
A BILL FOR AN ACT

RELATING TO STATUTORY REVISION: AMENDING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1 SECTION 1. Section 134-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "assault pistol" to read
3 as follows:

4 "Assault pistol" means a semiautomatic pistol which
5 accepts a detachable magazine and which has two or more of the
6 following characteristics:

7 (1) An ammunition magazine which attaches to the pistol
8 outside of the pistol grip;

9 (2) A threaded barrel capable of accepting a barrel
10 extender, flash suppressor, forward hand grip, or
11 silencer;

12 (3) A shroud which is attached to or partially or
13 completely encircles the barrel and which permits the
14 shooter to hold the firearm with the second hand
15 without being burned;



1 (4) A manufactured weight of fifty ounces or more when the
2 pistol is unloaded;

3 (5) A centerfire pistol with an overall length of twelve
4 inches or more; or

5 (6) It is a semiautomatic version of an automatic firearm;
6 but does not include a firearm with a barrel sixteen or more
7 inches in length, an antique pistol as defined in this section,
8 or a curio or relic as those terms are used in 18 United States
9 Code [~~§921-16~~] section 921(a)(13) or 27 Code of Federal
10 Regulations [~~178.11~~] section 478.11."

11 SECTION 2. Section 201H-37, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~+~~]**§201H-37**[~~+~~] **Exemption from tax on income and**
14 **obligations.** Income earned and obligations issued by a
15 nonprofit entity determined to constitute a "public housing
16 agency" pursuant to section [~~3-6~~] 3(b)(6) of the United States
17 Housing Act of 1937, as amended, and which income and
18 obligations are declared by the United States Department of
19 Housing and Urban Development to be exempt from all taxation
20 imposed by the United States pursuant to section 11(b) of the



1 Act, shall be exempt from all taxation now or hereafter imposed
2 by the State."

3 SECTION 3. Section 329-101, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) A controlled substance electronic [~~accountability~~]
6 prescription accountability system shall be established within
7 six months of June 18, 1996."

8 SECTION 4. Section 347-17, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§347-17 Driver of vehicle, caution.** Any driver of a
11 vehicle [~~shall~~], on approaching a person who is blind or
12 visually handicapped, and is carrying or using an exposed cane
13 or walking stick which is painted white in color or painted
14 white tipped with red, or a person who is blind or visually
15 handicapped and using a [~~guide~~] service dog, shall take [~~such~~]
16 reasonable precautions before proceeding as may be necessary to
17 avoid an accident or injury to the blind or visually handicapped
18 person."

19 SECTION 5. Section 348-2, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§348-2 Definitions.** For the purposes of this chapter:



1 [~~(14)~~] "Department" means the department of human services.

2 [~~(15)~~] "Director" means the director of human services.

3 [~~(3)~~ ~~The term "eligible~~] "Eligible handicapped
4 individual", when used with respect to diagnostic and related
5 services, training, guidance, and placement, means any
6 handicapped individual whose vocational rehabilitation is
7 determined feasible by the department of human services, and
8 when used with respect to other vocational rehabilitation
9 services, means an individual meeting the [~~above~~] foregoing
10 requirements who is also found by the department to require
11 financial assistance with respect thereto, after full
12 consideration of the individual's financial resources, or in the
13 instance of minors the financial resources of the parents, and
14 eligibility for any similar benefit by way of pension,
15 compensation, insurance, or of any other available assistance.

16 [~~(13)~~] "Establishment of a workshop or rehabilitation
17 facility" means:

18 [~~(A)~~] (1) In the case of a workshop, the expansion,
19 remodeling, or alteration of existing buildings,
20 necessary to adapt the buildings to workshop purposes
21 or to increase the employment opportunities in



1 workshops, and the acquisition of initial equipment
2 necessary for new workshops or to increase the
3 employment opportunities in workshops; and

4 ~~[(B)]~~ (2) In the case of a rehabilitation facility, the
5 expansion, remodeling, or alteration of existing
6 buildings, and initial equipment of ~~[such]~~ those
7 buildings, necessary to adapt the buildings to
8 rehabilitation facility purposes (subject, however, to
9 ~~[such]~~ limitations ~~[as]~~ that the director of human
10 services may by ~~[regulations]~~ rules prescribe in order
11 to prevent impairment of the objectives of, or
12 duplication of, other federal laws providing federal
13 assistance to states in the construction of ~~[such]~~
14 those facilities), and initial staffing thereof.

15 ~~[(1) The term "handicapped]~~ "Handicapped individual" means
16 an individual who is under a physical or mental disability which
17 is stable or slowly progressive and constitutes a substantial
18 handicap to employment, but which is of such a nature that
19 appropriate vocational rehabilitation services may reasonably be
20 expected to render the individual able to engage in a
21 remunerative occupation.



1 [~~(8)~~ ~~The term "health]~~ "Health maintenance" means payments
2 for medical care for acute conditions occurring in the course of
3 vocational rehabilitation which are not expected to last thirty
4 days.

5 [~~(7)~~ ~~The term "maintenance"]~~ "Maintenance" means payments,
6 not exceeding the cost of subsistence, provided an eligible
7 handicapped individual necessary to derive the benefit of other
8 vocational rehabilitation services being provided to achieve the
9 individual's vocational rehabilitation objective.

10 [~~(12)~~ ~~The term "nonprofit",]~~ "Nonprofit", when used with
11 respect to a rehabilitation facility or a workshop, means a
12 rehabilitation facility and a workshop, respectively, owned and
13 operated by a corporation or association, no part of the net
14 earnings of which inures, or may lawfully inure, to the benefit
15 of any private shareholder or individual and the income of which
16 is exempt from taxation under section 501(c) of the Internal
17 Revenue Code.

18 [~~(5)~~ ~~The term "physical]~~ "Physical restoration" includes:

19 [~~(A)~~] (1) Corrective surgery or therapeutic treatment
20 necessary to correct or substantially modify a
21 physical or mental condition which is stable or slowly



1 progressive and constitutes a substantial handicap to
2 employment, but is of such a nature that the
3 correction or modification may reasonably be expected
4 to eliminate or substantially reduce the handicap
5 within a reasonable length of time; and includes
6 psychiatric treatment, dentistry, physical therapy,
7 occupational therapy, speech or hearing therapy,
8 treatment of medical complications, and emergencies
9 which are associated with or arise out of physical
10 restoration services or are inherent in the condition
11 under treatment, and other medical services related to
12 rehabilitation;

13 [~~(B)~~] (2) Necessary hospitalization (either in-patient or
14 out-patient) and nursing care in connection with
15 surgery or treatment specified in [~~the preceding~~
16 ~~subparagraph (A) +~~] paragraph (1); and

17 [~~(C)~~] (3) Prosthetic devices essential to obtaining or
18 retaining employment.

19 [~~(6)~~ ~~The term "prosthetic~~] "Prosthetic appliance" means
20 any appliance designed to support or take the place of a part of
21 the body, or to increase the acuity of a sensory organ.



1 [~~(10)~~ The term "~~rehabilitation~~] "Rehabilitation facility"
2 means a facility operated for the primary purpose of assisting
3 in the rehabilitation of handicapped individuals:

4 [~~(A)~~] (1) Which provides one or more of the following types
5 of services:

6 [~~(i)~~] (A) Testing, fitting, or training in the use of
7 prosthetic devices;

8 [~~(ii)~~] (B) Prevocational or conditioning therapy;

9 [~~(iii)~~] (C) Physical or occupational therapy;

10 [~~(iv)~~] (D) Adjustment training; or

11 [~~(v)~~] (E) Evaluation or control of special
12 disabilities; or

13 [~~(B)~~] (2) Through which is provided an integrated program
14 of medical, psychological, social, and vocational
15 evaluation and services under competent professional
16 supervision.

17 [~~(2)~~ The term "~~remunerative~~] "Remunerative occupation"

18 includes employment as an employee or self-employed, practice of
19 a profession, homemaking, or farm and family work for which
20 payment is in kind rather than cash, sheltered employment and
21 home industry or other homebound work of a remunerative nature.



1 [~~(9)~~ ~~The term "vocational]~~ "Vocational rehabilitation"
2 means making an individual able, or increasing the individual's
3 ability to engage in, and placement in, a remunerative
4 occupation through providing the individual needed vocational
5 rehabilitation services.

