thirteen and with respect to whom the taxpayer
16 is entitled to a deduction under section 235-
17 54(a),

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

20 (C) The spouse or civil union partner of the
21 taxpayer, if the spouse or civil union partner is



1 physically or mentally incapable of caring for
2 oneself.

3 (2) Employment-related expenses.

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

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

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

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



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

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

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

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



1 (iii) The requirements of subparagraph (B) are
2 met.

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

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

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

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

14 "(d) Earned income limitation.

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

20 (A) In the case of an individual who is not married
21 or in a civil union at the close of [~~such~~] the



1 year, [such] the individual's earned income for
2 [such] the year, or

3 (B) In the case of an individual who is married or in
4 a civil union at the close of [such] the year,
5 the lesser of [such] the individual's earned
6 income or the earned income of the individual's
7 spouse or civil union partner for [such] the
8 year.

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

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

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

3 In the case of any husband and wife, or partners' in a
4 civil union, this paragraph shall apply with respect
5 to only one spouse or civil union partner for any one
6 month.

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

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

15 (2) Married couples and partners in a civil union must
16 file joint return. If the taxpayer is married or in a
17 civil union at the close of the taxable year, the
18 credit shall be allowed under subsection (a) only if
19 the taxpayer and the taxpayer's spouse or civil union
20 partner file a 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



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,



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)



1 is allowable either to the taxpayer or the
2 taxpayer's spouse, 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 48. 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 partners in a civil union 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."



1 SECTION 49. 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 partners in a civil union filing separate tax returns
8 for a taxable year for which a joint return could have been
9 filed by them shall claim only the tax credit to which they
10 would have 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 50. 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 civil union and the taxpayer's
22 spouse or civil union partner is an employee receiving



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

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

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

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

19 "(f) On or before the date of the commencement of
20 employment with an employer, the employee shall furnish the
21 employer with a signed certificate relating to the number of
22 exemptions which the employee claims, which shall in no event



1 exceed the number to which the employee is entitled on the basis
2 of the existing facts, and also showing whether the employee is
3 married or in a civil union and [~~is~~], under section 235-93, is
4 entitled to make a joint return. The certificate shall be in
5 [~~such~~] the form and contain [~~such~~] information as may be
6 prescribed by the department.

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



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

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

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



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[7].

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 partners in a civil
16 union. The number of withholding allowances to
17 which a husband and wife or partners in a civil
18 union are entitled under this subsection shall be
19 determined on the basis of their combined wages
20 and deductions. This subparagraph shall not
21 apply to a husband and wife or partners in a
22 civil union who filed separate returns for the



1 taxable year preceding the estimation year and
2 who reasonably expect to file separate returns
3 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 51. 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 partners in a civil
8 union that was entered into during or prior to the taxable year
9 may make a single return jointly of taxes under this chapter for
10 the taxable year. In that case the tax shall be computed on
11 their aggregate income as provided in section 235-52, and the
12 liability with respect to the tax shall be joint and several.
13 For purposes of this chapter "aggregate income" means the income
14 of both spouses or civil union partners without regard to source
15 in the State.

16 (b) If an individual has filed a separate return for a
17 taxable year for which a joint return could have been made by
18 the taxpayer and the taxpayer's spouse[7] or civil union
19 partner, an election thereafter to make a joint return for the
20 taxable year shall be made only upon compliance with rules of
21 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 52. 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 partners in a civil union having a state
12 income tax liability of \$6 or more, each spouse or civil union
13 partner may designate that \$3 be paid to the fund. The director
14 of taxation shall revise the individual state income tax form to
15 allow the designation of contributions to the fund on the face
16 of the tax return and immediately above the signature lines. An
17 explanation shall be included which clearly states that the
18 check-off does not constitute an additional tax liability. If
19 no designation was made on the original tax return when filed, a
20 designation may be made by the individual on an amended return
21 filed within twenty months and ten days after the due date for
22 the original return for such taxable year. A designation once



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1 made whether by an original or amended return may not be
2 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 partners in a civil union having
10 a state income tax refund of \$4 or more, each spouse or civil
11 union partner may designate that \$2 be deposited into the
12 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 partners in a
7 civil union having a state income tax refund of \$4 or more, each
8 spouse or civil union partner may designate that \$2 be deposited
9 into the special fund. The director of taxation shall revise
10 the individual state income tax form to allow the designation of
11 contributions to the fund on the face of the tax return and
12 immediately above the signature lines. If no designation was
13 made on the original tax return when filed, a designation may be
14 made by the individual on an amended return filed within twenty
15 months and ten days after the due date for the original return
16 for such taxable year. A designation once made, whether by an
17 original or amended return, may not be revoked.

18 (d) Notwithstanding any law to the contrary, any
19 individual whose state income tax refund for any taxable year is
20 \$5 or more may designate \$5 of the refund to be paid over as
21 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 partners in a civil union having a state income tax
17 refund of \$10 or more, each spouse or civil union partner 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 53. 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 partners in a civil union
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 from
20 the state highway fund; provided that the tax credit properly
21 claimed by a principal operator who has no income tax liability
22 shall be paid to the principal operator from the state highway



1 fund; and provided further no refunds or payments on account of
2 the tax credit allowed by this section shall be made for amounts
3 less than \$1."

4 SECTION 54. Section 247-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§247-3 Exemptions. The tax imposed by section 247-1
7 shall not apply to:

8 (1) Any document or instrument that is executed prior to
9 January 1, 1967;

10 (2) Any document or instrument that is given to secure a
11 debt or obligation;

12 (3) Any document or instrument that only confirms or
13 corrects a deed, lease, sublease, assignment,
14 transfer, or conveyance previously recorded or filed;

15 (4) Any document or instrument between husband and wife,
16 reciprocal beneficiaries, partners in a civil union,
17 or parent and child, in which only a nominal
18 consideration is paid;

19 (5) Any document or instrument in which there is a
20 consideration of \$100 or less paid or to be paid;

21 (6) Any document or instrument conveying real property
22 that is executed pursuant to an agreement of sale, and



1 where applicable, any assignment of the agreement of
2 sale, or assignments thereof; provided that the taxes
3 under this chapter have been fully paid upon the
4 agreement of sale, and where applicable, upon such
5 assignment or assignments of agreements of sale;

6 (7) Any deed, lease, sublease, assignment of lease,
7 agreement of sale, assignment of agreement of sale,
8 instrument or writing in which the United States or
9 any agency or instrumentality thereof or the State or
10 any agency, instrumentality, or governmental or
11 political subdivision thereof are the only parties
12 thereto;

13 (8) Any document or instrument executed pursuant to a tax
14 sale conducted by the United States or any agency or
15 instrumentality thereof or the State or any agency,
16 instrumentality, or governmental or political
17 subdivision thereof for delinquent taxes or
18 assessments;

19 (9) Any document or instrument conveying real property to
20 the United States or any agency or instrumentality
21 thereof or the State or any agency, instrumentality,
22 or governmental or political subdivision thereof



- 1 pursuant to the threat of the exercise or the exercise
2 of the power of eminent domain;
- 3 (10) Any document or instrument that solely conveys or
4 grants an easement or easements;
- 5 (11) Any document or instrument whereby owners partition
6 their property, whether by mutual agreement or
7 judicial action; provided that the value of each
8 owner's interest in the property after partition is
9 equal in value to that owner's interest before
10 partition;
- 11 (12) Any document or instrument between marital partners
12 ~~[or]~~, reciprocal beneficiaries, or civil union
13 partners who are parties to a divorce action or
14 termination of a reciprocal beneficiary relationship
15 or civil union that is executed pursuant to an order
16 of the court in the divorce action or termination of a
17 reciprocal beneficiary relationship~~[+]~~ or civil union;
- 18 (13) Any document or instrument conveying real property
19 from a testamentary trust to a beneficiary under the
20 trust;
- 21 (14) Any document or instrument conveying real property
22 from a grantor to the grantor's revocable living



1 trust, or from a grantor's revocable living trust to
2 the grantor as beneficiary of the trust;

3 (15) Any document or instrument conveying real property, or
4 any interest therein, from an entity that is a party
5 to a merger or consolidation under chapter 414, 414D,
6 415A, 421, 421C, 425, 425E, or 428 to the surviving or
7 new entity;

8 (16) Any document or instrument conveying real property, or
9 any interest therein, from a dissolving limited
10 partnership to its corporate general partner that
11 owns, directly or indirectly, at least a ninety per
12 cent interest in the partnership, determined by
13 applying section 318 (with respect to constructive
14 ownership of stock) of the [~~federal~~] Internal Revenue
15 Code of 1986, as amended, to the constructive
16 ownership of interests in the partnership; and

17 (17) Any document or instrument conveying real property to
18 any nonprofit or for-profit organization that has been
19 certified by the Hawaii housing finance and
20 development corporation for low-income housing
21 development."



1 SECTION 55. Section 321-471, Hawaii Revised Statutes, is
2 amended by amending the definition of "family or household
3 members" as follows:

4 "Family or household members" as used in this section
5 means:

- 6 (1) Each legal parent;
- 7 (2) The natural mother;
- 8 (3) The natural father;
- 9 (4) Each natural or adopted child;
- 10 (5) Each sibling or person related by consanguinity;
- 11 (6) Spouses or former spouses;
- 12 (7) Reciprocal beneficiaries or former reciprocal
13 beneficiaries;
- 14 (8) Civil union partners or former civil union partners;
- 15 [~~9~~] (9) Each person who has or has had a dating
16 relationship;
- 17 [~~10~~] (10) Each person jointly residing or formerly
18 residing in the same dwelling unit; and
- 19 [~~11~~] (11) Any other person who, or legal entity that, is a
20 victim's legal or physical custodian or guardian, or
21 who is otherwise responsible for the victim's care,
22 other than an authorized agency that assumes such a



1 legal status or relationship with the victim under
2 chapter 587."

3 SECTION 56. Section 323-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~+~~§323-2~~+~~ Hospital visitation policy and extension of
6 authority to reciprocal beneficiaries~~-~~ and civil union
7 partners. A reciprocal beneficiary, as defined in chapter 572C,
8 and a civil union partner, as defined by section A-1, of a
9 patient shall have the same rights as a spouse with respect to
10 visitation and making health care decisions for the patient."

11 SECTION 57. Section 324-22, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The use of additional information obtained by
14 researchers shall also be governed by subsection (a) and, in
15 addition, where the patient is still living and the information
16 is to be obtained directly from the patient, the researcher
17 shall first obtain the approval of the patient or the patient's
18 immediate family, including a reciprocal beneficiary~~-~~ or civil
19 union partner, in that order of priority."

20 SECTION 58. Section 327-2, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By adding the definition of "civil union partner" to
2 read:

3 "Civil union partner" means a party to a valid civil union
4 as established in chapter A."

5 2. By amending the definition of "disinterested witness"
6 to read:

7 "Disinterested witness" means a witness other than the
8 spouse, reciprocal beneficiary, civil union partner, child,
9 parent, sibling, grandchild, grandparent, or guardian of the
10 individual who makes, amends, revokes, or refuses to make an
11 anatomical gift, or another adult who exhibited special care and
12 concern for the individual. The term shall not include a person
13 to which an anatomical gift could pass under section 327-11."

14 SECTION 59. Section 327-9, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Subject to subsections (b) and (c) and unless barred
17 by subsection (d), an anatomical gift of a decedent's body or
18 body part for purposes of transplantation, therapy, research, or
19 education may be made, in the order of priority listed, by any
20 member of the following classes of persons who is reasonably
21 available:



- 1 (1) An agent of the decedent at the time of death who
- 2 could have made an anatomical gift under section 327-
- 3 4(2) immediately before the decedent's death;
- 4 (2) The spouse [~~or~~], reciprocal beneficiary, or civil
- 5 union partner of the decedent;
- 6 (3) Adult children of the decedent;
- 7 (4) Parents of the decedent;
- 8 (5) Adult siblings of the decedent;
- 9 (6) Adult grandchildren of the decedent;
- 10 (7) Grandparents of the decedent;
- 11 (8) An adult who exhibited special care and concern for
- 12 the decedent;
- 13 (9) The persons who were acting as the guardian of the
- 14 person of the decedent at the time of death; and
- 15 (10) Any other person having the authority to dispose of
- 16 the decedent's body."

17 SECTION 60. Section 327E-2, Hawaii Revised Statutes, is
 18 amended by amending the definition of "interested persons" to
 19 read as follows:

20 ""Interested persons" means the patient's spouse, unless
 21 legally separated or estranged, a reciprocal beneficiary, a
 22 civil union partner, any adult child, either parent of the



1 patient, an adult sibling or adult grandchild of the patient, or
2 any adult who has exhibited special care and concern for the
3 patient and who is familiar with the patient's personal values."

4 SECTION 61. Section 334-6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§334-6 Fees; payment of expenses for treatment services.

7 (a) Pursuant to chapter 91, the director shall establish
8 reasonable charges for treatment services and may make
9 collections on such charges. In making the collections on such
10 charges the director shall take into consideration the financial
11 circumstances of the patient and the patient's family, including
12 a reciprocal beneficiary[7] or a civil union partner, and no
13 collections shall be made where in the judgment of the director,
14 [~~such~~] the collections would tend to make the patient or the
15 patient's family, including a reciprocal beneficiary[7] or civil
16 union partner, a public charge or deprive the patient and the
17 patient's family, including a reciprocal beneficiary[7] or civil
18 union partner, of necessary support.

19 (b) Every person hospitalized at a psychiatric facility or
20 receiving treatment services through a community mental health
21 center under the jurisdiction of the State or a county, or at a
22 psychiatric facility or through a community mental health center



1 which derives more than fifty per cent of its revenues from the
2 general fund of the State, or pursuant to contract with the
3 director under section 334-2.5, shall be liable for the expenses
4 attending their reception, maintenance, and treatment and any
5 property not exempt from execution belonging to the person shall
6 be subject to sequestration for the payment of the expenses.
7 Every parent or legal guardian of a patient who is a minor and
8 every spouse [~~or~~], reciprocal beneficiary, or civil union
9 partner of a patient shall be liable for the expenses attending
10 the reception, maintenance, and treatment of that minor child or
11 spouse [~~or~~], reciprocal beneficiary, or civil union partner who
12 is hospitalized at a psychiatric facility or receiving treatment
13 through a community mental health center under the jurisdiction
14 of the State or a county, or at a psychiatric facility or
15 through a community mental health center which derives more than
16 fifty per cent of its revenues from the general fund of the
17 State, or pursuant to contract with the director under section
18 334-2.5."

19 SECTION 62. Section 334-59, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:



1 "(d) Emergency hospitalization. If the physician or the
2 psychologist who performs the emergency examination has reason
3 to believe that the patient is:

- 4 (1) Mentally ill or suffering from substance abuse;
- 5 (2) Imminently dangerous to self or others, or is gravely
6 disabled, or is obviously ill; and
- 7 (3) In need of care or treatment, or both;

8 the physician or the psychologist may direct that the patient be
9 hospitalized on an emergency basis or cause the patient to be
10 transferred to another psychiatric facility for emergency
11 hospitalization, or both. The patient shall have the right
12 immediately upon admission to telephone the patient's guardian
13 or a family member, including a reciprocal beneficiary[7] or
14 civil union partner, or an adult friend and an attorney. If the
15 patient declines to exercise that right, the staff of the
16 facility shall inform the adult patient of the right to waive
17 notification to the family, including a reciprocal
18 beneficiary[7] or civil union partner, and shall make reasonable
19 efforts to ensure that the patient's guardian or family
20 including a reciprocal beneficiary[7] or civil union partner, is
21 notified of the emergency admission but the patient's family,
22 including a reciprocal beneficiary[7] or civil union partner,



1 need not be notified if the patient is an adult and requests
2 that there be no notification. The patient shall be allowed to
3 confer with an attorney in private."

4 SECTION 63. Section 334-60.4, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The court shall set a hearing on the petition and
7 notice of the time and place of such hearing shall be served in
8 accordance with, and to those persons specified in, a current
9 order of commitment. If there is no current order of
10 commitment, notice of the hearing shall be served personally on
11 the subject of the petition and served personally or by
12 certified or registered mail, return receipt requested,
13 deliverable to the addressee only, on the subject's spouse [~~or~~],
14 reciprocal beneficiary, or civil union partner, legal parents,
15 adult children, and legal guardian, if one has been appointed.
16 If the subject of the petition has no living spouse [~~or~~],
17 reciprocal beneficiary, or civil union partner, legal parent and
18 adult children, or if none can be found, notice of the hearing
19 shall be served on at least one of the subject's closest adult
20 relatives if any can be found. Notice of the hearing shall also
21 be served on the public defender, attorney for the subject of
22 the petition, or other court-appointed attorney as the case may



1 be. If the subject of the petition is a minor, notice of the
2 hearing shall also be served upon the person who has had the
3 principal care and custody of the minor during the sixty days
4 preceding the date of the petition if [~~such~~] the person can be
5 found within the State. Notice shall also be given to such
6 other persons as the court may designate."

7 SECTION 64. Section 334-60.5, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The court may adjourn or continue a hearing for
10 failure to timely notify a spouse [~~or~~], reciprocal beneficiary,
11 civil union partner, guardian, relative, or other person
12 determined by the court to be entitled to notice, or for failure
13 by the subject to contact an attorney as provided in section
14 334-60.4(b)(7) if the court determines the interests of justice
15 so require."

16 SECTION 65. Section 334-125, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Notice of the hearing shall be:

19 (1) Served personally on the subject of the petition
20 pursuant to family court rules; and

21 (2) Delivered personally or mailed by certified or
22 registered mail, return receipt requested, deliverable



1 to addressee only, to as many as are known to the
2 petitioner of the subject's spouse [~~or~~], reciprocal
3 beneficiary, or civil union partner, legal parents,
4 adult children, and legal guardian, if one has been
5 appointed. Petitioner shall certify that such notices
6 have been mailed, and to whom, but proof of receipt of
7 such notices is not required. Notice shall also be
8 served on any other person that the court designates."

9 SECTION 66. Section 338-1, Hawaii Revised Statutes, is
10 amended by amending the definition of "public health statistics"
11 to read as follows:

12 ""Public health statistics" includes the registration,
13 preparation, transcription, collection, compilation, and
14 preservation of data pertaining to births, adoptions,
15 legitimations, deaths, fetal deaths, morbidity, marital status,
16 civil union status, and data incidental thereto."

17 SECTION 67. Section 338-18, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) The department shall not permit inspection of public
20 health statistics records, or issue a certified copy of any
21 [~~such~~] record or part thereof, unless it is satisfied that the
22 applicant has a direct and tangible interest in the record. The



1 following persons shall be considered to have a direct and
2 tangible interest in a public health statistics record:

3 (1) The registrant;

4 (2) The spouse of the registrant;

5 (3) The civil union partner of the registrant;

6 [~~(3)~~] (4) A parent of the registrant;

7 [~~(4)~~] (5) A descendant of the registrant;

8 [~~(5)~~] (6) A person having a common ancestor with the
9 registrant;

10 [~~(6)~~] (7) A legal guardian of the registrant;

11 [~~(7)~~] (8) A person or agency acting on behalf of the
12 registrant;

13 [~~(8)~~] (9) A personal representative of the registrant's
14 estate;

15 [~~(9)~~] (10) A person whose right to inspect or obtain a
16 certified copy of the record is established by an
17 order of a court of competent jurisdiction;

18 [~~(10)~~] (11) Adoptive parents who have filed a petition for
19 adoption and who need to determine the death of one or
20 more of the prospective adopted child's natural or
21 legal parents;



1 ~~(11)~~ (12) A person who needs to determine the marital
2 status of a former spouse in order to determine the
3 payment of alimony;

4 (13) A person who needs to determine the civil union status
5 of a former civil union partner in order to determine
6 the payment of alimony;

7 ~~(12)~~ (14) A person who needs to determine the death of a
8 nonrelated co-owner of property purchased under a
9 joint tenancy agreement; and

10 ~~(13)~~ (15) A person who needs a death certificate for the
11 determination of payments under a credit insurance
12 policy."

13 SECTION 68. Section 338-29.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§338-29.5 Late ~~[registration of death, fetal death,~~
16 ~~marriage, and divorce.]~~ registration. (a) When a death, fetal
17 death, marriage, ~~[or]~~ civil union, divorce, or termination
18 occurring in this State has not been registered, a certificate
19 may be filed in accordance with rules adopted by the department
20 of health. The certificate shall be registered subject to any
21 evidentiary requirements that the department adopts by rule to



1 substantiate the alleged facts of death, fetal death, marriage,
2 [~~or~~] civil union, divorce[-], or termination.

3 (b) Certificates of death, fetal death, marriage, [~~or~~]
4 civil union, divorce, or termination registered one year or more
5 after the date of occurrence shall be marked "late" and shall
6 show on the face the date of the late registration.

7 (c) As used in this section, "late" means one year or more
8 after the date of the death, fetal death, marriage, [~~or~~], civil
9 union, divorce[-], or termination."

10 SECTION 69. Section 346-237, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) After a petition has been filed, the matter shall be
13 set for hearing and a notice of hearing shall be issued to all
14 parties to the proceeding. The parties to the proceeding shall
15 include:

- 16 (1) The vulnerable adult;
- 17 (2) Any caregiver of the vulnerable adult;
- 18 (3) A representative of the facility in which the
19 vulnerable adult resides or is a patient;
- 20 (4) The spouse or civil union partner and adult children
21 of the vulnerable adult;



- 1 (5) The parents of the vulnerable adult, unless waived by
- 2 the court for good cause;
- 3 (6) Any guardian or conservator who may have been
- 4 appointed; and
- 5 (7) Any other person or entity affected by the order for
- 6 immediate protection."

7 SECTION 70. Section 351-2, Hawaii Revised Statutes, is
8 amended by amending the definition of "relative" as follows:

9 "Relative" means a victim's spouse [e~~x~~], reciprocal
10 beneficiary, civil union partner, parent, grandparent,
11 stepparent, child, grandchild, stepchild, brother, sister, half
12 brother, half sister, stepbrother, stepsister, spouse's or
13 reciprocal beneficiary's or civil union partner's parents,
14 niece, nephew, or person residing in the same dwelling unit as
15 the victim;"

16 SECTION 71. Section 352-13, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§352-13 Evaluation, counseling, training. The director
19 shall provide the opportunity for intelligence and aptitude
20 evaluation, psychological testing and counseling, prevocational
21 and vocational training, and employment counseling to all
22 persons committed to the youth correctional facilities.



1 Counseling services shall be available for the committed
2 person's family, including a reciprocal beneficiary[7] or civil
3 union partner, during the term of commitment."

4 SECTION 72. Section 353-17, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The director or a designated agent may grant
7 furloughs to committed persons with a minimum or lower security
8 classification in any correctional facility of the department
9 for the purpose of employment, social reorientation, education,
10 or training, or any other valid purpose as determined by the
11 director. Special out-of-state furloughs may be granted to
12 those already otherwise furloughed, at no cost to the State,
13 when death or critical illness or injury to the committed
14 person's immediate family including a reciprocal beneficiary[7]
15 or civil union partner, occurs. Any committed person who is
16 engaged in private employment, by contract or otherwise, not
17 under the immediate custody of the State shall not be considered
18 an agent or employee of the State. Any moneys earned from
19 employment by such person shall be used to satisfy a restitution
20 order and to reimburse the State for the cost of room and board.
21 If any earned moneys remain after these expenses have been paid,



1 that amount shall be held in an individual account for the
2 committed person.

3 When an inmate is granted a special out-of-state furlough,
4 the director shall inform the authorities of the state to which
5 the inmate is to be furloughed of the inmate's arrival."

6 SECTION 73. Section 353-28.5, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) For the purposes of this section, "family members"
9 means persons who are related to each other by blood, marriage,
10 adoption, or legal guardianship, or as reciprocal
11 beneficiaries [~~-~~] or civil union partners."

12 SECTION 74. Section 377-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "employee" to read as
14 follows:

15 "(3) "Employee" includes any person, other than an
16 independent contractor, working for another for hire in the
17 State, and shall not be limited to the employees of a particular
18 employer unless the context clearly indicates otherwise; and
19 includes any individual whose work has ceased solely as a
20 consequence of or in connection with any current labor dispute
21 or because of any unfair labor practice on the part of an
22 employer and (A) who has not refused or failed to return to work



1 upon the final disposition of a labor dispute or a charge of an
2 unfair labor practice by a tribunal having competent
3 jurisdiction of the same or whose jurisdiction was accepted by
4 the employee or the employee's representative, (B) who has not
5 been found to be committing or a party to any unfair labor
6 practice hereunder, (C) who has not obtained regular and
7 substantially equivalent employment elsewhere, or (D) who has
8 not been absent from the individual's employment for a
9 substantial period of time during which reasonable expectancy of
10 settlement has ceased (except by an employer's unlawful refusal
11 to bargain) and whose place has been filled by another engaged
12 in the regular manner for an indefinite or protracted period and
13 not merely for the duration of a strike or lockout; but shall
14 not include any individual employed in the domestic service of a
15 family or person at the family's or person's home or any
16 individual employed by the individual's parent [~~or~~], spouse,
17 civil union partner, or any person employed in an executive or
18 supervisory capacity, or any individual employed by any employer
19 employing less than two individuals, or any individual subject
20 to the jurisdiction of the Federal Railway Labor Act or the
21 National Labor Relations Act, as amended from time to time;
22 provided that the term "employee" includes any individual



1 subject to the jurisdiction of the National Labor Relations Act,
2 as amended from time to time, but over whom the National Labor
3 Relations Board has declined to exercise jurisdiction or has
4 indicated by its decisions and policies that it will not assume
5 jurisdiction."

6 SECTION 75. Section 378-1, Hawaii Revised Statutes, is
7 amended by adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Civil union status" means the state of being a partner in
10 a civil union."

11 SECTION 76. Section 378-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§378-2 Discriminatory practices made unlawful; offenses
14 defined. It shall be an unlawful discriminatory practice:

15 (1) Because of race, sex, sexual orientation, age,
16 religion, color, ancestry, disability, marital status,
17 civil union status, or arrest and court record:

18 (A) For any employer to refuse to hire or employ or
19 to bar or discharge from employment, or otherwise
20 to discriminate against any individual in
21 compensation or in the terms, conditions, or
22 privileges of employment;



- 1 (B) For any employment agency to fail or refuse to
2 refer for employment, or to classify or otherwise
3 to discriminate against, any individual;
- 4 (C) For any employer or employment agency to print,
5 circulate, or cause to be printed or circulated
6 any statement, advertisement, or publication or
7 to use any form of application for employment or
8 to make any inquiry in connection with
9 prospective employment, which expresses, directly
10 or indirectly, any limitation, specification, or
11 discrimination;
- 12 (D) For any labor organization to exclude or expel
13 from its membership any individual or to
14 discriminate in any way against any of its
15 members, employer, or employees; or
- 16 (E) For any employer or labor organization to refuse
17 to enter into an apprenticeship agreement as
18 defined in section 372-2; provided that no
19 apprentice shall be younger than sixteen years of
20 age;
- 21 (2) For any employer, labor organization, or employment
22 agency to discharge, expel, or otherwise discriminate



- 1 against any individual because the individual has
2 opposed any practice forbidden by this part or has
3 filed a complaint, testified, or assisted in any
4 proceeding respecting the discriminatory practices
5 prohibited under this part;
- 6 (3) For any person whether an employer, employee, or not,
7 to aid, abet, incite, compel, or coerce the doing of
8 any of the discriminatory practices forbidden by this
9 part, or to attempt to do so;
- 10 (4) For any employer to violate the provisions of section
11 121-43 relating to nonforfeiture for absence by
12 members of the national guard;
- 13 (5) For any employer to refuse to hire or employ or to bar
14 or discharge from employment, any individual because
15 of assignment of income for the purpose of satisfying
16 the individual's child support obligations as provided
17 for under section 571-52;
- 18 (6) For any employer, labor organization, or employment
19 agency to exclude or otherwise deny equal jobs or
20 benefits to a qualified individual because of the
21 known disability of an individual with whom the



1 qualified individual is known to have a relationship
2 or association;

3 (7) For any employer or labor organization to refuse to
4 hire or employ or to bar or discharge from employment,
5 or withhold pay, demote, or penalize a lactating
6 employee because an employee breastfeeds or expresses
7 milk at the workplace. For purposes of this
8 paragraph, the term "breastfeeds" means the feeding of
9 a child directly from the breast; or

10 (8) For any employer to refuse to hire or employ or to bar
11 or discharge from employment, or otherwise to
12 discriminate against any individual in compensation or
13 in the terms, conditions, or privileges of employment
14 of any individual because of the individual's credit
15 history or credit report, unless the information in
16 the individual's credit history or credit report
17 directly relates to a bona fide occupational
18 qualification under section 378-3(2)."

