
A BILL FOR AN ACT

RELATING TO DOMESTIC RELATIONS.

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

1 SECTION 1. The legislature finds that in 2011, Act 1,
2 Session Laws of Hawaii 2011 (Act 1) was enacted into law. Act 1
3 established the status of civil unions in this State, which
4 granted eligible couples "all the same rights, benefits,
5 protections, and responsibilities under law, whether derived
6 from statutes, administrative rules, court decisions, the common
7 law, or any other source of civil law, as are granted to those
8 who contract, obtain a license, and are solemnized pursuant to
9 chapter 572", Hawaii Revised Statutes.

10 The legislature recognizes that the State, over time, has
11 woven into our laws a collection of rights, benefits, and
12 obligations applicable to married couples and families. Through
13 Act 1, the legislature intended that these rights and benefits
14 be applied identically to civil union partners. As correctly
15 stated by the house committee on judiciary in Standing Committee
16 Report No. 156 (2011), "It is the intention of your Committee
17 that this measure be liberally construed to provide equality of
18 rights, benefits, protections, and responsibilities to the



1 partners of a civil union. It is not the intention of your
2 Committee to omit any substantive rights, benefits, protections,
3 or responsibilities with respect to the application of this new
4 chapter to any current law, including any law relating to
5 parent-child relationships."

6 The purpose of this Act is to assure that the original
7 intent of Act 1 is fulfilled by making clarifying amendments to
8 select statutory provisions to:

- 9 (1) Settle potential confusion regarding the scope of Act
10 1's intent; and
11 (2) Clarify statutory language governing procedures and
12 processes to facilitate the implementation of Act 1.

13 In making these amendments, it is the intent of the legislature
14 to reconfirm and clarify the original intent of Act 1. Nothing
15 about this Act should be interpreted to weaken or lessen any of
16 the protections, obligations, rights, and responsibilities
17 governed by Act 1.

18 SECTION 2. Chapter 509, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§509- Tenancy by the entirety when owners change
22 relationship status. (a) When two individuals who hold



1 property as tenants by the entirety enter into a different legal
2 relationship with each other that also allows them to hold
3 property as tenants by the entirety, their ownership as tenants
4 by the entirety shall be continuous:

5 (1) If the new legal relationship is entered into
6 simultaneously with the termination of the earlier
7 legal relationship; or

8 (2) If the new legal relationship is entered into within
9 ninety days of the termination of the earlier legal
10 relationship; provided that no liens were perfected on
11 the property in the interim.

12 (b) The continuity of a tenancy by the entirety under this
13 section shall apply to couples married under chapter 572, civil
14 union partners under chapter 572B, and reciprocal beneficiaries
15 under chapter 572C.

16 (c) Nothing in this section precludes any individuals from
17 opting to hold their property in another manner, as permitted
18 under this chapter.

19 (d) Nothing in this section shall impact any liens
20 perfected on the property after the earlier legal relationship
21 was terminated and before this section becomes effective



1 pursuant to article III, section 16 of the Hawaii State
2 Constitution."

3 SECTION 3. Chapter 572B, Hawaii Revised Statutes, is
4 amended by adding three new sections to be appropriately
5 designated and to read as follows:

6 **"572B- Construction.** (a) This chapter shall be
7 liberally construed and applied to promote its underlying
8 purpose, which is to provide partners to a civil union with all
9 the same rights, benefits, protections, and responsibilities
10 under law as are granted to those who contract, obtain a
11 license, and are solemnized pursuant to chapter 572.

12 (b) Selected amendments to statutes, or failure to amend
13 all or portions of statutes, to include references to this
14 chapter, civil unions, or civil union partners, shall not be
15 interpreted as legislative intent to exclude any rights,
16 benefits, protections, or responsibilities from the scope of
17 section 572B-9 or this chapter.

18 **§572B- Rights held by reciprocal beneficiaries who enter**
19 **into a civil union.** (a) If two reciprocal beneficiaries enter
20 into a civil union with each other, the rights, benefits,
21 protections, or responsibilities created by the reciprocal
22 beneficiary relationship shall be continuous through the civil



1 union and deemed to have accrued as of the first date these
2 rights existed under the reciprocal beneficiary relationship;
3 provided that the individuals terminated their reciprocal
4 beneficiary relationship simultaneously with their entry into a
5 civil union, or ninety days immediately preceding their entry
6 into a civil union.

7 (b) Any rights, benefits, protections, or responsibilities
8 created by the solemnization of a civil union that were not
9 included within a reciprocal beneficiary relationship shall be
10 recognized as of the date the civil union was solemnized.

11 (c) Property held in tenancy by the entirety shall be
12 subject to section 509- .

13 §572B- Conscience Provision. (a) Notwithstanding
14 any law to the contrary, including Chapter 489, Hawaii Revised
15 Statutes, a religious organization, association, or society, or
16 any nonprofit institution or organization operated, supervised,
17 or controlled by or in conjunction with a religious
18 organization, association, or society shall not be required to
19 provide services, accommodations, advantages, facilities, goods,
20 or privileges to an individual if the request for such services,
21 accommodation, advantages, facilities, goods, or privileges is
22 related to the solemnization of a civil union in their



1 facilities. Any refusal to provide services, accommodations,
2 advantages, facilities, goods, or privileges in accordance with
3 this section shall not create any civil claim or cause of
4 action. This section shall not be construed to limit a
5 religious organization, association, or society, or any
6 nonprofit institution or organization operated, supervised, or
7 controlled by or in conjunction with a religious organization
8 from selectively providing services, accommodations, advantages,
9 facilities, goods, or privileges to some individuals with
10 respect to the solemnization or celebration of a civil union but
11 not to others.