6 [~~(4)~~ ~~The term "vocational]~~ "Vocational rehabilitation
7 services" means:

8 [~~(A)~~] (1) Diagnostic and related services (including
9 transportation) incidental to the determination of
10 whether an individual is a handicapped individual, and
11 if so, the individual's eligibility for, and the
12 nature and scope of other vocational rehabilitation
13 services to be provided; and

14 [~~(B)~~] (2) The following services provided eligible
15 handicapped individuals needing the services:

16 [~~(i)~~] (A) Training;

17 [~~(ii)~~] (B) Guidance;

18 [~~(iii)~~] (C) Placement;

19 [~~(iv)~~] (D) Maintenance, not exceeding the estimated
20 costs of subsistence during vocational
21 rehabilitation;



- 1 [~~(v)~~] (E) Occupational licenses, tools, equipment,
2 initial stocks, and supplies (including equipment
3 and initial stocks and supplies for vending
4 stands), books, and training materials;
- 5 [~~(vi)~~] (F) Transportation (other than provided as
6 diagnostic and related services);
- 7 [~~(vii)~~] (G) Physical restoration;
- 8 [~~(viii)~~] (H) Reader services for the blind;
- 9 [~~(ix)~~] (I) Interpreter services for the deaf;
- 10 [~~(x)~~] (J) Telecommunications, sensory, or other
11 technological aids and devices;
- 12 [~~(xi)~~] (K) Services to family members;
- 13 [~~(xii)~~] (L) Post employment services; and
- 14 [~~(xiii)~~] (M) Other goods and services which will benefit
15 an individual's employability.
- 16 [~~(11)~~ ~~The term "workshop"~~] "Workshop" means a place where
17 any manufacture or handiwork is carried on and which is operated
18 for the primary purpose of providing remunerative employment to
19 severely handicapped individuals who cannot be readily absorbed
20 in the competitive labor market."



1 SECTION 6. Section 377-1, Hawaii Revised Statutes, is
2 amended by amending the definitions of "employee" and "secondary
3 boycott" to read as follows:

4 "Employee" includes any person, other than an independent
5 contractor, working for another for hire in the State, and shall
6 not be limited to the employees of a particular employer unless
7 the context clearly indicates otherwise; and includes any
8 individual whose work has ceased solely as a consequence of or
9 in connection with any current labor dispute or because of any
10 unfair labor practice on the part of an employer and [~~A~~] who
11 has not [~~refused~~]:

12 (1) Refused or failed to return to work upon the final
13 disposition of a labor dispute or a charge of an
14 unfair labor practice by a tribunal having competent
15 jurisdiction of the same or whose jurisdiction was
16 accepted by the employee or the employee's
17 representative[~~, (B) who has not been~~];

18 (2) Been found to be committing or a party to any unfair
19 labor practice hereunder[~~, (C) who has not obtained~~];

20 (3) Obtained regular and substantially equivalent
21 employment elsewhere[~~,~~]; or [~~(D) who has not been~~]



1 (4) Been absent from the individual's employment for a
2 substantial period of time during which reasonable
3 expectancy of settlement has ceased (except by an
4 employer's unlawful refusal to bargain) and whose
5 place has been filled by another engaged in the
6 regular manner for an indefinite or protracted period
7 and not merely for the duration of a strike or
8 lockout;

9 but shall not include any individual employed in the domestic
10 service of a family or person at the family's or person's home
11 or any individual employed by the individual's parent or spouse,
12 or any person employed in an executive or supervisory capacity,
13 or any individual employed by any employer employing less than
14 two individuals, or any individual subject to the jurisdiction
15 of the Federal Railway Labor Act or the National Labor Relations
16 Act, as amended from time to time; provided that the term
17 "employee" includes any individual subject to the jurisdiction
18 of the National Labor Relations Act, as amended from time to
19 time, but over whom the National Labor Relations Board has
20 declined to exercise jurisdiction or has indicated by its
21 decisions and policies that it will not assume jurisdiction.



1 "Secondary boycott" includes combining or conspiring to
2 cause or threaten to cause injury to one with whom no labor
3 dispute exists, whether by [~~(A) withholding~~]:

4 (1) Withholding patronage, labor, or other beneficial
5 business intercourse[, ~~(B) picketing, (C) refusing~~];

6 (2) Picketing;

7 (3) Refusing to handle, install, use, or work on
8 particular materials, equipment, or supplies[~~7~~]; or
9 [~~(D) by any~~]

10 (4) Any other unlawful means,
11 in order to bring one against one's will into a concerted plan
12 to coerce or inflict damage upon another."

13 SECTION 7. Section 379-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§379-3 Advertising. (a) If any person advertises for,
16 or seeks employees by means of newspapers, posters, letters,
17 radio, television, or by means of any employment agency to work
18 for [~~him~~] that person or the person for whom [~~he~~] that person is
19 acting at any shop, plant, or establishment, while a labor
20 dispute is still in active progress at the shop, plant, or
21 establishment, [~~he~~] that person shall plainly and explicitly



1 mention in the advertisement or solicitation that a labor
2 dispute exists.

3 **(b)** The person soliciting or advertising for employees in
4 the manner set forth [~~herein~~] in this section shall use in the
5 advertisement or solicitation [~~his~~] that person's own name, and,
6 if [~~he~~] that person is representing another, the name of the
7 person [~~he~~] that person is representing and at whose direction
8 and under whose authority the solicitation or advertisement is
9 made. The appearance of this name in connection with the
10 advertisement or solicitation shall be deemed prima facie
11 evidence as to the person responsible for the advertisement or
12 solicitation."

13 SECTION 8. Section 380-14, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) Whenever it is charged that any person has engaged in
16 an unfair labor practice within the meaning of section 377-7(5),
17 (6), (7), (8), and (9), the preliminary investigation of [~~such~~]
18 that charge shall be made forthwith and given priority over all
19 other cases except cases of like character in the office where
20 it is filed or to which it is referred. If, after the
21 investigation, the board has reasonable cause to believe the



1 charge is true, it shall petition any circuit court of the State
2 within any circuit where the unfair labor practice in question
3 has occurred, is alleged to have occurred, or wherein the person
4 resides or transacts business, for appropriate injunctive relief
5 pending the final adjudication of the board with respect to
6 ~~[such]~~ that matter. Upon the filing of any such petition, the
7 circuit court shall have jurisdiction to grant such injunctive
8 relief or temporary restraining order as it deems just and
9 proper, notwithstanding any other provision of law or rule of
10 court; provided ~~[further]~~ that no temporary restraining order
11 shall be issued without notice unless a petition alleges that
12 substantial and irreparable injury to the charging party will be
13 unavoidable and the temporary restraining order shall be
14 effective for no longer than five days and will become void at
15 the expiration of ~~[such]~~ that period; provided further that the
16 board shall not apply for any restraining order under section
17 377-7(5), (6), (7), (8), and (9) if a charge against the
18 employer under section 377-6(2) has been filed and after the
19 preliminary investigation, ~~[it]~~ the board has reasonable cause
20 to believe that the charge is true and that a complaint should
21 issue. Upon the filing of any such petition, the courts shall



1 cause notice thereof to be served upon any person involved in
2 the charge and the person, including the charging party, shall
3 be given an opportunity to appear by counsel and present any
4 relevant testimony; provided [~~further~~] that for the purposes of
5 this subsection, circuit courts shall be deemed to have
6 jurisdiction of a labor organization in:

- 7 (1) [~~in the~~] The circuit in which the organization
8 maintains its principal office[~~]~~; or
9 (2) [~~in any~~] Any circuit in which [~~its~~] the organization's
10 duly authorized officers or agents are engaged in
11 promoting or protecting the interests of employee
12 members. The service of legal process upon [~~such~~] an
13 officer or agent shall constitute service upon the
14 labor organization and make the organization a party
15 to the suit."

16 SECTION 9. Section 381-9, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§381-9 Strikes and lockouts prohibited, when.** (a) It
19 shall be unlawful for any employees of a public utility to call
20 a strike or go out on strike causing or threatening to cause an
21 interruption of public utility service, or for any public



1 utility to lock out its employees when the action would cause or
2 threaten to cause an interruption of public utility service,
3 except as the action may be taken following compliance with this
4 chapter.

5 (b) It shall be unlawful for any person or persons to
6 instigate, induce, or encourage any other person or persons to
7 engage in any strike or lockout [~~which~~] that would cause an
8 interruption of public utility service in violation of this
9 chapter.

10 (c) During the term of any collective bargaining
11 agreement, there shall be no lockout by the public utility and
12 there shall be no strike on the part of any employees covered by
13 the agreement, except where:

14 (1) [~~a~~] A dispute arises under the agreement concerning
15 the interpretation or application of the terms of the
16 collective bargaining agreement, and the agreement
17 contains no procedure for the settlement of the
18 dispute; or

19 (2) [~~in~~] In accordance with the terms of the collective
20 bargaining agreement, the parties undertake
21 negotiations for a new agreement or an amendment of



1 the existing agreement pursuant to specific
2 designation in the agreement of a certain time or
3 period for [~~such~~] the negotiations, and no agreement
4 has been reached at the expiration of the time or
5 period, and the agreement does not prohibit strikes or
6 lockouts following [~~such~~] the negotiation and failure
7 to arrive at agreement;
8 and the provisions of this chapter for settlement of disputes
9 have first been complied with."