19 SECTION 77. Section 383-7, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

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

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

4 (A) That, during each calendar quarter in both the
5 current and the preceding calendar years, paid
6 less than \$20,000 in cash remuneration to
7 individuals employed in agricultural labor,
8 including labor performed by an alien referred to
9 in subparagraph (C); and

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

12 (i) No more than nineteen calendar weeks,
13 whether consecutive or not, in which
14 agricultural labor was performed by its
15 employees, including labor performed by an
16 alien referred to in subparagraph (C); or

17 (ii) No more than nine individuals in its employ
18 performing agricultural labor in any one
19 calendar week, whether or not the same
20 individuals performed the labor in each
21 week, including labor performed by an alien
22 referred to in subparagraph (C); or



1 (C) If such agricultural labor is performed by an
2 individual who is an alien admitted to the United
3 States to perform agricultural labor pursuant to
4 Sections 214(c) and 101(a)(15)(H) of the
5 Immigration and Nationality Act;

6 (2) Domestic service in a private home, local college
7 club, or local chapter of a college fraternity or
8 sorority as set forth in section 3306(c)(2) of the
9 Internal Revenue Code of 1986, as amended;

10 (3) Service not in the course of the employing unit's
11 trade or business performed in any calendar quarter by
12 an individual, unless the cash remuneration paid for
13 the service is \$50 or more and the service is
14 performed by an individual who is regularly employed
15 by the employing unit to perform the service. For the
16 purposes of this paragraph, an individual shall be
17 deemed to be regularly employed to perform service not
18 in the course of an employing unit's trade or business
19 during a calendar quarter if:

20 (A) On each of some twenty-four days during the
21 quarter the individual performs the service for
22 some portion of the day; or



1 (B) The individual was regularly employed as
2 determined under subparagraph (A) by the
3 employing unit in the performance of the service
4 during the preceding calendar quarter;

5 (4) (A) Service performed on or in connection with a
6 vessel not an American vessel, if the individual
7 performing the service is employed on and in
8 connection with the vessel when outside the
9 United States;

10 (B) Service performed by an individual in (or as an
11 officer or member of the crew of a vessel while
12 it is engaged in) the catching, taking,
13 harvesting, cultivating, or farming of any kind
14 of fish, shellfish, crustacea, sponges, seaweeds,
15 or other aquatic forms of animal and vegetable
16 life, including service performed as an ordinary
17 incident thereto, except:

18 (i) The service performed in connection with a
19 vessel of more than ten net tons (determined
20 in the manner provided for determining the
21 register tonnage of merchant vessels under
22 the laws of the United States);



1 (ii) The service performed in connection with a
2 vessel of ten net tons or less (determined
3 in the manner provided for determining the
4 register tonnage of merchant vessels under
5 the laws of the United States) by an
6 individual who is employed by an employing
7 unit which had in its employ one or more
8 individuals performing the service for some
9 portion of a day in each of twenty calendar
10 weeks all occurring, whether consecutive or
11 not, in either the current or the preceding
12 calendar year; and

13 (iii) Service performed in connection with the
14 catching or taking of salmon or halibut for
15 commercial purposes;

16 (5) Service performed by an individual in the employ of
17 the individual's son, daughter, ~~[or]~~ spouse, or civil
18 union partner, and service performed by a child under
19 the age of twenty-one in the employ of the child's
20 ~~[father or mother;]~~ parent;

21 (6) Service performed in the employ of the United States
22 government or an instrumentality of the United States



1 exempt under the Constitution of the United States
2 from the contributions imposed by this chapter, except
3 that to the extent that the Congress of the United
4 States permits states to require any instrumentalities
5 of the United States to make payments into an
6 unemployment fund under a state unemployment
7 compensation law, all of the provisions of this
8 chapter shall apply to those instrumentalities, and to
9 services performed for those instrumentalities, in the
10 same manner, to the same extent, and on the same terms
11 as to all other employers, employing units,
12 individuals, and services; provided that if this State
13 is not certified for any year by the Secretary of
14 Labor under section 3304(c) of the federal Internal
15 Revenue Code, the payments required of those
16 instrumentalities with respect to that year shall be
17 refunded by the department of labor and industrial
18 relations from the fund in the same manner and within
19 the same period as is provided in section 383-76 with
20 respect to contributions erroneously collected;

21 (7) Service performed in the employ of any other state, or
22 any political subdivision thereof, or any



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

9 (8) Service with respect to which unemployment
10 compensation is payable under an unemployment system
11 established by an act of Congress;

12 (9) (A) Service performed in any calendar quarter in the
13 employ of any organization exempt from income tax
14 under section 501(a) of the federal Internal
15 Revenue Code (other than an organization
16 described in section 401(a) or under section 521
17 of the Internal Revenue Code), if:

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

20 (ii) The service is performed by a fully
21 ordained, commissioned, or licensed minister
22 of a church in the exercise of the



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

4 (B) Service performed in the employ of a school,
5 college, or university, if the service is
6 performed by a student who is enrolled and is
7 regularly attending classes at the school,
8 college, or university; or

9 (C) Service performed by an individual who is
10 enrolled at a nonprofit or public educational
11 institution which normally maintains a regular
12 faculty and curriculum and normally has a
13 regularly organized body of students in
14 attendance at the place where its educational
15 activities are carried on as a student in a full-
16 time program, taken for credit at the
17 institution, which combines academic instruction
18 with work experience, if the service is an
19 integral part of such program, and the
20 institution has so certified to the employer,
21 except that this subparagraph shall not apply to



1 service performed in a program established for or
2 on behalf of an employer or group of employers;

3 (10) Service performed in the employ of a foreign
4 government, including service as a consular or other
5 officer or employee of a nondiplomatic representative;

6 (11) Service performed in the employ of an instrumentality
7 wholly owned by a foreign government:

8 (A) If the service is of a character similar to that
9 performed in foreign countries by employees of
10 the United States government or of an
11 instrumentality thereof; and

12 (B) If the United States Secretary of State has
13 certified or certifies to the United States
14 Secretary of the Treasury that the foreign
15 government, with respect to whose instrumentality
16 exemption is claimed, grants an equivalent
17 exemption with respect to similar service
18 performed in the foreign country by employees of
19 the United States government and of
20 instrumentalities thereof;

21 (12) Service performed as a student nurse in the employ of
22 a hospital or a nurses' training school by an



1 individual who is enrolled and is regularly attending
2 classes in a nurses' training school chartered or
3 approved pursuant to state law; and service performed
4 as an intern in the employ of a hospital by an
5 individual who has completed a four-year course in a
6 medical school chartered or approved pursuant to state
7 law;

8 (13) Service performed by an individual for an employing
9 unit as an insurance producer, if all service
10 performed by the individual for the employing unit is
11 performed for remuneration solely by way of
12 commission;

13 (14) Service performed by an individual under the age of
14 eighteen in the delivery or distribution of newspapers
15 or shopping news, not including delivery or
16 distribution to any point for subsequent delivery or
17 distribution;

18 (15) Service covered by an arrangement between the
19 department and the agency charged with the
20 administration of any other state or federal
21 unemployment compensation law pursuant to which all
22 services performed by an individual for an employing



1 unit during the period covered by the employing unit's
2 duly approved election, are deemed to be performed
3 entirely within the agency's state;

4 (16) Service performed by an individual who, pursuant to
5 the Federal Economic Opportunity Act of 1964, is not
6 subject to the federal laws relating to unemployment
7 compensation;

8 (17) Service performed by an individual for an employing
9 unit as a real estate salesperson, if all service
10 performed by the individual for the employing unit is
11 performed for remuneration solely by way of
12 commission;

13 (18) Service performed by a registered sales representative
14 for a registered travel agency, when the service
15 performed by the individual for the travel agent is
16 performed for remuneration by way of commission;

17 (19) Service performed by a vacuum cleaner salesperson for
18 an employing unit, if all services performed by the
19 individual for the employing unit are performed for
20 remuneration solely by way of commission;

21 (20) Service performed for a family-owned private
22 corporation organized for profit that employs only



1 members of the family who each own at least fifty per
2 cent of the shares issued by the corporation; provided
3 that:

4 (A) The private corporation elects to be excluded
5 from coverage under this chapter;

6 (B) The election for exclusion shall apply to all
7 shareholders and under the same circumstances;

8 (C) No more than two members of a family may be
9 eligible per entity for exclusion under this
10 paragraph;

11 (D) The exclusion shall be irrevocable for five
12 years;

13 (E) The family-owned private corporation presents to
14 the department proof that it has paid federal
15 unemployment insurance taxes as required by
16 federal law; and

17 (F) The election to be excluded from coverage shall
18 be effective the first day of the calendar
19 quarter in which the application and all
20 substantiating documents requested by the
21 department are filed with the department;



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- 1 (21) Service performed by a direct seller as defined in
- 2 section 3508 of the Internal Revenue Code of 1986;
- 3 (22) Service performed by an election official or election
- 4 worker as defined in section 3309(b)(3)(F) of the
- 5 Internal Revenue Code of 1986, as amended;
- 6 (23) Service performed by an inmate or any person committed
- 7 to a penal institution[+]; and[+]
- 8 (24) Domestic in-home and community-based services for
- 9 persons with developmental disabilities and mental
- 10 retardation under the medicaid home and
- 11 community-based services program pursuant to title 42
- 12 Code of Federal Regulations sections 440.180 and
- 13 441.300, and title 42 Code of Federal Regulations,
- 14 part 434, subpart A, as amended, and identified as
- 15 chore, personal assistance and habilitation,
- 16 residential habilitation, supported employment,
- 17 respite, and skilled nursing services, as the terms
- 18 are defined and amended from time to time by the
- 19 department of human services, performed by an
- 20 individual whose services are contracted by a
- 21 recipient of social service payments and who
- 22 voluntarily agrees in writing to be an independent



1 contractor of the recipient of social service payments
 2 unless the individual is an employee and not an
 3 independent contractor of the recipient of social
 4 service payments under the Federal Unemployment Tax
 5 Act."

6 SECTION 78. Section 386-34, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "§386-34 Payment after death. Where an employee is
 9 entitled to weekly income and indemnity benefits for permanent
 10 total or permanent partial disability and dies from any cause
 11 other than the compensable work injury, payment of any unpaid
 12 balance of the benefits to the extent that the employer is
 13 liable therefor, but not to exceed the amount prescribed under
 14 section 386-32(a) for other cases, shall be made to the
 15 employee's dependents as provided herein. If, at the time of
 16 the death, the employee is entitled to any benefits from the
 17 special compensation fund, the benefits shall also be paid to
 18 the employee's dependents as provided herein:

- 19 (1) To a dependent widow, widower, [~~or~~], reciprocal
 20 beneficiary, or civil union partner, for the use of
 21 the widow, widower, [~~or~~], reciprocal beneficiary, or
 22 civil union partner, and the dependent children, if



1 any. The director of labor and industrial relations
2 may from time to time apportion such compensation
3 among the widow, widower, [~~or~~], reciprocal
4 beneficiary, or civil union partner, and any dependent
5 children.

6 (2) If there be no dependent widow, widower, [~~or~~],
7 reciprocal beneficiary, or civil union partner, but
8 one or more dependent children, then to such child or
9 children to be divided equally among them if more than
10 one.

11 (3) If there be no dependent widow, widower, reciprocal
12 beneficiary, or civil union partner, or child, but
13 there be a dependent parent, then to such parent, or
14 if both parents be dependent, to both of them, to be
15 divided equally between them; or if there be no such
16 parents, but a dependent grandparent, then to such
17 grandparent, or if more than one, then to all of them
18 to be divided equally among them.

19 (4) If there be no dependent widow, widower, reciprocal
20 beneficiary, or civil union partner, child, parent, or
21 grandparent, but there be a dependent grandchild,
22 brother, or sister, then to such dependent, or if more



1 than one, then to all of them to be divided equally
2 among them.

3 (5) If there be no such dependents, the unpaid balance of
4 the compensation shall be paid in a lump sum into the
5 special compensation fund."

6 SECTION 79. Section 386-41, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) Funeral and burial allowance. Where a work injury
9 causes death, the employer shall pay funeral expenses not to
10 exceed ten times the maximum weekly benefit rate to the
11 mortician and burial expenses not to exceed five times the
12 maximum weekly benefit rate to the cemetery selected by the
13 family, including a reciprocal beneficiary, civil union partner,
14 or next of kin of the deceased or in the absence of such family,
15 including a reciprocal beneficiary, civil union partner, or next
16 of kin, by the employer. Such payments shall be made directly
17 to the mortician and cemetery; provided that when the deceased
18 has a pre-paid funeral and burial plan such payments for funeral
19 and burial expenses, not to exceed the foregoing limits, shall
20 be made directly to the surviving spouse [~~or~~], reciprocal
21 beneficiary, or civil union partner, or the decedent's estate if



1 there is no surviving spouse [~~or~~], reciprocal beneficiary[~~-~~], or
2 civil union partner.

3 (b) Weekly benefits for dependents. In addition, the
4 employer shall pay weekly benefits to the deceased's dependents
5 at the percentages of the deceased's average weekly wages
6 specified below, taking into account not more than the maximum
7 weekly benefit rate prescribed in section 386-31 divided by
8 .6667 and not less than the minimum prescribed in the section
9 divided by .6667.

10 To the dependent widow, widower, [~~or~~] reciprocal
11 beneficiary, or civil union partner, if there are no dependent
12 children, fifty per cent.

13 To the dependent widow, widower, [~~or~~] reciprocal
14 beneficiary, or civil union partner, if there are one or more
15 dependent children of the deceased, sixty-six and two-thirds per
16 cent. The compensation to the widow, widower, [~~or~~] reciprocal
17 beneficiary, or civil union partner, shall be for the use and
18 benefit of the widow, widower, [~~or~~] reciprocal beneficiary, or
19 civil union partner, and of the dependent children, and the
20 director of labor and industrial relations from time to time may
21 apportion the compensation between them in such way as the
22 director deems best.



1 If there is no dependent widow, widower, [~~or~~] reciprocal
2 beneficiary, or civil union partner, but a dependent child, then
3 to the child forty per cent, and if there is more than one
4 dependent child, then to the children in equal parts sixty-six
5 and two-thirds per cent.

6 If there is no dependent widow, widower, [~~or~~] reciprocal
7 beneficiary, or civil union partner, or child, but there is a
8 dependent parent, then to the parent, if wholly dependent fifty
9 per cent, or if partially dependent twenty-five per cent; if
10 both parents are dependent, then one-half of the foregoing
11 compensation to each of them; if there is no dependent parent,
12 but one or more dependent grandparents, then to each of them the
13 same compensation as to a parent.

14 If there is no dependent widow, widower, [~~or~~] reciprocal
15 beneficiary, or civil union partner, child, parent or
16 grandparent, but there is a dependent grandchild, brother, or
17 sister, or two or more of them, then to those dependents thirty-
18 five per cent for one dependent, increased by fifteen per cent
19 for each additional dependent, to be divided equally among the
20 dependents if more than one."

21 SECTION 80. Section 386-42, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:

1 "(a) The following persons, and no others, shall be deemed
2 dependents and entitled to income, and indemnity benefits under
3 this chapter:

4 A child who is (1) unmarried and under eighteen years, or
5 (2) unmarried and under twenty years if the child is a full-time
6 student at a high school, business school, or technical school,
7 or unmarried and under twenty-two years if the child is a full-
8 time undergraduate student at a college, or (3) unmarried and
9 incapable of self-support, or (4) married and under eighteen
10 years, if actually dependent upon the deceased;

11 The surviving spouse ~~[or]~~, reciprocal beneficiary, or civil
12 union partner, if either living with the deceased at the time of
13 the injury or actually dependent upon the deceased;

14 A parent or grandparent, if actually dependent upon the
15 deceased;

16 A grandchild, brother, or sister, if (1) under eighteen
17 years or incapable of self-support, and (2) actually and wholly
18 dependent upon the deceased."

19 SECTION 81. Section 386-43, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) The weekly benefits to dependents shall continue:



1 To a surviving spouse [e~~x~~], reciprocal beneficiary, or
2 civil union partner, until death, remarriage, marriage, or entry
3 into a new reciprocal beneficiary relationship or civil union
4 with two years' compensation in one sum upon remarriage,
5 marriage, or entry into a new reciprocal beneficiary
6 relationship[-] or civil union.

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-
10 time student at a high school, business school, technical
11 school, or unmarried and under twenty-two years if the child is
12 a full-time undergraduate student at a college, or (3) so long
13 as unmarried, until termination of the child's incapability of
14 self-support, or (4) until marriage, except that in the case of
15 a married child under eighteen, weekly benefits shall continue
16 during the period of actual dependency until attainment of the
17 age of 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 this limitation shall not apply with respect to benefits
9 to a surviving spouse [~~or~~], reciprocal beneficiary, or civil
10 union partner who is physically or mentally incapable of self-
11 support and unmarried or not in a reciprocal beneficiary
12 relationship or civil union as long as he or she remains in that
13 condition and to benefits to a child and to benefits to an
14 unmarried child over eighteen incapable of self-support as long
15 as he or she is otherwise entitled to such compensation."

16 SECTION 82. Section 388-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§388-4 Payment of wages to relatives of deceased
19 employees. Where an employee dies leaving any wages, vacation,
20 or sick leave pay due the employee, the employer shall, within
21 thirty days after such death, whether or not a personal
22 representative has been appointed, pay the wages, vacation, or



1 sick leave pay in an amount not exceeding \$2,000 to, and upon
2 application by the surviving spouse [~~or~~], reciprocal
3 beneficiary, or civil union partner, or, if none, by an adult
4 child. The employer shall require the applicant to show proof
5 of his or her relationship to the deceased by affidavit and to
6 acknowledge receipt of the payment in writing. Any such payment
7 shall discharge the employer to the extent thereof and the
8 employer shall not be liable to the decedent's estate. Any
9 person to whom payment is made shall be answerable therefor to
10 anyone prejudiced by an improper distribution."

11 SECTION 83. Section 392-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§392-5 Excluded services. "Employment" as defined in
14 section 392-3 shall not include:

- 15 (1) Domestic service in a private home, local college
16 club, or local chapter of a college fraternity or
17 sorority, performed in any calendar quarter by an
18 individual if the cash remuneration paid by the
19 employer for such service is less than \$225;
- 20 (2) Service not in the course of the employer's trade or
21 business performed in any calendar quarter by an
22 individual, unless the cash remuneration paid for the



1 service is \$50 or more and the service is performed by
2 an individual who is regularly employed by the
3 employer to perform the service. An individual shall
4 be deemed to be regularly employed to perform service
5 not in the course of the employer's trade or business
6 during a calendar quarter only 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 employer in the performance of the service during
13 the preceding calendar quarter;

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

18 (4) Service performed by an individual in (or as an
19 officer or member of the crew of a vessel while it is
20 engaged in) the catching, taking, harvesting,
21 cultivating, or farming of any kind of fish,
22 shellfish, crustacea, sponges, seaweeds, or other



1 aquatic forms of animal and vegetable life, including
2 service performed as an ordinary incident thereto,
3 except:

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

9 (B) The service performed in connection with a vessel
10 of ten net tons or less (determined in the manner
11 provided for determining the register tonnage of
12 merchant vessels under the laws of the United
13 States) by an individual who is employed by an
14 employer who, for some portion in each of twenty
15 different calendar weeks in either the current or
16 preceding calendar year, had in the employer's
17 employ one or more persons performing the
18 service, whether or not the weeks were
19 consecutive and whether or not the same
20 individuals performed the service in each week;
21 and



- 1 (C) The 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 civil
6 union partner, and service performed by a child under
7 the age of twenty-one in the employ of the child's
8 ~~[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;
- 13 (7) Service performed in the employ of any other state, or
14 any political subdivision thereof, or any
15 instrumentality of any one or more of the foregoing
16 that is wholly owned by one or more such states or
17 political subdivisions; and any service performed in
18 the employ of any instrumentality of one or more other
19 states or their political subdivisions to the extent
20 that the instrumentality is, with respect to such
21 service, exempt from the tax imposed by section 3301
22 of the Internal Revenue Code of 1986;



- 1 (8) Service with respect to which temporary disability
2 compensation is payable for sickness under a temporary
3 disability insurance system established by an act of
4 Congress;
- 5 (9) Service performed in any calendar quarter in the
6 employ of any nonprofit organization exempt from
7 income tax under section 501 of the Internal Revenue
8 Code of 1986, if:
- 9 (A) The remuneration for such service is less than
10 \$50;
- 11 (B) The service is performed by a student who is
12 enrolled and is regularly attending classes at a
13 school, college, or university;
- 14 (C) The service is performed by a duly ordained,
15 commissioned, or licensed minister or licensed
16 minister of a church in the exercise of the
17 minister's ministry or by a member of a religious
18 order in the exercise of nonsecular duties
19 required by the order; or
- 20 (D) The service is performed for a church by an
21 employee who fails to meet the eligibility
22 requirements of section 392-25;



1 (10) Service performed in the employ of a voluntary
2 employees' beneficiary association providing for the
3 payment of life, sick, accident, or other benefits to
4 the members of the association or their dependents,
5 if:

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

9 (B) Eighty-five per cent or more of its income
10 consists of amounts collected from members and
11 amounts contributed by the employer of the
12 members for the sole purpose of making such
13 payments and meeting expenses;

14 (11) Service performed in the employ of a voluntary
15 employees' beneficiary association providing for the
16 payment of life, sick, accident, or other benefits to
17 the members of the association or their dependents or
18 their designated beneficiaries, if:

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



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

4 (12) Service performed in the employ of a school, college,
5 or university, not exempt from income tax under
6 section 501 of the Internal Revenue Code of 1986, if
7 the service is performed by a student who is enrolled
8 and is regularly attending classes at the school,
9 college, or university;

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

12 (A) The service is of a character similar to that
13 performed in foreign countries by employees of
14 the United States government or of an
15 instrumentality thereof; and

16 (B) The United States Secretary of State has
17 certified or certifies to the United States
18 Secretary of the Treasury that the foreign
19 government, with respect to whose instrumentality
20 exemption is claimed, grants an equivalent
21 exemption with respect to similar service
22 performed in the foreign country by employees of



- 1 the United States government and of
2 instrumentalities thereof;
- 3 (14) Service performed as a student nurse in the employ of
4 a hospital or a nurses' training school by an
5 individual who is enrolled and is regularly attending
6 classes in a nurses' training school chartered or
7 approved pursuant to state law; and service performed
8 as an intern in the employ of a hospital by an
9 individual who has completed a four years' course in a
10 medical school chartered or approved pursuant to state
11 law;
- 12 (15) Service performed by an individual for an employer as
13 an insurance producer, if all such service performed
14 by the individual for the employer is performed for
15 remuneration solely by way of commission;
- 16 (16) Service performed by an individual under the age of
17 eighteen in the delivery or distribution of newspapers
18 or shopping news, not including delivery or
19 distribution to any point for subsequent delivery or
20 distribution;
- 21 (17) Service covered by an arrangement between the
22 department and the agency charged with the



1 administration of any other state or federal
2 unemployment compensation law pursuant to which all
3 services performed by an individual for an employer
4 during the period covered by the employer's duly
5 approved election, are deemed to be performed entirely
6 within the agency's state;

7 (18) Service performed by an individual who, pursuant to
8 the Federal Economic Opportunity Act of 1964, is not
9 subject to the federal laws relating to unemployment
10 compensation;

11 (19) Domestic in-home and community-based services for
12 persons with developmental disabilities and mental
13 retardation under the medicaid home and community-
14 based services program pursuant to title 42 Code of
15 Federal Regulations sections 440.180 and 441.300, and
16 title 42 Code of Federal Regulations, part 434,
17 subpart A, as amended, and identified as chore,
18 personal assistance and habilitation, residential
19 habilitation, supported employment, respite, and
20 skilled nursing services, as the terms are defined by
21 the department of human services, performed by an
22 individual whose services are contracted by a



1 recipient of social service payments and who
2 voluntarily agrees in writing to be an independent
3 contractor of the recipient of social service
4 payments;

5 (20) Service performed by a vacuum cleaner salesperson for
6 an employing unit, if all such services performed by
7 the individual for such employing unit are performed
8 for remuneration solely by way of commission; or

9 (21) Service performed by an individual for an employer as
10 a real estate salesperson or as a real estate broker,
11 if all the service performed by the individual for the
12 employer is performed for remuneration solely by way
13 of commission."

14 SECTION 84. Section 393-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§393-5 Excluded services. "Employment" as defined in
17 section 393-3 does not include:

18 (1) Service performed by an individual in the employ of an
19 employer who, by the laws of the United States, is
20 responsible for care and cost in connection with such
21 service;



- 1 (2) Service performed by an individual in the employ of
2 the individual's spouse, civil union partner, son, or
3 daughter, and service performed by an individual under
4 the age of twenty-one in the employ of the
5 individual's [~~father or mother,~~] parent;
- 6 (3) Service performed in the employ of a voluntary
7 employee's beneficiary association providing for the
8 payment of life, sick, accident, or other benefits to
9 the members of the association or their dependents or
10 their designated beneficiaries, if:
- 11 (A) Admission to membership in the association is
12 limited to individuals who are officers or
13 employees of the United States government; and
- 14 (B) No part of the net earnings of the association
15 inures (other than through such payments) to the
16 benefits of any private shareholder or
17 individual;
- 18 (4) Service performed by an individual for an employer as
19 an insurance agent or as an insurance solicitor if all
20 service performed by the individual for the employer
21 is performed for remuneration by way of commission;



- 1 (5) Service performed by an individual for an employer as
2 a real estate salesperson or as a real estate broker
3 if all service performed by the individual for the
4 employer is performed for remuneration by way of
5 commission;
- 6 (6) Service performed by an individual who, pursuant to
7 the Federal Economic Opportunity Act of 1964, is not
8 subject to the provisions of law relating to federal
9 employment, including unemployment compensation; and
- 10 (7) Domestic in-home and community-based services for
11 persons with developmental disabilities and mental
12 retardation under the medicaid home and community-
13 based services program pursuant to title 42 Code of
14 Federal Regulations sections 440.180 and 441.300, and
15 title 42 Code of Federal Regulations, part 434,
16 subpart A, as amended, and identified as chore,
17 personal assistance and habilitation, residential
18 habilitation, supported employment, respite, and
19 skilled nursing services, as the terms are defined and
20 amended from time to time by the department of human
21 services, performed by an individual whose services
22 are contracted by a recipient of social service



1 payments and who voluntarily agrees in writing to be
2 an independent contractor of the recipient of social
3 service payments."

4 SECTION 85. Section 398-3, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) An employee shall be entitled to a total of four
7 weeks of family leave during any calendar year upon the birth of
8 a child of the employee or the adoption of a child, or to care
9 for the employee's child, spouse [~~or~~], reciprocal beneficiary,
10 or civil union partner, or parent with a serious health
11 condition."

12 SECTION 86. Section 431:10-234, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "~~§431:10-234~~ Spouses' [~~and~~], reciprocal beneficiaries',
15 and civil union partners' right in life insurance policy. (a)
16 Every life insurance policy made payable to or for the benefit
17 of the spouse [~~or~~], the reciprocal beneficiary, or the civil
18 union partner of the insured, and every life insurance policy
19 assigned, transferred, or in any way made payable to a spouse
20 [~~or~~], reciprocal beneficiary, or civil union partner, or to a
21 trustee for the benefit of a spouse [~~or~~], a reciprocal
22 beneficiary, or civil union partner, regardless of how the



1 assignment or transfer is procured, shall, unless contrary to
2 the terms of the policy, inure to the separate use and benefit
3 of such spouse [~~or~~], reciprocal beneficiary[-], or civil union
4 partner.

5 (b) Without the consent of one's spouse [~~or~~], reciprocal
6 beneficiary, or civil union partner, a married person or an
7 individual who is registered as a reciprocal beneficiary[~~r~~] or
8 civil union partner, may contract, pay for, take out, and hold a
9 policy on the life or health of one's spouse, reciprocal
10 beneficiary, civil union partner, or children, or against loss
11 by such spouse, [~~or~~] reciprocal beneficiary, or civil union
12 partner, or children due to disablement by accident. Premiums
13 paid on the policy by a married person [~~or~~], reciprocal
14 beneficiary, or civil union partner shall be held to have been
15 that person's separate estate, and the policy shall inure to the
16 use and benefit of that person and that person's children, free
17 from any claim by the spouse, [~~or~~] reciprocal beneficiary, or
18 civil union partner, or others."

19 SECTION 87. Section 431:10A-104, Hawaii Revised Statutes,
20 is amended by amending subsection (a) to read as follows:



1 "(a) A policy of accident and health or sickness insurance
2 shall neither be delivered nor issued for delivery to any person
3 in this State unless:

4 (1) The entire monetary and other considerations are
5 expressed in the policy;

6 (2) The time at which the insurance takes effect and
7 terminates is expressed in or determinable from the
8 policy;

9 (3) It purports to insure only one person, except that a
10 policy may provide family coverage as defined in
11 section 431:10A-103, or reciprocal beneficiary and
12 civil union family coverage as defined in section
13 431:10A-601;

14 (4) The style, arrangement, and overall appearance of the
15 policy give no undue prominence to any portion of the
16 text, and unless every printed portion of the text of
17 the policy and of any endorsements or attached papers
18 is plainly printed in light-faced type of a style in
19 general use, the size of which shall be uniform and
20 not less than ten point with a lower case unspaced
21 alphabet length not less than one hundred twenty
22 point. The text shall include all printed matter



1 except the name and address of the insurer, name or
2 title of the policy, a brief description, if any, and
3 captions and subcaptions;

4 (5) The exceptions and reductions of indemnity are set
5 forth in the policy and, except for the required and
6 optional provisions set forth in sections 431:10A-105
7 and 431:10A-106, are printed, at the insurer's option,
8 either included with the benefit provision to which
9 they apply, or under an appropriate caption such as
10 exceptions, or exceptions and reductions; provided
11 that if an exception or reduction specifically applies
12 only to a particular benefit of the policy, a
13 statement of the exception or reduction shall be
14 included with the benefit provision to which it
15 applies;

16 (6) Each policy form, including riders and endorsements,
17 shall be identified by a form number in the lower
18 left-hand corner of the first page; and

19 (7) It does not contain any provision purporting to make
20 any portion of the charter, rules, constitution, or
21 bylaws of the insurer a part of the policy unless such
22 portion is set forth in full in the policy, except in



1 the case of the incorporation of, or reference to, a
2 statement of rates or classification of risks, or
3 short-rate table filed with the commissioner."

4 SECTION 88. Section 431:10A-115, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) All policies providing family coverage, as defined in
7 section 431:10A-103 and reciprocal beneficiary and civil union
8 family coverage, as defined in section 431:10A-601, on an
9 expense incurred basis shall provide that the benefits
10 applicable for children shall be payable for newborn infants
11 from the moment of birth; provided that the coverage for newly
12 born children shall be limited to the necessary care and
13 treatment of medically diagnosed congenital defects and birth
14 abnormalities. If payment of a specific premium is required to
15 provide coverage for a child, the policy may require that
16 notification of birth and payment of the required premium must
17 be furnished the insurer within thirty-one days after the date
18 of birth in order to have the coverage continue beyond the
19 thirty-one-day period."

20 SECTION 89. Section 431:10A-120, Hawaii Revised Statutes,
21 is amended by amending subsection (a) to read as follows:



1 "(a) Each policy of accident and health or sickness
2 insurance, other than life insurance, disability income
3 insurance, and long-term care insurance, issued or renewed in
4 this State, each employer group health policy, contract, plan,
5 or agreement issued or renewed in this State, all accident and
6 health or sickness insurance policies issued or renewed in this
7 State, all policies providing family coverages as defined in
8 section 431:10A-103, and all policies providing reciprocal
9 beneficiary and civil union family coverage as defined in
10 section 431:10A-601, shall contain a provision for coverage for
11 medical foods and low-protein modified food products for the
12 treatment of an inborn error of metabolism for its policyholders
13 or dependents of the policyholder in this State; provided that
14 the medical food or low-protein modified food product is:

- 15 (1) Prescribed as medically necessary for the therapeutic
16 treatment of an inborn error of metabolism; and
- 17 (2) Consumed or administered enterally under the
18 supervision of a physician or osteopathic physician
19 licensed under chapter 453.

20 Coverage shall be for at least eighty per cent of the cost of
21 the medical food or low-protein modified food product prescribed
22 and administered pursuant to this subsection."



1 SECTION 90. Section 431:10A-206, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§431:10A-206 Coverage of newborn children. All group or
4 blanket disability policies providing family coverage, as
5 defined in section 431:10A-103 and reciprocal beneficiary and
6 civil union family coverage, as defined in section 431:10A-601,
7 on an expense incurred basis shall provide coverage for newborn
8 children in compliance with section 431:10A-115."

9 SECTION 91. Section 431:10A-601, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "~~[-]~~§431:10A-601~~[+]~~ Reciprocal beneficiary and civil union
12 family coverage defined; policyholder and employer
13 responsibility for costs; availability. (a) Any other law to
14 the contrary notwithstanding, reciprocal beneficiary and civil
15 union family coverage, as defined in subsection (b), shall be
16 made available to reciprocal beneficiaries as defined in chapter
17 572C and partners in a civil union as defined in chapter A but
18 only to the extent that family coverage, as defined in section
19 431:10A-103, is currently available to individuals who are not
20 reciprocal beneficiaries~~[-]~~ or partners in a civil union.

21 (b) As used in this section, "reciprocal beneficiary and
22 civil union family coverage" means a policy that insures,



1 originally or upon subsequent amendment, a reciprocal
2 beneficiary or civil union partner who shall be deemed the
3 policyholder, the other party to the policyholder's reciprocal
4 beneficiary relationship registered pursuant to chapter 572C, or
5 civil union registered pursuant to chapter A and dependent
6 children or any child of any other person dependent upon either
7 reciprocal beneficiary[-] or partner to a civil union.

8 (c) If a reciprocal beneficiary or civil union partner
9 policyholder incurs additional costs or premiums, if any, by
10 electing reciprocal beneficiary and civil union family coverage
11 under this section, the employer may pay additional costs or
12 premiums."

13 SECTION 92. Section 431:10C-103, Hawaii Revised Statutes,
14 is amended by amending the definition of "insured" as follows:

15 "Insured" means:

16 (1) The person identified by name as insured in a motor
17 vehicle insurance policy complying with section
18 431:10C-301; and

19 (2) A person residing in the same household with a named
20 insured, specifically:



1 (A) A spouse [~~or~~], reciprocal beneficiary, or civil
 2 union partner, or other relative of a named
 3 insured; and

4 (B) A minor in the custody of a named insured or of a
 5 relative residing in the same household with a
 6 named insured.

7 A person resides in the same household if the person
 8 usually makes the person's home in the same family unit, [~~which~~]
 9 that may include reciprocal beneficiaries[~~7~~] and civil union
 10 partners, even though the person temporarily lives elsewhere."

11 SECTION 93. Section 431:10C-302, Hawaii Revised Statutes,
 12 is amended by amending subsection (a) to read as follows:

13 "(a) In addition to the motor vehicle insurance coverages
 14 described in section 431:10C-301, every insurer issuing a motor
 15 vehicle insurance policy shall make available to the insured the
 16 following optional insurance under the following conditions.