12 (b) For the purposes of this section, "facilities"
13 includes facilities owned or leased by a religious organization
14 that are regularly used for worship or ministry activities in
15 the religious work of the organization."

16 SECTION 4. Chapter 584, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§584- Child of parents in a civil union. (a) A civil
20 union partner is presumed to be the parent of a child if:

21 (1) The partner and the child's biological parent are or
22 have been in a civil union with each other and the



1 child is born during the civil union, or within three
2 hundred days after the civil union is terminated by
3 death, annulment, declaration of invalidity, or
4 divorce, or after a decree of separation is entered by
5 a court;

6 (2) Before the child's birth, the partner and the child's
7 biological parent have attempted to enter into a civil
8 union with each other by a solemnization in apparent
9 compliance with the law, although the attempted civil
10 union is or could be declared invalid; and:

11 (A) If the attempted civil union could be declared
12 invalid only by a court, the child is born during
13 the attempted civil union, or within three
14 hundred days after its termination by death,
15 annulment, declaration of invalidity, or divorce;
16 or

17 (B) If the attempted civil union is invalid without a
18 court order, the child is born within three
19 hundred days after the termination of
20 cohabitation;

21 (3) While the child is under the age of majority, the
22 civil union partner receives the child into the



1 partner's home and openly holds out the child as the
2 partner's own child; or

3 (4) Pursuant to section 584-11, the partner submits to
4 court ordered genetic testing and the results, as
5 stated in a report prepared by the testing laboratory,
6 do not exclude the possibility of the partner's
7 biological relationship to the child; provided that
8 the testing used has a power of exclusion greater than
9 99.0 per cent and a minimum combined paternity index
10 of five hundred to one.

11 (b) A presumption under this section may be rebutted in an
12 appropriate action only by clear and convincing evidence. If
13 two or more presumptions arise under this section or under
14 section 584-4 that conflict with each other, the presumption
15 which on the facts is founded on the weightier considerations of
16 policy and logic controls. The presumption is rebutted by a
17 court decree establishing parenthood of the child by another
18 person."

19 SECTION 5. Section 572B-2, Hawaii Revised Statutes, is
20 amended to read as follows:

1 "~~[f]~~§572B-2~~[+]~~ Eligibility to enter into a civil union. A
2 person shall be eligible to enter into a civil union only if the
3 person is:

4 (1) Not a partner in another civil union~~[r]~~ or a spouse in
5 a marriage~~[, or a party to a reciprocal beneficiary~~
6 ~~relationship pursuant to chapter 572C]~~;

7 (2) At least eighteen years of age; and

8 (3) Not related to the other proposed partner in the civil
9 union, as provided in section 572B-3."

10 SECTION 6. Section 572B-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "(b) Any judge or retired judge, including a federal judge
13 or judge of another state who may legally join persons in
14 chapter 572 or a civil union, may solemnize a civil union. Any
15 ~~[ordained or licensed member of the clergy]~~ minister, priest, or
16 officer of any religious denomination or society who has been
17 ordained or is authorized to solemnize civil unions according to
18 the usages of such denomination or society, or any religious
19 society not having clergy but providing solemnization in
20 accordance with the rules and customs of that society may
21 solemnize a civil union. ~~[Solemnization may be entirely secular~~
22 ~~or may be performed according to the forms and usages of any~~



1 ~~religious denomination in this State. Nothing in this section~~
2 ~~shall be construed to require any person authorized to perform~~
3 ~~solemnizations of marriages or civil unions to perform a~~
4 ~~solemnization of a civil union, and no such authorized person~~
5 ~~who fails or refuses for any reason to join persons in a civil~~
6 ~~union shall be subject to any fine or other penalty for the~~
7 ~~failure or refusal.] "~~

8 SECTION 7. Section 572B-5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) No persons may be joined in a civil union in this
11 State unless both partners have:

- 12 (1) Met the requirements of section 572B-2;
- 13 (2) Complied with section 572B-6 and, if applicable,
14 section 572B-7; and
- 15 (3) Been issued a license by an agent [~~in the judicial~~
16 ~~circuit in which a civil union is to be solemnized or~~
17 ~~in which either person resides], which license shall
18 bear the certification of the agent that the persons
19 named therein have met the requirements of section
20 572B-2 and have complied with section 572B-6 and, if
21 applicable, section 572B-7."~~



1 SECTION 8. Section 572B-6, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The fee for a license to enter into a civil union
4 shall be an amount equal to the amount prescribed in section
5 572-5, and all amounts collected by the agent or the department
6 of health as application fees under this chapter shall be
7 retained or remitted and apportioned in the same manner as
8 prescribed in section 572-5."