10 SECTION 10. Section 383-144, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§383-144 Unlawful disclosures.** If any employee or member
13 of the department of labor and industrial relations, or the
14 referee, in violation of section 383-95, makes any disclosure of
15 information obtained from any employing unit or individual in
16 the administration of this chapter, or if any person who has
17 obtained any list of applicants for work, or of claimants or
18 recipients of benefits, under this chapter, shall use or permit
19 the use of [~~such~~] the list for any political purpose, [~~he~~] that
20 individual shall be fined not less than \$20 nor more than \$200,
21 or imprisoned not more than ninety days, or both."



1 SECTION 11. Section 386-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§386-6 Territorial applicability. (a) The provisions of
4 this chapter shall be applicable to all work injuries sustained
5 by employees within the territorial boundaries of the State.

6 (b) If an employee who has been hired in the State suffers
7 work injury, [he] the employee shall be entitled to compensation
8 under this chapter even though the injury was sustained without
9 the State. The right to compensation shall exclude all other
10 liability of the employer for damages as provided in section
11 386-5. All contracts of hire of employees made within the State
12 shall be deemed to include an agreement to that effect.

13 (c) If an employee who has been hired without the State is
14 injured while engaged in [~~his employer's business,~~] the business
15 of the employee's employer, and is entitled to compensation for
16 the injury under the law of the state or territory where [he]
17 the employee was hired, [he] the employee shall be entitled to
18 enforce against [~~his~~] the employee's employer [~~his~~] the
19 employee's rights in this State if [~~his~~] the employee's rights
20 are such that they can reasonably be determined and dealt with



1 by the director of labor and industrial relations, the appellate
2 board, and the court in this State."

3 SECTION 12. Section 386-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§386-8 Liability of third person.** (a) When a work
6 injury for which compensation is payable under this chapter has
7 been sustained under circumstances creating in some person other
8 than the employer or another employee of the employer acting in
9 the course of [~~his~~] employment a legal liability to pay damages
10 on account thereof, the injured employee or [~~his~~] the injured
11 employee's dependents (hereinafter referred to collectively as
12 "the employee") may claim compensation under this chapter and
13 recover damages from [~~such~~] that third person.

14 (b) If the employee commences an action against [~~such~~] a
15 third person [~~he~~], the employee shall without delay give the
16 employer written notice of the action and the name and location
17 of the court in which the action is brought by personal service
18 or registered mail. The employer [~~may~~], at any time before
19 trial on the facts, may join as party plaintiff.

20 (c) If within nine months after the date of the personal
21 injury the employee has not commenced an action against [~~such~~] a



1 third person, the employer, having paid or being liable for
2 compensation under this chapter, shall be subrogated to the
3 rights of the injured employee. Except as limited by chapter
4 657, the employee may at any time commence an action or join in
5 any action commenced by the employer against ~~such~~ a third
6 person.

7 (d) No release or settlement of any claim or action under
8 this section is valid without the written consent of both
9 employer and employee. The entire amount of the settlement
10 after deductions for attorney's fees and costs as hereinafter
11 provided~~[r]~~ is subject to the employer's right of reimbursement
12 for ~~his~~ the employer's compensation payments under this
13 chapter and ~~his~~ the employer's expenses and costs of action.

14 (e) If the action is prosecuted by the employer alone, the
15 employer shall be entitled to be paid from the proceeds received
16 as a result of any judgment for damages, or settlement in case
17 the action is compromised before judgment, the reasonable
18 litigation expenses incurred in preparation and prosecution of
19 ~~such~~ the action, together with a reasonable attorney's fee
20 which shall be based solely upon the services rendered by the
21 employer's attorney in effecting recovery both for the benefit



1 of the employer and the employee. After the payment of [~~such~~]
2 the expenses and attorney's fee, the employer shall apply out of
3 the amount of the judgment or settlement proceeds an amount
4 sufficient to reimburse the employer for the amount of [~~his~~] the
5 employer's expenditure for compensation and shall pay any excess
6 to the injured employee or other person entitled thereto.

7 (f) If the action is prosecuted by the employee alone, the
8 employee shall be entitled to apply out of the amount of the
9 judgment for damages, or settlement in case the action is
10 compromised before judgment, the reasonable litigation expenses
11 incurred in preparation and prosecution of [~~such~~] the action,
12 together with a reasonable attorney's fee which shall be based
13 solely upon the services rendered by the employee's attorney in
14 effecting recovery both for the benefit of the employee and the
15 employer. After the payment of [~~such~~] the expenses and
16 attorney's fee, there shall be applied out of the amount of the
17 judgment or settlement proceeds, the amount of the employer's
18 expenditure for compensation, less [~~his~~] the employer's share of
19 [~~such~~] the expenses and attorney's fee. On application of the
20 employer, the court shall allow as a first lien against the
21 amount of the judgment for damages or settlement proceeds, the



1 amount of the employer's expenditure for compensation, less
2 [~~his~~] the employer's share of [~~such~~] the expenses and attorney's
3 fee.

4 (g) If the action is prosecuted both by the employee and
5 the employer, in a single action or in consolidated actions, and
6 they are represented by the same agreed attorney or by separate
7 attorneys, there shall first be paid from any judgment for
8 damages recovered, or settlement proceeds in case the action or
9 actions [~~be~~] are settled before judgment, the reasonable
10 litigation expenses incurred in preparation and prosecution of
11 [~~such~~] the action or actions, together with reasonable
12 attorney's fees based solely on the services rendered for the
13 benefit of both parties where they are represented by the same
14 attorney, and where they are represented by separate attorneys,
15 based solely upon the service rendered in each instance by the
16 attorney in effecting recovery for the benefit of the party
17 represented. After the payment of [~~such~~] the expenses and
18 attorneys' fees, there shall be applied out of the amount of the
19 judgment for damages, or settlement proceeds an amount
20 sufficient to reimburse the employer for the amount of [~~his~~] the



1 employer's expenditure for compensation and any excess shall be
2 paid to the injured employee or other person entitled thereto.

3 (h) [~~In the event that~~] If the parties are unable to agree
4 upon the amount of reasonable litigation expenses and the amount
5 of attorneys' fees under this section [~~then~~], the [~~same~~]
6 expenses and attorneys' fees shall be fixed by the court.

7 (i) After reimbursement for [~~his~~] the employer's
8 compensation payments, the employer shall be relieved from the
9 obligation to make further compensation payments to the employee
10 under this chapter up to the entire amount of the balance of the
11 settlement or the judgment, if satisfied, as the case may be,
12 after deducting the cost and expenses, including attorneys'
13 fees.

14 (j) The amount of compensation paid by the employer or the
15 amount of compensation to which the injured employee is entitled
16 shall not be admissible in evidence in any action brought to
17 recover damages.

18 (k) Another employee of the same employer shall not be
19 relieved of [~~his~~] that employee's liability as a third party, if
20 the personal injury is caused by [~~his~~] that employee's wilful
21 and wanton misconduct.



1 (1) If the special compensation fund has paid or is liable
2 for any compensation under this chapter, the fund shall be
3 entitled to all the rights and remedies granted an employer
4 under this section; provided that the employer's right to
5 reimbursement for compensation payments and expenses under this
6 chapter shall have priority."

7 SECTION 13. Section 386-8.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§386-8.5 Limits of third party liability.** (a) Section
10 386-8 and any other law to the contrary notwithstanding, when a
11 work injury for which compensation is payable under this chapter
12 has been sustained, the discussion or furnishing of, or failure
13 to discuss or furnish, or failure to enforce any safety, health,
14 or personal conduct provision to protect employees against work
15 injuries, in any collective bargaining agreement or in
16 negotiations thereon, shall not subject a labor organization
17 representing the injured employee to any civil liability for the
18 injury.

19 (b) As used in this section [~~the terms~~]:

20 "Health provision" includes but is not limited to health
21 inspections and advisory services.



1 [~~(1)~~] "Labor organization" means any organization which
2 exists and is constituted for the purposes, in whole or in part,
3 of collective bargaining or dealing with employers, concerning
4 grievances, terms, or conditions of employment, or of other
5 mutual aid or protection and includes both private industry and
6 public employment labor organizations.