17 Every insurer issuing a commercial motor vehicle insurance
 18 policy shall make available to the insured the following
 19 optional insurance, except for those benefits under paragraphs
 20 (4), (5), (9), (10), and (11) under the following conditions:

21 (1) At the option of the insured, provisions covering loss
 22 resulting from damage to the insured's motor vehicle



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1 with such deductibles, including but not limited to
2 collision and comprehensive deductibles of \$50, \$100,
3 \$250, \$500, \$1,000, \$1,500, and \$2,000, at
4 appropriately reduced premium rates, as the
5 commissioner, by rule, shall provide;

6 (2) At the option of the insured, compensation to the
7 insured, the insured's spouse, or civil union partner,
8 any dependents, or any occupants of the insured's
9 vehicle for damages not covered by personal injury
10 protection benefits;

11 (3) Additional coverages and benefits with respect to any
12 injury or any other loss from motor vehicle accidents
13 or from operation of a motor vehicle for which the
14 insurer may provide for aggregate limits with respect
15 to such additional coverage so long as the basic
16 liability coverages provided are not less than those
17 required by section 431:10C-301(b)(1) and (2);

18 (4) At the option of the insured, an option in writing for
19 coverage for wage loss benefits for monthly earnings
20 loss for injury arising out of a motor vehicle
21 accident. Any change in the wage loss benefits
22 coverage selected by an insured shall apply only to



1 benefits arising out of motor vehicle accidents
2 occurring after the date the change becomes effective.
3 Coverage shall be offered in multiples of \$500 a
4 month/\$3,000 per accident per person, from \$500 a
5 month/\$3,000 per accident to \$2,000 a month/\$12,000
6 per accident; however, nothing shall prevent an
7 insurer from making available higher limits of
8 coverage;

- 9 (5) An option in writing for minimum coverage for death
10 benefits for death arising out of a motor vehicle
11 accident in an amount of \$25,000, to be paid to the
12 surviving spouse [7] or civil union partner, for the
13 benefit of the spouse or civil union partner and
14 dependent children, or if there are no surviving
15 spouse, civil union partner, or dependent children,
16 then to the estate. Coverage shall also be made
17 available for increased death benefits in increments
18 of \$25,000 up to \$100,000; however, nothing shall
19 prevent an insurer from making available higher limits
20 of coverage. At the option of the insured, coverage
21 for funeral expenses of \$2,000 shall be made
22 available;



- 1 (6) Terms, conditions, exclusions, and deductible clauses,
2 coverages, and benefits which:
- 3 (A) Are consistent with the required provisions of
4 the policy;
- 5 (B) Limit the variety of coverage available so as to
6 give buyers of insurance reasonable opportunity
7 to compare the cost of insuring with various
8 insurers; and
- 9 (C) Are approved by the commissioner as fair and
10 equitable;
- 11 (7) At appropriately reduced premium rates, deductibles
12 applicable only to claims of an insured in the amounts
13 of \$100, \$300, \$500, and \$1,000 from all personal
14 injury protection benefits otherwise payable; provided
15 that if two or more insureds to whom the deductible is
16 applicable under the contract of insurance are injured
17 in the same accident, the aggregate amount of the
18 deductible applicable to all of them shall not exceed
19 the specified deductible, which amount where necessary
20 shall be allocated equally among them;
- 21 (8) Every insurer shall fully disclose the availability of
22 all required and optional coverages and deductibles,



1 including the nature and amounts, at the issuance or
2 delivery of the policy; or, for a policy already
3 issued on January 1, 1998, disclosure shall be made at
4 the first renewal after January 1, 1998. The insurer
5 shall also disclose at issuance or renewal, as
6 applicable, the effect on premium rates and savings of
7 each option and deductible. Further offers or
8 disclosures thereafter shall be required to be
9 included with every other renewal or replacement
10 policy. All elections of coverages, options, and
11 deductibles by a named insured shall be binding upon
12 additional insureds covered under the named insured's
13 policy. The purpose of this paragraph is to inform
14 insureds or prospective insureds of the coverages
15 under this article;

- 16 (9) (A) An insurer may make available, and provide at the
17 option of the named insured, the benefits
18 described in section 431:10C-103.5(a) through
19 managed care providers such as a health
20 maintenance organization or a preferred provider
21 organization. The option may include conditions
22 and limitations to coverage, including



1 deductibles and coinsurance requirements, as
2 approved by the commissioner. The commissioner
3 shall approve those conditions and limitations
4 which are substantially comparable to or exceed
5 the coverage provided under section 431:10C-
6 103.6;

7 (B) An insurer may make available, and provide at the
8 option of the named insured, deductible and
9 coinsurance arrangements whereby the recipient of
10 care, treatment, services, products, expenses, or
11 accommodations shares in the payment obligation;

12 (C) No deductible or coinsurance under a policy
13 covered under section 431:10C-302(a)(9)(A) or (B)
14 shall be applied with respect to care, treatment,
15 services, products, or accommodation provided or
16 expenses incurred by an insured during the first
17 twenty-four hours in which emergency treatment
18 has been provided or until the insured patient's
19 emergency medical condition is stabilized,
20 whichever is longer;

21 (D) (i) The optional coverage prescribed in section
22 431:10C-302(a)(9)(A) and (B) shall apply



1 only to the named insured, resident spouse,
2 resident civil union partner, or resident
3 relative; and

4 (ii) "Resident relative" means a person who, at
5 the time of the accident, is related by
6 blood, marriage, civil union, or adoption to
7 the named insured [~~or~~], resident spouse,
8 resident civil union partner, and who
9 resides in the named insured's household,
10 even if temporarily living elsewhere, and
11 any ward or foster child who usually resides
12 with the named insured, even if living
13 elsewhere;

14 (E) An agreement made under section 431:10C-302(a)(9)
15 must be a voluntary agreement between the insured
16 and the insurer, and no insurer shall require an
17 insured to agree to those policy provisions as a
18 condition of providing insurance coverage.

19 Requiring an agreement as a precondition to the
20 provision of insurance shall constitute an unfair
21 insurance practice and shall be subject to the



1 provisions, remedies, and penalties provided in
2 article 13; and

3 (F) An insurer providing the coverages authorized in
4 section 431:10C-302(a)(9)(A) and (B) shall
5 demonstrate in rate filings submitted to the
6 commissioner the savings to the insured to be
7 realized under the plan;

8 (10) An insurer shall make available optional coverage for
9 naturopathic, acupuncture, nonmedical remedial care,
10 and treatment rendered in accordance with the
11 teachings, faith, or belief of any group which relies
12 upon spiritual means through prayer for healing; and

13 (11) An insurer may make available optional coverage for
14 chiropractic treatment in addition to chiropractic
15 treatment provided under section 431:10C-103.6 for not
16 more than the lesser of the following:

17 (A) Thirty additional visits at no more than \$75 a
18 visit; or

19 (B) Treatment as defined by the Hawaii Chiropractic
20 Association guidelines in effect on January 25,
21 1997.



1 The commissioner shall adopt rules, including policy
2 limits, terms, and conditions as necessary to implement the
3 requirements of this section."

4 SECTION 94. Section 431:10C-305, Hawaii Revised Statutes,
5 is amended by amending subsection (b) to read as follows:

6 "(b) (1) Except as provided in paragraph (2), personal
7 injury protection benefits shall be paid primarily from the
8 following sources in the following conditions:

9 (A) The insurance on the vehicle occupied by the
10 injured person at the time of the accident; or

11 (B) The insurance on the vehicle which caused
12 accidental harm if the injured person is a
13 pedestrian (including a bicyclist).

14 If there is no insurance on the vehicle, any other
15 motor vehicle insurance applicable to the injured
16 person shall apply.

17 No person shall recover personal injury protection
18 benefits from more than one insurer for accidental
19 harm as a result of the same accident;

20 (2) All personal injury protection benefits shall be paid
21 secondarily and net of any benefits a person is



1 entitled to receive because of the accidental harm
2 from workers' compensation laws; provided that:

3 (A) The total amount a person is entitled to receive
4 for monthly earnings loss under this article
5 shall be limited to the amount of any applicable
6 coverage under section 431:10C-302, without any
7 deduction of any amount received as compensation
8 for lost earnings under any workers' compensation
9 law;

10 (B) The aggregate of the payments from both sources
11 shall not exceed eighty per cent of the person's
12 monthly earnings as provided in section 431:10C-
13 302(a)(4). However, if the person's employer
14 provides both workers' compensation and personal
15 injury protection payments, the aggregate shall
16 not exceed the person's net monthly earnings
17 (computed by subtracting the total of federal and
18 state income taxes and employee social security
19 contributions from the gross monthly earnings),
20 provided that the workers' compensation payments
21 shall not be less than required by chapter 386;
22 and



1 (C) This section shall not apply to benefits payable
2 to a surviving spouse or surviving civil union
3 partner and any surviving dependent as provided
4 under section 431:10C-304.

5 If the person does not collect such benefits under the
6 workers' compensation laws by reason of the contest of
7 this right to so collect by the person or organization
8 responsible for payment thereof, the injured person,
9 if otherwise eligible, shall, nevertheless, be
10 entitled to receive personal injury protection
11 benefits and, upon payment thereof, the personal
12 injury protection insurer shall be subrogated to the
13 injured person's rights to collect such benefits."

14 SECTION 95. Section 431:10D-201, Hawaii Revised Statutes,
15 is amended by amending subsection (b) to read as follows:

16 "(b) Subsection (a) shall not apply to contracts of life
17 insurance insuring only individuals:

18 (1) Related by marriage, by civil union, by blood, or by
19 legal adoption; or

20 (2) Having a common interest through ownership of a
21 business enterprise, or of a substantial legal



1 interest or equity in the business enterprise, and who
2 are actively engaged in its management; or
3 (3) Otherwise having an insurable interest in each other's
4 lives."

5 SECTION 96. Section 431:10H-205, Hawaii Revised Statutes,
6 is amended by amending subsection (j) to read as follows:

7 "(j) Notwithstanding any other provision of this section,
8 an insured individual whose eligibility for group long-term care
9 coverage is based upon the individual's relationship to another
10 person shall be entitled to continuation of coverage under the
11 group policy upon termination of the qualifying relationship by
12 death or dissolution of marriage or termination of a reciprocal
13 beneficiary relationship[-] or civil union."

14 SECTION 97. Section 431:10H-402, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "[~~+~~]§431:10H-402[~~+~~] Purchase of policy and payment of
17 premiums on an individual's behalf. An insurer shall allow a
18 person to purchase an individual or group long-term care
19 insurance policy and pay the premiums for an individual or group
20 long-term care insurance policy that covers the person, the
21 person's spouse, [~~e~~] reciprocal beneficiary, or civil union
22 partner, as well as their parents and grandparents, and in-law



1 parents and grandparents. Nothing in this section shall
2 preclude an insurer from underwriting such a policy."

3 SECTION 98. Section 431L-3, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) Where a parent is required by a court or
6 administrative order to provide health coverage for a child, and
7 the parent is eligible for family coverage, as defined in
8 section 431:10A-103, and reciprocal beneficiary and civil union
9 family coverage, as defined in section 431:10A-601, the insurer
10 shall be required:

11 (1) To permit the parent to enroll, under the family
12 coverage or reciprocal beneficiary and civil union
13 family coverage, a child who is otherwise eligible for
14 the coverage without regard to any enrollment season
15 restrictions;

16 (2) If the parent is enrolled but fails to make
17 application to obtain coverage for the child, to
18 enroll the child under family coverage or reciprocal
19 beneficiary and civil union family coverage upon
20 application of the child's other parent, the state
21 agency administering the medicaid program, or the



- 1 state agency administering the child support
2 enforcement program; and
3 (3) Not to disenroll (or eliminate coverage of) the child
4 unless the insurer is provided satisfactory written
5 evidence that:
6 (A) The court or administrative order is no longer in
7 effect; or
8 (B) The child is or will be enrolled in comparable
9 health coverage through another insurer that will
10 take effect not later than the effective date of
11 disenrollment."

12 SECTION 99. Section 431L-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§431L-4 Employer obligations. Where a parent is required
15 by a court or administrative order to provide health coverage,
16 which is available through an employer doing business in this
17 State, the employer is required:

- 18 (1) To permit the parent to enroll under family coverage,
19 as defined in section 431:10A-103 or reciprocal
20 beneficiary and civil union family coverage, as
21 defined in section 431:10A-601, any child who is



1 otherwise eligible for coverage without regard to any
2 enrollment season restrictions;

3 (2) If the parent is enrolled but fails to make
4 application to obtain coverage of the child, to enroll
5 the child under family coverage or reciprocal
6 beneficiary and civil union family coverage upon
7 application by the child's other parent, by the state
8 agency administering the medicaid program, or by the
9 state agency administering the child support
10 enforcement program;

11 (3) Not to disenroll (or eliminate coverage of) any such
12 child unless the employer is provided satisfactory
13 written evidence that:

14 (A) The court or administrative order is no longer in
15 effect;

16 (B) The child is or will be enrolled in comparable
17 coverage which will take effect no later than the
18 effective date of disenrollment; or

19 (C) The employer has eliminated family health
20 coverage or reciprocal beneficiary and civil
21 union family coverage for all of its employees;
22 and



1 (4) To withhold from the employee's compensation the
 2 employee's share (if any) of premiums for health
 3 coverage and to pay this amount to the insurer."

4 SECTION 100. Section 432:1-104, Hawaii Revised Statutes,
 5 is amended to read as follows:

6 "§432:1-104 Definitions. For the purposes of this
 7 article:

8 (1) Commissioner means the insurance commissioner of the
 9 State of Hawaii.

10 (2) Mutual benefit society is any corporation,
 11 unincorporated association, society, or entity:

12 (A) Organized and carried on for the primary benefit
 13 of its members and their beneficiaries and not
 14 for profit, and:

15 (i) Making provision for the payment of benefits
 16 in case of sickness, disability, or death of
 17 its members, or disability, or death of its
 18 members' spouses [or], reciprocal
 19 beneficiaries, or civil union partners, or
 20 children, or

21 (ii) Making provision for the payment of any
 22 other benefits to or for its members,



1 whether or not the amount of the benefits is
2 fixed or rests in the discretion of the society,
3 its officers, or any other person or persons; and
4 the fund from which the payment of the benefits
5 shall be defrayed is derived from assessments or
6 dues collected from its members, and the payment
7 of death benefits is made to the families,
8 including reciprocal beneficiaries[7] or civil
9 union partners, heirs, blood relatives, or
10 persons named by its members as their
11 beneficiaries; or

- 12 (B) Organized and carried on for any purpose, which:
- 13 (i) Regularly requires money to be paid to it by
14 its members, whether the money be in the
15 form of dues, subscriptions, receipts,
16 contributions, assessments or otherwise, and
- 17 (ii) Provides for the payment of any benefit or
18 benefits or the payment of any money or the
19 delivery of anything of value to its members
20 or their relatives including reciprocal
21 beneficiaries[7] or civil union partners, or
22 to any person or persons named by its



1 members as their beneficiaries, or to any
2 class of persons which includes or may
3 include its members,

4 whether or not the amount or value of the
5 benefit, benefits, money, or thing of value is
6 fixed, or rests in the discretion of the society,
7 its officers, or any other person or persons; or

8 (C) Organized and carried on for any purpose, whose
9 requirements and provisions although not
10 identical with, are determined by the
11 commissioner to be substantially similar to,
12 those enumerated in subparagraphs (A) and (B).

13 Participating in a prepaid legal service plan subject
14 to chapter 488 shall not in itself make a corporation,
15 unincorporated association, society, or entity a
16 mutual benefit society and subject to this article."

17 SECTION 101. Section 432:1-604, Hawaii Revised Statutes,
18 is amended by amending subsection (b) to read as follows:

19 "(b) For the purposes of this section, the term "spouse"
20 means a person who is lawfully married to the patient or in a
21 lawful civil union with the patient under the laws of the
22 State."



1 SECTION 102. Section 443B-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "debtor" to read as
3 follows:

4 "Debtor" means any person or the person's spouse [~~or~~],
5 reciprocal beneficiary, civil union partner, parent (if the
6 person is a minor), guardian, executor, or administrator
7 obligated or allegedly obligated to pay a debt."

8 SECTION 103. Section 444-28, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) The court shall proceed upon such application in a
11 summary manner, and, upon the hearing thereof, the injured
12 person shall be required to show:

13 (1) The injured person is not a spouse or civil union
14 partner of debtor, or the personal representative of
15 such spouse [~~or~~] or civil union partner.

16 (2) The injured person has complied with all the
17 requirements of this section.

18 (3) The injured person has obtained a judgment as set out
19 in subsection (b) of this section, stating the amount
20 thereof and the amount owing thereon at the date of
21 the application.



1 (4) The injured person has made all reasonable searches
2 and inquiries to ascertain whether the judgment debtor
3 is possessed of real or personal property or other
4 assets, liable to be sold or applied in satisfaction
5 of the judgment.

6 (5) That by such search the injured person has discovered
7 no personal or real property or other assets liable to
8 be sold or applied, or that the injured person has
9 discovered certain of them, describing them, owned by
10 the judgment debtor and liable to be so applied, and
11 that the injured person has taken all necessary action
12 and proceedings for the realization thereof, and that
13 the amount thereby realized was insufficient to
14 satisfy the judgment, stating the amount so realized
15 and the balance remaining due on the judgment after
16 application of the amount realized."

17 SECTION 104. Section 453-15, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§453-15 Who shall give consent to a postmortem
20 examination. A pathologist or any licensed physician,
21 osteopathic physician, or surgeon may conduct a postmortem
22 examination when written consent thereto is given by whoever of



1 the following assumes custody of the body for purposes of
2 burial: father, mother, husband, wife, reciprocal beneficiary,
3 civil union partner, child, guardian, next of kin, or, in the
4 absence of any of the foregoing, a friend or person, including a
5 governmental agency, charged by law with the responsibility for
6 the burial. If two or more persons assume custody of the body,
7 the consent of one of them is sufficient. The consent shall
8 include the consent to the retention by the pathologist or
9 licensed physician, osteopathic physician, or surgeon who
10 conducts the postmortem examination of tissues, including fetal
11 material, of the body removed at the time of the postmortem
12 examination to be used for necessary or advisable scientific
13 investigation, including research, teaching, and therapeutic
14 purposes."

15 SECTION 105. Section 453D-14, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§453D-14[+] Mental health counselor prohibited from
18 testifying in alimony [~~and~~], divorce, or termination actions.
19 If both parties to a marriage or civil union have obtained
20 mental health counseling from a licensed mental health
21 counselor, the counselor shall be prohibited from testifying in
22 an alimony [~~or~~], divorce, or termination action concerning



1 information acquired in the course of mental health counseling.
2 This section shall not apply to custody actions whether or not
3 part of a divorce or termination proceeding."

4 SECTION 106. Section 454F-1, Hawaii Revised Statutes, is
5 amended by amending the definition of "immediate family member"
6 to read as follows:

7 "Immediate family member" means a spouse, civil union
8 partner, child, sibling, parent, grandparent, grandchild,
9 stepparent, stepchild, stepsibling, and equivalent adoptive
10 relationships."

11 SECTION 107. Section 454F-42, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The court shall proceed upon an application to
14 recover from the mortgage loan recovery fund in a summary manner
15 and, at hearing, the aggrieved person shall be required to show:

16 (1) The person is not a spouse or civil union partner of
17 the judgment debtor or the personal representative of
18 a spouse or civil union partner of the judgment
19 debtor;

20 (2) The person has complied with all the requirements of
21 this section;



- 1 (3) The person has obtained a judgment or settlement
2 pursuant to section 454F-41(a) that states the amount
3 of the judgment and the amount owed on the judgment
4 debt as of the date of the application;
- 5 (4) The person has made all reasonable searches and
6 inquiries to ascertain whether the judgment debtor is
7 possessed of real or personal property or other assets
8 liable to be sold or applied in satisfaction of the
9 judgment; and
- 10 (A) The search has uncovered no personal or real
11 property or other assets liable to be sold or
12 applied; or
- 13 (B) The search has uncovered personal or real
14 property or other assets liable to be sold or
15 applied, the person has taken all necessary
16 action and completed all necessary proceedings
17 for the realization thereof, and the amount
18 realized was insufficient to satisfy the
19 judgment; provided that the person shall state
20 the amount realized and the balance remaining due
21 on the judgment after application of the amount
22 realized; and



1 (5) That where the licensee is a judgment debtor in a
2 bankruptcy proceeding, the aggrieved person has
3 obtained an order from the bankruptcy court declaring
4 the judgment against the licensee to be non-
5 dischargeable."

6 SECTION 108. Section 467-18, Hawaii Revised Statutes, is
7 amended by amending subsection (c) to read as follows:

8 "(c) The court shall proceed upon the application in a
9 summary manner and, upon the hearing thereof, the aggrieved
10 person shall be required to show:

11 (1) The person is not a spouse or civil union partner of
12 debtor, or the personal representative of such
13 spouse [7] or civil union partner;

14 (2) The person has complied with all the requirements of
15 this section;

16 (3) The person has obtained a judgment as set out in
17 subsection (b) of this section, stating the amount
18 thereof and the amount owing thereon at the date of
19 the application;

20 (4) The person has made all reasonable searches and
21 inquiries to ascertain whether the judgment debtor is
22 possessed of real or personal property or other



1 assets, liable to be sold or applied in satisfaction
2 of the judgment;

3 (5) That by such search the person has discovered no
4 personal or real property or other assets liable to be
5 sold or applied, or that the person has discovered
6 certain of them, describing them, owned by the
7 judgment debtor and liable to be so applied, and that
8 the person has taken all necessary action and
9 proceedings for the realization thereof, and that the
10 amount thereby realized was insufficient to satisfy
11 the judgment, stating the amount so realized and the
12 balance remaining due on the judgment after
13 application of the amount realized; and

14 (6) That where the real estate broker or real estate
15 salesperson is a debtor in a bankruptcy proceeding,
16 the aggrieved person has obtained an order from the
17 bankruptcy court declaring the judgment against the
18 real estate broker or real estate salesperson to be
19 non-dischargeable."

20 SECTION 109. Section 477E-3, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [†] §477E-3 [†] Prohibited credit discrimination. (a) It
2 shall be unlawful for any creditor to discriminate against any
3 applicant on the basis of marital or civil union status with
4 respect to any aspect of a credit transaction.

5 (b) An inquiry of marital or civil union status shall not
6 constitute discrimination for the purposes of this chapter if
7 such inquiry is for the purpose of ascertaining the creditor's
8 rights and remedies applicable to the particular extension of
9 credit, and not to discriminate in a determination of
10 creditworthiness.

11 (c) A request for the signature of both parties to a
12 marriage or civil union for the purpose of creating a valid
13 lien, passing clear title, waiving inchoate rights to, or
14 assigning the earnings and profits, in any transaction involving
15 real property shall not be construed to be discrimination under
16 this part; provided that this provision shall not be construed
17 to permit a creditor to take marital or civil union status into
18 account in connection with the evaluation of creditworthiness of
19 any applicant.

20 (d) Consideration or application of the real property laws
21 directly or indirectly affecting creditworthiness shall not
22 constitute discrimination for any purpose of this chapter.



1 (e) Whenever either party to a marriage or civil union
2 contracts separately for credit or a loan, the contracting party
3 shall be solely responsible for the debt so contracted.

4 (f) Whenever each party to a marriage or civil union
5 separately and voluntarily applies for, and obtains, separate
6 credit accounts or loans with the same creditor, those accounts
7 or loans shall not be aggregated, or otherwise combined, for
8 purposes of determining permissible finance charges, or
9 permissible loan ceilings."

10 SECTION 110. Section 481E-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "athlete agent" to read as
12 follows:

13 ""Athlete agent" means an individual who enters into an
14 agency contract with a student-athlete or, directly or
15 indirectly, recruits or solicits a student-athlete to enter into
16 an agency contract. The term includes an individual who
17 represents to the public that the individual is an athlete
18 agent. The term does not include a spouse, civil union partner,
19 parent, sibling, grandparent, or guardian of the student-athlete
20 or an individual acting solely on behalf of a professional
21 sports team or professional sports organization."



1 SECTION 111. Section 481J-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "consumer" to read as
3 follows:

4 "Consumer" means the purchaser, other than for purposes of
5 resale, of a used motor vehicle primarily used for personal,
6 family, or household purposes and subject to a warranty, and the
7 spouse, civil union partner, or child of the purchaser if the
8 motor vehicle is transferred to the spouse, civil union partner,
9 or child during the duration of any warranty applicable to such
10 motor vehicle, and any other person entitled by the terms of
11 such warranty to enforce the obligations of the warranty."

12 SECTION 112. Section 489N-1, Hawaii Revised Statutes, is
13 amended by amending the definition of "marital history
14 information" to read as follows:

15 "Marital or civil union history information" means a
16 declaration of a Hawaii resident's current marital or civil
17 union status, the number of times the Hawaii resident has
18 previously been married[~~r~~] or a partner in a civil union, the
19 number of domestic abuse orders of protection issued against the
20 Hawaii resident, and whether any previous marriages or civil
21 unions by the Hawaii resident occurred as a result of receiving
22 services from an international matchmaking organization."



1 SECTION 113. Section 489N-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§489N-2 Dissemination of criminal record and marital or
4 civil union history information. (a) Each international
5 matchmaking organization doing business in this State shall:

- 6 (1) Notify all recruits that criminal history record
7 information and marital or civil union history
8 information is available upon request;
- 9 (2) Provide the notice required by paragraph (1) in the
10 recruit's native language and display it in a manner
11 that separates it from other information, is
12 conspicuous, and in lettering not less than one-
13 quarter of an inch high;
- 14 (3) Upon request, disseminate to a recruit in the
15 recruit's native language all criminal conviction
16 information and marital or civil union history
17 information in the possession of the international
18 matchmaking organization relating to a Hawaii resident
19 about whom any information is provided to the recruit;
- 20 (4) Require a Hawaii resident requesting the services of
21 an international matchmaking organization to submit or
22 authorize the international matchmaking organization



1 access to the resident's complete criminal history and
2 marital or civil union history information; and

3 (5) Submit an annual report on its business activities to
4 the department of commerce and consumer affairs.

5 (b) Upon receipt of a request for criminal conviction or
6 marital or civil union history information from a recruit, an
7 international matchmaking organization shall refrain from
8 providing any further services to the recruit or the Hawaii
9 resident with regard to facilitating future interaction between
10 the recruit and the Hawaii resident until the Hawaii resident
11 has submitted to the organization:

12 (1) The complete transcript of any criminal history record
13 of the Hawaii resident or a statement that there is no
14 record of convictions; provided that these are
15 obtained from the Hawaii criminal justice data center
16 based on a submission of fingerprint impressions and
17 sent directly to the organization by the Hawaii
18 criminal justice data center; and

19 (2) The Hawaii resident's marital or civil union history
20 information, accompanied by an affirmation by the
21 Hawaii resident that any marital or civil union
22 history information provided is complete and accurate



1 and includes information regarding the Hawaii
2 resident's marriages [7] or civil unions, including
3 annulments, dissolutions, and the number of domestic
4 abuse orders of protection issued against the Hawaii
5 resident that occurred in this State or in any other
6 state or country."

7 SECTION 114. Section 490:9-102, Hawaii Revised Statutes,
8 is amended by amending the definition of "person related to" to
9 read as follows:

10 "Person related to", with respect to an individual, means:

- 11 (1) The spouse or civil union partner of the individual;
12 (2) A brother, brother-in-law, sister, or sister-in-law of
13 the individual;
14 (3) An ancestor or lineal descendant of the individual or
15 the individual's spouse [7] or civil union partner; or
16 (4) Any other relative, by blood [øx] marriage, or civil
17 union, of the individual or the individual's spouse or
18 civil union partner who shares the same home with the
19 individual.

20 "Person related to", with respect to an organization,
21 means:



- 1 (1) A person directly or indirectly controlling,
2 controlled by, or under common control with the
3 organization;
- 4 (2) An officer or director of, or a person performing
5 similar functions with respect to, the organization;
- 6 (3) An officer or director of, or a person performing
7 similar functions with respect to, a person described
8 in paragraph (1);
- 9 (4) The spouse or civil union partner of an individual
10 described in paragraph (1), (2), or (3); or
- 11 (5) An individual who is related by blood [~~or~~], marriage,
12 or civil union to an individual described in paragraph
13 (1), (2), (3), or (4) and shares the same home with
14 the individual."

15 SECTION 115. Section 501-23, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§501-23 Application, form, and contents. The application
18 shall be in writing, signed, and sworn to by the applicant or by
19 some person duly authorized in the applicant's behalf. If there
20 is more than one applicant, the application shall be signed and
21 sworn to by, or in behalf of, each. It shall contain a
22 description of the land, with a statement of the estate or



1 interest of the applicant in the land. It shall state whether
2 the applicant is married[7] or a party to a civil union, and if
3 married or a party to a civil union, the name in full of the
4 wife or husband or civil union partner, the time and place of
5 marriage[7] or civil union, and the name and office of the
6 officer performing the marriage or civil union ceremony; and if
7 unmarried[7] or not a party to a civil union, whether the
8 applicant has been married, or a party to a civil union, and if
9 so, when and how the marriage or civil union relation
10 terminated; and if by divorce[7] or termination, when, where,
11 and by what court the divorce or termination was granted. It
12 shall also state the name in full and the address of the
13 applicant and also the names and addresses of the adjoining
14 owners and occupants, if known; and if not known, it shall state
15 what search has been made to find them. If the applicant has
16 been known by more than one name, the applicant shall state all
17 the applicant's names in full. It may be in form as follows:

18 State of Hawaii.

19 To the Honorable Judge of the Land Court:

20 I (or we), the undersigned, hereby apply to have the land
21 herein described brought under the operation and provisions of
22 chapter 501 of the Hawaii Revised Statutes and to have my (or



1 our) title therein registered and confirmed as an absolute
2 (qualified or possessory) title. And I (or we) declare:

3 (1) That I am (or we are) the owner (or owners) in fee
4 simple of a certain parcel of land, with the buildings
5 (if any, and if not, strike out the clause), situate
6 in (here insert accurate description).

7 (2) That the land at the last assessment for taxation was
8 assessed at....dollars; and the buildings (if any)
9 at....dollars.

10 (3) That I (or we) do not know of any mortgage or
11 encumbrance affecting the land, or that any other
12 person has any estate or interest therein, legal or
13 equitable, in possession, remainder, reversion, or
14 expectancy. (If any, add "other than as follows," and
15 set forth each clearly.)

16 (4) That I (or we) obtained title (if by deed, state name
17 of grantor, date, and place of record, and file the
18 deed, or state reason for not filing. If in any other
19 way, state it).

20 (5) That the land is....occupied (state name in full,
21 residence and post office address of occupant and the



1 nature of the occupancy. If unoccupied, insert
2 "not").

3 (6) That the names in full and addresses as far as known
4 to me (or us) of the occupants of all lands adjoining
5 the land are as follows: (give post office address,
6 street, and number wherever possible. If names not
7 known, state whether inquiry has been made, and what
8 inquiry.)

9 (7) That the names and addresses so far as known to me (or
10 us) of the owners of all lands adjoining above land
11 are as follows: (same directions as above.)

12 (8) That I am (or we are) married or a party to a civil
13 union (follow literally the directions given in
14 section 501-23.)

15 (9) That my (or our) full name (or names), residence and
16 post office address are as follows:

17

18 Dated:

19 (Schedule of documents.)

20

21

.....

22

(Signature).



1

2 State of Hawaii } ss.

3

4 Dated:

5

6 Then personally appeared the above named.....

7 known to me to be the signer (or signers) of the foregoing

8 application, and made oath before me, that the statements made

9 therein, so far as made of the signer (or signers) own knowledge

10 are true, and so far as made upon information and belief, that

11 the signer (or signers) believes them to be true.

12

13 , Notary Public."

14 SECTION 116. Section 501-74, Hawaii Revised Statutes, is

15 amended to read as follows:

16 "§501-74 Decree, contents of. Every decree of

17 registration shall bear the date of the year, day, hour, and

18 minute of its entry, and shall be signed by the registrar. It

19 shall state whether the owner is married or unmarried, party to

20 a civil union or not party to a civil union, and if married or

21 party to a civil union, the full name of the husband or wife[-]

22 or civil union partner. If the owner (or spouse or civil union



1 partner of the owner) has been known by more than one name, all
2 the names of such person shall be stated. The wife's maiden
3 name and surname shall be stated in all cases. If the owner is
4 under disability it shall state the nature of the disability,
5 and if a minor, shall state the minor's age. It shall contain a
6 description of the land as finally determined by the court; and
7 shall set forth the estate of the owner, and also, in such
8 manner as to show their relative priority, all particular
9 estates, mortgages, easements, liens, attachments, and other
10 encumbrances including rights of husband [~~or~~], wife, or civil
11 union partner, if any, to which the land or the owner's estate
12 is subject; and may contain any other matter properly to be
13 determined in pursuance of this chapter. The decree shall be
14 stated in a convenient form for transcription upon the
15 certificate of title hereinafter mentioned."