9 SECTION 9. Section 572B-10, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~f~~]**\$572B-10**[~~}]~~ [~~Civil unions~~] **Unions performed in other**
12 **jurisdictions.** [~~All unions entered into in other jurisdictions~~
13 ~~between two individuals not recognized under section 572-3 shall~~
14 ~~be recognized as civil unions;~~] A legal union of two persons
15 that is not a marriage under chapter 572, was validly formed in
16 another jurisdiction, and is substantially equivalent to a civil
17 union under this chapter, shall be recognized as a valid civil
18 union in this State and shall be treated the same as a civil
19 union entered into in this State regardless of whether it bears
20 the name civil union; provided that the relationship meets the
21 eligibility requirements of this chapter, has been entered into



1 in accordance with the laws of that jurisdiction, and can be
2 documented."

3 SECTION 10. Section 572B-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§572B-11[+] **References and inclusions.** A party to a
6 civil union shall be included in any definition or use of the
7 terms "spouse", "family", "immediate family", "dependent", "next
8 of kin", and other terms that denote the spousal relationship,
9 as those terms are used throughout the laws of the State. Where
10 necessary to implement the rights of civil union partners under
11 this chapter, gender-specific terms referring to spouses or
12 previous spouses shall be construed to include civil union
13 partners."

14 SECTION 11. Section 572C-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§572C-4[+] **Requisites of a valid reciprocal**
17 **beneficiary relationship.** In order to enter into a valid
18 reciprocal beneficiary relationship, it shall be necessary that:

- 19 (1) Each of the parties be at least eighteen years old;
- 20 (2) Neither of the parties be married [~~nor~~], a party to
21 another reciprocal beneficiary relationship[+], or a
22 partner in a civil union;



1 (3) The parties be legally prohibited from marrying one
2 another under chapter 572;

3 (4) Consent of either party to the reciprocal beneficiary
4 relationship has not been obtained by force, duress,
5 or fraud; and

6 (5) Each of the parties sign a declaration of reciprocal
7 beneficiary relationship as provided in section 572C-
8 5."

9 SECTION 12. Section 572C-7, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) [~~Any marriage license subsequently issued by the~~
12 ~~department to any individual registered as a reciprocal~~
13 ~~beneficiary shall automatically terminate the individual's~~
14 ~~existing reciprocal beneficiary relationship.] Any reciprocal
15 beneficiary relationship shall automatically terminate upon
16 either of the reciprocal beneficiaries entering into a marriage
17 or a civil union solemnized by a person licensed by the
18 department to solemnize marriages or civil unions or entering
19 into a legal union in another jurisdiction that is recognized as
20 a marriage or civil union in this State."~~

21 SECTION 13. Section 574-1, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**S574-1 Married persons[-]; civil union partners.** Upon
2 marriage or civil union, each of the parties to a marriage or
3 partners to a civil union shall declare the middle and last
4 names each will use as a married person[-] or civil union
5 partner. The last name or names chosen may be any middle or
6 last name legally used at any time, past or present, by either
7 spouse[-] or partner, or any combination of such names, which
8 may, but need not, be separated by a hyphen. The middle name or
9 names chosen may be any middle or last name legally used at any
10 time, past or present, by either spouse[-] or partner, or any
11 combination of such names, which may, but need not, be separated
12 by a hyphen."

13 SECTION 14. Section 574-5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) It shall be unlawful to change any name adopted or
16 conferred under this chapter, except:

17 (1) Upon an order of the lieutenant governor;

18 (2) By a final order, decree, or judgment of the family
19 court issued as follows:

20 (A) When in an adoption proceeding a change of name
21 of the person to be adopted is requested and the



1 court includes the change of name in the adoption
2 decree;

3 (B) When in a divorce proceeding either party to the
4 proceeding requests to resume the middle name or
5 names and the last name used by the party prior
6 to the marriage or civil union or a middle name
7 or names and last name declared and used during
8 any prior marriage or civil union and the court
9 includes the change of names in the divorce
10 decree; or

11 (C) When in a proceeding for a change of name of a
12 legitimate or legitimated minor initiated by one
13 parent, the family court, upon proof that the
14 parent initiating the name change has made all
15 reasonable efforts to locate and notify the other
16 parent of the name change proceeding but has not
17 been able to locate, notify, or elicit a response
18 from the other parent, and after an appropriate
19 hearing, orders a change of name determined to be
20 in the best interests of the minor; provided that
21 the family court may waive the notice requirement
22 to the noninitiating, noncustodial parent where



1 the court finds that the waiver is necessary for
2 the protection of the minor;

3 (3) Upon marriage or civil union pursuant to section 574-
4 1;

5 (4) Upon legitimation pursuant to section 338-21; or

6 (5) By an order or decree of any court of competent
7 jurisdiction within any state of the United States,
8 the District of Columbia, the Commonwealth of Puerto
9 Rico, or any territory or possession of the United
10 States, changing the name of a person born in this
11 State.

12 Any law to the contrary notwithstanding, no person who is a
13 covered offender subject to the registration requirements of
14 section 846E-2 may obtain a name change, other than as provided
15 in paragraph (2), (3), (4), or (5), unless a court determines
16 that it is in the best interest of justice to grant the petition
17 and that doing so will not adversely affect the public safety."