7 "Personal conduct provision" includes but is not limited to
8 contractual language covering sexual harassment or assault and
9 related infliction of emotional distress or invasion of privacy.

10 [~~(2)~~] "Safety provision" includes[~~]~~ but is not limited
11 to[~~]~~ safety inspections and advisory services[~~;~~ "health
12 provision" includes, but is not limited to, health inspections
13 and advisory services; "personal conduct provision" includes,
14 but is not limited to, contractual language covering sexual
15 harassment or assault and related infliction of emotional
16 distress or invasion of privacy].

17 [~~(b)~~] (c) No construction design professional who is
18 retained to perform professional services on a construction
19 project or any employee of a construction design professional
20 who is assisting or representing the construction design
21 professional in the performance of professional services on the



1 site of the construction project shall be liable for any injury
2 on the construction project resulting from the employer's
3 failure to comply with safety standards on the construction
4 project for which compensation is recoverable under this chapter
5 unless the responsibility for the compliance of safety practices
6 is specifically assumed by contract or by other conduct of the
7 construction design professional or any employee of the
8 construction design professional who is assisting or
9 representing the construction design professional in the
10 performance of professional services on the site of the
11 construction project. The limitation of liability provided by
12 this subsection to any construction design professional shall
13 not apply to the negligent preparation of design plans or
14 specifications."

15 SECTION 14. Section 386-42, Hawaii Revised Statutes, is
16 amended by amending subsections (a) and (b) to read as follows:

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

20 (1) A child who is [~~(1) unmarried~~]:



H.B. NO. 2448

- 1 (A) Unmarried and under eighteen years [~~7~~ ~~or~~ ~~(2)~~
2 ~~unmarried~~];
- 3 (B) Unmarried and under twenty years if the child is
4 a full-time student at a high school, business
5 school, or technical school, or unmarried and
6 under twenty-two years if the child is a full-
7 time undergraduate student at a college [~~7~~ ~~or~~ ~~(3)~~
8 ~~unmarried~~];
- 9 (C) Unmarried and incapable of self-support [~~7~~]; or
10 [~~(4)~~ ~~married~~]
- 11 (D) Married and under eighteen years, if actually
12 dependent upon the deceased;
- 13 (2) The surviving spouse or reciprocal beneficiary, if
14 either living with the deceased at the time of the
15 injury or actually dependent upon the deceased;
- 16 (3) A parent or grandparent, if actually dependent upon
17 the deceased; and
- 18 (4) A grandchild, brother, or sister, if [~~(1)~~ ~~under~~]:
- 19 (A) Under eighteen years or incapable of self-
20 support [~~7~~]; and [~~(2)~~ ~~actually~~]
- 21 (B) Actually and wholly dependent upon the deceased.



1 (b) A person shall be deemed to be actually dependent upon
2 the deceased, if [~~he or she~~] the deceased contributed all or a
3 substantial portion of the living expenses of [~~such~~] that person
4 at the time of the injury."

5 SECTION 15. Section 386-43, Hawaii Revised Statutes, is
6 amended by amending subsections (a) and (b) to read as follows:

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

8 (1) To a surviving spouse or reciprocal beneficiary, until
9 death, remarriage, marriage, or entry into a new
10 reciprocal beneficiary relationship with two years'
11 compensation in one sum upon remarriage, marriage, or
12 entry into a new reciprocal beneficiary
13 relationship[~~-~~];

14 (2) To or for a child[~~, (1) so~~]:

15 (A) So long as unmarried, until attainment of the age
16 of eighteen[~~, or (2) so~~];

17 (B) So long as unmarried, until attainment of the age
18 of twenty if the child is a full-time student at
19 a high school, business school, technical school,
20 or unmarried and under twenty-two years if the



1 child is a full-time undergraduate student at a
2 college~~[, or (3) se]~~;

3 (C) So long as unmarried, until termination of the
4 child's incapability of self-support~~[,]~~; or ~~[(4)~~
5 ~~until]~~

6 (D) Until marriage, except that in the case of a
7 married child under eighteen, weekly benefits
8 shall continue during the period of actual
9 dependency until attainment of the age of
10 eighteen~~[,]~~;

11 (3) To a parent or grandparent, for the duration, whether
12 continuous or not, of ~~[such]~~ the actual dependency,
13 provided that the amount of the weekly benefits shall
14 at no time exceed the amount payable at the time of
15 death~~[,]~~; and

16 (4) To or for a grandchild, brother, or sister, for the
17 period in which ~~[he or she]~~ that grandchild, brother,
18 or sister remains actually and wholly dependent until
19 attainment of the age of eighteen or termination of
20 the incapability of self-support.



1 (b) The aggregate weekly benefits payable on account of
2 any one death shall not exceed the product of [~~312~~] three
3 hundred twelve times the effective maximum weekly benefit rate
4 prescribed in section 386-31, but this limitation shall not
5 apply with respect to benefits to a surviving spouse or
6 reciprocal beneficiary who is physically or mentally incapable
7 of self-support and unmarried as long as [~~he or she~~] that
8 surviving spouse or reciprocal beneficiary remains in that
9 condition and to benefits to a child and to benefits to an
10 unmarried child over eighteen incapable of self-support as long
11 as [~~he or she~~] that unmarried child is otherwise entitled to
12 [~~such~~] compensation."

13 SECTION 16. Section 392-3, Hawaii Revised Statutes, is
14 amended by amending the definition of "benefit year" to read as
15 follows:

16 ""Benefit year" with respect to any individual means the
17 one-year period beginning with the first day of the first week
18 of disability with respect to which the individual first files a
19 valid claim for temporary disability benefits. A subsequent
20 benefit year is the one-year period following a preceding
21 benefit year, beginning either [~~(A)~~] with the first [~~day~~]:



- 1 (1) Day of the first week of disability with respect to
2 which the individual files a subsequent claim for
3 temporary disability benefits[~~7~~]; or [~~(B)~~ ~~with the~~
4 ~~first workday~~]
- 5 (2) Workday following the expiration of the preceding
6 benefit year if a disability for which temporary
7 disability benefits are payable during the last week
8 of the preceding benefit year continues and the
9 individual is eligible for further benefit payments."

10 SECTION 17. Section 460J-2, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) There shall be a pest control board of nine members.
13 Six members of the board shall be appointed by the governor; of
14 which four shall have been for a period of not less than five
15 years preceding the date of their appointment, licensed pest
16 control operators actively engaged in the business of pest
17 control; and two shall be public members. Three members of the
18 board shall serve on an ex officio, voting basis: the
19 chairperson of the board of agriculture or the chairperson's
20 representative, the director of health or the director's
21 representative, and the chairperson of the department of



1 [entomology] plant and environmental protection sciences of the
2 college of tropical agriculture and human resources of the
3 University of Hawaii or the chairperson's representative. No
4 two members of the board shall be employed by or associated with
5 the same business firm engaged in pest control."

6 SECTION 18. Section 601-2, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) The chief justice shall possess the following powers,
9 subject to rules as may be adopted by the supreme court:

10 (1) To assign circuit judges from one circuit to another;

11 (2) In a circuit court with more than one judge, [~~A~~] to
12 make:

13 (A) Make assignments of calendars among the circuit
14 judges for a period as the chief justice may
15 determine and, as deemed advisable from time to
16 time, to change assignments of calendars or
17 portions thereof (but not individual cases) from
18 one judge to another~~[7]~~; and [~~B~~ to appoint]

19 (B) Appoint one of the judges, for a period as the
20 chief justice may determine, as the
21 administrative judge to manage the business of



- 1 the court, subject to the rules of the supreme
2 court and the direction of the chief justice;
- 3 (3) To prescribe for all of the courts a uniform system of
4 keeping and periodically reporting statistics of their
5 business;
- 6 (4) To procure from all of the courts estimates for their
7 appropriations; with the cooperation of the
8 representatives of the court concerned, to review and
9 revise them as the chief justice deems necessary for
10 equitable provisions for the various courts according
11 to their needs and to present the estimates, as
12 reviewed and revised by the chief justice, to the
13 legislature as collectively constituting a unified
14 budget for all of the courts;
- 15 (5) To exercise exclusive authority over the preparation,
16 explanation, and administration of the judiciary
17 budget, programs, plans, and expenditures, including
18 without limitation policies and practices of financial
19 administration and the establishment of guidelines as
20 to permissible expenditures, provided that all
21 expenditures of the judiciary shall be in conformance



1 with program appropriations and provisions of the
2 legislature, and all powers of administration over
3 judiciary personnel that are specified in title 7; and
4 (6) To do all other acts that may be necessary or
5 appropriate for the administration of the judiciary."