16 SECTION 117. Section 501-81, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§501-81 Legal incidents of registered land. Registered
19 land, and ownership therein, shall in all respects be subject to
20 the same burdens and incidents which attach by law to
21 unregistered land. Nothing in this chapter shall in any way be
22 construed to relieve registered land or the owners thereof from



1 any rights incident to the relation of husband and wife or
2 partners in a civil union; or from liability to attachment or
3 mesne process or levy on execution; or from liability to any
4 lien of any description established by law on land and the
5 buildings thereon, or in the interest of the owner in land or
6 buildings; or to change the laws of descent except as provided
7 in section 501-71; or the rights of partition between
8 coparceners and other cotenants; or the right to take the same
9 by eminent domain; or to relieve such land from liability to be
10 recovered by a trustee in bankruptcy under the provisions of law
11 relating to preferences; or to change or affect in any way any
12 other rights or liabilities created by law and applicable to
13 unregistered land; except as otherwise expressly provided in
14 this chapter."

15 SECTION 118. Section 501-105, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§501-105 Grantee's address, etc., to be stated. Every
18 deed or other voluntary instrument presented for recording shall
19 contain or have indorsed upon it the full name or names, if more
20 than one, and the address of the grantee or other person
21 acquiring or claiming an interest under the instrument and every
22 document shall also contain or have indorsed upon it a statement



1 that the grantee is married or unmarried, party to a civil union
2 or not party to a civil union, and if married[-] or party to a
3 civil union, the statement shall give the name in full of the
4 husband or wife[-] or civil union partner. Whenever the grantee
5 is a corporation or partnership, the document shall contain or
6 have indorsed upon it the state where the entity is registered
7 and the entity's address. All names and addresses shall also be
8 entered on all certificates. Notices and processes issued in
9 relation to registered land in pursuance of this chapter may be
10 served upon any person in interest by mailing the same to the
11 address so given, and shall be binding whether such person
12 resides within or without the State.

13 Any deed conveying one or more but not all lots or all
14 interests in a lot appurtenant to apartments or units in a
15 condominium project in a certificate shall contain full
16 memoranda relating to easements, rights-of-way, and all other
17 liens and encumbrances affecting the particular lot, lots,
18 interest appurtenant to an apartment or unit, or interests
19 appurtenant to apartments or units conveyed. If the deed
20 affects all of the land or interests appurtenant to apartments
21 or units in a certificate of title, encumbrances may be referred
22 to by reference."



1 SECTION 119. Section 501-196, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§501-196 Alterations upon registration book prohibited
4 when; court hearings; limitations. No erasure, alteration, or
5 amendment shall be made upon the registration book after the
6 entry of a certificate of title or of a memorandum thereon, and
7 the approval of the same by the registrar or an assistant
8 registrar except by order of the court recorded with the
9 assistant registrar, provided that the registrar or assistant
10 registrar may correct any clerical error made by personnel of
11 the registrar's or assistant registrar's office. Any registered
12 owner or other person in interest may at any time apply by
13 petition to the court, upon the ground that registered interests
14 of any description, whether vested, contingent, expectant, or
15 inchoate have terminated and ceased; or that new interests have
16 arisen or been created which do not appear upon the certificate;
17 or that any error, omission, or mistake was made in entering a
18 certificate or any memorandum thereon; or that the name of any
19 person on the certificate has been changed; or that the
20 registered owner has been married^[7] or a partner to a civil
21 union, or if registered as married or as a partner to a civil
22 union, that the marriage or civil union has been terminated; or



1 that a corporation [~~which~~] that owned registered land and has
2 been dissolved has not conveyed the same within three years
3 after its dissolution, or upon any other reasonable ground. The
4 court shall have jurisdiction to hear and determine the petition
5 after notice to all parties in interest and may order the entry
6 of a new certificate, the entry or cancellation of a memorandum
7 upon a certificate, or grant any other relief upon such terms
8 and conditions, requiring security if necessary, as it may deem
9 proper. This section shall not be construed to give the court
10 authority to open the original decree of registration, and
11 nothing shall be done or ordered by the court which impairs the
12 title or other interest of a purchaser holding a certificate for
13 value and in good faith, or the purchaser's heirs or assigns,
14 without the purchaser's or their written consent.

15 Any petition filed under this section and all petitions and
16 motions filed under this chapter after original registration
17 shall be filed and entitled in the original case in which the
18 decree of registration was entered."

19 SECTION 120. Section 501-246, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§501-246[+] Legal incidents of a leasehold time share
22 interest. A leasehold time share interest, and ownership



1 therein, shall in all respects be subject to the same burdens
2 and incidents which attach by law to the lessee's interest in a
3 leasehold apartment that is part of a condominium property
4 regime established on unregistered land and which is not
5 utilized in a time share plan.

6 Nothing in this part shall, in any way, be construed to
7 relieve a leasehold time share interest or the owners thereof:

- 8 (1) From any rights incident to the relation of husband
9 and wife[+] or partners in a civil union;
- 10 (2) From liability to attachment or mesne process or levy
11 on execution;
- 12 (3) From liability to any lien of any description
13 established by law on the leasehold time share
14 interest, or in the interest of the owner in the
15 leasehold time share interest;
- 16 (4) To change the laws of descent;
- 17 (5) The rights of partition between coparceners and other
18 cotenants;
- 19 (6) The right to take the same by eminent domain;
- 20 (7) To relieve such leasehold time share interest from
21 liability to be recovered by a trustee in bankruptcy



1 under the provisions of law relating to preferences;
2 or
3 (8) To change or affect in any way any other rights or
4 liabilities created by law and applicable to the
5 lessee's interest in a leasehold apartment which is
6 part of a condominium property regime established on
7 unregistered land and which is not utilized in a time
8 share plan; except as otherwise expressly provided in
9 this part."

10 SECTION 121. Section 501-268, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~501-268~~]~~ Legal incidents of deregistered land.

13 Nothing in this part shall in any way be construed to relieve
14 deregistered land or the owners of deregistered land from:

- 15 (1) Any rights incident to the relation of husband and
16 wife~~[+]~~ or partners in a civil union;
17 (2) Liability to attachment or mesne process or levy on
18 execution;
19 (3) Liability to any lien of any description established
20 by law on the deregistered land, or in the interest of
21 the owner in the deregistered land;
22 (4) The right to change the laws of descent;



- 1 (5) The rights of partition between coparceners and other
- 2 cotenants;
- 3 (6) The right to take the same by eminent domain;
- 4 (7) Liability to be recovered by a trustee in bankruptcy
- 5 under the provisions of law relating to preferences;
- 6 (8) Any other rights or liabilities created by law and
- 7 applicable to the owner of a condominium apartment
- 8 that is part of a condominium property regime
- 9 established on registered land and which is not used
- 10 in a time share plan, except as otherwise expressly
- 11 provided in this part; or
- 12 (9) Any other rights or liabilities created by law and
- 13 applicable to the deregistered land, except as
- 14 otherwise expressly provided [in] this part."

15 SECTION 122. Section 502-84, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§502-84 Powers of attorney, etc. All articles of
18 marriage settlement, civil union settlement, and powers of
19 attorney for the transfer of real property within the State
20 shall be recorded in the bureau of conveyances, in default of
21 which no such instrument shall be binding to the detriment of
22 third parties or conclusive upon their rights and interests."



1 SECTION 123. Section 508D-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§508D-3 Exemptions. This chapter shall not apply to the
4 following sales of residential real property:

- 5 (1) Sale to a co-owner;
- 6 (2) Sale to a spouse, civil union partner, parent, or
7 child of the seller;
- 8 (3) Sale by devise, descent, or court order;
- 9 (4) Sale by operation of law, including but not limited to
10 any transfer by foreclosure, bankruptcy, or partition,
11 or any transfer to a seller's creditor incident to a
12 deed (or assignment) in lieu of foreclosure, workout,
13 or the settlement or partial settlement of any
14 preexisting obligation of a seller owed a creditor and
15 any later sale of residential real property by such
16 creditor;
- 17 (5) Sale by a lessor to a lessee resulting from conversion
18 of leased land to fee simple;
- 19 (6) Initial sale of new residential real property pursuant
20 to chapter 484 under a current public offering
21 statement or chapter 484 exemption;



- 1 (7) Sales of condominium apartments or units accompanied
2 by delivery of an unexpired developer's public report;
3 or
4 (8) Sale of time share interests as defined under chapter
5 514E."

6 SECTION 124. Section 509-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§509-2 Creation of joint tenancy, tenancy by the
9 entirety, and tenancy in common. (a) Land, or any interest
10 therein, or any other type of property or property rights or
11 interests or interest therein, may be conveyed by a person to
12 oneself and another or others as joint tenants, or by a person
13 to oneself and one's spouse [~~or~~], reciprocal beneficiary, or
14 civil union partner, or by spouses to themselves, or by
15 reciprocal beneficiaries to themselves, or by civil union
16 partners to themselves, as tenants by the entirety, or by joint
17 tenants to themselves and another or others as joint tenants, or
18 tenants in common to themselves or to themselves and another or
19 others as joint tenants, or by tenants by the entirety to
20 themselves or themselves and another or others as joint tenants
21 or as tenants in common, or by one tenant by the entirety to the
22 tenant's spouse or reciprocal beneficiary of all of the tenant's



1 interest or interests, without the necessity of conveying
2 through a third party, and each such instrument shall be
3 construed as validly creating a joint tenancy, tenancy by the
4 entirety, tenancy in common, or single ownership, as the case
5 may be, if the tenor of the instrument manifestly indicates such
6 intention.

7 (b) For the purposes of this chapter:

8 "Civil union partner" means an adult who is a party to a
9 civil union filed in accordance with chapter A, and has a valid
10 civil union certificate that has not been terminated.

11 "Reciprocal beneficiary" means an adult who is a party to a
12 registered reciprocal beneficiary relationship in accordance
13 with chapter 572C, and has a valid certificate of reciprocal
14 beneficiary relationship that has not been terminated."

15 SECTION 125. Section 514A-108, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) This part shall not apply to condominium projects
18 where the developer intends to convey, and does in fact convey,
19 all of the residential apartment units in the project to a
20 spouse, civil union partner, or family members related by blood,
21 descent or adoption."



1 SECTION 126. Section 514B-99.5, Hawaii Revised Statutes,
2 is amended by amending subsection (a) to read as follows:

3 "(a) This subpart shall not apply to:

4 (1) A project developed pursuant to section 46-15 or
5 46-15.1, or chapter 53, 201H, 206, 346, or 356D;
6 provided that the developer of the project may elect
7 to be subject to this subpart through a written
8 notification to the commission;

9 (2) Condominium projects where the developer conveys all
10 of the residential units in the project to a spouse,
11 civil union partner, or family members related by
12 blood, descent or adoption; and

13 (3) Condominium projects consisting of two or fewer
14 units."

15 SECTION 127. Section 516-25, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) If the leasehold is subject to any mortgage, lien, or
18 encumbrance suffered or permitted by the lessee, including, but
19 not limited to, rights arising through divorce, termination,
20 marriage, civil union, or assignment, the purchase of the leased
21 fee by the lessee shall in no manner affect or impair the
22 mortgage, lien, or encumbrance or the security afforded thereby



1 to the holder thereof, and the leasehold shall continue,
2 notwithstanding the purchase of the leased fee by the lessee,
3 for the purpose and to extent necessary to avoid any impairment
4 of such leasehold security, unless the holder of the leasehold
5 mortgage, lien, or encumbrance shall in writing consent to the
6 transfer thereof to the fee as herein provided. Upon the
7 written consent by the holder thereof, each such mortgage, lien,
8 or encumbrance to which the leasehold is subject and to which
9 such consent refers shall be transferred to and shall bind the
10 fee acquired by the lessee, and shall thereafter continue in
11 full force and effect as a mortgage, lien, or encumbrance of the
12 fee acquired by the lessee, in the same order and priority among
13 such mortgages, liens, and encumbrances so transferred to the
14 fee as the same applied to and bound the lessee's immediate,
15 previous leasehold interest."

16 SECTION 128. Section 516-28, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§516-28 **Disposition, generally.** It shall be the policy
19 of the Hawaii housing finance and development corporation to
20 encourage the widespread fee simple ownership of residential
21 lots situated within a development tract. Where necessary or
22 desirable, the corporation may lease the residential lots. Not



1 more than one lot shall be sold in fee simple or leased to a
 2 purchaser or lessee. A husband and wife together[7] or partners
 3 in a civil union together, unless separated and living apart
 4 under a decree of separation or termination issued by a court of
 5 competent jurisdiction, shall be entitled to only one lot."

6 SECTION 129. Section 516-33, Hawaii Revised Statutes, is
 7 amended by amending subsection (a) to read as follows:

8 "(a) Except as otherwise provided under section 516-28, no
 9 application to purchase shall be accepted nor shall any sale of
 10 any residential houselot within a development tract be made to
 11 any person unless the person meets the following requirements:

- 12 (1) Is at least eighteen years of age;
- 13 (2) Is a bona fide resident of the State and resides on
 14 the lot, except in hardship circumstances as
 15 determined by the corporation on a case by case basis
 16 where such inability to reside on the lot arises out
 17 of a temporary job or military transfer, a temporary
 18 educational sabbatical or the serious illness of the
 19 person; provided further that if either the person or
 20 the lessor disagree with the corporation's
 21 determination, they shall be entitled to a contested



1 case proceeding under chapter 91 in which both the
2 person and lessor shall be parties;

3 (3) Has legal title to, or pursuant to an agreement of
4 sale an equitable interest in, a residential structure
5 situated on the leased lot applied for; provided that
6 for the purposes of this section, the vendor under
7 such agreement of sale shall not be eligible to
8 purchase the lot. An agreement of sale means an
9 executory contract for the sale and purchase of real
10 property which binds one party to sell and the other
11 party to buy property which is the subject matter of
12 the transaction;

13 (4) Has a letter of credit, certificate of deposit, proof
14 of funds, or approved application from any lending
15 institution demonstrating that the person will be able
16 to promptly pay the corporation for the leased fee
17 interest in the lot;

18 (5) Submits an application in good faith in such form as
19 is acceptable to the corporation;

20 (6) Executes a contract for purchase of the fee interest
21 in such form as is acceptable to the administration;

22 and



1 (7) Does not own in fee simple lands suitable for
2 residential purposes for such person within the county
3 and in or reasonably near the place of business of
4 such person or has or have pending before the Hawaii
5 housing finance and development corporation an
6 unrefused application to lease or purchase a lot in a
7 development tract. A person is deemed to own lands
8 herein if the person, the person's spouse^[7] or civil
9 union partner, or both the person and the person's
10 spouse or civil union partner (unless separated and
11 living apart under a decree of a court of competent
12 jurisdiction) own lands."

13 SECTION 130. Section 516-71, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Except as otherwise provided for in this section, for
16 any sale of a leasehold residential lot, no later than ten
17 calendar days after the acceptance of the deposit, receipt,
18 offer, and acceptance contract (DROA) or other similar contract,
19 the seller shall directly or through the seller's agent provide
20 to the buyer, a copy of the original recorded lease and any
21 amendments thereto for the buyer's approval and acceptance. A
22 sale for the purposes of this subsection shall not be deemed to



1 include any transfer to a co-owner, or to a spouse [~~or~~],
2 reciprocal beneficiary, or civil union partner, parent or child
3 of the seller, or to any stranger by devise, descent, court
4 order, or by operation of law, including, but not limited to,
5 any transfer by foreclosure, bankruptcy, or partition sale.
6 Upon receipt of the original lease and amendments thereto, the
7 buyer shall have ten calendar days to review, accept, or reject
8 the terms of the lease."

9 SECTION 131. Section 516-181, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) If the leasehold on property acquired from the
12 proceeds of an eligible loan is subject to any mortgage, lien,
13 or encumbrance suffered or permitted by the eligible borrower,
14 including, but not limited to, rights arising through divorce,
15 termination, marriage, civil union, or assignment, the purchase
16 of the leased fee interest in such residential houselot in no
17 manner shall affect or impair the mortgage, lien, or encumbrance
18 or the security afforded thereby to the holder thereof, and the
19 leasehold shall continue, notwithstanding the purchase of the
20 leased fee interest in such residential houselot by the eligible
21 borrower, for the purposes and to the extent necessary to avoid
22 any impairment of leasehold security, unless the holder of the



1 mortgage, lien, or encumbrance on such leasehold and the
2 corporation in writing shall consent to the transfer thereof to
3 the fee. Upon the written consent by the holder thereof and the
4 corporation, each such mortgage, lien, or encumbrance to which
5 the leasehold is subject and to which such consent refers shall
6 be transferred to and shall bind the fee acquired by the
7 eligible borrower, and thereafter shall continue in full force
8 and effect as a mortgage, lien, or encumbrance of the fee
9 acquired by the eligible borrower, in the same order and
10 priority among such mortgages, liens, and encumbrances so
11 transferred to the fee as the same applied to and bound the
12 eligible borrower's immediate, previous leased fee interest."

13 SECTION 132. Section 516D-11, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Except as otherwise provided in this section, for any
16 sale of a condominium or a cooperative residential leasehold
17 apartment or unit, no later than ten calendar days after the
18 acceptance of the deposit, receipt, offer, and acceptance
19 contract (DROA) or other similar contract, the seller, either
20 directly or through the seller's agent, shall provide to the
21 buyer for the buyer's approval and acceptance one of the
22 following lease documents which provide the major provisions of



1 the lease, such as the length of the lease, lease rent terms,
2 lease rent renegotiation dates, how renegotiated lease rents
3 will be calculated, and surrender clause provisions:

- 4 (1) Master lease and any amendments thereto;
- 5 (2) Apartment or unit lease and any amendments thereto; or
- 6 (3) For initial buyers of condominium apartments or units
7 only, an unexpired preliminary, final or supplemental
8 condominium property regime public report.

9 A sale for the purposes of this subsection shall not be deemed
10 to include any transfer to a co-owner, or to a spouse, civil
11 union partner, parent, or child of the seller, or to any
12 transfer by devise, descent, court order, or by operation of
13 law, including but not limited to any transfer by foreclosure,
14 bankruptcy, or partition sale. Upon receipt of the applicable
15 lease document, the buyer shall have ten calendar days to
16 review, accept or reject the terms of the lease."

17 SECTION 133. Section 524-1, Hawaii Revised Statutes, is
18 amended by amending the definition of "facility" to read as
19 follows:

20 ""Facility" means a multi-unit residential building,
21 including all operations associated therewith, used for
22 retirement purposes in which living units are leased for a term



1 to last for the lifetime of the lessee and the lessee's
2 surviving spouse [7] or civil union partner, where the living
3 unit is used as a residence by the lessee and the lessee's
4 surviving spouse [7] or civil union partner, and where the living
5 unit reverts back to the lessor upon the death of the lessee and
6 the lessee's surviving spouse [7] or civil union partner."

7 SECTION 134. Section 525-2, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) For the purposes of this chapter, if there is a
10 person who alone can exercise a power created by a governing
11 instrument to become the unqualified beneficial owner of a
12 nonvested property interest or a property interest subject to a
13 power of appointment described in section 525-1(b) or (c), the
14 nonvested property interest or power of appointment is created
15 when the power to become the unqualified beneficial owner
16 terminates. For the purposes of this chapter, a joint power
17 with respect to community property under chapter 510 held by
18 individuals married to each other or partners in a civil union
19 is a power exercisable by one person alone."

20 SECTION 135. Section 525-4, Hawaii Revised Statutes, is
21 amended to read as follows:



- 1 "§525-4 Exclusions from statutory rule against
2 perpetuities. Section 525-1 shall not apply to:
- 3 (1) A fiduciary's power to sell, lease, or mortgage
4 property, and the power of a fiduciary to determine
5 principal and income;
- 6 (2) A discretionary power of a trustee to distribute
7 principal before termination of a trust;
- 8 (3) A nonvested property interest held by a charity,
9 government, or governmental agency or subdivision, if
10 the nonvested property interest is preceded by an
11 interest held by another charity, government, or
12 governmental agency or subdivision;
- 13 (4) A property interest in or a power of appointment with
14 respect to a pension, profit-sharing, stock bonus,
15 health, disability, death benefit, income deferral, or
16 other current or deferred benefit plan for one or more
17 employees, independent contractors, or their
18 beneficiaries [~~æ~~], or spouses[+], or civil union
19 partners;
- 20 (5) A property interest, power of appointment, or
21 arrangement that was not subject to the common-law



1 rule against perpetuities or is excluded by any other
2 applicable law; or

3 (6) A trust described in chapter 554G."

4 SECTION 136. Section 539-1, Hawaii Revised Statutes, is
5 amended by amending the definition of "heirs" to read as
6 follows:

7 ""Heirs" means those persons, including the surviving
8 spouse[7] or civil union partner, who are entitled under the
9 statutes of intestate succession to the property of a decedent."

10 SECTION 137. Section 551-2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§551-2 Guardian ad litem; next friend; appointment.

13 Nothing in this chapter impairs or affects the power of any
14 court to appoint a guardian to defend the interests of any minor
15 or person not in being impleaded in such court, or interested in
16 any matter there pending, or its power to appoint or allow any
17 person as next friend for a minor, to commence, prosecute, or
18 defend any action or proceeding in the minor's behalf; provided
19 that in all proceedings for annulment, divorce, termination, or
20 separation, except in the case of annulment on the ground of
21 nonage, either spouse[7] or civil union partner, although a



1 minor, may sue or be sued in the minor's name without a guardian
2 or next friend."

3 SECTION 138. Section 553A-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "member of the minor's
5 family" to read as follows:

6 ""Member of the minor's family" means the minor's parent,
7 stepparent, spouse, civil union partner, grandparent, brother,
8 sister, uncle, or aunt, whether of the whole or half blood or by
9 adoption."

10 SECTION 139. Section 554B-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "member of the
12 beneficiary's family" to read as follows:

13 ""Member of the beneficiary's family" includes a
14 beneficiary's spouse, civil union partner, descendant,
15 stepchild, parent, stepparent, grandparent, brother, sister,
16 uncle, or aunt, whether of the whole or half blood or by
17 adoption."

18 SECTION 140. Section 554B-6, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Beneficial interests in a custodial trust created for
21 multiple beneficiaries are deemed to be separate custodial
22 trusts of equal undivided interests for each beneficiary.



1 Except in transfers for benefit of husband and wife [7] or
2 partners in a civil union, for whom survivorship is presumed, no
3 right of survivorship exists unless the writing creating the
4 custodial trust specifically provides for survivorship. (Or as
5 is required as to community property.)"

6 SECTION 141. Section 554G-2, Hawaii Revised Statutes, is
7 amended by amending the definition of "former spouse" and
8 "spouse" to read as follows:

9 "Former spouse" means a person to whom the transferor was
10 married or in a civil union where the marriage or civil union
11 was dissolved or termination before the time of the permitted
12 transfer.

13 "Spouse" means a person to whom the transferor is married
14 or in a civil union at the time of the permitted transfer."

15 SECTION 142. Section 557A-104, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) A trustee may not make an adjustment:

18 (1) That diminishes the income interest in a trust that
19 requires all of the income to be paid at least
20 annually to a surviving spouse or surviving civil
21 union partner and for which an estate tax or gift tax
22 marital deduction would be allowed, in whole or in



- 1 part, if the trustee did not have the power to make
2 the adjustment;
- 3 (2) That reduces the actuarial value of the income
4 interest in a trust to which a person transfers
5 property with the intent to qualify for a gift tax
6 exclusion;
- 7 (3) That changes the amount payable to a beneficiary as a
8 fixed annuity or a fixed fraction of the value of the
9 trust's assets;
- 10 (4) From any amount that is permanently set aside for
11 charitable purposes under a will or the terms of a
12 trust, unless both income and principal are so set
13 aside; provided that a trustee may transfer income to
14 principal only upon a court order (unless the trustee
15 is holding institutional funds as defined in section
16 [~~517D-3~~] 517E-3 exclusively for the benefit of a
17 community foundation and section [~~517D-4~~] 517E-4
18 applies);
- 19 (5) If possessing or exercising the power to make an
20 adjustment may cause an individual to be treated as
21 the owner of all or part of the trust for income tax
22 purposes, and the individual would not be treated as



1 the owner if the trustee did not possess the power to
2 make an adjustment;

3 (6) If possessing or exercising the power to make an
4 adjustment causes all or part of the trust assets to
5 be included for estate tax purposes in the estate of
6 an individual who has the power to remove a trustee or
7 appoint a trustee, or both, and the assets would not
8 be included in the estate of the individual if the
9 trustee did not have the power to make an adjustment;
10 or

11 (7) If the trustee is a beneficiary of the trust."

12 SECTION 143. Section 557A-413, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) If a marital deduction is allowed for all or part of
15 a trust whose assets consist substantially of property that does
16 not provide the surviving spouse or surviving civil union
17 partner with sufficient income from or use of the trust assets,
18 and if the amounts that the trustee transfers from principal to
19 income under section 557A-104 and distributes to the spouse or
20 civil union partner from principal pursuant to the terms of the
21 trust are insufficient to provide the spouse or civil union
22 partner with the beneficial enjoyment required to obtain the



1 marital deduction, the spouse or civil union partner may require
2 the trustee to make property productive of income, convert
3 property within a reasonable time, or exercise the power
4 conferred by section 557A-104(a). The trustee may decide which
5 action or combination of actions to take."

6 SECTION 144. Section 560:1-201, Hawaii Revised Statutes,
7 is amended by amending the definitions of "heirs" and
8 "interested person" as follows:

9 "Heirs", except as controlled by section 560:2-711, means
10 persons, including the surviving spouse [~~or~~], reciprocal
11 beneficiary, or civil union partner, and the State, who are
12 entitled under the statutes of intestate succession to the
13 property of a decedent.

14 "Interested person" includes heirs, devisees, children,
15 spouses [~~or~~], reciprocal beneficiaries, or civil union partners,
16 creditors, beneficiaries, and any others having a property right
17 in or claim against a trust estate or the estate of a decedent,
18 ward, or protected person. It also includes persons having
19 priority for appointment as personal representative, and other
20 fiduciaries representing interested persons. The meaning as it
21 relates to particular persons may vary from time to time and



1 must be determined according to the particular purposes of, and
2 matter involved in, any proceeding."

3 SECTION 145. Section 560:2-102, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "§560:2-102 Share of spouse [~~or~~], reciprocal
6 beneficiary[-], or civil union partner. The intestate share of
7 a decedent's surviving spouse [~~or~~], reciprocal beneficiary, or
8 civil union partner is:

9 (1) The entire intestate estate if:

10 (A) No descendant or parent of the decedent survives
11 the decedent; or

12 (B) All of the decedent's surviving descendants are
13 also descendants of the surviving spouse [~~or~~],
14 reciprocal beneficiary, or civil union partner,
15 and there is no other descendant of the surviving
16 spouse [~~or~~], reciprocal beneficiary, or civil
17 union partner, who survives the decedent;

18 (2) The first \$200,000, plus three-fourths of any balance
19 of the intestate estate, if no descendant of the
20 decedent survives the decedent, but a parent of the
21 decedent survives the decedent;



1 (3) The first \$150,000, plus one-half of any balance of
2 the intestate estate, if all of the decedent's
3 surviving descendants are also descendants of the
4 surviving spouse ~~[ex]~~, reciprocal beneficiary, or
5 civil union partner and the surviving spouse ~~[ex]~~,
6 reciprocal beneficiary, or civil union partner has one
7 or more surviving descendants who are not descendants
8 of the decedent; or

9 (4) The first \$100,000, plus one-half of any balance of
10 the intestate estate, if one or more of the decedent's
11 surviving descendants are not descendants of the
12 surviving spouse ~~[ex]~~, reciprocal beneficiary[-], or
13 civil union partner."

14 SECTION 146. Section 560:2-103, Hawaii Revised Statutes,
15 is amended to read as follows:

16 "§560:2-103 Share of heirs other than surviving spouse or
17 reciprocal beneficiary. Any part of the intestate estate not
18 passing to the decedent's surviving spouse ~~[ex]~~, reciprocal
19 beneficiary, or civil union partner under section 560:2-102, or
20 the entire intestate estate if there is no surviving spouse
21 ~~[ex]~~, reciprocal beneficiary, or civil union partner, passes in



1 the following order to the individuals designated below who
2 survive the decedent:

- 3 (1) To the decedent's descendants by representation;
- 4 (2) If there is no surviving descendant, to the decedent's
5 parents equally if both survive, or to the surviving
6 parent; provided, however, if the decedent is a minor,
7 and if it is shown by clear and convincing evidence
8 that any parent has:

- 9 (A) Deserted the child without affording means of
10 identification for a period of at least ninety
11 days;
 - 12 (B) Failed to communicate with the child when able to
13 do so for a period of at least one year when the
14 child is in the custody of another; or
 - 15 (C) Failed to provide for care and support of the
16 child when able to do so for a period of at least
17 one year when the child is in the custody of
18 another despite a child support order requiring
19 such support;
- 20 such parent shall be deemed to have predeceased the
21 decedent;



1 (3) If there is no surviving descendant or parent entitled
2 to inherit, to the descendants of the decedent's
3 parents or either of them by representation; and

4 (4) If there is no surviving descendant, parent entitled
5 to take, or descendant of a parent, but the decedent
6 is survived by one or more grandparents or descendants
7 of grandparents, half of the estate passes to the
8 decedent's paternal grandparents equally if both
9 survive, or to the surviving paternal grandparent, or
10 to the descendants of the decedent's paternal
11 grandparents or either of them if both are deceased,
12 the descendants taking by representation; and the
13 other half passes to the decedent's maternal relatives
14 in the same manner; but if there is no surviving
15 grandparent or descendant of a grandparent on either
16 the paternal or the maternal side, the entire estate
17 passes to the decedent's relatives on the other side
18 in the same manner as the half."

19 SECTION 147. Section 560:2-114, Hawaii Revised Statutes,
20 is amended by amending subsection (b) to read as follows:



1 "(b) An adopted individual is the child of the child's
2 adopting parent or parents and not of the child's natural
3 parents, except that:

4 (1) Adoption of a child by the spouse [~~or~~], reciprocal
5 beneficiary, or civil union partner of either natural
6 parent has no effect on:

7 (A) The relationship between the child and that
8 natural parent; or

9 (B) The right of the child or a descendant of the
10 child to inherit from or through the other
11 natural parent; and

12 (2) Adoption of a child during such child's minority by
13 the spouse [~~or~~], reciprocal beneficiary, or civil
14 union partner of a natural parent of the child, by a
15 natural grandparent, aunt, uncle, or sibling of the
16 child or the spouse [~~or~~], reciprocal beneficiary, or
17 civil union partner of a natural grandparent, aunt,
18 uncle, or sibling of the child has no effect on the
19 relationship between the child and either natural
20 parent, for the limited purpose of interpretation or
21 construction of a disposition in any will, trust, or
22 other lifetime instrument, whether executed before or



1 after the order of adoption, and for the purposes of
2 determining the heirs at law of a natural family
3 member of the child."

4 SECTION 148. Section 560:2-201, Hawaii Revised Statutes,
5 is amended by adding two new definitions to be appropriately
6 inserted and to read as follows:

7 "Civil union" is the registered status of two adults in a
8 valid civil union established pursuant to chapter A.

9 "Civil union partner" means an adult who is a party to a
10 civil union filed in accordance with chapter A, and has a valid
11 civil union certificate that has not been terminated."

12 SECTION 149. Section 560:2-202, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "§560:2-202 Elective share. (a) Elective-share amount.