18 SECTION 15. Section 578-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§578-1 Who may adopt; jurisdiction; venue.** Any proper
21 adult person, not married, or any person married to or in a
22 civil union with the legal father or mother of a minor child, or



1 a husband and wife jointly, or partners in a civil union jointly
2 may petition the family court of the circuit in which the person
3 or persons reside or are in military service or the family court
4 of the circuit in which the individual to be adopted resides or
5 was born or in which a child placing organization approved by
6 the department of human services under the provisions of section
7 346-17 having legal custody (as defined in section 571-2) of the
8 child is located, for leave to adopt an individual toward whom
9 the person or persons do not sustain the legal relationship of
10 parent and child and for a change of the name of the individual.
11 When adoption is the goal of a permanent plan recommended by the
12 department of human services and ordered pursuant to section
13 587A-31, the department may petition for adoption on behalf of
14 the proposed adoptive parents. The petition shall be in such
15 form and shall include such information and exhibits as may be
16 prescribed by the family court."

17 SECTION 16. Section 578-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§578-2 **Consent to adoption.** (a) Persons required to
20 consent to adoption. Unless consent is not required or is
21 dispensed with under subsection (c) hereof, a petition to adopt



1 a child may be granted only if written consent to the proposed
2 adoption has been executed by:

3 (1) The mother of the child;

4 (2) A legal father as to whom the child is a legitimate
5 child;

6 (3) An adjudicated father whose relationship to the child
7 has been determined by a court;

8 (4) A presumed father under section 578-2(d);

9 (5) A presumed parent under section 578-2(e);

10 [+5+] (6) A concerned natural father who is not the legal,
11 adjudicated, or presumed father but who has
12 demonstrated a reasonable degree of interest, concern
13 or responsibility as to the welfare of a child,
14 either:

15 (A) During the first thirty days after such child's
16 birth; or

17 (B) Prior to the execution of a valid consent by the
18 mother of the child; or

19 (C) Prior to the placement of the child with adoptive
20 parents;

21 whichever period of time is greater;



- 1 (B) A parent who has voluntarily surrendered the care
2 and custody of the child to another for a period
3 of two years;
- 4 (C) A parent of the child in the custody of another,
5 if the parent for a period of at least one year
6 has failed to communicate with the child when
7 able to do so;
- 8 (D) A parent of a child in the custody of another, if
9 the parent for a period of at least one year has
10 failed to provide for the care and support of the
11 child when able to do so;
- 12 (E) A natural father who was not married to the
13 child's mother at the time of the child's
14 conception or birth and who does not fall within
15 the provisions of subsection (a)(3), (4), [~~e~~]
16 (5) [~~r~~], or (6);
- 17 (F) A parent whose parental rights have been
18 judicially terminated under the provisions of
19 sections 571-61 to 571-63, or under the
20 provisions of any other state or other law by a
21 court or other agency having jurisdiction to take
22 the action;



1 (G) A parent judicially declared mentally ill or
2 intellectually disabled and who is found by the
3 court to be incapacitated from giving consent to
4 the adoption of the child;

5 (H) Any legal guardian or legal custodian of the
6 child sought to be adopted, other than a parent,
7 who has failed to respond in writing to a request
8 for consent for a period of sixty days or who,
9 after examination of the person's written reasons
10 for withholding consent, is found by the court to
11 be withholding the person's consent unreasonably;

12 (I) A parent of a child who has been in the custody
13 of a petitioner under this chapter for a period
14 of at least one year and who entered the United
15 States of America as a consequence of
16 extraordinary circumstances in the child's
17 country of origin, by reason of which
18 extraordinary circumstances the existence,
19 identity, or whereabouts of the child's parents
20 is not reasonably ascertainable or there is no
21 reasonable means of obtaining suitable evidence



- 1 of the child's identity or availability for
2 adoption;
- 3 (J) Any parent of the individual to be adopted, if
4 the individual is an adult eligible for adoption
5 under subsection (b); and
- 6 (K) A parent whose parental and custodial duties and
7 rights have been divested by an award of
8 permanent custody pursuant to section 587A-33;
- 9 (2) Persons whose consent may be dispensed with by order
10 of the court. The court may dispense with the consent
11 of a parent who comes within subsection (a)(3), (4),
12 [~~or~~] (5), or (6) herein, upon finding that:
- 13 (A) The petitioner is the stepfather of the child and
14 the child has lived with the child's legal mother
15 and the petitioning stepfather for a period of at
16 least one year;
- 17 (B) The father is a concerned father as provided by
18 subsection [~~(a)(5)~~] (a)(6), herein, and has not
19 filed a petition to adopt the child, or the
20 petition to adopt the child filed by the father
21 has been denied; or



1 (C) The father is an adjudicated, presumed, or
2 concerned father or parent as provided by
3 subsections (a)(3), (4), [~~or~~] (5), or (6),
4 herein, and is not a fit and proper person or is
5 not financially or otherwise able to give the
6 child a proper home and education.