6 SECTION 19. Section 603-21.7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§603-21.7 Nonjury cases.** The several circuit courts
9 shall have jurisdiction, without the intervention of a jury
10 except as provided by statute, as follows:

11 [~~(a)~~] (1) Of actions or proceedings:

12 [~~(1)~~] (A) For the determination and declaration of
13 heirs of deceased persons, which jurisdiction
14 shall be in addition to the probate jurisdiction
15 of the court;

16 [~~(2)~~] (B) For the admeasurement of dower and curtesy,
17 or the partition of real estate; and

18 [~~(3)~~] (C) For enforcing and regulating the execution
19 of trusts, whether the trusts relate to real or
20 personal estate, for the foreclosure of
21 mortgages, for the specific performance of



1 contracts, and except when a different provision
2 is made, they shall have original and exclusive
3 jurisdiction of all other cases in the nature of
4 suits in equity, according to the usages and
5 principles of courts of equity; and

6 [~~(b)~~] (2) Of actions or proceedings in or in the nature of
7 habeas corpus, prohibition, mandamus, quo warranto,
8 and all other proceedings in or in the nature of
9 applications for writs directed to courts of inferior
10 jurisdiction, to corporations and individuals, as may
11 be necessary to the furtherance of justice and the
12 regular execution of the law."

13 SECTION 20. Section 603-36, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§603-36 Actions and proceedings, where to be brought.**

16 Actions and proceedings of a civil nature within the
17 jurisdiction of the circuit courts shall be brought as follows:

- 18 (1) Actions described in section [~~603-21.5(2)~~]
19 603-21.5(a)(2) shall be brought in the circuit where
20 it is alleged the penalty or forfeiture was incurred;



- 1 (2) Actions in the nature of ejectment or trespass quare
2 clausum fregit or to quiet title to or partition real
3 property shall be brought in the circuit in which the
4 real property in question is situated; provided that
5 if the real property, partition of which is sought,
6 lies in more than one circuit, the action may be
7 brought in any circuit in which the [~~same~~] real
8 property or any part thereof is situated;
- 9 (3) Proceedings concerning trusts and the estates of
10 decedents, missing persons, protected persons, minors,
11 and incapacitated persons[~~r~~] shall be brought as
12 prescribed by chapter 560;
- 13 (4) Applications for writs directed to courts of inferior
14 jurisdiction or for writs of quo warranto[~~r~~] shall be
15 made in the circuit in which the alleged occasion for
16 relief by any such writ arises; provided that in case
17 any such writ is necessary in the prosecution or
18 furtherance of any action or proceeding already begun
19 or pending before any circuit court, the court before
20 which the action or proceeding has been begun or is



1 pending may issue the writ even though the alleged
2 occasion for relief arose in another circuit; and
3 (5) Actions other than those specified [~~above~~] in
4 paragraphs (1) to (4) shall be brought in the circuit
5 where the claim for relief arose or where the
6 defendant is domiciled; provided if there is more than
7 one defendant, then the action shall be brought in the
8 circuit in which the claim for relief arose unless a
9 majority of the defendants are domiciled in another
10 circuit, whereupon the action may be brought in the
11 circuit where the majority of the defendants are
12 domiciled."

13 SECTION 21. Section 606-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§606-4 Custody; disposition of exhibits.** (a) The clerks
16 of the supreme[~~7~~] court, intermediate appellate court,
17 circuit[~~7~~] courts, and district courts shall have the custody of
18 all records, books, papers, moneys, exhibits, and other things
19 pertaining to their respective courts.

20 (b) The attorney of the party who introduced the exhibits
21 or things in evidence or left them in the custody of the court,



1 or the party, if not represented by any attorney, shall remove
2 them from the court within six months after the final
3 termination of the action to which the exhibits or things are
4 related. The clerks shall have the authority and power, upon
5 the written approval of a judge of the court given in particular
6 actions or proceedings, to sell, destroy, or otherwise dispose
7 of exhibits and things marked for identification, other than
8 original files belonging to other actions, which have come into
9 their possession or custody under this section, when [~~such~~]
10 those exhibits or things have not been already removed by their
11 owners or by the attorneys representing the owners and when more
12 than six months has elapsed since the final termination of the
13 action to which the exhibits or things are related.

14 (c) All moneys received from sales under this section
15 shall be forthwith deposited with the state director of finance
16 as government realizations."

17 SECTION 22. Section 607-8, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Anything in this section or any other law to the
20 contrary notwithstanding, when any process or subpoena is served



1 by a subordinate of the sheriff or chief of police, it shall be
2 illegal for the sheriff or chief of police:

3 (1) [~~if~~] If and so long as the sheriff or chief of police
4 is being paid a salary by the State or the county, to
5 receive or collect from the subordinate any portion of
6 the fees, mileage, or other expenses collected by the
7 subordinate[~~;~~]; or

8 (2) [~~if~~] If and so long as the sheriff or chief of police
9 is not being paid any salary, to collect or receive
10 from the subordinate more than ten per cent of the
11 fees accruing from the service, or any portion of the
12 mileage or other expenses collected by the
13 subordinate.

14 Where a subpoena is served in behalf of the State or any county
15 by a nonsalaried subordinate of the sheriff or chief of police,
16 the regular fee for the service shall be payable to the
17 subordinate. Nothing in this section shall be deemed to
18 prohibit the police commission of any county from requiring that
19 all fees, mileage, and expenses be paid into a police benefit
20 fund."



1 SECTION 23. Section 607-14.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§607-14.7[+] **Attorney's fees, costs, and expenses;**
4 **judgment creditors.** In addition to any other attorney's fees,
5 costs, and expenses which may or are required to be awarded, and
6 notwithstanding any law to the contrary, the court in any civil
7 action may award to a judgment creditor, from a judgment debtor,
8 reasonable attorney's fees, costs, and expenses incurred by the
9 judgment creditor in obtaining or attempting to obtain
10 satisfaction of a money judgment, whether by execution,
11 examination of judgment debtor, garnishment, or otherwise. The
12 court may award attorney's fees [~~which~~] that it determines [~~is~~]
13 are reasonable, but shall not award fees in excess of the
14 following schedule:

15 (1) [~~25~~] Twenty-five per cent on the first \$1,000 or
16 fraction thereof[~~-~~];

17 (2) [~~20~~] Twenty per cent on the second \$1,000 or fraction
18 thereof[~~-~~];

19 (3) [~~15~~] Fifteen per cent on the third \$1,000 or fraction
20 thereof[~~-~~];



- 1 (4) [~~10~~] Ten per cent on the fourth \$1,000 or fraction
2 thereof[~~-~~];
- 3 (5) [~~5~~] Five per cent on the fifth \$1,000 or fraction
4 thereof[~~-~~]; and
- 5 (6) 2.5 per cent on any amount in excess of \$5,000.

6 The [~~above~~] fees shall be assessed on the amount of judgment,
7 exclusive of costs and all other attorney's fees."

8 SECTION 24. Section 607-21, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§607-21 Expense of bond.** Any receiver, assignee,
11 guardian, trustee, committee, personal representative,
12 commissioner, or other fiduciary required by law or the order of
13 any court to give a bond, or other obligation as such, may
14 include as a part of the lawful and chargeable expense of
15 executing [~~his~~] the individual's trust [~~such~~] a reasonable sum,
16 to be paid a company authorized under the laws of the State to
17 become surety on [~~such~~] the bond or obligation[~~-~~] for becoming
18 [~~his~~] the individual's surety thereon, as may be allowed by the
19 court in which [~~he~~] the individual is required to account, not
20 exceeding one per cent a year on the amount of the bond."



1 SECTION 25. Section 624-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§624-41 Action for. (a) A person who, before action,
4 ~~[is desirous of perpetuating his]~~ desires to perpetuate the
5 person's own testimony or the testimony of any other person, may
6 proceed in accordance with the rules of court or may bring a
7 civil action in the circuit court of any circuit in which it is
8 fair and equitable to the parties that the matter be heard,
9 setting forth:

- 10 (1) ~~[that]~~ That the plaintiff expects to be a party to an
11 action cognizable in a court of this State but is
12 presently unable to bring it or cause it to be
13 brought~~[.]~~;
- 14 (2) ~~[the]~~ The subject matter of the expected action and
15 ~~[his]~~ the plaintiff's interest therein~~[.]~~;
- 16 (3) ~~[the]~~ The facts which ~~[he]~~ the plaintiff desires to
17 establish by the proposed testimony and ~~[his]~~ the
18 plaintiff's reasons for desiring to perpetuate it~~[.]~~;
- 19 (4) ~~[the]~~ The names of the persons ~~[he]~~ the plaintiff
20 expects will be adverse parties and their
21 addresses~~[.]~~; and



1 (5) ~~[the]~~ The names and addresses of the persons to be
2 examined and the substance of the testimony ~~[which he]~~
3 that the plaintiff expects to elicit from each; and
4 praying for an order authorizing the plaintiff to take the
5 depositions of the persons to be examined named in the action,
6 for the purpose of perpetuating their testimony.