15 The surviving spouse [øæ], reciprocal beneficiary, or civil
16 union partner of a decedent who dies domiciled in this State has
17 a right of election, under the limitations and conditions stated
18 in this part, to take an elective-share amount equal to the
19 value of the elective-share percentage of the augmented estate,
20 determined by the length of time the spouse and the decedent
21 were married to each other, or the reciprocal beneficiary and
22 the decedent were in a reciprocal beneficiary relationship, or



1 the civil union partner and the decedent were in a civil union,
2 in accordance with the following schedule:

3 If the decedent and the
4 spouse were married to
5 each other, or the
6 decedent and the reciprocal
7 beneficiary were in a
8 relationship[+], or the
9 civil union partner and

10 decedent were in a civil
11 union:

The elective-share
percentage is:
Supplemental amount only.
3% of the augmented estate.
6% of the augmented estate.
9% of the augmented estate.
12% of the augmented estate.
15% of the augmented estate.
18% of the augmented estate.
21% of the augmented estate.
24% of the augmented estate.
27% of the augmented estate.
30% of the augmented estate.

12 Less than 1 year
13 1 year but less than 2 years
14 2 years but less than 3 years
15 3 years but less than 4 years
16 4 years but less than 5 years
17 5 years but less than 6 years
18 6 years but less than 7 years
19 7 years but less than 8 years
20 8 years but less than 9 years
21 9 years but less than 10 years
22 10 years but less than 11 years



1 11 years but less than 12 years 34% of the augmented estate.
2 12 years but less than 13 years 38% of the augmented estate.
3 13 years but less than 14 years 42% of the augmented estate.
4 14 years but less than 15 years 46% of the augmented estate.
5 15 years or more 50% of the augmented estate;

6 provided, however, the surviving spouse ~~[or]~~, reciprocal
7 beneficiary, or civil union partner may elect to take a share
8 smaller than that to which the surviving spouse ~~[or]~~, reciprocal
9 beneficiary, or civil union partner is entitled hereunder.

10 (b) Supplemental elective-share amount. If the sum of the
11 amounts described in sections 560:2-207, 560:2-209(a)(1), and
12 that part of the elective-share amount payable from the
13 decedent's probate estate and nonprobate transfers to others
14 under section 560:2-209(b) and (c) is less than \$50,000, the
15 surviving spouse ~~[or]~~, reciprocal beneficiary, or civil union
16 partner is entitled to a supplemental elective-share amount
17 equal to \$50,000 minus the sum of the amounts described in those
18 sections. The supplemental elective-share amount is payable
19 from the decedent's probate estate and from recipients of the
20 decedent's nonprobate transfers to others in the order of
21 priority set forth in section 560:2-209(b) and (c).



1 (c) Effect of election on statutory benefits. If the
 2 right of election is exercised by or on behalf of the surviving
 3 spouse [☒], reciprocal beneficiary, or civil union partner, the
 4 surviving spouse's [☒], reciprocal beneficiary's, or civil
 5 union partner's homestead allowance, exempt property, and family
 6 allowance, if any, are not charged against but are in addition
 7 to the elective-share and supplemental elective-share amounts.

8 (d) Non-domiciliary. The right, if any, of the surviving
 9 spouse [☒], reciprocal beneficiary, or civil union partner of a
 10 decedent who dies domiciled outside this State to take an
 11 elective share in property in this State is governed by the law
 12 of the decedent's domicile at death."

13 SECTION 150. Section 560:2-203, Hawaii Revised Statutes,
 14 is amended to read as follows:

15 "§560:2-203 Composition of the augmented estate. Subject
 16 to section 560:2-208, the value of the augmented estate, to the
 17 extent provided in sections 560:2-204, 560:2-205, 560:2-206, and
 18 560:2-207, consists of the sum of the values of all property,
 19 whether real or personal; movable or immovable, tangible or
 20 intangible, wherever situated, that constitute the decedent's
 21 net probate estate, the decedent's nonprobate transfers to
 22 others, the decedent's nonprobate transfers to the surviving



1 spouse [øx], reciprocal beneficiary, or civil union partner, and
2 the surviving spouse's [øx], reciprocal beneficiary's, or civil
3 union partner's property and nonprobate transfers to others."

4 SECTION 151. Section 560:2-205, Hawaii Revised Statutes,
5 is amended to read as follows:

6 "§560:2-205 Decedent's nonprobate transfers to others.

7 The value of the augmented estate includes the value of the
8 decedent's nonprobate transfers to others, not included under
9 section 560:2-204, of any of the following types, in the amount
10 provided respectively for each type of transfer:

11 (1) Property owned or owned in substance by the decedent
12 immediately before death that passed outside probate
13 at the decedent's death. Probate included under this
14 category consists of:

15 (A) Property over which the decedent alone,
16 immediately before death, held a presently
17 exercisable general power of appointment. The
18 amount included is the value of the property
19 subject to the power, to the extent the property
20 passed at the decedent's death, by exercise,
21 release, lapse, in default, or otherwise, to or
22 for the benefit of any person other than the

1 decedent's estate or surviving spouse [øx],
2 reciprocal beneficiary[+], or civil union
3 partner;

4 (B) The decedent's fractional interest in property
5 held by the decedent in joint tenancy with the
6 right of survivorship. The amount included is
7 the value of the decedent's fractional interest,
8 to the extent the fractional interest passed by
9 right of survivorship at the decedent's death to
10 a surviving joint tenant other than the
11 decedent's surviving spouse [øx], reciprocal
12 beneficiary[+], or civil union partner;

13 (C) The decedent's ownership interest in property or
14 accounts held in POD, TOD, or co-ownership
15 registration with the right of survivorship. The
16 amount included is the value of the decedent's
17 ownership interest, to the extent the decedent's
18 ownership interest passed at the decedent's death
19 to or for the benefit of any person other than
20 the decedent's estate or surviving spouse [øx],
21 reciprocal beneficiary[-], or civil union
22 partner. As used herein, "ownership interest" is



1 determined by dividing (i) the sum of all the
2 decedent's deposits to the account, including
3 deposit life insurance proceeds added to the
4 account on account of the decedent's death, less
5 all withdrawals made by or for the benefit of the
6 decedent, by (ii) the sum of all deposits to the
7 account;

8 (D) Proceeds of insurance, including accidental death
9 benefits, on the life of the decedent, if the
10 decedent owned the insurance policy immediately
11 before death or if and to the extent the decedent
12 alone and immediately before death held a
13 presently exercisable general power of
14 appointment over the policy or its proceeds. The
15 amount included is the value of the proceeds, to
16 the extent they were payable at the decedent's
17 death to or for the benefit of any person other
18 than the decedent's estate or surviving spouse
19 ~~[or]~~, reciprocal beneficiary[+], or civil union
20 partner;



1 (2) Property transferred in any of the following forms by
2 the decedent during marriage[+], a reciprocal
3 beneficiary relationship, or civil union:

4 (A) Any irrevocable transfer in which the decedent
5 retained the right to the possession or enjoyment
6 of, or to the income from, the property if and to
7 the extent the decedent's right terminated at or
8 continued beyond the decedent's death. The
9 amount included is the value of the fraction of
10 the property to which the decedent's right
11 related, to the extent the fraction of the
12 property passed outside probate to or for the
13 benefit of any person other than the decedent's
14 estate or surviving spouse [~~or~~], reciprocal
15 beneficiary[+], or civil union partner;

16 (B) Any transfer in which the decedent created a
17 power over income or property, exercisable by the
18 decedent alone or in conjunction with any other
19 person, or exercisable by a nonadverse party, to
20 or for the benefit of the decedent, creditors of
21 the decedent, the decedent's estate, or creditors
22 of the decedent's estate. The amount included



1 with respect to a power over property is the
2 value of the property subject to the power, and
3 the amount included with respect to a power over
4 income is the value of the property that produces
5 or produced the income, to the extent the power
6 in either case was exercisable at the decedent's
7 death to or for the benefit of any person other
8 than the decedent's surviving spouse ~~[or]~~,
9 reciprocal beneficiary, or civil union partner,
10 or to the extent the property passed at the
11 decedent's death, by exercise, release, lapse, in
12 default, or otherwise, to or for the benefit of
13 any person other than the decedent's estate or
14 surviving spouse ~~[or]~~, reciprocal beneficiary~~[-]~~,
15 or civil union partner. If the power is a power
16 over both income and property and the preceding
17 sentence produces different amounts, the amount
18 included is the greater amount;

- 19 (3) Property that passed during marriage, reciprocal
20 beneficiary relationship, or civil union and during
21 the two-year period next preceding the decedent's



1 death as a result of a transfer by the decedent if the
2 transfer was of any of the following types:

3 (A) Any property that passed as a result of the
4 termination of a right or interest in, or power
5 over, property that would have been included in
6 the augmented estate under paragraph (1) (A), (B),
7 or (C), or under paragraph (2), if the right,
8 interest, or power had not terminated until the
9 decedent's death. The amount included is the
10 value of the property that would have been
11 included under those paragraphs if the property
12 were valued at the time the right, interest, or
13 power terminated, and is included only to the
14 extent the property passed upon termination to or
15 for the benefit of any person other than the
16 decedent or the decedent's estate, spouse [øx],
17 reciprocal beneficiary, or civil union partner,
18 or surviving spouse [øx], reciprocal
19 beneficiary[-], or civil union partner. As used
20 in this subparagraph, "termination", with respect
21 to a right or interest in property, occurs when
22 the right or interest terminated by the terms of



1 the governing instrument or the decedent
2 transferred or relinquished the right or
3 interest, and, with respect to a power over
4 property, occurs when the power terminated by
5 exercise, release, lapse, default, or otherwise,
6 but, with respect to a power described in
7 paragraph (1)(A), "termination" occurs when the
8 power terminated by exercise or release, but not
9 otherwise;

10 (B) Any transfer of or relating to an insurance
11 policy on the life of the decedent if the
12 proceeds would have been included in the
13 augmented estate under paragraph (1)(D) had the
14 transfer not occurred. The amount included is
15 the value of the insurance proceeds to the extent
16 the proceeds were payable at the decedent's death
17 to or for the benefit of any person other than
18 the decedent's estate or surviving spouse [~~or~~],
19 reciprocal beneficiary[+], or civil union
20 partner;

21 (C) Any transfer of property, to the extent not
22 otherwise included in the augmented estate, made



1 to or for the benefit of a person other than the
 2 decedent's surviving spouse [~~or~~], reciprocal
 3 beneficiary[~~or~~], or civil union partner. The
 4 amount included is the value of the transferred
 5 property to the extent the aggregate transfers to
 6 any one donee in either of the two years exceeded
 7 \$20,000."

8 SECTION 152. Section 560:2-206, Hawaii Revised Statutes,
 9 is amended to read as follows:

10 "§560:2-206 Decedent's nonprobate transfers to the
 11 surviving spouse [~~or~~], reciprocal beneficiary[~~or~~], or civil union
 12 partner. Excluding property passing to the surviving spouse
 13 [~~or~~], reciprocal beneficiary, or civil union partner, under the
 14 federal social security system, the value of the augmented
 15 estate includes the value of the decedent's nonprobate transfers
 16 to the decedent's surviving spouse [~~or~~], reciprocal beneficiary,
 17 [~~which~~], or civil union partner, that consist of all property
 18 that passed outside probate at the decedent's death from the
 19 decedent to the surviving spouse [~~or~~], reciprocal beneficiary,
 20 or civil union partner by reason of the decedent's death,
 21 including:

- 1 (1) The decedent's fractional interest in property held as
2 a joint tenant with the right of survivorship, to the
3 extent that the decedent's fractional interest passed
4 to the surviving spouse [e], reciprocal beneficiary,
5 or civil union partner as surviving joint tenant;
- 6 (2) The decedent's ownership interest in property or
7 accounts held in co-ownership registration with the
8 right of survivorship, to the extent the decedent's
9 ownership interest passed to the surviving spouse
10 [e], reciprocal beneficiary, or civil union partner
11 as surviving co-owner; and
- 12 (3) All other property that would have been included in
13 the augmented estate under section 560:2-205(1) or (2)
14 had it passed to or for the benefit of a person other
15 than the decedent's spouse [e], reciprocal
16 beneficiary, or civil union partner, surviving spouse
17 [e], reciprocal beneficiary, or civil union partner,
18 the decedent, or the decedent's creditors, estate or
19 estate creditors."

20 SECTION 153. Section 560:2-207, Hawaii Revised Statutes,
21 is amended to read as follows:



1 "§560:2-207 Surviving spouse's [e], reciprocal
2 beneficiary's, or civil union partner's property and nonprobate
3 transfers to others. (a) Included property. Except to the
4 extent included in the augmented estate under section 560:2-204
5 or 560:2-206, the value of the augmented estate includes the
6 value of:

7 (1) Property that was owned by the decedent's surviving
8 spouse [e], reciprocal beneficiary, or civil union
9 partner at the decedent's death, including:

10 (A) The surviving spouse's [e], reciprocal
11 beneficiary's, or civil union partner's
12 fractional interest in property held in joint
13 tenancy with the right of survivorship;

14 (B) The surviving spouse's [e], reciprocal
15 beneficiary's, or civil union partner's ownership
16 interest in property or accounts held in co-
17 ownership registration with the right of
18 survivorship; and

19 (C) Property that passed to the surviving spouse
20 [e], reciprocal beneficiary, or civil union
21 partner by reason of the decedent's death, but
22 not including the spouse's [e], reciprocal



1 beneficiary's, or civil union partner's right to
2 homestead allowance, family allowance, exempt
3 property, or payments under the federal social
4 security system; and

5 (2) Property that would have been included in the
6 surviving spouse's [☒], reciprocal beneficiary's, or
7 civil union partner's nonprobate transfers to others,
8 other than the spouse's [☒], reciprocal
9 beneficiary's, or civil union partner's fractional
10 and ownership interest included under subsection
11 (a)(1)(A) or (B), had the spouse [☒], reciprocal
12 beneficiary, or civil union partner been the decedent.

13 (b) Time of valuation. Property included under this
14 section is valued at the decedent's death, taking the fact that
15 the decedent predeceased the spouse [☒], reciprocal
16 beneficiary, or civil union partner, into account, but, for
17 purposes of subsection (a)(1)(A) and (B), the values of the
18 spouse's [☒], reciprocal beneficiary's, or civil union
19 partner's fractional and ownership interests are determined
20 immediately before the decedent's death if the decedent was then
21 a joint tenant or a co-owner of the property or accounts. For
22 purposes of subsection (a)(2), proceeds of insurance that would



1 have been included in the spouse's [~~or~~], reciprocal
 2 beneficiary's, or civil union partner's nonprobate transfers to
 3 others under section 560:2-205(1)(D) are not valued as if the
 4 spouse [~~or~~], reciprocal beneficiary, or civil union partner were
 5 deceased.

6 (c) Reduction for enforceable claims. The value of
 7 property included under this section is reduced by enforceable
 8 claims against the surviving spouse [~~or~~], reciprocal
 9 beneficiary[-], or civil union partner."

10 SECTION 154. Section 560:2-208, Hawaii Revised Statutes,
 11 is amended by amending subsection (a) to read as follows:

12 "(a) Exclusions:

13 (1) The value of any property is excluded from the
 14 decedent's nonprobate transfers to others:

15 (A) To the extent the decedent received adequate and
 16 full consideration in money or money's worth for
 17 a transfer of the property; or

18 (B) If the property was transferred with the written
 19 joinder of, or if the transfer was consented to
 20 in writing by, the surviving spouse [~~or~~],
 21 reciprocal beneficiary[-], or civil union
 22 partner.



1 (2) The augmented estate shall not include the value of
2 any property that either:

3 (A) Is held in a trust created and funded by any
4 party other than the decedent, the surviving
5 spouse, [~~or the~~] reciprocal beneficiary[+], or
6 civil union partner; or

7 (B) Was received by either spouse during marriage
8 [~~or~~], either reciprocal beneficiary during a
9 reciprocal beneficiary relationship, or either
10 civil union partner during a civil union, by
11 gift, devise, inheritance or distribution from a
12 trust created and funded by any party other than
13 the decedent, the surviving spouse, [~~or the~~]
14 reciprocal beneficiary[+], or civil union
15 partner; provided that such property was kept
16 segregated from property includible in the
17 augmented estate."

18 SECTION 155. Section 560:2-209, Hawaii Revised Statutes,
19 is amended by amending subsections (a) and (b) to read as
20 follows:

21 "(a) In a proceeding for an elective share, the following
22 are applied first to satisfy the elective-share amount and to



1 reduce or eliminate any contributions due from the decedent's
2 probate estate and recipients of the decedent's nonprobate
3 transfers to others:

4 (1) Amounts included in the augmented estate under section
5 560:2-204 which pass or have passed to the surviving
6 spouse ~~[or]~~, reciprocal beneficiary, or civil union
7 partner by testate or intestate succession and amounts
8 included in the augmented estate under section 560:2-
9 206; and

10 (2) Amounts included in the augmented estate under section
11 560:2-207 up to the applicable percentage thereof.
12 For the purposes of this subsection, the "applicable
13 percentage" is twice the elective-share percentage set
14 forth in the schedule in section 560:2-202(a)
15 appropriate to the length of time:

16 (A) The spouse and the decedent were married to each
17 other; ~~[or]~~

18 (B) The reciprocal beneficiary and the decedent were
19 in a reciprocal beneficiary relationship~~[or]~~; or

20 (C) The civil union partner and the decedent were in
21 a civil union.



1 (b) If, after the application of subsection (a), the
2 elective-share amount is not fully satisfied or the surviving
3 spouse ~~[or]~~, reciprocal beneficiary, or civil union partner is
4 entitled to a supplemental elective-share amount, amounts
5 included in the decedent's probate estate and in the decedent's
6 nonprobate transfers to others, other than amounts included
7 under section 560:2-205(3)(A) or (C), are applied first to
8 satisfy the unsatisfied balance of the elective-share amount or
9 the supplemental elective-share amount. The decedent's probate
10 estate and that portion of the decedent's nonprobate transfers
11 to others are so applied that liability for the unsatisfied
12 balance of the elective-share amount or for the supplemental
13 elective-share amount is equitably apportioned among the
14 recipients of the decedent's probate estate and of that portion
15 of the decedent's nonprobate transfers to others in proportion
16 to the value of their interests therein."

17 SECTION 156. Section 560:2-210, Hawaii Revised Statutes,
18 is amended by amending subsection (a) to read as follows:

19 "(a) Only original recipients of the decedent's nonprobate
20 transfers to others, and the donees of the recipients of the
21 decedent's nonprobate transfers to others, to the extent the
22 donees have the property or its proceeds, are liable to make a



1 proportional contribution toward satisfaction of the surviving
2 spouse's [e], reciprocal beneficiary's, or civil union
3 partner's elective-share or supplemental elective-share amount.
4 A person liable to make contribution may choose to give up the
5 proportional part of the decedent's nonprobate transfers to the
6 person or to pay the value of the amount for which he or she is
7 liable."

8 SECTION 157. Section 560:2-211, Hawaii Revised Statutes,
9 is amended by amending subsections (b), (c), and (d) to read as
10 follows:

11 "(b) Within nine months after the decedent's death, the
12 surviving spouse [e], reciprocal beneficiary, or civil union
13 partner may petition the court for an extension of time for
14 making an election. If, within nine months after the decedent's
15 death, the spouse [e], reciprocal beneficiary, or civil union
16 partner gives notice of the petition to all persons interested
17 in the decedent's nonprobate transfers to others, the court for
18 cause shown by the surviving spouse [e], reciprocal
19 beneficiary, or civil union partner may extend the time for
20 election. If the court grants the spouse's [e], reciprocal
21 beneficiary's, or civil union partner's petition for an
22 extension, the decedent's nonprobate transfers to others are not



1 excluded from the augmented estate for the purpose of computing
2 the elective-share and supplemental elective-share amounts, if
3 the spouse ~~[or]~~, reciprocal beneficiary, or civil union partner
4 makes an election by filing in the court and mailing or
5 delivering to the personal representative, if any, a petition
6 for the elective share within the time allowed by the extension.

7 (c) The surviving spouse ~~[or]~~, reciprocal beneficiary, or
8 civil union partner must give notice of the time and place set
9 for hearing to persons interested in the estate and to the
10 distributees and recipients of portions of the augmented estate
11 whose interests will be adversely affected by the taking of the
12 elective share.

13 (d) The surviving spouse ~~[or]~~, reciprocal beneficiary, or
14 civil union partner may withdraw the spouse's ~~[or]~~, reciprocal
15 beneficiary's, or civil union partner's demand for an elective
16 share at any time before entry of a final determination by the
17 court."

18 SECTION 158. Section 560:2-212, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "§560:2-212 Right of election personal to surviving spouse
21 ~~[or]~~, reciprocal beneficiary[+], or civil union partner;
22 incapacitated surviving spouse [or], reciprocal beneficiary[+],



1 or civil union partner. (a) Surviving spouse [e], reciprocal
2 beneficiary, or civil union partner must be living at time of
3 election. The right of election may be exercised only by a
4 surviving spouse [e], reciprocal beneficiary, or civil union
5 partner who is living when the petition for the elective share
6 is filed in the court under section 560:2-211(a). If the
7 election is not exercised by the surviving spouse [e],
8 reciprocal beneficiary, or civil union partner personally, it
9 may be exercised on the surviving spouse's [e], reciprocal
10 beneficiary's, or civil union partner's behalf by the spouse's
11 [e], reciprocal beneficiary's, or civil union partner's
12 conservator, guardian, or agent under the authority of a power
13 of attorney.

14 (b) Incapacitated surviving spouse [e], reciprocal
15 beneficiary[-], or civil union partner. If the election is
16 exercised on behalf of a surviving spouse [e], reciprocal
17 beneficiary, or civil union partner who is an incapacitated
18 person, that portion of the elective-share and supplemental
19 elective-share amounts due from the decedent's probate estate
20 and recipients of the decedent's nonprobate transfers to others
21 under section 560:2-209(b) and (c) must be placed in a custodial
22 trust for the benefit of the surviving spouse [e], reciprocal



1 beneficiary, or civil union partner under chapter 554B, except
2 as modified below. For the purposes of this subsection, an
3 election on behalf of a surviving spouse [~~or~~], reciprocal
4 beneficiary, or civil union partner by an agent under a durable
5 power of attorney is presumed to be on behalf of a surviving
6 spouse [~~or~~], reciprocal beneficiary, or civil union partner who
7 is an incapacitated person. For purposes of the custodial trust
8 established by this subsection:

- 9 (1) The electing guardian, conservator, or agent is the
10 custodial trustee;
- 11 (2) The surviving spouse [~~or~~], reciprocal beneficiary, or
12 civil union partner is the beneficiary; and
- 13 (3) The custodial trust is deemed to have been created by
14 the decedent spouse [~~or~~], reciprocal beneficiary, or
15 civil union partner by written transfer that takes
16 effect at the decedent spouse's [~~or~~], reciprocal
17 beneficiary's, or civil union partner's death and that
18 directs the custodial trustee to administer the
19 custodial trust as one created for the benefit of an
20 incapacitated beneficiary.
- 21 (c) Custodial trust. For purposes of subsection (b),
22 chapter 554B must be applied as if section 554B-6(b) thereof



1 were repealed and sections 554B-2(e), 554B-9(b), and 554B-17(a)
2 were amended to read as follows:

3 (1) Neither an incapacitated beneficiary nor anyone acting
4 on behalf of an incapacitated beneficiary has a power
5 to terminate the custodial trust; but if the
6 beneficiary regains capacity, the beneficiary then
7 acquires the power to terminate the custodial trust by
8 delivering to the custodial trustee a writing signed
9 by the beneficiary declaring the termination. If not
10 previously terminated, the custodial trust terminates
11 on the death of the beneficiary;

12 (2) If the beneficiary is incapacitated, the custodial
13 trustee shall expend so much or all of the custodial
14 trust property as the custodial trustee considers
15 advisable for the health, education, maintenance and
16 support of the beneficiary and individuals who are
17 legally entitled to support by the beneficiary.
18 Expenditures may be made in the manner, when, and to
19 the extent that the custodial trustee determines
20 suitable and proper, without court order but with
21 regard to other support, income, and property of the
22 beneficiary and benefits of medical or other forms of



1 assistance from any state or federal government or
2 governmental agency for which the beneficiary must
3 qualify on the basis of need; provided that the
4 custodial trustee shall not make any distributions of
5 the principal of the custodial trust unless the
6 custodial trustee determines, in the trustee's
7 discretion, that the remaining assets of the surviving
8 spouse [e~~x~~], reciprocal beneficiary, or civil union
9 partner cannot or should not be first used instead for
10 the spouse's [e~~x~~], reciprocal beneficiary's, or civil
11 union partner's benefit. The custodial trustee may
12 make such a determination when, for example, the sole
13 remaining asset of the surviving spouse [e~~x~~],
14 reciprocal beneficiary, or civil union partner is the
15 spouse's [e~~x~~], reciprocal beneficiary's, or civil
16 union partner's residence, or similar factors would
17 exist that would make use or liquidation of the
18 surviving spouse's [e~~x~~], reciprocal beneficiary's, or
19 civil union partner's own assets inappropriate;

- 20 (3) Upon the beneficiary's death, the custodial trustee
21 shall transfer the unexpended custodial trust property
22 in the following order:



- 1 (A) Under the residuary clause, if any, of the will
2 of the beneficiary's predeceased spouse [x],
3 reciprocal beneficiary, or civil union partner
4 against whom the elective share was taken, as if
5 that predeceased spouse [x], reciprocal
6 beneficiary, or civil union partner died
7 immediately after the beneficiary; or
- 8 (B) To that predeceased spouse's [x], reciprocal
9 beneficiary's, or civil union partner's heirs
10 under section 560:2-711."

11 SECTION 159. Section 560:2-213, Hawaii Revised Statutes,
12 is amended as follows:

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

14 "(a) The right of election of a surviving spouse [x],
15 reciprocal beneficiary, or civil union partner and the rights of
16 the surviving spouse [x], reciprocal beneficiary, or civil
17 union partner to homestead allowance, exempt property, and
18 family allowance, or any of them, may be waived, wholly or
19 partially, before or after marriage, by a written contract,
20 agreement, or waiver signed by the surviving spouse [x],
21 reciprocal beneficiary[-], or civil union partner.



1 (b) A surviving spouse's [øæ], reciprocal beneficiary's,
2 or civil union partner's waiver is not enforceable if the
3 surviving spouse [øæ], reciprocal beneficiary, or civil union
4 partner proves that:

5 (1) The surviving spouse [øæ], reciprocal beneficiary, or
6 civil union partner did not execute the waiver
7 voluntarily; or

8 (2) The waiver was unconscionable when it was executed
9 and, before execution of the waiver, the surviving
10 spouse [øæ], reciprocal beneficiary[:], or civil union
11 partner:

12 (A) Was not provided a fair and reasonable disclosure
13 of the property or financial obligations of the
14 decedent;

15 (B) Did not voluntarily and expressly waive, in
16 writing, any right to disclosure of the property
17 or financial obligations of the decedent beyond
18 the disclosure provided; and

19 (C) Did not have, or reasonably could not have had,
20 an adequate knowledge of the property or
21 financial obligations of the decedent."

22 2. By amending subsection (d) to read:



1 "(d) Unless it provides to the contrary, a waiver of "all
2 rights", or equivalent language, in the property or estate of a
3 present or prospective spouse [~~or~~], reciprocal beneficiary, or
4 civil union partner or a complete property settlement entered
5 into after or in anticipation of separation or divorce or
6 termination of a civil union is a waiver of all rights of
7 elective share, homestead allowance, exempt property, and family
8 allowance by each spouse [~~or~~], reciprocal beneficiary, or civil
9 union partner in the property of the other and a renunciation by
10 each of all benefits that would otherwise pass to the spouse
11 [~~or~~], reciprocal beneficiary, or civil union partner from the
12 other by intestate succession or by virtue of any will executed
13 before the waiver or property settlement."

14 SECTION 160. Section 560:2-214, Hawaii Revised Statutes,
15 is amended by amending subsection (a) to read as follows:

16 "(a) Although under section 560:2-205 a payment, item of
17 property, or other benefit is included in the decedent's
18 nonprobate transfers to others, a payor or other third party is
19 not liable for having made a payment or transferred an item of
20 property or other benefit to a beneficiary designated in a
21 governing instrument, or for having taken any other action in
22 good faith reliance on the validity of a governing instrument,



1 upon request and satisfactory proof of the decedent's death,
2 before the payor or other third party received written notice
3 from the surviving spouse [~~or~~], reciprocal beneficiary, or civil
4 union partner or spouse's [~~or~~], reciprocal beneficiary's, or
5 civil union partner's representative of an intention to file a
6 petition for the elective share or that a petition for the
7 elective share has been filed. A payor or other third party is
8 liable for payments made or other actions taken after the payor
9 or other third party received written notice of an intention to
10 file a petition for the elective share or that a petition for
11 the elective share has been filed."

12 SECTION 161. Section 560:2-301, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "§560:2-301 Entitlement of spouse [~~or~~], reciprocal
15 beneficiary[+], or civil union partner; premarital will. (a)
16 If a testator's surviving spouse married the testator, or the
17 testator's reciprocal beneficiary entered into a reciprocal
18 beneficiary relationship with the testator, or if a testator's
19 civil union partner entered into a civil union with the
20 testator, after the testator executed the testator's will, the
21 surviving spouse [~~or~~], reciprocal beneficiary, or civil union
22 partner is entitled to receive, as an intestate share, no less



1 than the value of the share of the estate the spouse [~~or~~],
 2 reciprocal beneficiary, or civil union partner would have
 3 received if the testator had died intestate as to that portion
 4 of the testator's estate, if any, that neither is devised to a
 5 child of the testator who was born before the testator married
 6 the surviving spouse [~~or~~], entered into a reciprocal beneficiary
 7 relationship with the surviving reciprocal beneficiary, or
 8 entered into a civil union with the surviving civil union
 9 partner and who is not a child of the surviving spouse [~~or~~],
 10 reciprocal beneficiary, or civil union partner, nor is devised to
 11 a descendant of such a child or passes under section 560:2-603
 12 or 560:2-604 to such a child or to a descendant of such a child,
 13 unless:

14 (1) It appears from the will or other evidence that the
 15 will was made in contemplation of [~~+~~] the testator's:

16 (A) [~~The testator's marriage~~] Marriage to the
 17 surviving spouse; [~~or~~]

18 (B) [~~The testator's entering~~] Entering into a
 19 reciprocal beneficiary relationship with the
 20 reciprocal beneficiary; or

21 (C) Entering into a civil union with the civil union
 22 partner;



1 (2) The will expresses the intention that it is to be
2 effective notwithstanding any subsequent marriage,
3 ~~[e]~~ reciprocal beneficiary relationship~~[+]~~, or civil
4 union partner;

5 (3) The testator provided for the spouse ~~[e]~~, reciprocal
6 beneficiary, or civil union partner by transfer
7 outside the will and the intent that the transfer be
8 in lieu of a testamentary provision is shown by the
9 testator's statements or is reasonably inferred from
10 the amount of the transfer or other evidence.

11 (b) In satisfying the share provided by this section,
12 devises made by the will to the testator's surviving spouse,
13 ~~[e]~~ reciprocal beneficiary, or civil union partner, if any, are
14 applied first, and other devises, other than a devise to a child
15 of the testator who was born before the testator married the
16 surviving spouse, or entered a reciprocal beneficiary
17 relationship with the reciprocal beneficiary, or entered into a
18 civil union with the civil union partner, and who is not a child
19 of the surviving spouse ~~[e]~~, reciprocal beneficiary, or civil
20 union partner, or a devise or substitute gift under section
21 560:2-603 or 560:2-604 to a descendant of such a child, abate as
22 provided in section 560:3-902."



1 SECTION 162. Section 560:2-402, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§560:2-402 Homestead allowance. A decedent's surviving
4 spouse [e], reciprocal beneficiary, or civil union partner is
5 entitled to a homestead allowance of \$15,000. If there is no
6 surviving spouse [e], reciprocal beneficiary, or civil union
7 partner, each minor child and each dependent child of the
8 decedent is entitled to a homestead allowance amounting to
9 \$15,000 divided by the number of minor and dependent children of
10 the decedent. The homestead allowance is exempt from and has
11 priority over all claims against the estate. Homestead
12 allowance is in addition to any share passing to the surviving
13 spouse [e], reciprocal beneficiary, or civil union partner or
14 minor or dependent child by the will of the decedent, unless
15 otherwise provided, by intestate succession, or by way of
16 elective share."