7 (d) Presumption of paternity. A man is presumed to be the
8 natural father of a child if:

9 (1) He and the child's natural mother are or have been
10 married to each other and the child is born during the
11 marriage, or within three hundred days after the
12 marriage is terminated by death, annulment,
13 declaration of invalidity, or divorce, or after a
14 decree of separation is entered by a court;

15 (2) Before the child's birth, he and the child's natural
16 mother have attempted to marry each other by a
17 marriage solemnized in apparent compliance with law,
18 although the attempted marriage is or could be
19 declared invalid, and:

20 (A) If the attempted marriage could be declared
21 invalid only by a court, the child is born during
22 the attempted marriage, or within three hundred



- 1 days after its termination by death, annulment,
2 declaration of invalidity, or divorce; or
- 3 (B) If the attempted marriage is invalid without a
4 court order, the child is born within three
5 hundred days after the termination of
6 cohabitation;
- 7 (3) After the child's birth, he and the child's natural
8 mother have married, or attempted to marry, each other
9 by a marriage solemnized in apparent compliance with
10 law, although the attempted marriage is or could be
11 declared invalid; and
- 12 (A) He has acknowledged his paternity of the child in
13 writing filed with the department of health;
- 14 (B) With his consent he is named as the child's
15 father on the child's birth certificate; or
- 16 (C) He is obligated to support the child under a
17 written voluntary promise or by court order;
- 18 (4) While the child is under the age of majority, he
19 receives the child into his home and openly holds out
20 the child as his natural child; or
- 21 (5) He acknowledges his paternity of the child in writing
22 filed with the department of health, which shall



1 promptly inform the mother of the filing of the
2 acknowledgment, and she does not dispute the
3 acknowledgment within a reasonable time after being
4 informed thereof, in a writing filed with the
5 department of health. If another man is presumed
6 under this section to be the child's father,
7 acknowledgment may be effected only with the written
8 consent of the presumed father or after the
9 presumption has been rebutted. If the acknowledgment
10 is filed and not disputed by the mother and if another
11 man is not presumed under this section to be the
12 child's father, the department of health shall prepare
13 a new certificate of birth in accordance with chapter
14 338.

15 (e) Child of parents in a civil union. A civil union
16 partner is presumed to be the parent of a child if:

17 (1) The partner and the child's biological parent are or
18 have been in a civil union with each other and the
19 child is born during the civil union, or within three
20 hundred days after the civil union is terminated by
21 death, annulment, declaration of invalidity, or



1 divorce, or after a decree of separation is entered by
2 a court;

3 (2) Before the child's birth, the partner and the child's
4 biological parent have attempted to enter into a civil
5 union with each other by solemnization in apparent
6 compliance with law, although the attempted civil
7 union is or could be declared invalid; and:

8 (A) If the attempted civil union could be declared
9 invalid only by a court, the child is born during
10 the attempted civil union, or within three
11 hundred days after its termination by death,
12 annulment, declaration of invalidity, or divorce;
13 or

14 (B) If the attempted civil union is invalid without a
15 court order, the child is born within three
16 hundred days after the termination of
17 cohabitation; or

18 (3) While the child is under the age of majority, the
19 civil union partner receives the child into the
20 partner's home and openly holds out the child as the
21 partner's own child.



1 [~~e~~] (f) Notice of hearing; minor parent; consent
2 authorizing selection of adoptive parents. No hearing of a
3 petition for adoption shall be had unless each of the living
4 parents of the child who falls within the provisions of
5 subsection (a) and who has not consented to the proposed
6 adoption, but who is alleged to come within the provisions of
7 subsection (c)(1)(A), (B), (C) and (D) or (c)(2) of this
8 section, and any man whose name appears as father on the child's
9 birth certificate, shall have had due notice, actual or
10 constructive, of the allegations of the petition and of the time
11 and place of the hearing thereof. Such notice need not be given
12 to any parent whose parental rights have been legally terminated
13 as hereinabove provided or whose consent has been filed with the
14 court.

15 The minority of a child's parent shall not be a bar to the
16 right of such parent to execute a valid and binding consent to
17 the adoption of such child.

18 Any parental consent required hereunder shall be valid and
19 binding even though it does not designate any specific adoptive
20 parent or parents, if it clearly authorizes the department of
21 human services, or a child placing organization approved by the
22 department under the provisions of section 346-17 or some proper



1 person not forbidden by law to place a child for adoption, to
2 select and approve an adoptive parent or parents for the child.

3 [~~(f)~~] (g) Withdrawal of consent. A consent to adoption
4 which has been filed or received in evidence in an adoption
5 proceeding or which has been given to the department of human
6 services or to a child placing organization approved by the
7 department under section 346-17, or to any other proper person
8 not forbidden by law to place or receive an individual for
9 adoption, may not be withdrawn or repudiated after the
10 individual has been placed for adoption, without the express
11 approval of the court based upon a written finding that such
12 action will be for the best interests of the individual to be
13 adopted.

14 [~~(g)~~] (h) Maintenance of action based on medical or
15 surgical treatment of child barred when. A person who consents
16 to adoption, or on whose behalf a consent to adoption is signed,
17 and a nonconsenting parent whose consent is not required or is
18 dispensed with hereunder shall be barred from maintaining any
19 action based upon medical or surgical care or treatment given to
20 the child with the permission of the petitioner or petitioners
21 or the person or agency authorized by the parental consent to
22 select and approve an adoptive parent or parents; provided that



1 nothing herein contained shall be construed to alienate or
2 impair any cause of action accruing to the child for personal
3 injury which may be sustained as a result of such medical or
4 surgical care or treatment."

