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## A BILL FOR AN ACT

RELATING TO ANIMALS.

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

1           SECTION 1. The purpose of this Act is to strengthen the  
2 well-being and protection of pet animals by addressing their  
3 support and maintenance and custody when their owners are  
4 undergoing annulment, divorce, or separation proceedings.

5           SECTION 2. Chapter 580, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8           "§580- Definitions. As used in this chapter, unless  
9 the context otherwise requires:

10           "Pet animal" has the same meaning as in section 711-1100."

11           SECTION 3. Section 580-10, Hawaii Revised Statutes, is  
12 amended as follows:

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

14           "(a) When a complaint for annulment, divorce, or  
15 separation is filed in this State, on an application by either  
16 party, supported by affidavit or a statement made under penalty  
17 of perjury, the court, without a hearing, shall:



1 (1) Order each of the parties to that action to timely  
2 provide to the other party full financial and property  
3 disclosure on forms provided by the court; and

4 (2) Order and restrain each of the parties to that action  
5 from transferring, encumbering, wasting, or otherwise  
6 disposing of any of their property, whether real,  
7 personal, or mixed, including any pet animal belonging  
8 to the parties' household, over and above current  
9 income, except as necessary for the ordinary course of  
10 a business or for usual current living expenses,  
11 without the consent and concurrence of the other party  
12 to such action for divorce, or further specific order  
13 of the court. Where restraining orders are issued  
14 against the other party to the action, the non-filing  
15 party shall be served promptly with the financial  
16 restraining order and shall be entitled to a prompt  
17 hearing to show cause why the order should not be  
18 enforced."

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

20 "(d) Whenever it is made to appear to the court after the  
21 filing of any complaint, that there are reasonable grounds to



1 believe that a party thereto may inflict physical abuse upon,  
2 threaten by words or conduct, or harass the other party[-] or  
3 any pet animal belonging to the parties' household, the court  
4 may issue a restraining order to prevent such physical abuse,  
5 threats, or harassment, and shall enjoy in respect thereof the  
6 powers pertaining to a court of equity. Where necessary, the  
7 order may require either or both of the parties involved to  
8 leave the marital residence during the period of the order, and  
9 may also restrain the party to whom it is directed from  
10 contacting, threatening, or physically abusing the children or  
11 other relative of the spouse who may be residing with that  
12 spouse at the time of the granting of the restraining order.  
13 The order may also restrain a party's agents, servants,  
14 employees, attorneys, or other persons in active concert or  
15 participation with the respective party.

16 (1) A knowing or intentional violation of a restraining  
17 order issued pursuant to this section is a  
18 misdemeanor. A person convicted under this section  
19 shall undergo domestic violence intervention at any  
20 available domestic violence program as ordered by the



1 court. The court additionally shall sentence a person  
2 convicted under this section as follows:

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

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

17 Upon conviction and sentencing of the defendant,  
18 the court shall order that the defendant immediately  
19 be incarcerated to serve the mandatory minimum  
20 sentence imposed; provided that the defendant may be  
21 admitted to bail pending appeal pursuant to chapter



1           804. The court may stay the imposition of the  
2 sentence if special circumstances exist.

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

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



1 SECTION 4. Section 580-12, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§580-12 **Sequestration of property.** All property within  
4 the State of a party to a matrimonial action, except for any pet  
5 animal belonging to a party or the parties' household, may by  
6 order of the court be sequestered and applied to the payment of  
7 any allowance in such action by the court for the support and  
8 maintenance of either spouse, for the support and maintenance of  
9 any pet animal belonging to the parties' household, or for the  
10 support, maintenance, and education of minor children, whether  
11 temporary or permanent, where service or notice has been  
12 effected by any of the methods set forth in section 580-3."