17 SECTION 163. Section 560:2-403, Hawaii Revised Statutes,
18 is amended to read as follows:

19 "§560:2-403 Exempt property. In addition to the homestead
20 allowance, the decedent's surviving spouse [e], reciprocal
21 beneficiary, or civil union partner is entitled from the estate
22 to a value, not exceeding \$10,000 in excess of any security



1 interests therein, in household furniture, automobiles,
2 furnishings, appliances, and personal effects. If there is no
3 surviving spouse or reciprocal beneficiary, the decedent's
4 children are entitled jointly to the same value. If encumbered
5 chattels are selected and the value in excess of security
6 interests, plus that of other exempt property, is less than
7 \$10,000 or if there is not \$10,000 worth of exempt property in
8 the estate, the spouse, reciprocal beneficiary, or civil union
9 partner, or children are entitled to other assets of the estate,
10 if any, to the extent necessary to make up the \$10,000 value.
11 Rights to exempt property and assets needed to make up a
12 deficiency of exempt property have priority over all claims
13 against the estate, but the right to any assets to make up a
14 deficiency of exempt property abates as necessary to permit
15 earlier payment of homestead allowance and family allowance.
16 These rights are in addition to any benefit or share passing to
17 the surviving spouse, reciprocal beneficiary, or civil union
18 partner, or children by the decedent's will, unless otherwise
19 provided, by intestate succession, or by way of elective share."

20 SECTION 164. Section 560:2-404, Hawaii Revised Statutes,
21 is amended to read as follows:



1 "§560:2-404 Family allowance. (a) In addition to the
2 right to homestead allowance and exempt property, the decedent's
3 surviving spouse [e~~x~~], reciprocal beneficiary, or civil union
4 partner, and minor children whom the decedent was obligated to
5 support and children who were in fact being supported by the
6 decedent are entitled to a reasonable allowance in money out of
7 the estate for their maintenance during the period of
8 administration, which allowance may not continue for longer than
9 one year if the estate is inadequate to discharge allowed
10 claims. The allowance may be paid as a lump sum or in periodic
11 installments. It is payable to the surviving spouse [e~~x~~],
12 reciprocal beneficiary, or civil union partner, if living, for
13 the use of the surviving spouse [e~~x~~], reciprocal beneficiary, or
14 civil union partner and minor and dependent children; otherwise
15 to the children, or persons having their care and custody. If a
16 minor child or dependent child is not living with the surviving
17 spouse [e~~x~~], reciprocal beneficiary, or civil union partner, the
18 allowance may be made partially to the child or the child's
19 guardian or other person having the child's care and custody,
20 and partially to the spouse [e~~x~~], reciprocal beneficiary, or
21 civil union partner, as their needs may appear. The family



1 allowance is exempt from and has priority over all claims except
2 the homestead allowance.

3 (b) The family allowance is not chargeable against any
4 benefit or share passing to the surviving spouse, reciprocal
5 beneficiary, civil union partner, or children by the will of the
6 decedent, unless otherwise provided, by intestate succession, or
7 by way of elective share. The death of any person entitled to
8 family allowance terminates the right to allowances not yet
9 paid."

10 SECTION 165. Section 560:2-405, Hawaii Revised Statutes,
11 is amended to read as follows:

12 "§560:2-405 Source, determination, and documentation. (a)
13 If the estate is otherwise sufficient, property specifically
14 devised may not be used to satisfy rights to homestead allowance
15 or exempt property. Subject to this restriction, the surviving
16 spouse [~~or~~], reciprocal beneficiary, or civil union partner,
17 guardians of minor children, or children who are adults may
18 select property of the estate as homestead allowance and exempt
19 property. The personal representative may make those selections
20 if the surviving spouse [~~or~~], reciprocal beneficiary, or civil
21 union partner, the children, or the guardians of the minor
22 children are unable or fail to do so within a reasonable time or



1 there is no guardian of a minor child. The personal
2 representative may execute an instrument or deed of distribution
3 to establish the ownership of property taken as homestead
4 allowance or exempt property. The personal representative may
5 determine the family allowance in a lump sum not exceeding
6 \$18,000 or periodic installments not exceeding \$1,500 per month
7 for one year, and may disburse funds of the estate in payment of
8 the family allowance and any part of the homestead allowance
9 payable in cash. The personal representative or an interested
10 person aggrieved by any selection, determination, payment,
11 proposed payment, or failure to act under this section may
12 petition the court for appropriate relief, which may include a
13 family allowance other than that which the personal
14 representative determined or could have determined.

15 (b) If the right to an elective share is exercised on
16 behalf of a surviving spouse [~~or~~], reciprocal beneficiary, or
17 civil union partner who is an incapacitated person, the personal
18 representative may add any unexpended portions payable under the
19 homestead allowance, exempt property, and family allowance to
20 the trust established under section 560:2-212(b)."



1 SECTION 166. Section 560:2-603, Hawaii Revised Statutes,
2 is amended by amending the definition of "stepchild" to read as
3 follows:

4 "Stepchild" means a child of the surviving, deceased, or
5 former spouse or former civil union partner of the testator or
6 of the donor of a power of appointment, and not of the testator
7 or donor."

8 SECTION 167. Section 560:2-705, Hawaii Revised Statutes,
9 is amended by amending subsection (b) to read as follows:

10 "(b) In addition to the requirements of subsection (a), in
11 construing a dispositive provision of a transferor who is not
12 the natural parent, an individual born to the natural parent is
13 not considered the child of that parent unless the individual
14 lived while a minor as a regular member of the household of that
15 natural parent or of that parent's parent, brother, sister,
16 spouse [~~or~~], reciprocal beneficiary, or civil union partner, or
17 surviving spouse [~~or~~], reciprocal beneficiary[-], or civil union
18 partner."

19 SECTION 168. Section 560:2-706, Hawaii Revised Statutes,
20 is amended by amending the definition of "stepchild" to read as
21 follows:



1 ""Stepchild" means a child of the decedent's surviving,
2 deceased, or former spouse[~~7~~] or former civil union partner, and
3 not of the decedent."

4 SECTION 169. Section 560:2-711, Hawaii Revised Statutes,
5 is amended to read as follows:

6 "§560:2-711 Interest in "heirs" and like. If an
7 applicable statute or a governing instrument calls for a present
8 or future distribution to or creates a present or future
9 interest in a designated individual's "heirs", "heirs at law",
10 "next of kin", "relatives", or "family", or language of similar
11 import, the property passes to those persons, including the
12 State, and in such shares as would succeed to the designated
13 individual's intestate estate under the intestate succession law
14 of the designated individual's domicile if the designated
15 individual died when the disposition is to take effect in
16 possession or enjoyment. If the designated individual's
17 surviving spouse [~~ex~~], reciprocal beneficiary, or civil union
18 partner is living but is remarried or has terminated the
19 reciprocal beneficiary relationship or civil union at the time
20 the disposition is to take effect in possession or enjoyment,
21 the surviving spouse [~~ex~~], reciprocal beneficiary, or civil
22 union partner, is not an heir of the designated individual."



1 SECTION 170. Section 560:2-802, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§560:2-802 Effect of divorce, annulment, decree of
4 separation, and termination of reciprocal beneficiary
5 relationship[-] or civil union. (a) An individual who is
6 divorced from the decedent or whose marriage to the decedent has
7 been annulled is not a surviving spouse unless, by virtue of a
8 subsequent marriage, the individual is married to the decedent
9 at the time of death. A decree of separation that does not
10 terminate the status of husband and wife is not a divorce for
11 purposes of this section. An individual who has terminated a
12 reciprocal beneficiary relationship with the decedent is not
13 deemed a surviving reciprocal beneficiary unless, by virtue of a
14 subsequent registration as a reciprocal beneficiary, the
15 individual is the reciprocal beneficiary of the decedent at the
16 time of death. An individual who has terminated a civil union
17 with the decedent is not deemed a surviving civil union partner
18 unless, by virtue of a subsequent filing of a declaration of
19 civil union pursuant to section A-4, the individual is the civil
20 union partner of the decedent at the time of death.



1 (b) For purposes of parts 1, 2, 3, and 4 of this article,
2 and of section 560:3-203, a surviving spouse [~~or~~], reciprocal
3 beneficiary, or civil union partner does not include:

4 (1) An individual who obtains or consents to a final
5 decree or judgment of divorce from the decedent or an
6 annulment of their marriage, which decree or judgment
7 is not recognized as valid in this State, unless
8 subsequently they participate in a marriage ceremony
9 purporting to marry each to the other or live together
10 as husband and wife;

11 (2) An individual who, following an invalid decree or
12 judgment of divorce or annulment obtained by the
13 decedent, participates in a marriage ceremony with a
14 third individual;

15 (3) An individual who was a party to a valid proceeding
16 concluded by an order purporting to terminate all
17 marital property rights; [~~or~~]

18 (4) An individual who does not have a certificate of
19 reciprocal beneficiary relationship declaring the
20 decedent as their reciprocal beneficiary or the
21 relationship has been terminated under chapter 572C or
22 otherwise [-]; or



1 (5) An individual who does not have a valid certificate of
2 civil union issued pursuant to section A-4, that
3 declares the decedent as the individual's civil union
4 partner or the civil union has been terminated under
5 chapter B or otherwise."

6 SECTION 171. Section 560:2-803, Hawaii Revised Statutes,
7 is amended by amending subsection (b) to read as follows:

8 "(b) Forfeiture of statutory benefits. An individual who
9 feloniously and intentionally kills the decedent forfeits all
10 benefits under this article with respect to the decedent's
11 estate, including an intestate share, an elective share, an
12 omitted spouse's, reciprocal beneficiary's, civil union
13 partner's or child's share, a homestead allowance, exempt
14 property, and a family allowance. If the decedent died
15 intestate, the decedent's intestate estate passes as if the
16 killer disclaimed the killer's intestate share."

17 SECTION 172. Section 560:2-804, Hawaii Revised Statutes,
18 is amended to read as follows:

19 "§560:2-804 Revocation of probate and nonprobate transfers
20 by divorce [~~or~~], termination of reciprocal beneficiary
21 relationship[+], or termination of civil union; no revocation by



1 other changes of circumstances. (a) Definitions. In this
2 section:

3 "Disposition or appointment of property" includes a
4 transfer of an item of property or any other benefit to a
5 beneficiary designated in a governing instrument.

6 "Divorce or annulment" means any divorce or annulment, or
7 any dissolution or declaration of invalidity of a marriage, that
8 would exclude the spouse as a surviving spouse within the
9 meaning of section 560:2-802. A decree of separation that does
10 not terminate the status of husband and wife is not a divorce
11 for purposes of this section.

12 "Divorced individual" includes an individual whose marriage
13 has been annulled.

14 "Governing instrument" means a governing instrument
15 executed by:

16 (1) A divorced individual before the divorce or annulment
17 of the individual's marriage to the individual's
18 former spouse; ~~or~~

19 (2) An individual who is a former reciprocal beneficiary
20 before the termination of the reciprocal beneficiary
21 relationship with the individual's former reciprocal
22 beneficiary~~[-]~~; or



1 (3) An individual who is a former civil union partner
 2 before the termination of the civil union with the
 3 individual's former civil union partner.

4 "Relative of the divorced individual's former spouse" means
 5 an individual who is related to the divorced individual's former
 6 spouse by blood, or affinity and who, after the divorce or
 7 annulment, is not related to the divorced individual by blood,
 8 adoption, or affinity.

9 "Revocable", with respect to a disposition, appointment,
 10 provision, or nomination, means one under which:

11 (1) The divorced individual, at the time of the divorce or
 12 annulment, was alone empowered, by law or under the
 13 governing instrument, to cancel the designation in
 14 favor of the individual's former spouse or former
 15 spouse's relative, whether or not the divorced
 16 individual was then empowered to designate the
 17 individual's self in place of the individual's former
 18 spouse or in place of the individual's former spouse's
 19 relative and whether or not the divorced individual
 20 then had the capacity to exercise the power; [ex]

21 (2) An individual who is a former reciprocal beneficiary,
 22 at the time of the termination, was alone empowered,



1 by law or under the governing instrument, to cancel
2 the designation in favor of the individual's former
3 partner or former partner's relative, whether or not
4 the individual was then empowered to designate the
5 individual's self in place of the individual's former
6 partner or in place of the individual's former
7 partner's relative and whether or not the individual
8 who is the former reciprocal beneficiary then had the
9 capacity to exercise the power[-]; or

10 (3) An individual who is a former civil union partner, at
11 the time of the termination, was alone empowered, by
12 law or under the governing instrument, to cancel the
13 designation in favor of the individual's former
14 partner or former partner's relative, whether or not
15 the individual was then empowered to designate the
16 individual's self in place of the individual's former
17 partner or in place of the individual's former
18 partner's relative and whether or not the individual
19 who is the former civil union partner then had the
20 capacity to exercise the power.



1 "Termination" means the dissolution of a reciprocal
2 beneficiary relationship under chapter 572C [~~between two~~
3 ~~adults-~~] or a civil union under chapter B.

4 (b) Revocation upon divorce or termination. Except as
5 provided by the express terms of a governing instrument, a court
6 order, or a contract relating to the division of the estate made
7 between the divorced individuals before or after the marriage,
8 divorce, annulment, between two former reciprocal beneficiaries
9 before the termination of a reciprocal beneficiary relationship,
10 between two former civil union partners before the termination
11 of a civil union, the divorce or annulment of a marriage or the
12 termination of a reciprocal beneficiary relationship[+] or civil
13 union:

14 (1) Revokes any revocable:

15 (A) Disposition or appointment of property made by a
16 divorced individual [~~or~~], a former reciprocal
17 beneficiary, or a former civil union partner to
18 the individual's former spouse [~~or~~], reciprocal
19 beneficiary, or civil union partner, in a
20 governing instrument and any disposition or
21 appointment created by law or in a governing
22 instrument to a relative of the divorced



- 1 individual's former spouse [~~or~~], reciprocal
2 beneficiary[+], or civil union partner;
- 3 (B) Provision in a governing instrument conferring a
4 general or nongeneral power of appointment on the
5 divorced individual's former spouse or an
6 individual's former reciprocal beneficiary or
7 civil union partner or on a relative of the
8 divorced individual's former spouse or an
9 individual's former reciprocal beneficiary[+] or
10 civil union partner; and
- 11 (C) Nomination in a governing instrument, nominating
12 a divorced individual's former spouse or a
13 relative of the divorced individual's former
14 spouse or an individual's former reciprocal
15 beneficiary or a relative of the former
16 reciprocal beneficiary or an individual's former
17 civil union partner or a relative of the former
18 civil union partner to serve in any fiduciary or
19 representative capacity, including a personal
20 representative, executor, trustee, conservator,
21 agent, or guardian; and



1 (2) Severs the interests of the former spouses [e~~x~~],
2 reciprocal beneficiaries, or civil union partners in
3 property held by them at the time of the divorce,
4 annulment, or termination, as joint tenants with the
5 right of survivorship or as community property with
6 the right of survivorship, transforming the interests
7 of the former spouses [e~~x~~], reciprocal beneficiaries,
8 or civil union partners into tenancies in common.

9 (c) Effect of severance. A severance under subsection
10 (b)(2) does not affect any third-party interest in property
11 acquired for value and in good faith reliance on an apparent
12 title by survivorship in the survivor of the former spouses
13 [e~~x~~], reciprocal beneficiaries, or civil union partners unless a
14 writing declaring the severance has been noted, registered,
15 filed, or recorded in records appropriate to the kind and
16 location of the property which are relied upon, in the ordinary
17 course of transactions involving such property, as evidence of
18 ownership.

19 (d) Effect of revocation. Provisions of a governing
20 instrument are given effect as if the former spouse [e~~x~~],
21 reciprocal beneficiary, or civil union partner and relatives of
22 the former spouse [e~~x~~], reciprocal beneficiary, or civil union



1 partner disclaimed all provisions revoked by this section or, in
2 the case of a revoked nomination in a fiduciary or
3 representative capacity, as if the former spouse [~~e~~],
4 reciprocal beneficiary, or civil union partner and relatives of
5 the former spouse [~~e~~], reciprocal beneficiary, or civil union
6 partner died immediately before the divorce, annulment, or
7 termination.

8 (e) Revival if divorce nullified, reciprocal beneficiary
9 relationship re-registered[-], or civil union refiled.

10 Provisions revoked solely by this section are revived by the
11 divorced individual's remarriage to the former spouse or by a
12 nullification of the divorce or annulment.

13 Provisions revoked solely by this section are revived by an
14 individual's re-registering a reciprocal beneficiary
15 relationship to the former reciprocal beneficiary.

16 Provisions revoked solely by this section are revived by an
17 individual's filing of a declaration of civil union with the
18 individual's former civil union partner.

19 (f) No revocation for other change of circumstances. No
20 change of circumstances other than as described in this section
21 and in section 560:2-803 effects a revocation.

22 (g) Protection of payors and other third parties.



- 1 (1) A payor or other third party is not liable for having
2 made a payment or transferred an item of property or
3 any other benefit to a beneficiary designated in a
4 governing instrument affected by a divorce, annulment,
5 remarriage, termination, or re-registration of a
6 reciprocal beneficiary relationship[-] or civil union,
7 or for having taken any other action in good faith
8 reliance on the validity of the governing instrument,
9 before the payor or other third party received written
10 notice of the divorce, annulment, remarriage,
11 termination, or re-registration of a reciprocal
12 beneficiary relationship[-] or civil union. A payor
13 or other third party is liable for a payment made or
14 other action taken after the payor or other third
15 party received written notice of a claimed forfeiture
16 or revocation under this section;
- 17 (2) Written notice of the divorce, annulment, remarriage,
18 termination, or re-registration of a reciprocal
19 beneficiary relationship or civil union under this
20 subsection must be mailed to the payor's or other
21 third party's main office or home by registered or
22 certified mail, return receipt requested, or served



1 upon the payor or other third party in the same manner
2 as a summons in a civil action. Upon receipt of
3 written notice of the divorce, annulment, remarriage,
4 termination, or re-registration of a reciprocal
5 beneficiary relationship[7] or civil union, a payor or
6 other third party may pay any amount owed or transfer
7 or deposit any item of property held by it to or with
8 the court having jurisdiction of the probate
9 proceedings relating to the decedent's estate or, if
10 no proceedings have been commenced, to or with the
11 court having jurisdiction of probate proceedings
12 relating to decedents' estates located in the judicial
13 circuit of the decedent's residence. The court shall
14 hold the funds or item of property and, upon its
15 determination under this section, shall order
16 disbursement or transfer in accordance with the
17 determination. Payments, transfers, or deposits made
18 to or with the court discharge the payor or other
19 third party from all claims for the value of amounts
20 paid to or items of property transferred to or
21 deposited with the court.



1 (h) Protection of bona fide purchasers; personal liability
2 of recipient.

3 (1) A person who purchases property from a former spouse,
4 former reciprocal beneficiary, former civil union
5 partner, relative of a former spouse [~~or~~], reciprocal
6 beneficiary, civil union partner, or any other person
7 for value and without notice, or who receives from a
8 former spouse, a former reciprocal beneficiary, a
9 former civil union partner, relative of a former
10 spouse [~~or~~], reciprocal beneficiary, or civil union
11 partner, or any other person a payment or other item
12 of property in partial or full satisfaction of a
13 legally enforceable obligation, is neither obligated
14 under this section to return the payment, item of
15 property, or benefit nor is liable under this section
16 for the amount of the payment or the value of the item
17 of property or benefit. But a former spouse, former
18 reciprocal beneficiary, former civil union partner,
19 relative of a former spouse [~~or~~], reciprocal
20 beneficiary, or civil union partner, or other person
21 who, not for value, received a payment, item of
22 property, or any other benefit to which that person is



1 not entitled under this section is obligated to return
2 the payment, item of property, or benefit, or is
3 personally liable for the amount of the payment or the
4 value of the item of property or benefit, to the
5 person who is entitled to it under this section;

6 (2) If this section or any part of this section is
7 preempted by federal law with respect to a payment, an
8 item of property, or any other benefit covered by this
9 section, a former spouse, former reciprocal
10 beneficiary, former civil union partner, relative of
11 the former spouse [~~e~~], reciprocal beneficiary, or
12 civil union partner, or any other person who, not for
13 value, received a payment, item of property, or any
14 other benefit to which that person is not entitled
15 under this section is obligated to return that
16 payment, item of property, or benefit, or is
17 personally liable for the amount of the payment or the
18 value of the item of property or benefit, to the
19 person who would have been entitled to it were this
20 section or part of this section not preempted."

21 SECTION 173. Section 560:3-203, Hawaii Revised Statutes,
22 is amended by amending subsection (a) to read as follows:



1 "(a) Whether the proceedings are formal or informal,
2 persons who are not disqualified have priority for appointment
3 in the following order:

4 (1) The person with priority as determined by a probated
5 will including a person nominated by a power conferred
6 in a will;

7 (2) The surviving spouse [øæ], reciprocal beneficiary, or
8 civil union partner of the decedent who is a devisee
9 of the decedent;

10 (3) Other devisees of the decedent;

11 (4) The surviving spouse [øæ], reciprocal beneficiary, or
12 civil union partner of the decedent;

13 (5) Other heirs of the decedent; and

14 (6) Forty-five days after the death of the decedent, any
15 creditor."

16 SECTION 174. Section 560:3-301, Hawaii Revised Statutes,
17 is amended by amending subsection (a) to read as follows:

18 "(a) Applications for informal probate or informal
19 appointment shall be directed to the registrar, and verified by
20 the applicant to be accurate and complete to the best of the
21 applicant's knowledge and belief as to the following
22 information:



- 1 (1) Every application for informal probate of a will or
2 for informal appointment of a personal representative,
3 other than a special or successor representative,
4 shall contain the following:
- 5 (A) A statement of the interest of the applicant,
6 together with the name, address, and telephone
7 number of the applicant;
- 8 (B) The name, and date of death of the decedent, the
9 decedent's age, and the county and state of the
10 decedent's domicile at the time of death, and the
11 names and addresses of the spouse [~~or~~],
12 reciprocal beneficiary, or civil union partner,
13 children, heirs, and devisees and the ages of any
14 who are minors so far as known or ascertainable
15 with reasonable diligence by the applicant;
- 16 (C) If the decedent was not domiciled in the State at
17 the time of the decedent's death, a statement
18 showing venue;
- 19 (D) A statement identifying and indicating the
20 address of any personal representative of the
21 decedent appointed in this State or elsewhere
22 whose appointment has not been terminated;



1 (E) A statement indicating whether the applicant has
2 received a demand for notice, or is aware of any
3 demand for notice of any probate or appointment
4 proceeding concerning the decedent that may have
5 been filed in this State or elsewhere; and

6 (F) That the time limit for informal probate or
7 appointment as provided in this article has not
8 expired either because five years or less have
9 passed since the decedent's death, or, if more
10 than five years from death have passed,
11 circumstances as described by section 560:3-108
12 authorizing tardy probate or appointment have
13 occurred;

14 (2) An application for informal probate of a will shall
15 state the following in addition to the statements
16 required by paragraph (1):

17 (A) That the original of the decedent's last will is
18 in the possession of the court, or accompanies
19 the application, or that an authenticated copy of
20 a will probated in another jurisdiction
21 accompanies the application;



1 (B) That the applicant, to the best of applicant's
2 knowledge, believes the will to have been validly
3 executed; and

4 (C) That after the exercise of reasonable diligence,
5 the applicant is unaware of any instrument
6 revoking the will, and that the applicant
7 believes that the instrument which is the subject
8 of the application is the decedent's last will;

9 (3) An application for informal appointment of a personal
10 representative to administer an estate under a will
11 shall describe the will by date of execution and state
12 the time and place of probate or the pending
13 application or petition for probate. The application
14 for appointment shall adopt the statements in the
15 application or petition for probate and state the
16 name, address, and priority for appointment of the
17 person whose appointment is sought;

18 (4) An application for informal appointment of an
19 administrator in intestacy shall state in addition to
20 the statements required by paragraph (1):

21 (A) That after the exercise of reasonable diligence,
22 the applicant is unaware of any unrevoked



1 testamentary instrument relating to property
2 having a situs in this State under section 560:1-
3 301, or, a statement why any such instrument of
4 which the applicant may be aware is not being
5 probated; and

6 (B) The priority of the person whose appointment is
7 sought and the names of any other persons having
8 a prior or equal right to the appointment under
9 section 560:3-203;

10 (5) An application for appointment of a personal
11 representative to succeed a personal representative
12 appointed under a different testacy status shall refer
13 to the order in the most recent testacy proceeding,
14 state the name and address of the person whose
15 appointment is sought and of the person whose
16 appointment will be terminated if the application is
17 granted, and describe the priority of the applicant;

18 (6) An application for appointment of a personal
19 representative to succeed a personal representative
20 who has tendered a resignation as provided in section
21 560:3-610(c), or whose appointment has been terminated
22 by death or removal, shall adopt the statements in the



1 application or petition which led to the appointment
2 of the person being succeeded except as specifically
3 changed or corrected, state the name and address of
4 the person who seeks appointment as successor, and
5 describe the priority of the applicant."

6 SECTION 175. Section 560:3-302, Hawaii Revised Statutes,
7 is amended by amending subsection (a) to read as follows:

8 "(a) Upon receipt of an application requesting informal
9 probate of a will filed by a corporate fiduciary, by a parent,
10 spouse, ~~[or]~~ reciprocal beneficiary, or civil union partner of
11 the decedent, or by a descendant of a parent of the decedent,
12 the registrar, upon making the findings required by section
13 560:3-303, shall issue a written statement of informal probate
14 appointing a personal representative subject to qualification
15 and acceptance, if at least one hundred twenty hours have
16 elapsed since the decedent's death."

17 SECTION 176. Section 560:3-403, Hawaii Revised Statutes,
18 is amended by amending subsection (b) to read as follows:

19 "(b) Notice shall be given to the following persons: the
20 surviving spouse ~~[or]~~ reciprocal beneficiary, or civil union
21 partner, children, and other heirs of the decedent, the devisees
22 and executors named in any will that is being, or has been,



1 probated, or offered for informal or formal probate in the
2 judicial circuit or that is known by the petitioner to have been
3 probated, or offered for informal or formal probate elsewhere,
4 and any personal representative of the decedent whose
5 appointment has not been terminated. Notice may be given to
6 other persons. In addition, the petitioner shall give notice by
7 publication to all unknown persons and to all known persons
8 whose addresses are unknown who have any interest in the matters
9 being litigated."

10 SECTION 177. Section 560:3-703, Hawaii Revised Statutes,
11 is amended by amending subsection (b) to read as follows:

12 "(b) A personal representative shall not be surcharged for
13 acts of administration or distribution if the conduct in
14 question was authorized at the time. Subject to other
15 obligations of administration, an informally probated will is
16 authority to administer and distribute the estate according to
17 its terms. An order of appointment of a personal
18 representative, whether issued in informal or formal
19 proceedings, is authority to distribute apparently intestate
20 assets to the heirs of the decedent if, at the time of
21 distribution, the personal representative is not aware of a
22 pending testacy proceeding, a proceeding to vacate an order



1 entered in an earlier testacy proceeding, a formal proceeding
2 questioning the personal representative's appointment or fitness
3 to continue, or a supervised administration proceeding. Nothing
4 in this section affects the duty of the personal representative
5 to administer and distribute the estate in accordance with the
6 rights of claimants, the surviving spouse [e~~x~~], reciprocal
7 beneficiary, or civil union partner, any minor and dependent
8 children and any pretermitted child of the decedent as described
9 elsewhere in this chapter."

10 SECTION 178. Section 560:3-713, Hawaii Revised Statutes,
11 is amended to read as follows:

12 "§560:3-713 Sale, encumbrance, or transaction involving
13 conflict of interest; voidable; exceptions. Any sale or
14 encumbrance to the personal representative, the personal
15 representative's spouse [e~~x~~], reciprocal beneficiary, civil
16 union partner, agent, or attorney, or any corporation or trust
17 in which the personal representative has a substantial
18 beneficial interest, or any transaction which is affected by a
19 substantial conflict of interest on the part of the personal
20 representative, is voidable by any person interested in the
21 estate except one who has consented after fair disclosure,
22 unless:



1 (1) The will or a contract entered into by the decedent
2 expressly authorized the transaction; or

3 (2) The transaction is approved by the court after notice
4 to interested persons."

5 SECTION 179. Section 560:3-901, Hawaii Revised Statutes,
6 is amended to read as follows:

7 "§560:3-901 Successors' rights if no administration. In
8 the absence of administration, the heirs and devisees are
9 entitled to the estate in accordance with the terms of a
10 probated will or the laws of intestate succession. Devisees may
11 establish title by the probated will to devised property.
12 Persons entitled to property by homestead allowance, exemption
13 or intestacy may establish title thereto by proof of the
14 decedent's ownership, decedent's death, and their relationship
15 to the decedent. Successors take subject to all charges
16 incident to administration, including the claims of creditors
17 and allowances of surviving spouse [~~or~~], reciprocal beneficiary,
18 or civil union partner, and dependent children, and subject to
19 the rights of others resulting from abatement, retainer,
20 advancement, and ademption."

21 SECTION 180. Section 560:3-902, Hawaii Revised Statutes,
22 is amended by amending subsection (a) to read as follows:



1 "(a) Except as provided in subsection (b) and except as
2 may otherwise be provided in connection with the share of the
3 surviving spouse ~~[or]~~, reciprocal beneficiary, or civil union
4 partner who elects to take an elective share, shares of
5 distributees abate, without any preference or priority as
6 between real and personal property, in the following order:

- 7 (1) Property not disposed of by the will;
8 (2) Residuary devises;
9 (3) General devises;
10 (4) Specific devises.

11 For purposes of abatement, a general devise charged on any
12 specific property or fund is a specific devise to the extent of
13 the value of the property on which it is charged, and upon the
14 failure or insufficiency of the property on which it is charged,
15 a general devise to the extent of the failure or insufficiency.
16 Abatement within each classification is in proportion to the
17 amounts of property each of the beneficiaries would have
18 received if full distribution of the property had been made in
19 accordance with the terms of the will."

20 SECTION 181. Section 560:3-906, Hawaii Revised Statutes,
21 is amended by amending subsection (a) to read as follows:



1 "(a) Unless a contrary intention is indicated by the will,
2 the distributable assets of a decedent's estate shall be
3 distributed in kind to the extent possible through application
4 of the following provisions:

5 (1) A specific devisee is entitled to distribution of the
6 thing devised to that person, and a spouse, reciprocal
7 beneficiary, civil union partner, or child who has
8 selected particular assets of an estate as provided in
9 section 560:2-402 shall receive the items selected;

10 (2) Any homestead or family allowance or devise of a
11 stated sum of money may be satisfied in kind provided:

12 (A) The person entitled to the payment has not
13 demanded payment in cash;

14 (B) The property distributed in kind is valued at
15 fair market value as of the date of its
16 distribution; and

17 (C) No residuary devisee has requested that the asset
18 in question remain a part of the residue of the
19 estate;

20 (3) For the purpose of valuation under paragraph (2)
21 securities regularly traded on recognized exchanges,
22 if distributed in kind, are valued at the price for



1 the last sale of like securities traded on the
2 business day prior to distribution, or if there was no
3 sale on that day, at the median between amounts bid
4 and offered at the close of that day. Assets
5 consisting of sums owed the decedent or the estate by
6 solvent debtors as to which there is no known dispute
7 or defense are valued at the sum due with accrued
8 interest or discounted to the date of distribution.
9 For assets which do not have readily ascertainable
10 values, a valuation as of a date not more than thirty
11 days prior to the date of distribution, if otherwise
12 reasonable, controls. For purposes of facilitating
13 distribution, the personal representative may
14 ascertain the value of the assets as of the time of
15 the proposed distribution in any reasonable way,
16 including the employment of qualified appraisers, even
17 if the assets may have been previously appraised;

18 (4) The residuary estate shall be distributed in any
19 equitable manner."

20 SECTION 182. Section 560:3-915, Hawaii Revised Statutes,
21 is amended by amending subsection (c) to read as follows:



1 "(c) If the heir or devisee is under disability other than
2 minority, the personal representative is authorized to
3 distribute to:

4 (1) An attorney in fact who has authority under a power of
5 attorney to receive property for that person; or

6 (2) The spouse ~~[or]~~, reciprocal beneficiary, or civil
7 union partner, parent, or other close relative with
8 whom the person under disability resides if the
9 distribution is of amounts not exceeding \$10,000 a
10 year, or property not exceeding \$10,000 in value,
11 unless the court authorizes a larger amount or greater
12 value.