5 SECTION 17. Section 578-8, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) No decree of adoption shall be entered unless a
8 hearing has been held at which the petitioner or petitioners,
9 and any legal parent married to a petitioner, any partner in a
10 civil union with a petitioner, and any subject of the adoption
11 whose consent is required, have personally appeared before the
12 court, unless expressly excused by the court. After considering
13 the petition and such evidence as the petitioners and any other
14 properly interested person may wish to present, the court may
15 enter a decree of adoption if it is satisfied (1) that the
16 individual is adoptable under sections 578-1 and 578-2, (2) that
17 the individual is physically, mentally, and otherwise suitable
18 for adoption by the petitioners, (3) that the petitioners are
19 fit and proper persons and financially able to give the
20 individual a proper home and education, if the individual is a
21 child, and (4) that the adoption will be for the best interests
22 of the individual, which decree shall take effect upon such date



1 as may be fixed therein by the court, such date to be not
2 earlier than the date of the filing of the petition and not
3 later than six months after the date of the entry of the
4 decree."

5 SECTION 18. Section 578-16, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) Except as provided in subsection (e), all legal
8 duties and rights between the individual and the individual's
9 former legal parent or parents shall cease from the time of the
10 adoption; provided that if the individual is adopted by a person
11 married to a legal parent of the individual^[7] or by any partner
12 in a civil union with a legal parent of the individual, the full
13 reciprocal rights and duties which theretofore existed between
14 the legal parent and the individual, and the rights of
15 inheritance as between the individual and the legal parent and
16 the legal relatives of the parent, as provided in chapter 560,
17 shall continue, notwithstanding the adoption, subject only to
18 the rights acquired by and the duties imposed upon the adoptive
19 parents by reason of the adoption."

20 SECTION 19. Section 580-1, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§580-1 Jurisdiction; hearing. Exclusive original
2 jurisdiction in matters of annulment, divorce, and separation,
3 subject to section 603-37 as to change of venue, and subject
4 also to appeal according to law, is conferred upon the family
5 court of the circuit in which the applicant has been domiciled
6 or has been physically present for a continuous period of at
7 least three months next preceding the application therefor. No
8 absolute divorce from the bond of matrimony shall be granted for
9 any cause unless either party to the marriage has been domiciled
10 or has been physically present in the State for a continuous
11 period of at least six months next preceding the application
12 therefor. A person who may be residing on any military or
13 federal base, installation, or reservation within the State or
14 who may be present in the State under military orders shall not
15 thereby be prohibited from meeting the requirements of this
16 section. The family court of each circuit shall have
17 jurisdiction over all proceedings relating to the annulment,
18 divorce, and separation of civil unions entered into in this
19 State or civil unions recognized as civil unions in this State
20 in the same manner as marriages."

21 SECTION 20. Section 584-1, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~§~~584-1~~§~~ Parent and child relationship defined. As
 2 used in this chapter, "parent and child relationship" includes
 3 the legal relationship existing between a child and the child's
 4 natural mother, between a child and father or mother whose
 5 relationship as parent and child is established under this
 6 chapter, between a child and parent whose relationship as parent
 7 and child is established under this chapter, or between a child
 8 and the child's adoptive parents, incident to which the law
 9 confers or imposes rights, privileges, duties, and obligations."

10 SECTION 21. Section 584-3, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 " ~~§~~584-3~~§~~ How parent and child relationship
 13 established. The parent and child relationship between a child
 14 and:

- 15 (1) The natural mother may be established by proof of her
- 16 having given birth to the child, or under this
- 17 chapter;
- 18 (2) The natural father may be established under this
- 19 chapter;
- 20 (3) A presumed parent may be established under this
- 21 chapter;



1 ~~[(3)]~~ (4) An adoptive parent may be established by proof of
2 adoption."

3 SECTION 22. Section 584-4, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) A presumption under this section may be rebutted in
6 an appropriate action only by clear and convincing evidence. If
7 two or more presumptions arise under this section or under
8 section 584- which conflict with each other, the presumption
9 which on the facts is founded on the weightier considerations of
10 policy and logic controls. The presumption is rebutted by a
11 court decree establishing paternity of the child by another
12 man."

13 SECTION 23. Section 584-6.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[(1)]~~**§584-6.5**~~[(1)]~~ **Temporary support order based on probable**
16 **paternity**~~[-]~~ or parentage. In all contested paternity actions
17 where a presumption of paternity as defined in section 584-4, or
18 where a presumption of parentage as defined in section 584-
19 exists, upon motion by a party, the court shall order temporary
20 support for the child pending a judicial determination of
21 parentage."



1 SECTION 24. Section 584-8.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**§584-8.5**[~~f~~] **Paternity or parentage determinations from**
4 **other states and territories.** Paternity or parentage
5 determinations from other states and territories, whether
6 established through voluntary acknowledgment or through
7 administrative or judicial processes, shall be treated the same
8 as a paternity or parentage adjudication in this State."