7 (b) Personal service shall be made on the expected adverse
8 parties as in other civil actions. In case service cannot be
9 made in the State, service may be made as provided by sections
10 634-24 and 634-25, but if an action is brought under this
11 section, service shall not be made by publication."

12 SECTION 26. Section 633-34, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§633-34 Award of costs.** In any action pursuant to this
15 chapter, the award of costs is in the discretion of the court,
16 which may include therein the reasonable cost of bonds and
17 undertakings, and other reasonable expenses incident to the
18 action, incurred by either party. No attorneys' fees or
19 commissions shall be allowed or awarded under ~~[sections]~~ section
20 607-14 ~~[and 607-17]~~ by any judgment of the small claims
21 division."



1 SECTION 27. Section 634-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§634-23 Joinder of unknown persons; service when**
4 **defendant unknown or absent.** Where an action or proceeding
5 involves or concerns any property, tangible or intangible,
6 within the jurisdiction of a circuit court, or any legal or
7 equitable estate, right or interest, vested or contingent, in
8 any such property, or any status or res within the jurisdiction
9 of a circuit court:

10 (1) Any person having a claim, interest, or concern so as
11 to be a necessary or proper party, who cannot be
12 identified or whose name is unknown to the plaintiff,
13 may be made party to the action or proceeding as
14 provided by the rules of court[-];

15 (2) If a defendant is unknown or does not reside within
16 the State or if, after due diligence, the defendant
17 cannot be served with process within the State, and
18 the facts shall appear by affidavit to the
19 satisfaction of the court, it may order that service
20 be made as provided by section 634-24 or by
21 publication, as may be appropriate; provided that



1 service by publication shall not be valid unless~~[7]~~ it
2 is shown to the satisfaction of the court that service
3 cannot be made as provided by section 634-24. The
4 affidavit required by this paragraph shall set forth
5 facts based upon the personal knowledge of the affiant
6 concerning the methods, means, and attempts made to
7 locate and effect personal service on the defendant
8 and any other pertinent facts~~[-]~~;

- 9 (3) Service by publication shall be made in at least one
10 newspaper published in the State and having a general
11 circulation in the circuit in which the action or
12 proceeding has been instituted, in ~~[such]~~ a manner and
13 for ~~[such]~~ a time as the court may order, but not less
14 than once in each of four successive weeks, the last
15 publication to be not less than twenty-one days prior
16 to the return date stated therein unless a different
17 time is prescribed by order of the court. If the
18 action or proceeding concerns real property, the court
19 shall order additional notice by posting a copy of the
20 summons upon the property~~[-]~~;



1 (4) Any adjudication [~~shall~~], as regards a defendant
2 served by publication pursuant to this section, or
3 served as provided by section 634-24, shall affect
4 only the property, status or res which is the subject
5 of the action, unless the:

6 (A) [~~the defendant~~] Defendant appears in the action
7 and defends on the merits, in which case the
8 defendant shall be liable to a personal judgment
9 with respect to the claim so defended, including
10 in the case of a foreclosure action a deficiency
11 judgment[~~r~~]; or

12 (B) [~~the service~~] Service is authorized by section
13 634-25 or other provision of law, in which case
14 the defendant shall be liable to any judgment
15 authorized by [~~such~~] that law[~~-~~]; and

16 (5) Nothing [~~herein contained~~] in this section limits or
17 affects the right to serve any process in any other
18 manner now or hereafter provided by law or rule of
19 court."

20 SECTION 28. Section 634-30, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§634-30[+] Organizations and associations, service of
2 **process on; judgment.** When two or more persons associate and
3 act, whether for profit or not, under a common name, including
4 associating and acting as a labor organization or employer
5 organization, whether the common name comprises the names of the
6 persons or not, they may sue in or be sued by the common name,
7 and the process shall be served on any officer, trustee, or
8 agent of the association if [~~he~~] an officer, trustee, or agent
9 can be found, or if no [~~such~~] officer, trustee, or agent can be
10 found as shown by the return of the serving officer, then upon
11 any one or more members of the association, or as otherwise
12 provided by rule of court. Any such service constitutes service
13 upon the association. The judgment in [~~such~~] those cases shall
14 accrue to the joint or common benefit of and bind the joint or
15 common property of the association, the same as though all
16 members had been named as parties to the action. No judgment
17 shall be enforceable against any [~~individual~~] person or [~~his~~]
18 the person's individual assets unless the:

19 (1) [~~he~~] Person has been joined and served as an
20 individual party to the action[~~r~~]; or



1 (2) [~~the judgment~~] Judgment is so enforceable pursuant to
2 section 634-3[~~7~~] or any other law."

3 SECTION 29. Section 634-32, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[~~f~~]~~**\$634-32**~~[~~f~~]~~ **Other laws not affected.** Nothing contained
6 in sections 634-30 and 634-31 shall be construed to amend or
7 repeal chapter 425 or [~~433~~] 432, article 1, or section 634-3."

8 SECTION 30. Section 635-12, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) Whenever provision is made by statute for waiver of a
11 jury, the same shall not be deemed to preclude trial by jury
12 when, in accordance with the rules of court[~~7~~]:

13 (1) [~~an~~] An order of the court relieves a party from the
14 party's waiver[~~7~~]; or

15 (2) [~~approval~~] Approval of or consent to the waiver is
16 required in a criminal case and has not been given."

17 SECTION 31. Section 651-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**\$651-2 Writ; issued when.** The plaintiff, in any action
20 upon a contract, express or implied, [~~may~~] at the time of
21 commencing the action, or at any time afterward before judgment,



1 may have the property of the defendant, or that of any one or
2 more of several defendants, which is not exempt from execution,
3 attached in the manner hereinafter prescribed, as security for
4 the satisfaction of [~~such~~] any judgment [~~as~~] that the plaintiff
5 may recover, but no writ of attachment shall be issued:

- 6 (1) [~~against~~] Against the State, or any political
7 municipal corporation, or subdivision thereof[~~7~~]; or
8 (2) [~~in~~] In circumstances where garnishment is authorized
9 under chapter 652."

10 SECTION 32. Section 651-91, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§651-91 Definitions.** As used in this subpart:

13 [~~(1)~~] "Head of a family" includes within its meaning:

14 [~~(A)~~] (1) A man and woman when married, except as provided
15 in section 651-93[~~7~~];

16 [~~(B)~~] (2) Every individual who is residing on the real
17 property and who has under [~~his or her~~] that
18 individual's care or maintenance, either:

19 [~~(i)~~] (A) [~~His or her~~] That individual's minor child,
20 or minor grandchild, or the minor child of [~~his~~



1 ~~or her~~] that individual's deceased wife or
2 husband;

3 [~~(ii)~~] (B) A minor brother or sister, or the minor
4 child of a deceased brother or sister;

5 [~~(iii)~~] (C) A father, mother, grandfather, or
6 grandmother;

7 [~~(iv)~~] (D) The father, mother, grandfather, or
8 grandmother of a deceased husband or wife; or

9 [~~(v)~~] (E) An unmarried brother, sister, or any other
10 of the relatives mentioned in this
11 [~~subparagraph,~~] paragraph who have attained the
12 age of majority[~~;~~]; and

13 [~~(C)~~] (3) Head of household as defined in section 2(b) of
14 the Internal Revenue Code of 1954, as amended.

15 [~~(2)~~] "Long-term lease" means a lease for twenty years or
16 more.

17 [~~(3)~~] "Owner" means an individual who has an interest in
18 real property.

19 [~~(4)~~] "Person" means any individual under sixty-five years
20 of age other than the head of a family.



1 [-(5)] "Real property" consists of the dwelling house in
2 which the owner resides and one parcel of land not to exceed one
3 acre, upon which it is situated together with other buildings
4 thereon. This parcel may be in fee simple or any other interest
5 in real property which vests the immediate right of possession,
6 even though [~~such~~] the immediate right of possession is not
7 exclusive, and includes land held under long-term lease,
8 ownership rights in a condominium or stock cooperative unit."