13 Persons receiving money or property for the disabled person are
14 obligated to apply the money or property to the support of that
15 person, but may not pay themselves except by way of
16 reimbursement for out-of-pocket expenses for goods and services
17 necessary for the support of the disabled person. Excess sums
18 must be preserved for future support of the disabled person.
19 The personal representative is not responsible for the proper
20 application of money or property distributed pursuant to this
21 subsection."



1 SECTION 183. Section 560:3-916, Hawaii Revised Statutes,
2 is amended by amending subsection (f) to read as follows:

3 "(f) (1) In making an apportionment, allowances shall be
4 made for any exemptions granted, any classification
5 made of persons interested in the estate and for any
6 deductions and credits allowed by the law imposing the
7 tax;

8 (2) Any exemption or deduction allowed by reason of the
9 relationship of any person to the decedent or by
10 reason of the purposes of the gift inures to the
11 benefit of the person bearing such relationship or
12 receiving the gift; but if an interest is subject to a
13 prior present interest which is not allowable as a
14 deduction, the tax apportionable against the present
15 interest shall be paid from principal;

16 (3) Any deduction for property previously taxed and any
17 credit for gift taxes or death taxes of a foreign
18 country paid by the decedent or the decedent's estate
19 inures to the proportionate benefit of all persons
20 liable to apportionment;

21 (4) Any credit for inheritance, succession or estate taxes
22 or taxes in the nature thereof applicable to property



1 or interests includable in the estate, inures to the
 2 benefit of the persons or interests chargeable with
 3 the payment thereof to the extent proportionately that
 4 the credit reduces the tax;

5 (5) To the extent that property passing to or in trust for
 6 a surviving spouse [~~or~~], reciprocal beneficiary, or
 7 civil union partner or any charitable, public or
 8 similar purpose is not an allowable deduction for
 9 purposes of the tax solely by reason of an inheritance
 10 tax or other death tax imposed upon and deductible
 11 from the property, the property is not included in the
 12 computation provided for in subsection (b), and to
 13 that extent no apportionment is made against the
 14 property. The sentence immediately preceding does not
 15 apply to any case if the result would be to deprive
 16 the estate of a deduction otherwise allowable under
 17 section 2053(d) of the Internal Revenue Code of 1986,
 18 as amended, of the United States, relating to
 19 deduction for state death taxes on transfers for
 20 public, charitable, or religious uses."

21 SECTION 184. Section 560:3-1212, Hawaii Revised Statutes,
 22 is amended to read as follows:



1 "§560:3-1212 Estates of persons leaving no known
2 relatives. Every coroner or medical examiner who is called to
3 investigate the death of any person leaving no known spouse
4 [~~or~~], reciprocal beneficiary, or civil union partner, issue,
5 parent, grandparent, or issue of grandparents over the age of
6 majority in the State, shall take immediate charge of the
7 decedent's personal effects and if in the discretion of the
8 coroner the value of such personal effects is in excess of
9 \$2,500, forthwith deliver them to the clerk of the court of the
10 judicial circuit in which such decedent died.

11 If after ten days no person appears, competent to initiate
12 appropriate probate proceedings, the clerk shall administer the
13 estate pursuant to the provisions of this part; provided that if
14 the decedent's estate is of a value exceeding \$100,000, the
15 clerk shall notify the judge of the circuit having charge of the
16 probate calendar, and shall petition for the appointment of a
17 personal representative of such estate other than the clerk. In
18 the meantime the clerk may take such steps as may be appropriate
19 to preserve and conserve the real and personal property of the
20 decedent. All expenses in connection with the taking
21 possession, care, and conservation of the property and with such
22 proceedings shall be proper charges against the estate of the



1 decedent. The corporation counsel or county attorney of each
2 county shall advise, assist, and represent as far as necessary
3 any of such officers in the performance of any act or the
4 institution or prosecution of any proceeding required by this
5 section. If the decedent's estate is of a value not exceeding
6 \$2,500 and the decedent has no known relatives or whose
7 relatives have failed to indicate any means of disposition of
8 the estate, then the coroner or medical examiner having custody
9 of the property shall dispose of the property in an appropriate
10 manner, which may be any one of the following or a combination
11 thereof:

12 (1) Where the estate consists only of money and is not in
13 excess of \$2,500 and expenditures have been made in
14 connection with such death, to reimburse the
15 appropriate city and/or county office that made the
16 disbursement to defray said expenses;

17 (2) Where the estate consists of cash or personal
18 belongings of monetary value, or both, not exceeding
19 \$2,500, to liquidate the personal belongings and apply
20 the proceeds, together with the cash, if the total
21 does not exceed \$2,500, in accordance with paragraph

22 (1);



- 1 (3) Where the assets in the estate are of no monetary
2 value (unsalable) and in the best judgment and
3 discretion of the coroner or medical examiner can be
4 used by some charitable institution, to donate the
5 assets to whatever charitable institution is willing
6 and able to pick up the assets in question;
- 7 (4) Where the assets have no value whatsoever or are in
8 such condition that, in the best judgment and
9 discretion of the coroner or medical examiner, a
10 charitable institution cannot use the properties, or
11 will not receive the properties, to destroy the same
12 in any manner the coroner or medical examiner sees
13 fit; and
- 14 (5) If under paragraphs (1) and (2), there are assets
15 remaining, then the coroner or medical examiner shall
16 forthwith forward the same to the state director of
17 finance for disposition as provided in chapter 523A."

18 SECTION 185. Section 560:5-102, Hawaii Revised Statutes,
19 is amended by amending the definition of "guardian" to read as
20 follows:

21 "Guardian" means a person who has qualified as a guardian
22 of a minor or incapacitated person pursuant to appointment by a



1 parent, spouse, reciprocal beneficiary, civil union partner, or
2 by the court. The term includes a limited, emergency, and
3 temporary substitute guardian but not a guardian ad litem."

4 SECTION 186. Section 560:5-105, Hawaii Revised Statutes,
5 is amended to read as follows:

6 "§560:5-105 Delegation of power by parent or guardian. A
7 parent or guardian of a minor or incapacitated person, by a
8 power of attorney, may delegate to another person for a period
9 not exceeding one year, which time limit shall be expressly
10 stated in the document, any power regarding the care, custody,
11 or property of the minor or ward, except the power to consent to
12 marriage, civil union, or adoption."

13 SECTION 187. Section 560:5-110, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "§560:5-110 Letters of office. Upon the guardian's filing
16 of an acceptance of office, the court shall issue appropriate
17 letters of guardianship. Upon the conservator's filing of an
18 acceptance of office and any required bond, the court shall
19 issue appropriate letters of conservatorship. Letters of
20 guardianship shall indicate whether the guardian was appointed
21 by the court, a parent, or the spouse [~~or~~], reciprocal
22 beneficiary[~~-~~] or civil union partner. Any limitation on the



1 powers of a guardian or conservator or of the assets subject to
2 a conservatorship shall be endorsed on the guardian's or
3 conservator's letters."

4 SECTION 188. Section 560:5-112, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) The appointment of a guardian or conservator
7 terminates upon the death, resignation, or removal of the
8 guardian or conservator or upon termination of the guardianship
9 or conservatorship. A resignation of a guardian or conservator
10 is effective when approved by the applicable court. An
11 appointment by a parent, spouse, [øæ] reciprocal beneficiary, or
12 civil union partner, as guardian under an informally probated
13 will terminates if the will is later denied probate in a formal
14 proceeding. Termination of the appointment of a guardian or
15 conservator does not affect the liability of either for previous
16 acts or the obligation to account for money and other assets of
17 the ward or protected person."

18 SECTION 189. Section 560:5-301, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "§560:5-301 Appointment and status of guardian. A person
21 becomes a guardian of an incapacitated person by an appointment
22 by a parent, spouse, [øæ] reciprocal beneficiary, or civil union



1 partner or upon appointment by the court. The guardianship
2 continues until terminated, without regard to the location of
3 the guardian or ward."

4 SECTION 190. Section 560:5-302, Hawaii Revised Statutes,
5 is amended by amending subsections (b), (c) and (d) to read as
6 follows:

7 "(b) An individual, by will or other signed writing, may
8 appoint a guardian for the individual's spouse [~~e~~], reciprocal
9 beneficiary, or civil union partner who the appointing spouse
10 [~~e~~], reciprocal beneficiary, or civil union partner believes is
11 an incapacitated person, specify desired limitations on the
12 powers to be given to the guardian, and revoke or amend the
13 appointment before confirmation by the court.

14 (c) The incapacitated person, the person having care or
15 custody of the incapacitated person, if other than the
16 appointing parent, spouse, [~~e~~] reciprocal beneficiary, or civil
17 union partner, or the adult nearest in kinship to the
18 incapacitated person, may file a written objection to an
19 appointment, unless the court has confirmed the appointment
20 under subsection (d). The filing of the written objection
21 terminates the appointment. An objection may be withdrawn and,
22 if withdrawn, is of no effect. The objection shall not preclude



1 judicial appointment of the person selected by the parent,
 2 spouse, [~~or~~] reciprocal beneficiary[~~-~~], or civil union partner.
 3 Notice of the objection shall be given to the guardian and any
 4 other person entitled to notice of the acceptance of the
 5 appointment. The court may treat the filing of an objection as
 6 a petition for the appointment of an emergency guardian under
 7 section 560:5-312 or for the appointment of a limited or
 8 unlimited guardian under section 560:5-304 and proceed
 9 accordingly.

10 (d) Before the appointment becomes effective, that court
 11 may confirm the appointing parent's, spouse's, [~~or~~] reciprocal
 12 beneficiary's, or civil union partner's selection of a guardian
 13 and terminate the rights of others to object upon:

- 14 (1) Petition of the appointing parent, spouse, [~~or~~]
 15 reciprocal beneficiary[~~+~~], or civil union partner;
- 16 (2) A finding that the appointing parent, spouse, [~~or~~]
 17 reciprocal beneficiary, or civil union partner will
 18 likely become unable to care for the incapacitated
 19 person within two years; and
- 20 (3) Notice as provided in this section."

21 SECTION 191. Section 560:5-303, Hawaii Revised Statutes,
 22 is amended as follows:



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

2 "(a) The appointment of a guardian under section 560:5-302
3 becomes effective upon:

4 (1) The death of the appointing parent, spouse, [~~or~~]
5 reciprocal beneficiary^[+], or civil union partner;

6 (2) The adjudication of incapacity of the appointing
7 parent, spouse, [~~or~~] reciprocal beneficiary^[+], or
8 civil union partner; or

9 (3) A written determination by a physician who has
10 examined the appointing parent, spouse, [~~or~~]
11 reciprocal beneficiary, or civil union partner that
12 the appointing parent, spouse, [~~or~~] reciprocal
13 beneficiary, or civil union partner is no longer able
14 to care for the incapacitated person,
15 whichever first occurs.

16 (b) Unless a person having priority under section 560:5-
17 310 has filed an acceptance of appointment, a guardian appointed
18 under section 560:5-302 becomes eligible to act upon the filing
19 of an acceptance of appointment, which shall be filed within
20 thirty days after the guardian's appointment becomes effective.
21 The guardian shall:



- 1 (1) File the notice of acceptance of appointment and a
2 copy of the will with the court of the circuit in
3 which the will was or could be probated or, in the
4 case of another appointing instrument, file the
5 acceptance of appointment and the appointing
6 instrument with the court in the circuit in which the
7 incapacitated person resides or is present; and
- 8 (2) Give written notice of the acceptance of appointment
9 to the appointing parent, spouse, [~~or~~] reciprocal
10 beneficiary, or civil union partner if living, the
11 incapacitated person, a person having care or custody
12 of the incapacitated person other than the appointing
13 parent, spouse, [~~or~~] reciprocal beneficiary, or civil
14 union partner, and the adult nearest in kinship."

15 2. By amending subsection (e) to read:

16 "(e) Unless the appointment was previously confirmed by
17 the court, within thirty days after filing the notice and the
18 appointing instrument, a guardian appointed under section 560:5-
19 302 shall file a petition in the court for confirmation of the
20 appointment. The petition shall include the information
21 required under section 560:5-304 and detail the special
22 circumstances of the appointment by a parent, spouse, [~~or~~]



1 reciprocal beneficiary[-], or civil union partner. Notice of
2 the filing shall be given in the manner provided in section
3 560:5-309."

4 SECTION 192. Section 560:5-304, Hawaii Revised Statutes,
5 is amended by amending subsection (b) to read as follows:

6 "(b) The petition shall set forth the petitioner's name,
7 residence, current address if different, relationship to the
8 respondent, and interest in the appointment and, to the extent
9 known, state or contain the following with respect to the
10 respondent and the relief requested:

11 (1) The respondent's name, age, principal residence,
12 current street address, and, if different, the address
13 of the dwelling in which it is proposed that the
14 respondent will reside if the appointment is made;

15 (2) The name and address of the respondent's:

16 (A) Spouse [~~or~~], reciprocal beneficiary, or civil
17 union partner, or if the respondent has none, an
18 adult with whom the respondent has resided for
19 more than six months before the filing of the
20 petition; and

21 (B) Adult children or, if the respondent has none,
22 the respondent's parents and adult siblings, or



- 1 if the respondent has none, at least one of the
2 adults nearest in kinship to the respondent who
3 can be found;
- 4 (3) The name and address of any person responsible for
5 care or custody of the respondent;
- 6 (4) The name and address of any legal representative of
7 the respondent;
- 8 (5) The name and address of any person nominated as
9 guardian by the respondent;
- 10 (6) The name and address of any agent appointed by the
11 respondent under any medical directive, mental health
12 care directive, or health care power of attorney, or,
13 if none, any designated surrogate under section
14 327E-5(f);
- 15 (7) The name and address of any proposed guardian and the
16 reason why the proposed guardian should be selected;
- 17 (8) The reason why guardianship is necessary, including a
18 brief description of the nature and extent of the
19 respondent's alleged incapacity;
- 20 (9) If an unlimited guardianship is requested, the reason
21 why limited guardianship is inappropriate and, if a



1 limited guardianship is requested, the powers to be
2 granted to the limited guardian; and

3 (10) A general statement of the respondent's property with
4 an estimate of its value, including any insurance or
5 pension, and the source and amount of any other
6 anticipated income or receipts."

7 SECTION 193. Section 560:5-310, Hawaii Revised Statutes,
8 is amended by amending subsection (a) to read as follows:

9 "(a) Subject to subsection (c), the court in appointing a
10 guardian shall consider persons otherwise qualified in the
11 following order of priority:

12 (1) A guardian, other than a temporary or emergency
13 guardian, currently acting for the respondent in this
14 State or elsewhere;

15 (2) A person nominated as guardian by the respondent,
16 including the respondent's most recent nomination made
17 in a durable power of attorney, if at the time of the
18 nomination the respondent had sufficient capacity to
19 express a preference;

20 (3) An agent appointed by the respondent under any medical
21 directive or health care power of attorney or, if



1 none, any designated surrogate under section 327E-
2 5(f);

3 (4) The spouse [~~or~~], reciprocal beneficiary, or civil
4 union partner of the respondent or a person nominated
5 by will or other signed writing of a deceased spouse
6 [~~or~~], reciprocal beneficiary[~~or~~], or civil union
7 partner;

8 (5) An adult child of the respondent;

9 (6) A parent of the respondent, or an individual nominated
10 by will or other signed writing of a parent; and

11 (7) An adult with whom the respondent has resided for more
12 than six months before the filing of the petition."

13 SECTION 194. Section 560:5-315, Hawaii Revised Statutes,
14 is amended by amending subsection (a) to read as follows:

15 "(a) Except as otherwise limited by the court, a guardian
16 may:

17 (1) Apply for and receive money payable to the ward or the
18 ward's guardian or custodian for the support of the
19 ward under the terms of any statutory system of
20 benefits or insurance or any private contract, devise,
21 trust, conservatorship, or custodianship;



- 1 (2) If otherwise consistent with the terms of any order by
2 a court of competent jurisdiction relating to custody
3 of the ward, take custody of the ward and establish
4 the ward's place of custodial dwelling; provided that
5 a guardian may only establish or move the ward's place
6 of dwelling outside this State upon express
7 authorization of the court;
- 8 (3) If a conservator for the estate of the ward has not
9 been appointed with existing authority, commence a
10 proceeding, including an administrative proceeding, or
11 take other appropriate action to compel a person to
12 support the ward or to pay money for the benefit of
13 the ward;
- 14 (4) Consent to medical or other care, treatment, or
15 service for the ward;
- 16 (5) Consent to the marriage [~~or~~], civil union, divorce, or
17 termination of the ward; and
- 18 (6) If reasonable under all of the circumstances, delegate
19 to the ward certain responsibilities for decisions
20 affecting the ward's well being."

21 SECTION 195. Section 560:5-403, Hawaii Revised Statutes,
22 is amended by amending subsection (b) to read as follows:



1 "(b) The petition under subsection (a) shall set forth the
2 petitioner's name, residence, current address if different,
3 relationship to the respondent, and interest in the appointment
4 or other protective order, and, to the extent known, state or
5 contain the following with respect to the respondent and the
6 relief requested:

- 7 (1) The respondent's name, age, principal residence,
8 current street address, and, if different, the address
9 of the dwelling where it is proposed that the
10 respondent will reside if the appointment is made;
- 11 (2) If the petition alleges impairment in the respondent's
12 ability to receive and evaluate information or alleges
13 another physical, mental, or health impairment, a
14 brief description of the nature and extent of the
15 respondent's alleged impairment;
- 16 (3) If the petition alleges that the respondent is
17 missing, detained, or unable to return to the United
18 States, a statement of the relevant circumstances,
19 including the time and nature of the disappearance or
20 detention and a description of any search or inquiry
21 concerning the respondent's whereabouts;
- 22 (4) The name and address of the respondent's:



- 1 (A) Spouse [~~or~~], reciprocal beneficiary, or civil
2 union partner or, if the respondent has none, an
3 adult with whom the respondent has resided for
4 more than six months before the filing of the
5 petition; and
- 6 (B) Adult children or, if the respondent has none,
7 the respondent's parents and adult siblings or,
8 if the respondent has none, at least one of the
9 adults nearest in kinship to the respondent who
10 can be found with reasonable efforts;
- 11 (5) The name and address of the person responsible for
12 care or custody of the respondent;
- 13 (6) The name and address of any legal representative of
14 the respondent;
- 15 (7) A general statement of the respondent's property with
16 an estimate of its value, including any insurance or
17 pension, and the source and amount of other
18 anticipated income or receipts;
- 19 (8) The reason why a conservatorship or other protective
20 order is in the best interest of the respondent; and
- 21 (9) A proposed itemized budget of income and
22 expenditures."



1 SECTION 196. Section 560:5-411, Hawaii Revised Statutes,
2 is amended by amending subsection (a) to read as follows:

3 "(a) After notice to interested persons and upon express
4 authorization of the court, a conservator may:

5 (1) Make gifts, except as otherwise provided in section
6 560:5-427(b);

7 (2) Convey, release, or disclaim contingent and expectant
8 interests in property, including marital property
9 rights and any right of survivorship incident to joint
10 tenancy or tenancy by the entireties;

11 (3) Exercise or release a power of appointment;

12 (4) Create a revocable or irrevocable trust of property of
13 the estate, whether or not the trust extends beyond
14 the duration of the conservatorship, or revoke or
15 amend a trust revocable by the protected person;

16 (5) Exercise rights to elect options and change
17 beneficiaries under retirement plans, insurance
18 policies and annuities, or surrender the policies and
19 annuities for their cash value;

20 (6) Exercise any right to an elective share in the estate
21 of the protected person's deceased spouse [~~or~~],
22 reciprocal beneficiary, or civil union partner and to



1 renounce or disclaim any interest by testate or
2 intestate succession or by transfer inter vivos; and
3 (7) Make, amend, or revoke the protected person's will."

4 SECTION 197. Section 560:5-413, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) Except as otherwise provided in subsection (d), the
7 court, in appointing a conservator, shall consider persons
8 otherwise qualified in the following order of priority:

9 (1) A conservator, guardian of the estate, or other like
10 fiduciary appointed or recognized by an appropriate
11 court of any other jurisdiction in which the protected
12 person resides;

13 (2) A person nominated as conservator by the respondent,
14 including the respondent's most recent nomination made
15 in a durable power of attorney, if the respondent has
16 attained fourteen years of age and at the time of the
17 nomination had sufficient capacity to express a
18 preference;

19 (3) An agent appointed by the respondent to manage the
20 respondent's property under a durable power of
21 attorney;



- 1 (4) The spouse [~~e~~], reciprocal beneficiary, or civil
- 2 union partner of the respondent;
- 3 (5) An adult child of the respondent;
- 4 (6) A parent of the respondent; and
- 5 (7) An adult with whom the respondent has resided for more
- 6 than six months before the filing of the petition."

7 SECTION 198. Section 560:5-423, Hawaii Revised Statutes,
8 is amended to read as follows:

9 "§560:5-423 Sale, encumbrance, or other transaction
10 involving conflict of interest. Any transaction involving the
11 conservatorship estate that is affected by a substantial
12 conflict between the conservator's fiduciary and personal
13 interests is voidable unless the transaction is expressly
14 authorized by the court after notice to interested persons. A
15 transaction affected by a substantial conflict between personal
16 and fiduciary interests includes any sale, encumbrance, or other
17 transaction involving the conservatorship estate entered into by
18 the conservator, the spouse [~~e~~], reciprocal beneficiary, or
19 civil union partner, descendant, agent, or lawyer of a
20 conservator, or a corporation or other enterprise in which the
21 conservator has a substantial beneficial interest."



1 SECTION 199. Section 560:5-601, Hawaii Revised Statutes,
2 is amended by amending the definition of "interested person" to
3 read as follows:

4 "Interested person" means an interested, responsible
5 adult, including but not limited to a public official, the legal
6 guardian, spouse ~~[e]~~, reciprocal beneficiary, or civil union
7 partner, parent, legal counsel, adult child, or next of kin of a
8 person allegedly mentally ill, mentally deficient, or as
9 otherwise provided in this chapter."

10 SECTION 200. Section 560:6-107, Hawaii Revised Statutes,
11 is amended to read as follows:

12 "§560:6-107 Rights against multiple-party accounts. A
13 transfer to a survivor of a multiple-party account can be set
14 aside, to the extent described below, in the event the assets in
15 the hands of the personal representative of the deceased party
16 are insufficient to pay taxes, expenses of administration, and
17 homestead and family allowances under sections 560:2-402 and
18 560:2-404. A surviving party, payable-on-death payee, or
19 beneficiary who receives payment from a multiple-party account
20 after the death of a deceased party may, on application of the
21 personal representative of the deceased party's estate, the
22 surviving spouse ~~[e]~~, reciprocal beneficiary, or civil union



1 partner of the deceased party, or one acting for a dependent or
2 minor child of the deceased party, be required to account to
3 said personal representative for the deceased party's net
4 contribution to the account to the extent necessary to discharge
5 the insufficiency described above. No proceeding to assert this
6 right shall be commenced later than two years following the
7 death of the deceased party. Sums recovered hereunder shall be
8 administered as part of the decedent's estate. This section
9 shall not affect the right of a financial institution to make
10 payment on multiple-party accounts according to the terms
11 thereof, or make it liable to the estate of a deceased party
12 unless before payment either the institution has been served
13 with process in a proceeding by the personal representative or
14 the institution has actual knowledge that making payment will
15 jeopardize the payment of the taxes, expenses and allowances
16 above mentioned."

17 SECTION 201. Section 571-14, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Except as provided in sections 603-21.5 and 604-8,
20 the court shall have exclusive original jurisdiction:

21 (1) To try any offense committed against a child by the
22 child's parent or guardian or by any other person



1 having the child's legal or physical custody, and any
2 violation of section 707-726, 707-727, 709-902, 709-
3 903, 709-903.5, 709-904, 709-905, 709-906, or 302A-
4 1135, whether or not included in other provisions of
5 this paragraph or paragraph (2);

6 (2) To try any adult charged with:

7 (A) Deserting, abandoning, or failing to provide
8 support for any person in violation of law;

9 (B) An offense, other than a felony, against the
10 person of the defendant's husband or wife [7], or
11 civil union partner;

12 (C) Any violation of an order issued pursuant to
13 chapter 586; or

14 (D) Any violation of an order issued by a family
15 court judge.

16 In any case within paragraph (1) or (2), the court, in its
17 discretion, may waive its jurisdiction over the offense
18 charged;

19 (3) In all proceedings under chapter 580, and in all
20 proceedings under chapter 584;



- 1 (4) In proceedings under chapter 575, the Uniform
2 Desertion and Nonsupport Act, and under chapter 576B,
3 the Uniform Interstate Family Support Act;
- 4 (5) For commitment of an adult alleged to be mentally
5 defective or mentally ill;
- 6 (6) In all proceedings for support between parent and
7 child [~~or~~], between husband and wife[+], or between
8 partners in a civil union;
- 9 (7) In all proceedings for pre-trial detention or waiver
10 of jurisdiction over an adult who was a child at the
11 time of an alleged criminal act as provided in section
12 571-13 or 571-22;
- 13 (8) In all proceedings under chapter 586, Domestic Abuse
14 Protective Orders; and
- 15 (9) For the protection of vulnerable adults under chapter
16 346, part X.

17 In any case within paragraph (3), (4), or (6), the attorney
18 general, through the child support enforcement agency, may
19 exercise concurrent jurisdiction as provided in chapter
20 576E."

21 SECTION 202. Section 571-46.1, Hawaii Revised Statutes, is
22 amended by amending subsection (d) to read as follows:



1 "(d) Any order for the custody of the minor child or
2 children of a marriage or civil union entered by a court in this
3 State or any other state may, subject to the jurisdictional
4 requirements set forth in sections 583A-201 to 583A-204, be
5 modified at any time to an order of joint custody in accordance
6 with this section."

7 SECTION 203. Section 575-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§575-2 Prima facie evidence; sequestration of money for
10 support of spouse, civil union partner, or children. The
11 absence of any spouse or parent from the other spouse or child
12 or children under the age of sixteen, or civil union partner for
13 a continuous period of three months or more without first making
14 suitable provision for the support and maintenance of [~~such~~] the
15 spouse, civil union partner, child, or children shall be prima
16 facie evidence of desertion and wilful neglect. In such case,
17 and where it is known that [~~such~~] the spouse, civil union
18 partner, or parent has money in the possession of a third party,
19 the complaint, made under section 575-3, shall allege the
20 continuous absence by the spouse, civil union partner, or parent
21 and the name of the third party possessing the money. The court
22 in which the complaint is filed shall issue an order to the



1 third party possessing the money to appear before it to show
2 cause why the money shall not be applied to the maintenance and
3 support of the spouse, civil union partner, [~~the~~] child, or
4 children.

5 If, after a hearing for that purpose, the court is
6 satisfied that there has been a continuous absence by the
7 spouse, civil union partner, or parent and a failure by the
8 spouse, civil union partner, or parent to make suitable
9 provision for maintenance and support, and that there is money
10 in the possession of the third party belonging to the spouse,
11 civil union partner, or parent, it shall make an order upon the
12 third party to apply the money in the sum or sums in the manner
13 and at the time or times as it may determine for the support and
14 maintenance of the spouse, civil union partner, or the child or
15 children; provided that no order to apply the money shall be
16 made unless a copy of the order to show cause is served upon the
17 spouse, civil union partner, or parent prior to the hearing;
18 provided further that if the spouse or parent cannot be found,
19 the order to show cause shall be published in a newspaper of
20 general circulation and for the time as shall be designated by
21 the order of the court."



1 SECTION 204. Section 575-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§575-3 Complaint. Proceedings under this chapter may be
4 instituted upon complaint made under oath or affirmation by the
5 spouse, civil union partner, child, or children, or [either] any
6 of them, by the child support enforcement agency, or by any
7 other person or persons, or organization, against any person
8 guilty of either of the above named offenses."

9 SECTION 205. Section 575-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§575-4 Evidence; marriage, civil union, paternity, etc.
12 No other or greater evidence shall be required to prove the
13 marriage of the spouses, civil union of the partners, or that
14 the defendant is the parent of the child or children, than is
15 required to prove such facts in a civil action. In no
16 prosecution under this chapter shall any statute or rule of law
17 prohibiting the disclosure of confidential communications
18 between spouses or civil union partners apply, and both spouses
19 or civil union partners shall be competent and compellable
20 witnesses to testify against each other to any and all relevant
21 matters, including the fact of [~~such~~] the marriage or civil
22 union and the parentage of [~~such~~] the child or children;



1 provided that neither shall be compelled to give self-
2 incriminating evidence. Proof of the desertion of the spouse,
3 civil union partner, child, or children in destitute or
4 necessitous circumstances, or of neglect or refusal to provide
5 for the support and maintenance of the spouse, civil union
6 partner, child, or children, shall be prima facie evidence that
7 the desertion, neglect, or refusal is wilful."

8 SECTION 206. Section 578-1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§578-1 Who may adopt; jurisdiction; venue. Any proper
11 adult person, not married[~~r~~] or not in a civil union, or any
12 person married or in a civil union to the legal father or mother
13 of a minor child, or a husband and wife jointly, or partners in
14 a civil union jointly, may petition the family court of the
15 circuit in which the person or persons reside or are in military
16 service or the family court of the circuit in which the
17 individual to be adopted resides or was born or in which a child
18 placing organization approved by the department of human
19 services under the provisions of section 346-17 having legal
20 custody (as defined in section 571-2) of the child is located,
21 for leave to adopt an individual toward whom the person or
22 persons do not sustain the legal relationship of parent and



1 child and for a change of the name of the individual. When
2 adoption is the goal of a permanent plan recommended by the
3 department of human services and ordered pursuant to section
4 587A-31, the department may petition for adoption on behalf of
5 the proposed adoptive parents. The petition shall be in such
6 form and shall include such information and exhibits as may be
7 prescribed by the family court."

8 SECTION 207. Section 578-2, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) A petition to adopt an adult may be granted only if
11 written consent to adoption has been executed by the adult and
12 the adult's spouse~~[7]~~ or civil union partner, if the adult is
13 married~~[7]~~ or in a civil union."

14 SECTION 208. Section 578-8, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) No decree of adoption shall be entered unless a
17 hearing has been held at which the petitioner or petitioners,
18 and any legal parent married or in a civil union to a
19 petitioner, and any subject of the adoption whose consent is
20 required, have personally appeared before the court, unless
21 expressly excused by the court. After considering the petition
22 and such evidence as the petitioners and any other properly



1 interested person may wish to present, the court may enter a
2 decree of adoption if it is satisfied (1) that the individual is
3 adoptable under sections 578-1 and 578-2, (2) that the
4 individual is physically, mentally, and otherwise suitable for
5 adoption by the petitioners, (3) that the petitioners are fit
6 and proper persons and financially able to give the individual a
7 proper home and education, if the individual is a child, and (4)
8 that the adoption will be for the best interests of the
9 individual, which decree shall take effect upon such date as may
10 be fixed therein by the court, such date to be not earlier than
11 the date of the filing of the petition and not later than six
12 months after the date of the entry of the decree."

13 SECTION 209. Section 578-15, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The records in adoption proceedings, after the
16 petition is filed and prior to the entry of the decree, shall be
17 open to inspection only by the parties or their attorneys, the
18 director of human services or the director's agent, or by any
19 proper person on a showing of good cause therefor, upon order of
20 the court. Except in the case of an individual being adopted by
21 a person married or in a civil union to the legal father or
22 mother of the individual or unless authorized by the court, no



1 petition for adoption shall set forth the name of the individual
2 sought to be adopted or the name of either of the parents of the
3 individual; provided that the legal name of the individual and
4 the name of each of the individual's legal parents may be added
5 to the petition by amendment during the course of the hearing
6 thereof and shall be included in the decree. The hearing of the
7 petition shall be in chambers and shall not be open to the
8 public."

