

JAN 18 2013

A BILL FOR AN ACT

RELATING TO SPOUSAL SUPPORT.

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

1 SECTION 1. Section 580-47, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) Upon granting a divorce, or thereafter if, in
4 addition to the powers granted in subsections (c) and (d),
5 jurisdiction of those matters is reserved under the decree by
6 agreement of both parties or by order of court after finding
7 that good cause exists, the court may make any further orders as
8 shall appear just and equitable (1) compelling the parties or
9 either of them to provide for the support, maintenance, and
10 education of the children of the parties; (2) compelling either
11 party to provide for the support and maintenance of the other
12 party; (3) finally dividing and distributing the estate of the
13 parties, real, personal, or mixed, whether community, joint, or
14 separate; and (4) allocating, as between the parties, the
15 responsibility for the payment of the debts of the parties
16 whether community, joint, or separate, and the attorney's fees,
17 costs, and expenses incurred by each party by reason of the
18 divorce. In making these further orders, the court shall take



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



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

11 In addition to any other relevant factors considered, the
12 court, in ordering spousal support and maintenance, shall
13 consider the following factors:

- 14 (1) Financial resources of the parties;
- 15 (2) Ability of the party seeking support and maintenance
16 to meet his or her needs independently;
- 17 (3) Duration of the marriage;
- 18 (4) Standard of living established during the marriage;
- 19 (5) Age of the parties;
- 20 (6) Physical and emotional condition of the parties;
- 21 (7) Usual occupation of the parties during the marriage;



- 1 (8) Vocational skills and employability of the party
- 2 seeking support and maintenance;
- 3 (9) Needs of the parties;
- 4 (10) Custodial and child support responsibilities;
- 5 (11) Ability of the party from whom support and maintenance
- 6 is sought to meet his or her own needs while meeting
- 7 the needs of the party seeking support and
- 8 maintenance;
- 9 (12) Documented evidence of any history of domestic
- 10 violence, as defined in section 321-471, or domestic
- 11 abuse, as defined in section 586-1, between the
- 12 parties, including but not limited to consideration of
- 13 emotional distress resulting from domestic violence or
- 14 domestic abuse perpetrated by a party, whether the
- 15 party seeking support and maintenance or the party
- 16 from whom support and maintenance is sought, against
- 17 the other party;
- 18 [~~12~~] (13) Other factors which measure the financial
- 19 condition in which the parties will be left as the
- 20 result of the action under which the determination of
- 21 maintenance is made; and



1 [~~(13)~~] (14) Probable duration of the need of the party
2 seeking support and maintenance.

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

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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1 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Spousal Support; Domestic Violence

Description:

Authorizes courts to consider evidence of history of domestic violence or domestic abuse between the parties when issuing spousal support orders.

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