9 SECTION 33. Section 651-124, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§651-124 Pension money exempt.** The right of a debtor to
12 a pension, annuity, retirement or disability allowance, death
13 benefit, any optional benefit, or any other right accrued or
14 accruing under any retirement plan or arrangement described in
15 section 401(a), 401(k), 403(a), 403(b), 408, 408A, 409 (as in
16 effect prior to January 1, 1984), 414(d), or 414(e) of the
17 Internal Revenue Code of 1986, as amended, or any fund created
18 by the plan or arrangement, or any ABLE savings account
19 established pursuant to chapter 256B, shall be exempt from
20 attachment, execution, seizure, the operation of bankruptcy or
21 insolvency laws under 11 United States Code section 522(b), or



1 under any legal process whatever. However, this section shall
2 not apply to:

- 3 (1) A "qualified domestic relations order" as defined in
4 section 206(d) of the Employee Retirement Income
5 Security Act of 1974, as amended, or in section 414(p)
6 of the Internal Revenue Code of 1986, as amended; and
7 (2) Contributions made to a plan or arrangement within the
8 three years before the date a debtor files for
9 bankruptcy, whether voluntary or involuntary, or
10 within three years before the date a civil action is
11 initiated against the debtor, except for contributions
12 to a retirement plan established by state statute if
13 the effect would be to eliminate a state employee's
14 retirement service credit."

15 SECTION 34. Section 652-8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§652-8 Execution, when.** If the garnishee fails to appear
18 upon the day and hour of hearing named in the summons or writ
19 above mentioned, or if having appeared, [~~he~~] the garnishee
20 refuses to disclose upon oath whether [~~he~~] the garnishee has
21 goods or effects of the defendant debtor in [~~his~~] the



1 garnishee's hands, and their nature and value, or whether a debt
2 is due from [~~him~~] the garnishee to the defendant debtor and its
3 amount, or whether [~~he~~] the garnishee has any moneys of the
4 defendant debtor in [~~his~~] the garnishee's possession for
5 safekeeping, and the amount thereof, the case shall proceed to
6 trial. If the plaintiff recovers a judgment, execution shall
7 issue at [~~his~~] the plaintiff's request, against the estate of
8 the contumacious garnishee for the amount of judgment as [~~his~~]
9 the garnishee's own proper debt, and the lawful costs; provided
10 that if it appears that the goods and effects are of less value,
11 the debt of less amount and the moneys in safekeeping of less
12 amount than the judgment recovered against the defendant debtor,
13 judgment shall be rendered against the garnishee to the value of
14 the goods or the amount of the debt or the amount of the moneys
15 in safekeeping, and if it appears that the garnishee has no
16 goods or effects of the defendant debtor in [~~his~~] the
17 garnishee's hands, or is not indebted to [~~him,~~] the defendant
18 debtor, or has no moneys in [~~his~~] the garnishee's possession for
19 safekeeping, then [~~he~~] the garnishee shall recover [~~his~~] the
20 garnishee's lawful costs. However, if [~~he~~] the garnishee
21 appears and on oath discloses fully whether [~~he~~] the garnishee



1 has in [~~his~~] the garnishee's hands the goods or effects of the
2 defendant debtor, or is indebted to the defendant debtor, or has
3 in [~~his~~] the garnishee's possession moneys of the defendant
4 debtor for safekeeping, and it appears to the court that [~~he~~]
5 the garnishee has no [~~such~~] goods or effects[~~r~~] of the defendant
6 debtor, or is not so indebted, or has no [~~such~~] moneys of the
7 defendant debtor for safekeeping, then judgment shall be given
8 for [~~him,~~] the garnishee, and [~~he~~] the garnishee shall recover
9 [~~his~~] the garnishee's lawful costs."

10 SECTION 35. Section 657-32, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§657-32 How computed.** If the right first accrued to any
13 ancestor or predecessor of the person bringing the action or
14 making the entry, or to any persons from, by, or under whom [~~he~~]
15 the person bringing the action or making the entry claims, the
16 twenty years shall be computed from the time when the right
17 first accrued to the ancestor, predecessor, or other persons."

18 SECTION 36. Section 657-33, Hawaii Revised Statutes, is
19 amended to read as follows:



1 "§657-33 **Action accrues when.** In the construction of this
2 part, the right to make an entry or commence an action[7] shall
3 be deemed to have first accrued at the following times:

4 (1) When any person is disseised, [~~his~~] that person's
5 right of entry or action shall be deemed to have
6 accrued at the time of the disseisin[-];

7 (2) When [~~he~~] any person claims as heir or devisee of one
8 who died seised, [~~his~~] that person's right shall be
9 deemed to have accrued at the time of the death,
10 unless there is an estate by the curtesy or in dower,
11 or some other estate intervening after the death of
12 [~~such~~] the ancestor or devisor, in which case [~~his~~]
13 that person's right shall be deemed to have accrued
14 when the intermediate estate shall expire, or when it
15 would have expired by its own limitation[-];

16 (3) Where there is [~~such~~] an intermediate estate, and in
17 all other cases, where a party claims in remainder, or
18 reversion, [~~his~~] that party's right so far as it is
19 affected by the limitation herein prescribed, shall be
20 deemed to accrue when the intermediate or precedent
21 estate would have expired by its own limitation,



1 notwithstanding any forfeiture thereof, for which [~~he~~]
2 that party might have entered at an earlier time[~~-~~];

3 (4) Paragraph (3) shall not prevent any person from
4 entering, when entitled to do so, by reason of any
5 forfeiture or breach of condition, but if [~~he~~] a
6 person claims under such a title, [~~his~~] that person's
7 right shall be deemed to have accrued when the
8 forfeiture was incurred or condition broken[~~-~~]; and

9 (5) In the cases not otherwise specially provided for, the
10 right shall be deemed to have accrued when the
11 claimant, or the person under whom [~~he~~] the claimant
12 claims, first became entitled to the possession of the
13 premises under the title upon which the entry or
14 action is founded."

15 SECTION 37. Section 657-35, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§657-35 Extension of time by death.** If the person first
18 entitled to make the entry or bring the action dies during the
19 continuance of any of the disabilities mentioned in section 657-
20 34, the entry may be made or the action brought by [~~his~~] that
21 person's heirs, or any other person claiming from, by, or under



1 [him,] the person first entitled to make the entry or bring the
2 action, at any time within five years after [his] that person's
3 death, notwithstanding the twenty years have expired."

4 SECTION 38. Section 658D-4, Hawaii Revised Statutes, is
5 amended as follows:

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

7 "(a) This chapter shall apply only to the arbitration,
8 mediation, or conciliation of disputes between:

9 (1) Two or more persons at least one of whom is a
10 nonresident of the United States; or

11 (2) Two or more persons all of whom are residents of the
12 United States if the dispute:

13 [~~(i)~~] (A) Involves property located outside the United
14 States;

15 [~~(ii)~~] (B) Relates to a contract which envisages
16 enforcement or performance in whole or in part
17 outside the United States; or

18 [~~(iii)~~] (C) Bears some other relation to one or more
19 foreign countries."

20 2. By amending subsection (d) to read:



1 "(d) This chapter shall apply to any arbitration within
2 the scope of this chapter, without regard to whether the place
3 of arbitration is within or without this State:

4 (1) If the written undertaking to arbitrate expressly
5 provides that the law of this State shall apply; [~~or~~]

6 (2) In the absence of a choice of law provision applicable
7 to the written undertaking to arbitrate, if that
8 undertaking forms part of a contract the
9 interpretation of which is to be governed by the laws
10 of this State; or

11 (3) In any other case, if any arbitral tribunal or other
12 panel established pursuant to section 658D-7 [~~below~~]
13 decides under applicable conflict of laws principles
14 that the arbitration shall be conducted in accordance
15 with the laws of this State."

16 SECTION 39. Section 660-20, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§660-20 Body to be produced, except when.** The person
19 making the return to a writ of habeas corpus shall bring the
20 body of the person, if in [~~his~~] the custody or power[~~7~~] of the
21 person making the return, or under [~~his~~] the restraint or



1 control[~~r~~] of the person making the return, according to the
2 command in the writ, unless prevented by the sickness or
3 infirmity of the person. This shall not prevent the person
4 making the return, if a private person, from demanding in
5 advance actual necessary expenses of travel and transportation."

6 SECTION 40. Section 660-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§660-23 Evading service, penalties.** The liabilities and
9 penalties of section 660-22 shall also be imposed upon any
10 person who, having in [~~his~~] that person's custody or under [~~his~~]
11 that person's power any person entitled to a writ of habeas
12 corpus, with intent to elude the service of the writ or to avoid
13 the effect thereof, transfers [~~such~~] the person to the custody
14 or places [~~him~~] the person under the control or power of any
15 other person, or conceals [~~him~~] the person or changes [~~his~~] the
16 person's place of confinement."