9 SECTION 210. Section 578-16, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (d) to read:

12 "(d) Except as provided in subsection (e), all legal
13 duties and rights between the individual and the individual's
14 former legal parent or parents shall cease from the time of the
15 adoption; provided that if the individual is adopted by a person
16 married or in a civil union to a legal parent of the individual,
17 the full reciprocal rights and duties which theretofore existed
18 between the legal parent and the individual, and the rights of
19 inheritance as between the individual and the legal parent and
20 the legal relatives of the parent, as provided in chapter 560,
21 shall continue, notwithstanding the adoption, subject only to



1 the rights acquired by and the duties imposed upon the adoptive
2 parents by reason of the adoption."

3 2. By amending subsection (e) to read:

4 "(e) Notwithstanding subsections (b) and (d), if an
5 individual is adopted before that individual attains the age of
6 majority and:

7 (1) The individual is adopted by a spouse or civil union
8 partner of a natural parent of the individual; or

9 (2) The individual is adopted by a natural grandparent,
10 aunt, uncle, or sibling of the individual or the
11 spouse or civil union partner of a natural
12 grandparent, aunt, uncle, or sibling;

13 then for the purposes of interpretation or construction of a
14 disposition in any will, trust, or other lifetime instrument,
15 whether executed before or after the order of adoption, and for
16 purposes of determining heirs at law, the rights of the adopted
17 individual and the individual's descendants with respect to the
18 individual's natural family shall not be affected by the
19 adoption, and they shall be included in any determination of
20 heirs or members of any class, unless specifically excluded by
21 name or class."



1 SECTION 211. Section 583A-310, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) A privilege against disclosure of communications
4 between spouses or civil union partners and a defense of
5 immunity based on the relationship of husband and wife or
6 partners in a civil union or parent and child may not be invoked
7 in a proceeding under this part."

8 SECTION 212. Section 584-2, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§584-2[+] Relationship not dependent on marriage[-] or
11 civil union. Any parent and child relationship established
12 under this chapter extends to every such child and to every such
13 parent, regardless of the marital or civil union status of the
14 parents."

15 SECTION 213. Section 586-1, Hawaii Revised Statutes, is
16 amended by amending the definition of "family or household
17 member" to read as follows:

18 "'Family or household member" means spouses [~~or~~],
19 reciprocal beneficiaries, or civil union partners, former
20 spouses [~~or~~], former reciprocal beneficiaries, or former civil
21 union partners, persons who have a child in common, parents,
22 children, persons related by consanguinity, persons jointly



1 residing or formerly residing in the same dwelling unit, and
2 persons who have or have had a dating relationship."

3 SECTION 214. Section 587A-4, Hawaii Revised Statutes, is
4 amended by amending the definition of "family" to read as
5 follows:

6 "Family" means each legal parent of a child; the birth
7 mother, unless the child has been legally adopted; the concerned
8 birth father as provided in section 578-2(a)(5), unless the
9 child has been legally adopted; each parent's spouse [~~e~~] l
10 civil union partner, former spouse [~~+~~], or former civil union
11 partner; each sibling or person related by blood or marriage;
12 each person residing in the dwelling unit; and any other person
13 or legal entity with:

- 14 (1) Legal or physical custody or guardianship of the
15 child, or
16 (2) Responsibility for the child's care.

17 For purposes of this chapter, the term "family" does not apply
18 to an authorized agency that assumes the foregoing legal status
19 or relationship with a child."

20 SECTION 215. Section 606-5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§606-5 Free copies of certain decrees to veterans. The
2 clerk of any state court shall provide to any veteran of the
3 armed forces of the United States, the veteran's spouse[7] or
4 civil union partner, any member of the immediate family of a
5 veteran, or the next of kin of a deceased veteran, free copies
6 of decrees of divorce or adoption, when such copies are required
7 for use in connection with a claim based on service in the armed
8 forces of the United States."

9 SECTION 216. Section 622-57, Hawaii Revised Statutes, is
10 amended by amending subsection (h) to read as follows:

11 "(h) For the purposes of this section:

12 "Deceased person's next of kin" means a person with the
13 following relationship to the deceased person:

- 14 (1) The spouse [øx], reciprocal beneficiary[7], or civil
15 union partner;
- 16 (2) An adult child;
- 17 (3) Either parent;
- 18 (4) An adult sibling;
- 19 (5) A grandparent; and
- 20 (6) A guardian at the time of death.

21 "Personal representative" shall have the meaning provided
22 in section 560:1-201."



1 SECTION 217. Section 626-1, Hawaii Revised Statutes, is
2 amended by amending rule 505 to read as follows:

3 "Rule 505 Spousal privilege. (a) Criminal proceedings.
4 In a criminal proceeding, the spouse of the accused has a
5 privilege not to testify against the accused. This privilege
6 may be claimed only by the spouse who is called to testify.

7 (b) Confidential marital communications; all proceedings.

8 (1) Definition. A "confidential marital communication" is
9 a private communication between spouses that is not
10 intended for disclosure to any other person.

11 (2) Either party to a confidential marital communication
12 has a privilege to refuse to disclose and to prevent
13 any other person from disclosing that communication.

14 (c) Exceptions. There is no privilege under this rule (1)
15 in proceedings in which one spouse is charged with a crime
16 against the person or property of (A) the other, (B) a child of
17 either, (C) a third person residing in the household of either,
18 or (D) a third person committed in the course of committing a
19 crime against any of these, or (2) as to matters occurring prior
20 to the marriage.

21 (d) For purposes of this section, the term "spouse" shall
22 include a partner in a civil union."



1 SECTION 218. Section 626-1, Hawaii Revised Statutes, is
2 amended by amending rule 803, subsection (b), to read as
3 follows:

4 "(b) Other exceptions.

5 (1) Present sense impression. A statement describing or
6 explaining an event or condition made while the
7 declarant was perceiving the event or condition or
8 immediately thereafter.

9 (2) Excited utterance. A statement relating to a
10 startling event or condition made while the declarant
11 was under the stress of excitement caused by the event
12 or condition.

13 (3) Then existing mental, emotional, or physical
14 condition. A statement of the declarant's then
15 existing state of mind, emotion, sensation, or
16 physical condition (such as intent, plan, motive,
17 design, mental feeling, pain, and bodily health), but
18 not including a statement of memory or belief to prove
19 the fact remembered or believed unless it relates to
20 the execution, revocation, identification, or terms of
21 declarant's will.



- 1 (4) Statements for purposes of medical diagnosis or
2 treatment. Statements made for purposes of medical
3 diagnosis or treatment and describing medical history,
4 or past or present symptoms, pain, or sensations, or
5 the inception or general character of the cause or
6 external source thereof insofar as reasonably
7 pertinent to diagnosis or treatment.
- 8 (5) Reserved.
- 9 (6) Records of regularly conducted activity. A
10 memorandum, report, record, or data compilation, in
11 any form, of acts, events, conditions, opinions, or
12 diagnoses, made in the course of a regularly conducted
13 activity, at or near the time of the acts, events,
14 conditions, opinions, or diagnoses, as shown by the
15 testimony of the custodian or other qualified witness,
16 or by certification that complies with rule 902(11) or
17 a statute permitting certification, unless the sources
18 of information or other circumstances indicate lack of
19 trustworthiness.
- 20 (7) Absence of entry in records kept in accordance with
21 the provisions of paragraph (6). Evidence that a
22 matter is not included in the memoranda, reports,



1 records, or data compilations, in any form, kept in
2 accordance with the provisions of paragraph (6), to
3 prove the nonoccurrence or nonexistence of the matter,
4 if the matter was of a kind of which a memorandum,
5 report, record, or data compilation was regularly made
6 and preserved, unless the sources of information or
7 other circumstances indicate lack of trustworthiness.

8 (8) Public records and reports. Records, reports,
9 statements, or data compilations, in any form, of
10 public offices or agencies, setting forth (A) the
11 activities of the office or agency, or (B) matters
12 observed pursuant to duty imposed by law as to which
13 matters there was a duty to report, excluding,
14 however, in criminal cases matters observed by police
15 officers and other law enforcement personnel, or (C)
16 in civil proceedings and against the government in
17 criminal cases, factual findings resulting from an
18 investigation made pursuant to authority granted by
19 law, unless the sources of information or other
20 circumstances indicate lack of trustworthiness.

21 (9) Records of vital statistics. Records or data
22 compilations, in any form, of births, fetal deaths,



1 deaths, [~~or~~] marriages, or civil union if the report
2 thereof was made to a public office pursuant to
3 requirements of law.

4 (10) Absence of public record or entry. To prove the
5 absence of a record, report, statement, or data
6 compilation, in any form, or the nonoccurrence or
7 nonexistence of a matter of which a record, report,
8 statement, or data compilation, in any form, was
9 regularly made and preserved by a public office or
10 agency, evidence in the form of a certification in
11 accordance with rule 902, or testimony, that diligent
12 search failed to disclose the record, report,
13 statement, or data compilation, or entry.

14 (11) Records of religious organizations. Statements of
15 births, marriages, civil unions, divorces,
16 terminations, deaths, legitimacy, ancestry,
17 relationship by blood [~~or~~], marriage, or civil union,
18 or other similar facts of personal or family history,
19 contained in a regularly kept record of a religious
20 organization.

21 (12) Marriage, civil union, baptismal, and similar
22 certificates. Statements of fact contained in a



1 certificate that the maker performed a marriage, civil
2 union, or other ceremony or administered a sacrament,
3 made by a clergyman, public official, or other person
4 authorized by the rules or practices of a religious
5 organization or by law to perform the act certified,
6 and purporting to have been issued at the time of the
7 act or within a reasonable time thereafter.

8 (13) Family records. Statements of fact concerning
9 personal or family history contained in family Bibles,
10 genealogies, charts, engravings on rings, inscriptions
11 on family portraits, engravings on urns, crypts, or
12 tombstones, or the like.

13 (14) Records of documents affecting an interest in
14 property. The record of a document purporting to
15 establish or affect an interest in property, as proof
16 of the content of the original recorded document and
17 its execution and delivery by each person by whom it
18 purports to have been executed, if the record is a
19 record of a public office and an applicable statute
20 authorizes the recording of documents of that kind in
21 that office.



- 1 (15) Statements in documents affecting an interest in
2 property. A statement contained in a document
3 purporting to establish or affect an interest in
4 property if the matter stated was relevant to the
5 purpose of the document, unless the circumstances
6 indicate lack of trustworthiness.
- 7 (16) Statements in ancient documents. Statements in a
8 document in existence twenty years or more the
9 authenticity of which is established.
- 10 (17) Market reports, commercial publications. Market
11 quotations, tabulations, lists, directories, or other
12 published compilations, generally used and relied upon
13 by the public or by persons in particular occupations.
- 14 (18) Learned treatises. To the extent called to the
15 attention of an expert witness upon cross-examination
16 or relied upon by the witness in direct examination,
17 statements contained in published treatises,
18 periodicals, or pamphlets on a subject of history,
19 medicine, or other science or art, established as a
20 reliable authority by the testimony or admission of
21 the witness or by other expert testimony or by
22 judicial notice. If admitted, the statements may be



1 read into evidence but may not be received as
2 exhibits.

3 (19) Reputation concerning personal or family history.
4 Reputation among members of the person's family by
5 blood, adoption, [~~e~~] marriage, or civil union, or
6 among the person's associates, or in the community,
7 concerning a person's birth, adoption, marriage, civil
8 union, divorce, termination, death, legitimacy,
9 relationship by blood, adoption, [~~e~~] marriage, or
10 civil union, ancestry, or other similar fact of the
11 person's personal or family history.

12 (20) Reputation concerning boundaries or general history.
13 Reputation in a community, arising before the
14 controversy, as to boundaries of or customs affecting
15 lands in the community, and reputation as to events of
16 general history important to the community or state or
17 nation in which located.

18 (21) Reputation as to character. In proving character or a
19 trait of character under rules 404 and 405, reputation
20 of a person's character among the person's associates
21 or in the community.



- 1 (22) Judgment of previous conviction. Evidence of a final
2 judgment, entered after a trial or upon a plea of
3 guilty (but not upon a plea of nolo contendere),
4 adjudging a person guilty of a crime punishable by
5 death or imprisonment in excess of one year, to prove
6 any fact essential to sustain the judgment, but not
7 including, when offered by the government in a
8 criminal prosecution for purposes other than
9 impeachment, judgments against persons other than the
10 accused. The pendency of an appeal may be shown but
11 does not affect admissibility.
- 12 (23) Judgment as to personal, family or general history, or
13 boundaries. Judgments as proof of matters of
14 personal, family or general history, or boundaries,
15 essential to the judgment, if the same would be
16 provable by evidence of reputation.
- 17 (24) Other exceptions. A statement not specifically
18 covered by any of the exceptions in this paragraph (b)
19 but having equivalent circumstantial guarantees of
20 trustworthiness, if the court determines that (A) the
21 statement is more probative on the point for which it
22 is offered than any other evidence which the proponent



1 can procure through reasonable efforts, and (B) the
2 general purposes of these rules and the interests of
3 justice will best be served by admission of the
4 statement into evidence. However, a statement may not
5 be admitted under this exception unless the proponent
6 of it makes known to the adverse party sufficiently in
7 advance of the trial or hearing to provide the adverse
8 party with a fair opportunity to prepare to meet it,
9 the proponent's intention to offer the statement and
10 the particulars of it, including the name and address
11 of the declarant."

12 SECTION 219. Section 626-1, Hawaii Revised Statutes, is
13 amended by amending rule 804, subsection (b) to read as follows:

14 "(b) Hearsay exceptions. The following are not excluded
15 by the hearsay rule if the declarant is unavailable as a
16 witness:

- 17 (1) Former testimony. Testimony given as a witness at
18 another hearing of the same or a different proceeding,
19 or in a deposition taken in compliance with law in the
20 course of the same or another proceeding, at the
21 instance of or against a party with an opportunity to
22 develop the testimony by direct, cross, or redirect



1 examination, with motive and interest similar to those
2 of the party against whom now offered;

3 (2) Statement under belief of impending death. A
4 statement made by a declarant while believing that the
5 declarant's death was imminent, concerning the cause
6 or circumstances of what the declarant believed to be
7 the declarant's impending death;

8 (3) Statement against interest. A statement which was at
9 the time of its making so far contrary to the
10 declarant's pecuniary or proprietary interest, or so
11 far tended to subject the declarant to civil or
12 criminal liability, or to render invalid a claim by
13 the declarant against another, that a reasonable
14 person in the declarant's position would not have made
15 the statement unless the declarant believed it to be
16 true. A statement tending to expose the declarant to
17 criminal liability and offered to exculpate the
18 accused is not admissible unless corroborating
19 circumstances clearly indicate the trustworthiness of
20 the statement;

21 (4) Statement of personal or family history. (A) A
22 statement concerning the declarant's own birth,



1 adoption, marriage, civil union, divorce, termination,
2 legitimacy, relationship by blood, adoption, [~~or~~]
3 marriage, or civil union, ancestry, or other similar
4 fact of personal or family history, even though
5 declarant had no means of acquiring personal knowledge
6 of the matter stated; or (B) a statement concerning
7 the foregoing matters, and death also, of another
8 person, if the declarant was related to the other by
9 blood, adoption, [~~or~~] marriage, or civil union or was
10 so intimately associated with the other's family as to
11 be likely to have accurate information concerning the
12 matter declared;

13 (5) Statement of recent perception. A statement, not in
14 response to the instigation of a person engaged in
15 investigating, litigating, or settling a claim, which
16 narrates, describes, or explains an event or condition
17 recently perceived by the declarant, made in good
18 faith, not in contemplation of pending or anticipated
19 litigation in which the declarant was interested, and
20 while the declarant's recollection was clear;

21 (6) Statement by child. A statement made by a child when
22 under the age of sixteen, describing any act of sexual



1 contact, sexual penetration, or physical violence
2 performed with or against the child by another, if the
3 court determines that the time, content, and
4 circumstances of the statement provide strong
5 assurances of trustworthiness with regard to
6 appropriate factors that include but are not limited
7 to: (A) age and mental condition of the declarant;
8 (B) spontaneity and absence of suggestion; (C)
9 appropriateness of the language and terminology of the
10 statement, given the child's age; (D) lack of motive
11 to fabricate; (E) time interval between the event and
12 the statement, and the reasons therefor; and (F)
13 whether or not the statement was recorded, and the
14 time, circumstances, and method of the recording. If
15 admitted, the statement may be read or, in the event
16 of a recorded statement, broadcast into evidence but
17 may not itself be received as an exhibit unless
18 offered by an adverse party;

19 (7) Forfeiture by wrongdoing. A statement offered against
20 a party that has procured the unavailability of the
21 declarant as a witness;



1 (8) Other exceptions. A statement not specifically
2 covered by any of the foregoing exceptions but having
3 equivalent circumstantial guarantees of
4 trustworthiness, if the court determines that (A) the
5 statement is more probative on the point for which it
6 is offered than any other evidence which the proponent
7 can procure through reasonable efforts, and (B) the
8 general purposes of these rules and the interests of
9 justice will best be served by admission of the
10 statement into evidence. However, a statement may not
11 be admitted under this exception unless the proponent
12 of it makes known to the adverse party sufficiently in
13 advance of the trial or hearing to provide the adverse
14 party with a fair opportunity to prepare to meet it,
15 the proponent's intention to offer the statement and
16 the particulars of it, including the name and address
17 of the declarant."

18 SECTION 220. Section 651-91, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§651-91 Definitions. As used in this subpart:

21 [~~(1)~~] "Head of a family" includes within its meaning:



- 1 (A) A man and woman when married, except as provided
2 in section 651-93[-]; or partners in a civil
3 union, except as provided in section 651- .
- 4 (B) Every individual who is residing on the real
5 property and who has under [~~his or her~~] the
6 individual's care or maintenance, either:
- 7 (i) [~~His or her~~] The individual's minor child,
8 [~~or~~] minor grandchild, or the minor child of
9 [~~his or her~~] the individual's deceased wife
10 [~~or~~], husband[+], or civil union partner;
- 11 (ii) A minor brother or sister, or the minor
12 child of a deceased brother or sister;
- 13 (iii) A father, mother, grandfather, or
14 grandmother;
- 15 (iv) The father, mother, grandfather, or
16 grandmother of a deceased husband or wife;
- 17 (v) An unmarried brother, sister, or any other
18 of the relatives mentioned in this
19 subparagraph, who have attained the age of
20 majority.
- 21 (C) Head of household as defined in section 2(b) of
22 the Internal Revenue Code of 1954, as amended.



1 [~~2~~] "Long-term lease" means a lease for twenty years or
2 more.

3 [~~3~~] "Owner" means an individual who has an interest in
4 real property.

5 [~~4~~] "Person" means any individual under sixty-five years
6 of age other than the head of a family.

7 [~~5~~] "Real property" consists of the dwelling house in
8 which the owner resides and one parcel of land not to
9 exceed one acre, upon which it is situated together
10 with other buildings thereon. This parcel may be in
11 fee simple or any other interest in real property
12 which vests the immediate right of possession, even
13 though such right of possession is not exclusive, and
14 includes land held under long-term lease, ownership
15 rights in a condominium or stock cooperative unit."

16 SECTION 221. Section 651C-1, Hawaii Revised Statutes, is
17 amended by amending the definition of "relative" to read as
18 follows:

19 ""Relative" means an individual related within the third
20 degree as determined by the common law, a spouse, civil union
21 partner, or an individual related to a spouse or civil union
22 partner within the third degree as so determined, and includes



1 an individual in an adoptive relationship within the third
2 degree."

3 SECTION 222. Section 663-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§663-1 Torts, who may sue and for what. Except as
6 otherwise provided, all persons residing or being in the State
7 shall be personally responsible in damages, for trespass or
8 injury, whether direct or consequential, to the person or
9 property of others, or to their spouses [~~or~~], reciprocal
10 beneficiaries, or civil union partners, children under majority,
11 or wards, by such offending party, or the offending party's
12 child under majority, or by the offending party's command, or by
13 the offending party's animals, domestic or wild; and the party
14 aggrieved may prosecute therefor in the proper courts."

15 SECTION 223. Section 663-3, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) In any action under this section, such damages may be
18 given as under the circumstances shall be deemed fair and just
19 compensation, with reference to the pecuniary injury and loss of
20 love and affection, including:

21 (1) Loss of society, companionship, comfort, consortium,
22 or protection;



1 (2) Loss of marital care, attention, advice, or counsel;
2 (3) Loss of care, attention, advice, or counsel of a
3 reciprocal beneficiary as defined in chapter 572C;
4 (4) Loss of filial care or attention; or
5 (5) Loss of parental care, training, guidance, or
6 education, suffered as a result of the death of the
7 person;
8 by the surviving spouse, reciprocal beneficiary, civil union
9 partner, children, father, mother, and by any person wholly or
10 partly dependent upon the deceased person. The jury or court
11 sitting without jury shall allocate the damages to the persons
12 entitled thereto in its verdict or judgment, and any damages
13 recovered under this section, except for reasonable expenses of
14 last illness and burial, shall not constitute a part of the
15 estate of the deceased. Any action brought under this section
16 shall be commenced within two years from the date of death of
17 the injured person, except as otherwise provided."

18 SECTION 224. Section 663E-2, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) One or more of the following persons may bring an
21 action to recover for damages caused by an individual's use of
22 an illegal drug:



- 1 (1) A parent, legal guardian, child, spouse, civil union
- 2 partner, or sibling of the individual drug user;
- 3 (2) An individual who was exposed to an illegal drug in
- 4 uterus;
- 5 (3) An employer of the individual drug user;
- 6 (4) A medical facility, insurer, governmental entity,
- 7 employer, or other entity that funds a drug treatment
- 8 program or employee assistance program for the
- 9 individual drug user or that otherwise expended money
- 10 on behalf of the individual drug user; or
- 11 (5) A person injured as a result of the intentional,
- 12 knowing, reckless, or negligent actions of an
- 13 individual drug user."

14 SECTION 225. Section 676-1, Hawaii Revised Statutes, is
15 amended by amending the definition of "dependents" to read as
16 follows:

17 ""Dependents" include a payee's spouse or civil union
18 partner and minor children and all other persons for whom the
19 payee is legally obligated to provide support, including
20 alimony."

21 SECTION 226. Section 702-231, Hawaii Revised Statutes, is
22 amended by amending subsection (3) to read as follows:



1 "(3) It is not a defense that a person acted on the
2 command of his or her spouse[~~r~~] or civil union partner, unless
3 he or she acted under such coercion as would establish a defense
4 under this section."

5 SECTION 227. Section 706-606.3, Hawaii Revised Statutes,
6 is amended by amending subsection (1) to read as follows:

7 "(1) A person who has committed intra-family sexual
8 assault may be considered for the expedited sentencing program
9 in accordance with this section. As used in this section,
10 "intra-family" sexual assault means any criminal offense of
11 felony sexual assault under section 707-730, 707-731, or 707-
12 732, or incest, as defined in section 707-741, in which the
13 victim of the offense is related to the defendant by
14 consanguinity [~~or~~], marriage, or civil union, or resides in the
15 same dwelling unit as the defendant, and the victim was, at the
16 time of the sexual assault, under the age of eighteen."

17 SECTION 228. Section 706-670.5, Hawaii Revised Statutes,
18 is amended by amending subsection (1) to read as follows:

19 "(1) As used in this section, the following terms have the
20 following meanings:



1 "Offense against the person" means any of the offenses
2 described in chapter 707 and includes any attempt to commit any
3 of those offenses.

4 "Prisoner" or "parolee" means a person who has been
5 convicted of an offense against the person.

6 "Surviving immediate family member" means a person who is a
7 surviving grandparent, parent, sibling, spouse [e], reciprocal
8 beneficiary, or civil union partner, child, or legal guardian of
9 a deceased victim.

10 "Victim" means the person who was the victim of the offense
11 against the person for which the prisoner or parolee was
12 convicted."

13 SECTION 229. Section 706-673, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) As used in this section, the following terms have the
16 following meanings:

17 "Offense against the person" means any of the offenses
18 described in chapter 707 and includes any attempt to commit any
19 of those offenses.

20 "Prisoner" means a person who has been convicted of an
21 offense against the person.



1 "Surviving immediate family member" means a person who is a
2 surviving grandparent, parent, sibling, spouse [øæ], reciprocal
3 beneficiary, or civil union partner, child, or legal guardian of
4 a deceased victim.

5 "Victim" means the person who was the victim of the offense
6 against the person for which the prisoner was convicted."

7 SECTION 230. Section 707-734, Hawaii Revised Statutes, is
8 amended by amending subsection (1) to read as follows:

9 "(1) A person commits the offense of indecent exposure
10 if[,] the person intentionally exposes the person's genitals to
11 a person to whom the person is not married or not in a civil
12 union under circumstances in which the actor's conduct is likely
13 to cause affront."

14 SECTION 231. Section 707-741, Hawaii Revised Statutes, is
15 amended by amending subsection (1) to read as follows:

16 "(1) A person commits the offense of incest if the person
17 commits an act of sexual penetration with another who is within
18 the degrees of consanguinity or affinity within which marriage
19 or civil union is prohibited."

20 SECTION 232. Section 707-769, Hawaii Revised Statutes, is
21 amended by amending subsection (2) to read as follows:



1 "(2) If the owner of the property is the defendant's
2 spouse [~~or~~], reciprocal beneficiary, or civil union partner, it
3 is a defense to a prosecution for extortion under paragraph (1)
4 of section 707-764 that:

5 (a) The property which is obtained or over which
6 unauthorized control is exerted constitutes household
7 belongings; and

8 (b) The defendant and the defendant's spouse [~~or~~],
9 reciprocal beneficiary, or civil union partner were
10 living together at the time of the conduct."

11 SECTION 233. Section 708-834, Hawaii Revised Statutes, is
12 amended by amending subsection (2) to read as follows:

13 "(2) If the owner of the property is the defendant's
14 spouse, [~~or~~] reciprocal beneficiary, or civil union partner, it
15 is a defense to a prosecution for theft of property that:

16 (a) The property which is obtained or over which
17 unauthorized control is exerted constitutes household
18 belongings; and

19 (b) The defendant and the defendant's spouse [~~or~~],
20 reciprocal beneficiary, or civil union partner were
21 living together at the time of the conduct."



1 SECTION 234. Section 709-903, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§709-903 Persistent nonsupport. (1) A person commits
4 the offense of persistent nonsupport if the person knowingly and
5 persistently fails to provide support [~~which~~] that the person
6 can provide and [~~which~~] that the person knows the person is
7 legally obliged to provide to a spouse, civil union partner,
8 child, or other dependent.

9 (2) "Support" includes but is not limited to food,
10 shelter, clothing, education, and other necessary care as
11 determined by law.

12 (3) Persistent nonsupport is a misdemeanor."

13 SECTION 235. Section 709-906, Hawaii Revised Statutes, is
14 amended by amending subsection (1) to read as follows:

15 "(1) It shall be unlawful for any person, singly or in
16 concert, to physically abuse a family or household member or to
17 refuse compliance with the lawful order of a police officer
18 under subsection (4). The police, in investigating any
19 complaint of abuse of a family or household member, upon
20 request, may transport the abused person to a hospital or safe
21 shelter.



1 For the purposes of this section, "family or household
2 member" means spouses ~~[øæ]~~, reciprocal beneficiaries, or civil
3 union partners, former spouses ~~[øæ]~~, reciprocal beneficiaries,
4 or civil union partners, persons who have a child in common,
5 parents, children, persons related by consanguinity, and persons
6 jointly residing or formerly residing in the same dwelling
7 unit."

8 SECTION 236. Section 801D-2, Hawaii Revised Statutes, is
9 amended by amending the definition of "surviving immediate
10 family members" to read as follows:

11 ""Surviving immediate family members" means surviving
12 grandparents, parents, siblings, spouse, reciprocal beneficiary,
13 civil union partner, children, and any legal guardian of the
14 homicide victim."

15 SECTION 237. Section 803-46, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) No order entered under this section shall authorize
18 or approve the interception of any wire, oral, or electronic
19 communication for any period longer than is necessary to achieve
20 the objective of the authorization, and in no event for longer
21 than thirty days. The thirty-day period begins on the earlier
22 of the day on which the investigative or law enforcement officer



1 first begins to conduct an interception under the order or ten
2 days after the order is entered. Extensions of an order may be
3 granted, but only upon application for an extension made in
4 accordance with subsections (a) and (b) of this section and the
5 court making the findings required by subsection (c) of this
6 section. The period of extension shall be no longer than the
7 designated judge deems necessary to achieve the purposes for
8 which it was granted and in no event for longer than thirty
9 days. Every order and extension thereof shall contain a
10 provision that the authorization to intercept shall be executed
11 as soon as practicable, shall be conducted in such a way as to
12 minimize the interception of communications not otherwise
13 subject to interception under this part, and shall terminate
14 upon attainment of the authorized objective, or in any event in
15 thirty days. If the intercepted communication is in a code or a
16 foreign language, and an expert in that foreign language or code
17 is not reasonably available during the interception period,
18 minimization may be accomplished as soon as practicable after
19 the interception.

20 An interception may be conducted in whole or in part by
21 investigative or law enforcement officer(s), or by an individual
22 operating under a contract with the State or a county, acting



1 under the supervision of an investigative or law enforcement
2 officer authorized to conduct the interception.

3 (1) The interception shall be conducted in such a way as
4 to minimize the resulting invasion of privacy
5 including but not limited to the following methods of
6 minimization:

7 (A) Conversations that appear unlikely to result in
8 incriminating conversations relating to the
9 offense for which the order is issued shall be
10 subject to intermittent monitoring; and

11 (B) Privileged conversations, including those between
12 a person and the person's spouse, civil union
13 partner, attorney, physician, or clergy, shall
14 not be intercepted unless both parties to the
15 conversation are named or described in the
16 application and order.

17 (2) In determining whether incriminating statements are
18 likely to occur during a conversation the following
19 factors should be considered:

20 (A) The parties to the conversation;

21 (B) The particular offense being investigated;

22 (C) The subject matter of the conversation;



- 1 (D) The subject matter of previous conversations
2 between the same parties and whether any
3 incriminating statements occurred; and
4 (E) The hour and day of conversation."

5 SECTION 238. Section 846-32, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) If, after registration, the name of any registrant is
8 legally changed by marriage, civil union, divorce, termination,
9 adoption, legitimation, order of the lieutenant governor, or
10 other legal means, or if there is a change in the registrant's
11 citizenship, the registrant or other person in charge of the
12 registrant (in the case of a minor or incompetent person),
13 within thirty days after the change of name or citizenship,
14 shall report the change and present the registrant's certificate
15 of identification to the department of the attorney general.
16 The department, upon being satisfied as to the change and
17 receiving payment of the fee, shall cancel the certificate and
18 issue a new certificate bearing the new name or citizenship of
19 the registrant, making appropriate notation of the facts upon
20 the records of the department."

21 SECTION 239. If any provision of this Act, or the
22 application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act, which can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 240. In codifying the new chapters added by
6 sections 2 and 3 of this Act, the revisor of statutes shall
7 substitute appropriate chapter numbers for the letters used in
8 designating the new chapters in this Act.

9 SECTION 241. Statutory material to be repealed is
10 bracketed and stricken. New statutory material is underscored.

11 SECTION 242. This Act shall take effect on July 1, 2011,
12 provided that:

13 (1) The amendment made to section 235-7, Hawaii Revised
14 Statutes, by section 41 of this Act shall not be
15 repealed when section 235-7, Hawaii Revised Statutes,
16 is reenacted on January 1, 2013, pursuant to section 3
17 of Act 166, Session Laws of Hawaii 2007;

18 (2) The amendment made to section 235-51, Hawaii Revised
19 Statutes, by section 44 of this Act shall not be
20 repealed when section 235-51, Hawaii Revised Statutes,
21 is reenacted on December 31, 2015, pursuant to section
22 6(3) of Act 60, Session Laws of Hawaii 2009; and



H.B. NO. 1453

1 (3) Sections 36 through 53 of this Act shall apply to
2 taxable years beginning after December 31, 2010.

3

INTRODUCED BY: Scott K. Janki

Namina Janki

[Signature]

JAN 26 2011



Report Title:

Legal Relationships

Description:

Establishes civil unions and provides to civil union partners the benefits and obligations conferred upon a couple by marriage. Provides for termination of civil unions through the judicial system.

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

