

JAN 18 2013

A BILL FOR AN ACT

RELATING TO PARENTAL RIGHTS.

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

1 SECTION 1. Section 571-61, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Involuntary termination.

4 (1) The family courts may terminate the parental rights in
5 respect to any child as to any legal parent:

6 (A) Who has deserted the child without affording
7 means of identification for a period of at least
8 ninety days;

9 (B) Who has voluntarily surrendered the care and
10 custody of the child to another for a period of
11 at least two years;

12 (C) Who, when the child is in the custody of another,
13 has failed to communicate with the child when
14 able to do so for a period of at least one year;

15 (D) Who, when the child is in the custody of another,
16 has failed to provide for care and support of the
17 child when able to do so for a period of at least
18 one year;



1 (E) Whose child has been removed from the parent's
2 physical custody pursuant to legally authorized
3 judicial action under section 571-11(9), and who
4 is found to be unable to provide now and in the
5 foreseeable future the care necessary for the
6 well-being of the child;

7 (F) Who is found by the court to be mentally ill or
8 intellectually disabled and incapacitated from
9 giving consent to the adoption of or from
10 providing now and in the foreseeable future the
11 care necessary for the well-being of the child;

12 (G) Who is found not to be the child's natural or
13 adoptive father.

14 (2) The family courts may terminate the parental rights in
15 respect to any minor of any natural but not legal
16 father who is an adjudicated, presumed or concerned
17 father under chapter 578, or who is named as the
18 father on the child's birth certificate:

19 (A) Who falls within subparagraph (A), (B), (C), (D),
20 (E), or (F) of paragraph (1);

21 (B) Who caused the child to be conceived as a result
22 of sexual assault under section 707-730, 707-731,



1 or 707-732, which may be proven by a final
2 judgment of conviction or other evidence produced
3 at a fact-finding hearing under section 571-46;

4 [~~(B)~~] (C) Whose child is sought to be adopted by the
5 child's stepfather and the stepfather has lived
6 with the child and the child's legal mother for a
7 period of at least one year;

8 [~~(C)~~] (D) Who is only a concerned father who has
9 failed to file a petition for the adoption of the
10 child or whose petition for the adoption of the
11 child has been denied; or

12 [~~(D)~~] (E) Who is found to be an unfit or improper
13 parent or to be financially or otherwise unable
14 to give the child a proper home and education.

15 (3) In respect to any proceedings under paragraphs (1) and
16 (2), the authority to terminate parental rights may be
17 exercised by the court only when a verified petition,
18 substantially in the form above prescribed, has been
19 filed by some responsible adult person on behalf of
20 the child in the family court of the circuit in which
21 the parent resides or the child resides or was born
22 and the court has conducted a hearing of the petition.



1 A copy of the petition, together with notice of the
2 time and place of the hearing thereof, shall be
3 personally served at least twenty days prior to the
4 hearing upon the parent whose rights are sought to be
5 terminated. If personal service cannot be effected
6 within the State, service of the notice may be made as
7 provided in section 634-23 or 634-24.

8 (4) The family courts may terminate the parental rights in
9 respect to any child as to any natural father who is
10 not the child's legal, adjudicated, presumed or
11 concerned father under chapter 578.

12 Such authority may be exercised under this chapter only
13 when a verified petition, substantially in the form above
14 prescribed, has been filed by some responsible adult person on
15 behalf of the child in the family court of the circuit in which
16 the parent resides or the child resides or was born, and the
17 court has conducted a hearing of the petition.

18 If the mother of the child files with the petition an
19 affidavit representing that the identity or whereabouts of the
20 child's father is unknown to her or not ascertainable by her or
21 that other good cause exists why notice cannot or should not be



1 given to the father, the court shall conduct a hearing to
2 determine whether notice is required.

3 If the court finds that good cause exists why notice cannot
4 or should not be given to the child's father, and that the
5 father is neither the legal nor adjudicated nor presumed father
6 of the child, nor has he demonstrated a reasonable degree of
7 interest, concern, or responsibility as to the existence or
8 welfare of the child, the court may enter an order authorizing
9 the termination of the father's parental rights and the
10 subsequent adoption of the child without notice to the father."

11 SECTION 2. Section 587A-4, Hawaii Revised Statutes, is
12 amended by amending the definition of "aggravated circumstances"
13 to read as follows:

14 "Aggravated circumstances" means that:

- 15 (1) The parent has murdered, or has solicited, aided,
16 abetted, attempted, or conspired to commit the murder
17 or voluntary manslaughter of, another child of the
18 parent;
- 19 (2) The parent has committed a felony assault that results
20 in serious bodily injury to the child or another child
21 of the parent;



1 (3) The parent has committed sexual assault under section
2 707-730, 707-731, or 707-732 that resulted in the
3 conception of the child, which may be proven by a
4 final judgment of conviction or other evidence
5 produced at a fact-finding hearing under section
6 571-46;

7 [~~3~~] (4) The parent's rights regarding a sibling of the
8 child have been judicially terminated or divested;

9 [~~4~~] (5) The parent has tortured the child;

10 [~~5~~] (6) The child is an abandoned infant;

11 [~~6~~] (7) The parent has committed sexual abuse against
12 another child of the parent; or

13 [~~7~~] (8) The parent is required to register with a sex
14 offender registry under section 113(a) of the Adam
15 Walsh Child Protection and Safety Act of 2006, title
16 42 United States Code section 16913(a)."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Will Ergo



S.B. NO. 696

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S.B. NO. 696

Report Title:

Parental Rights; Family Courts; Child Protective Act

Description:

Permits the family courts to terminate the parental rights of a natural but not legal father who caused the child to be conceived as a result of sexual assault and has been convicted of sexual assault under section 707-730, 707-731, or 707-732. Amends the definition of "aggravated circumstances" under the Child Protective Act to include circumstances in which a parent has committed sexual assault in the conception of the child, which impacts court determinations regarding child protection.

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