17 SECTION 41. Section 660-25, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§660-25 Notice to other parties, when.** If the person is
20 detained on any process under which any other person has an
21 interest in [~~his~~] the person's detention, and the other person



1 or [~~his~~] the other person's attorney is within the State and can
2 be notified without unreasonable delay, the person detained
3 shall not be discharged until the other person or [~~his~~] the
4 other person's attorney has had an opportunity to be heard."

5 SECTION 42. Section 661-1, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§661-1 Jurisdiction.** The several circuit courts of the
8 State and, except as otherwise provided by statute or rule, the
9 several state district courts [~~shall~~], subject to appeal as
10 provided by law, shall have original jurisdiction to hear and
11 determine the following matters, and, unless otherwise provided
12 by law, shall determine all questions of fact involved without
13 the intervention of a jury[-]:

14 (1) All claims against the State founded upon any statute
15 of the State; [~~or~~] upon any [~~regulation~~] rule of an
16 executive department; or upon any contract, expressed
17 or implied, with the State, and all claims which may
18 be referred to any such court by the legislature;
19 provided that no action shall be maintained, nor shall
20 any process issue against the State, based on any
21 contract or any act of any state officer which the



1 officer is not authorized to make or do by the laws of
2 the State, nor upon any other cause of action than as
3 herein set forth~~[-]~~; and

4 (2) All counterclaims, whether liquidated or unliquidated,
5 or other demands whatsoever on the part of the State
6 against any person making claim against the State
7 under this ~~[chapter.]~~ part."

8 SECTION 43. Section 661-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§661-3 No jurisdiction, when.** No person shall file or
11 prosecute under this ~~[chapter]~~ part any claim for or in respect
12 to which ~~[he]~~ that person or any assignee of ~~[his]~~ that person
13 has pending an action against a person who, at the time when the
14 claim alleged in the action arose, was, in respect thereto,
15 acting or professing to act, directly or indirectly, under the
16 authority of the State."

17 SECTION 44. Section 661-4, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§661-4 Action by alien, when.** Aliens who are citizens or
20 subjects of a government which accords to citizens of this State
21 the right to prosecute claims against ~~[such]~~ that government in



1 its courts shall have the privilege of prosecuting claims
2 against the State under this [~~chapter~~] part."

3 SECTION 45. Section 661-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§661-5 Limitations on action.** Every claim against the
6 State, cognizable under this [~~chapter~~] part, shall be forever
7 barred unless the action is commenced within two years after the
8 claim first accrues; provided that the claims of persons under
9 legal disability shall not be barred if the action is commenced
10 within one year after the disability has ceased."

11 SECTION 46. Section 661-11, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§661-11 Tort claims against State where covered by**
14 **insurance.** (a) This section applies to an action where:

15 (1) [~~the~~] The State is a party defendant;

16 (2) [~~the~~] The subject matter of the claim is covered by a
17 primary insurance policy entered into by the State or
18 any of its agencies; and

19 (3) [~~chapter~~] Chapter 662 does not apply.

20 No defense of sovereign immunity shall be raised in an action
21 under this section. However, the State's liability under this



1 section shall not exceed the amount of, and shall be defrayed
2 exclusively by, the primary insurance policy.

3 (b) An action under this section shall not be subject to
4 sections 661-1 to 661-10."

5 SECTION 47. Section 663-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§663-8 Damages, future earnings.** Together with other
8 damages which may be recovered by law, the legal representative
9 of the deceased person may recover where applicable under
10 section 663-7 the future earnings of the decedent in excess of
11 the probable cost of the decedent's own maintenance and the
12 provision the decedent would have made for [~~his or her~~] the
13 decedent's actual or probable family and dependents during the
14 period of time the decedent would have likely lived but for the
15 accident."

16 SECTION 48. Section 663-17, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) A pleader may either:

19 (1) [~~state~~] State as a cross-claim against a coparty any
20 claim that the coparty is or may be liable to the



1 cross-claimant for all or part of a claim asserted in
2 the action against the cross-claimant; or

3 (2) [~~move~~] Move for judgment for contribution against any
4 other joint judgment debtor, where in a single action
5 a judgment has been entered against joint tortfeasors,
6 one of whom has discharged the judgment by payment or
7 has paid more than the joint tortfeasor's pro rata
8 share thereof.

9 If relief can be obtained as provided in this [~~paragraph~~]
10 subsection, no independent action shall be maintained to enforce
11 the claim for contribution."

12 SECTION 49. Section 668-8.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§668-8.5 Adverse claimants.** Unless the action is
15 combined with an action under chapter 669, a person who has not
16 appeared and who claims to hold by title paramount to that under
17 which the plaintiff claims as a cotenant shall not be concluded
18 by the judgment, but may maintain an action asserting [~~his~~] that
19 person's title against any or all of the parties, or persons
20 holding under them, within the time in which [~~he~~] that person



1 might have brought [~~such~~] the action if the action for partition
2 had not been filed."

3 SECTION 50. Section 835-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§835-1 Material witness order; defined.** A material
6 witness order is a court order:

7 (1) [~~adjudging~~] Adjudging a person a material witness in a
8 pending criminal action; and

9 (2) [~~fixing~~] Fixing bail to secure the person's future
10 attendance thereat."

11 SECTION 51. Act 98, Session Laws of Hawaii 2012, section
12 3, as amended by Act 102, Session Laws of Hawaii 2015, section
13 4, is amended to read as follows:

14 "SECTION 3. This Act shall take effect upon its approval,
15 and shall be repealed on July 1, 2019; provided that section 46-
16 15.1, Hawaii Revised Statutes, shall be reenacted pursuant to
17 section 3 of Act 141, Session Laws of Hawaii 2009, and section
18 [~~41~~] 23 of Act 96, Session Laws of Hawaii 2014."

19 SECTION 52. Act 232, Session Laws of Hawaii 2013, is
20 amended by amending section 6 to read as follows:



1 "SECTION 6. This Act shall take effect upon its
2 approval[-]; provided that the amendments made to section
3 334-59(a), Hawaii Revised Statutes, by this Act shall not be
4 repealed when that section is reenacted on July 1, 2020,
5 pursuant to section 24 of Act 221, Session Laws of Hawaii 2013."

6 SECTION 53. Act 55, Session Laws of Hawaii 2014, is
7 amended by amending section 5 to read as follows:

8 "SECTION 5. This Act shall take effect upon its
9 approval[-]; provided that the amendments made to section
10 205-4.5(a), Hawaii Revised Statutes, by this Act shall not be
11 repealed when that section is reenacted on June 30, 2019,
12 pursuant to section 3 of Act 52, Session Laws of Hawaii 2014."

13 SECTION 54. Act 111, Session Laws of Hawaii 2015, is
14 amended by amending section 5 to read as follows:

15 "SECTION 5. This Act shall take effect on July 1, 2015[~~+~~
16 ~~provided that this Act]~~ and shall be repealed on July 1,
17 2020[-]; provided that section 302D-34, Hawaii Revised Statutes,
18 shall be reenacted in the form in which it read on June 30,
19 2015."

20 SECTION 55. Act 114, Session Laws of Hawaii 2015, is
21 amended by amending section 14 to read as follows:



1 "SECTION 14. This Act shall take effect upon its
 2 approval[-]; provided that the amendments made to section
 3 302D-34, Hawaii Revised Statutes, by this Act shall not be
 4 repealed when that section is reenacted on July 1, 2020,
 5 pursuant to section 5 of Act 111, Session Laws of Hawaii 2015,
 6 as amended."

7 SECTION 56. Act 235, Session Laws of Hawaii 2015, is
 8 amended by amending section 6 to read as follows:

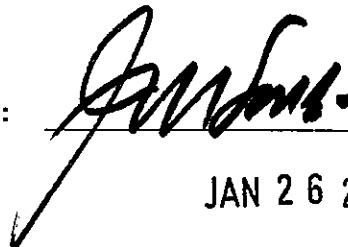
9 "SECTION 6. Notwithstanding section 432D-23, Hawaii
 10 Revised Statutes, the coverage and benefit for autism to be
 11 provided by a health maintenance organization under section [4]
 12 5 of this Act shall apply to all policies, contracts, plans, or
 13 agreements issued or renewed in this State by a health
 14 maintenance organization after January 1, 2016."

15 SECTION 57. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 58. This Act shall take effect upon its approval;
 18 provided that section 18 of this Act shall take effect on July
 19 1, 2016.

20

INTRODUCED BY:



JAN 26 2016



H.B. NO. 2448

Report Title:

Revision Bill

Description:

Amends various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the purposes of correcting errors and references, clarifying language, and deleting obsolete or unnecessary provisions.

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