9 SECTION 25. Section 584-9, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) The child may be made a party to the action and may
12 be represented by the child's general guardian or a guardian ad
13 litem appointed by the court. The child's mother or father
14 shall not represent the child as guardian or otherwise. Subject
15 to section 584-6(e), the natural mother, each man presumed to be
16 the father under section 584-4, each man alleged to be the
17 natural father, each person presumed to be the parent under
18 section 584-_____, and the child support enforcement agency, if
19 public assistance moneys are or have been paid for the support
20 of the subject child, shall be made parties, or, if not subject
21 to the jurisdiction of the court, shall be given notice of the



1 action in a manner prescribed by the court and an opportunity to
2 be heard."

3 SECTION 26. Section 584-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~f~~]**§584-10**[~~f~~] **Pretrial proceedings.** As soon as
6 practicable after an action to declare the existence or
7 nonexistence of the father and child relationship or the
8 existence or nonexistence of a parent and child relationship has
9 been brought, an informal hearing shall be held. The public
10 shall be barred from the hearing. A record of the proceeding or
11 any portion thereof shall be kept if any party requests, or the
12 court orders. Rules of evidence need not be observed. "

13 SECTION 27. Section 584-13, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "**§584-13 Pretrial recommendations.** (a) On the basis of
16 the information produced at the pre-trial hearing, the judge
17 conducting the hearing shall evaluate the probability of
18 determining the existence or nonexistence of the father and
19 child relationship or the parent and child relationship in a
20 trial and whether a judicial declaration of the relationship
21 would be in the best interest of the child. On the basis of the



1 evaluation, an appropriate recommendation for settlement shall
2 be made to the parties, which may include any of the following:

- 3 (1) That the action be dismissed with or without
4 prejudice;
- 5 (2) That the matter be compromised by an agreement among
6 the alleged father, the mother, or the parent and the
7 child, in which the father and child relationship or
8 the parent and child relationship is not determined
9 but in which a defined economic obligation is
10 undertaken by the alleged father or alleged parent in
11 favor of the child and, if appropriate, in favor of
12 the mother, subject to approval by the judge
13 conducting the hearing. In reviewing the obligation
14 undertaken by the alleged father in a compromise
15 agreement, the judge conducting the hearing shall
16 consider the best interest of the child, in the light
17 of the factors enumerated in section 576D-7,
18 discounted by the improbability, as it appears to
19 [~~him,~~] the judge of establishing the alleged father's
20 paternity or nonpaternity of the child or the alleged
21 parent's parentage or nonparentage in a trial of the
22 action. In the best interest of the child, the court



1 may order that the alleged father's or alleged
 2 parent's identity be kept confidential. In that case,
 3 the court may designate a person or agency to receive
 4 from the alleged father or alleged parent and disburse
 5 on behalf of the child all amounts paid by the alleged
 6 father or alleged parent in fulfillment of obligations
 7 imposed on [~~him,~~] the alleged father or alleged parent
 8 or

9 (3) That the alleged father or alleged parent voluntarily
 10 acknowledge [~~his~~] the alleged father's or alleged
 11 parent's paternity or parentage of the child."

12 SECTION 28. Section 584-15, Hawaii Revised Statutes, is
 13 amended by amending subsections (c) and (d) to read as follows:

14 "(c) The judgment or order may contain any other provision
 15 directed against the appropriate party to the proceeding,
 16 concerning the duty of support, the custody and guardianship of
 17 the child, visitation privileges with the child, the furnishing
 18 of bond or other security for the payment of the judgment, or
 19 any other matter in the best interest of the child. Upon
 20 neglect or refusal to give this security, or upon default of the
 21 [~~father or the father's~~] parent or the parent's surety in
 22 compliance with the terms of the judgment, the court may order



1 the forfeiture of any such security and the application of the
2 proceeds thereof toward the payment of any sums due under the
3 terms of the judgment and may also sequester the [~~father's~~
4 parent's personal estate, and the rents and profits of the
5 [~~father's~~] parent's real estate, and may appoint a receiver
6 thereof, and may cause the [~~father's~~] parent's personal estate,
7 including any salaries, wages, commissions, or other moneys owed
8 to [~~him~~] the parent and the rents and profits of [~~his~~] the
9 parent's real estate, to be applied toward the meeting of the
10 terms of the judgment, to the extent that the court, from time
11 to time, deems just and reasonable. The judgment or order may
12 direct the [~~father~~] parent to pay the reasonable expenses of the
13 mother's pregnancy and confinement, including but not limited to
14 medical insurance premiums, such as for MedQuest, which cover
15 the periods of pregnancy, childbirth, and confinement. The
16 court may further order the noncustodial parent to reimburse the
17 custodial parent, the child, or any public agency for reasonable
18 expenses incurred prior to entry of judgment, including support,
19 maintenance, education, and funeral expenses expended for the
20 benefit of the child.

21 (d) Support judgment or orders ordinarily shall be for
22 periodic payments which may vary in amount. In the best



1 interest of the child, a lump sum payment or the purchase of an
2 annuity may be ordered in lieu of periodic payments of support.
3 The court may limit the [~~father's~~] parent's liability for past
4 support of the child to the proportion of the expenses already
5 incurred that the court deems just."