13 SECTION 5. Section 580-13, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "§580-13 **Security and enforcement of maintenance and**  
16 **alimony.** Whenever the court makes an order or decree requiring  
17 a spouse to provide for the care, maintenance, and education of  
18 children, or for an allowance to the other spouse, or for the  
19 support and maintenance of any pet animal belonging to the  
20 parties' household, the court may require the person subject to  
21 such order or decree to give reasonable security for such



1 maintenance and allowance. Upon neglect or refusal to give the  
2 security, or upon default of the person subject to such order or  
3 decree and such person's surety to provide the maintenance and  
4 allowance, the court may sequester such person's personal  
5 estate[7] except for any pet animal belonging to the person's  
6 personal estate, and the rents and profits of such person's real  
7 estate, and may appoint a receiver thereof and cause such  
8 person's personal estate and the rents and profits of such  
9 person's real estate to be applied towards such maintenance and  
10 allowance, as to the court shall from time to time seem just and  
11 reasonable."

12 SECTION 6. Section 580-47, Hawaii Revised Statutes, is  
13 amended as follows:

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

15 "(a) Upon granting a divorce, or thereafter if, in  
16 addition to the powers granted in subsections (c) and (d),  
17 jurisdiction of those matters is reserved under the decree by  
18 agreement of both parties or by order of court after finding  
19 that good cause exists, the court may make any further orders as  
20 shall appear just and equitable (1) compelling the parties or  
21 either of them to provide for the support, maintenance, and



1 education of the children of the parties; (2) compelling either  
2 party to provide for the support and maintenance of the other  
3 party[+] or any pet animal belonging to the parties' household;  
4 (3) finally dividing and distributing the estate of the parties,  
5 real, personal, or mixed, whether community, joint, or  
6 separate[+], including any pet animal belonging to a party or  
7 the parties' household; and (4) allocating, as between the  
8 parties, the responsibility for the payment of the debts of the  
9 parties whether community, joint, or separate, and the  
10 attorney's fees, costs, and expenses incurred by each party by  
11 reason of the divorce. In making these further orders, the  
12 court shall take into consideration: the respective merits of  
13 the parties, the relative abilities of the parties, the  
14 condition in which each party will be left by the divorce, the  
15 burdens imposed upon either party for the benefit of the  
16 children or any pet animal of the parties, the concealment of or  
17 failure to disclose income or an asset, or violation of a  
18 restraining order issued under section 580-10(a) or (b), if any,  
19 by either party, and all other circumstances of the case. In  
20 establishing the amounts of child support, the court shall use  
21 the guidelines established under section 576D-7. Provision may





1 be made for the support, maintenance, and education of an adult  
2 or minor child and for the support, maintenance, and education  
3 of an incompetent adult child whether or not the petition is  
4 made before or after the child has attained the age of  
5 majority. In those cases where child support payments are to  
6 continue due to the adult child's pursuance of education, the  
7 agency, three months prior to the adult child's nineteenth  
8 birthday, shall send notice by regular mail to the adult child  
9 and the custodial parent that prospective child support will be  
10 suspended unless proof is provided by the custodial parent or  
11 adult child to the child support enforcement agency, prior to  
12 the child's nineteenth birthday, that the child is presently  
13 enrolled as a full-time student in school or has been accepted  
14 into and plans to attend as a full-time student for the next  
15 semester a post-high school university, college, or vocational  
16 school. If the custodial parent or adult child fails to do so,  
17 prospective child support payments may be automatically  
18 suspended by the child support enforcement agency, hearings  
19 officer, or court upon the child reaching the age of nineteen  
20 years. In addition, if applicable, the agency, hearings  
21 officer, or court may issue an order terminating existing



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

3 In addition to any other relevant factors considered, the  
4 court, in ordering spousal support and maintenance, or support  
5 and maintenance of any pet animal belonging to the parties'  
6 household, shall consider the following factors:

- 7 (1) Financial resources of the parties;
- 8 (2) Ability of the party seeking support and maintenance  
9 to meet his or her needs independently;
- 10 (3) Duration of the marriage;
- 11 (4) Standard of living established during the marriage;
- 12 (5) Age of the parties;
- 13 (6) Physical and emotional condition of the parties;
- 14 (7) Usual occupation of the parties during the marriage;
- 15 (8) Vocational skills and employability of the party  
16 seeking support and maintenance;
- 17 (9) Needs of the parties;
- 18 (10) Custodial and child support responsibilities;
- 19 [~~11~~] (11) The well-being of any pet animal belonging to  
20 the parties' household, and whether ownership of the  
21 pet animal should be individual or joint;



1        [~~(11)~~] (12) Ability of the party from whom support and  
2                    maintenance is sought to meet his or her own needs  
3                    while meeting the needs of the party seeking support  
4                    and maintenance;

5        [~~(12)~~] (13) Other factors which measure the financial  
6                    condition in which the parties will be left as the  
7                    result of the action under which the determination of  
8                    maintenance is made; and

9        [~~(13)~~] (14) Probable duration of the need of the party  
10                   seeking support and maintenance.

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



1 court shall order support and maintenance for a period  
2 sufficient to allow completion of the training, education,  
3 skills, or other activity, and shall allow, in addition,  
4 sufficient time for the party to secure appropriate employment."

5 2. By amending section (f) to read:

6 "(f) Attorney's fees and costs. The court hearing any  
7 motion for orders either revising an order for the custody,  
8 support, maintenance, and education of the children of the  
9 parties, or an order for the support and maintenance of one  
10 party by the other, or an order for the support and maintenance  
11 of any pet animal belonging to the parties' household, or a  
12 motion for an order to enforce any such order or any order made  
13 under subsection (a) of this section, may make such orders  
14 requiring either party to pay or contribute to the payment of  
15 the attorney's fees, costs, and expenses of the other party  
16 relating to such motion and hearing as shall appear just and  
17 equitable after consideration of the respective merits of the  
18 parties, the relative abilities of the parties, the economic  
19 condition of each party at the time of the hearing, the burdens  
20 imposed upon either party for the benefit of the children of the  
21 parties, the concealment of or failure to disclose income or an



1 asset, or violation of a restraining order issued under section  
2 580-10(a) or (b), if any, by either party, and all other  
3 circumstances of the case."

4 SECTION 7. Section 580-74, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§580-74 Support of spouse [~~and children.~~], children, and  
7 pet animals. Upon decreeing a separation, the court may make  
8 such further decree for the support and maintenance of either  
9 spouse or for the support and maintenance of any pet animal  
10 belonging to the parties' household, and for the support,  
11 maintenance, and education of minor children, by either spouse,  
12 or out of the property of either spouse[~~]~~ except for any pet  
13 animal belonging to a party or the parties' household, as may  
14 appear just and proper; provided that the court shall apply the  
15 considerations required by section 580-47(a) in formulation of  
16 any support decree in any action under this part; and provided  
17 further that the court may amend or revise any such decree in  
18 the same manner and under the same circumstances as provided for  
19 by section 580-47(d)."



# H.B. NO. 155

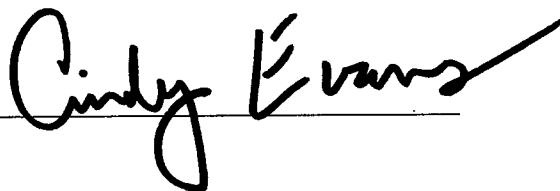
1 SECTION 8. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 9. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect upon its approval.

7

INTRODUCED BY:

A handwritten signature in black ink that reads "Cindy Evans". The signature is written in a cursive style and is positioned above a horizontal line.

JAN 19 2017



# H.B. NO. 155

**Report Title:**

Annulment; Divorce; Separation; Pet Animals

**Description:**

Provides for the support and maintenance and custody of pet animals when their owners are undergoing annulment, divorce, or separation proceedings.

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