6 SECTION 29. Section 584-17, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) If existence of the [~~father~~] parent and child
9 relationship is declared, or paternity or a duty of support has
10 been acknowledged or adjudicated under this chapter or under
11 prior law, the obligation of the [~~father~~] parent may be enforced
12 in the same or other proceedings by the mother[~~7~~] or other
13 parent, the child, the public authority that has furnished or
14 may furnish the reasonable expenses of pregnancy, confinement,
15 education, support, or funeral, or by any other person,
16 including a private agency, to the extent the person has
17 furnished or is furnishing these expenses.

18 (b) The court may order support payments to be made to the
19 mother[~~7~~] or other parent, the child support enforcement agency,
20 or a person, corporation, or agency designated to administer
21 them for the benefit of the child under the supervision of the
22 court."



1 SECTION 30. Section 584-20, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Upon paternity or parentage being established, the
4 confidentiality requirement shall not extend to the judgment and
5 all subsequently filed documents that are used in good faith for
6 support and medical expenses, insurance, or enforcement
7 purposes, except that the confidentiality requirement shall
8 continue to apply to any references to a non-adjudicated alleged
9 or presumed father[-] or parent."

10 SECTION 31. Section 584-22, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**[§584-22] Promise to render support.** (a) Any promise in
13 writing to furnish support for a child, growing out of a
14 supposed or alleged father and child relationship[-] or parent
15 and child relationship, shall not require consideration and
16 shall be enforceable according to its terms.

17 (b) In the best interest of the child or the mother[-] or
18 parent, the court may, and upon request shall, order the promise
19 to be kept in confidence and designate a person or agency to
20 receive and disburse on behalf of the child all amounts paid in
21 performance of the promise."



1 SECTION 32. Section 584-23.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**§584-23.5**[~~f~~] **Paternity or parentage judgment,**
4 **acknowledgment, support order; social security number.** The
5 social security number of any individual who is subject to a
6 paternity or parentage judgment or acknowledgment, or support
7 order issued under this chapter shall be placed in the records
8 relating to the matter."

9 SECTION 33. Section 587A-4, Hawaii Revised Statutes, is
10 amended by amending the definition of "parent" to read as
11 follows:

12 "'Parent" means any legal parent of a child; the birth
13 mother, unless the child has been legally adopted; the
14 adjudicated, presumed, or concerned birth father of the child as
15 provided in section [~~578-2(a)(5),~~] 578-2(a)(6), unless the child
16 has been legally adopted; the presumed parent as provided in
17 section 578-2(e), unless the child has been legally adopted; or
18 the legal guardians or any other legal custodians of the child."

19 SECTION 34. If two individuals terminated a reciprocal
20 beneficiary relationship after November 1, 2011, but before this
21 Act becomes effective pursuant to article III, section 16 of the
22 Hawaii State Constitution, and the two individuals subsequently



1 entered or enter into a civil union no later than ninety days
2 after their reciprocal beneficiary relationship terminated,
3 their reciprocal beneficiary relationship shall be deemed to
4 continue uninterrupted until the civil union was or is
5 solemnized. The couple shall suffer no loss or interruption of
6 any rights, benefits, protections, or obligations derived from
7 their reciprocal beneficiary relationship if they meet the
8 requirements of this section. For purposes of this section,
9 holding title to property as tenants by the entirety shall be
10 included among the rights of a reciprocal beneficiary
11 relationship that shall continue uninterrupted under this
12 section; provided that no intervening liens were attached and
13 perfected on the property after the reciprocal beneficiary
14 relationship was terminated, but before this Act becomes
15 effective pursuant to article III, section 16 of the Hawaii
16 State Constitution,

17 SECTION 35. Notwithstanding subsection 572C-7(c), if,
18 before this Act becomes effective pursuant to article III,
19 section 16 of the Hawaii State Constitution, two individuals
20 entered into a valid legal union in another jurisdiction that is
21 not a marriage subject to chapter 572, Hawaii Revised Statutes,
22 and is substantially equivalent to a civil union under chapter



1 572B, Hawaii Revised Statutes, and are also parties to a
2 reciprocal beneficiary relationship in this State, the
3 reciprocal beneficiary relationship shall terminate and their
4 valid legal union entered into in another jurisdiction shall be
5 recognized as a civil union under section 572B-10, Hawaii
6 Revised Statutes, on the voluntary termination of the reciprocal
7 beneficiary relationship under section 572C-7, Hawaii Revised
8 Statutes, but no later than one year after this Act becomes
9 effective pursuant to article III, section 16 of the Hawaii
10 State Constitution.

11 SECTION 36. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 37. This Act, upon its approval, shall take effect
14 retroactive to January 1, 2012; provided that sections 2 and 34
15 of this Act and the second new section added to chapter 572B,
16 Hawaii Revised Statutes, by section 3 of this Act shall be
17 retroactive to October 3, 2011.



Report Title:

Domestic Relations; Civil Unions

Description:

Amends various statutory provisions to reconfirm and clarify the original intent of Act 1 (2011) that civil union partners shall have all the same rights, benefits, protections, and responsibilities under law as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572, HRS. Makes various housekeeping amendments to assist with the implementation and interpretation of Act 1, including with respect to public employee benefits, property held as tenants by the entirety, establishment of parent-child relationships, and adoption. Ensures couples who terminated their reciprocal beneficiary relationships after 10/3/11 retain all rights and benefits upon entering into a civil union. (SB2571 HD1)

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

