

CHAPTER 584
UNIFORM PARENTAGE ACT

Section

- 584-1 Parent and child relationship defined
- 584-2 Relationship not dependent on marriage
- 584-3 How parent and child relationship established
- 584-3.5 Expedited process of paternity
- 584-4 Presumption of paternity
- 584-5 Reserved
- 584-6 Determination of father and child relationship; who may bring action; when action may be brought; process, warrant, bond, etc.
- 584-6.5 Temporary support order based on probable paternity
- 584-7 Repealed
- 584-8 Jurisdiction; venue
- 584-8.5 Paternity determinations from other states and territories
- 584-9 Parties; guardian ad litem for minor presumed or alleged father; county attorney or corporation counsel to represent custodial parent or agency; notice to parents
- 584-10 Pretrial proceedings
- 584-11 Genetic tests
- 584-12 Evidence relating to paternity
- 584-13 Pretrial recommendations
- 584-14 Civil action
- 584-15 Judgment or order
- 584-16 Costs
- 584-17 Enforcement of judgment or order
- 584-18 Modification of judgment or order
- 584-19 Right to counsel; free transcript on appeal
- 584-20 Hearings and records; confidentiality
- 584-21 Action to declare mother and child relationship
- 584-22 Promise to render support
- 584-23 Birth records
- 584-23.5 Paternity judgment, acknowledgment, support order; social security number
- 584-23.6 Filing of acknowledgments and adjudications with department of health
- 584-24 Custodial proceedings
- 584-25 Uniformity of application and construction
- 584-26 Short title

Case Notes

By their plain language, §§584-1 and 584-3 do not state that this chapter is the exclusive means by which paternity must be established; thus, this chapter is not the exclusive means by which a determination of paternity can be made. 99 H. 1, 52 P.3d 255.

The enactment of this chapter: (1) does not displace the Hawaii supreme court's previous decision in *Blackshear*; (2) does not prevent a proper litigant in a paternity action from asserting defenses based upon *res judicata* and equitable estoppel; and, (3) a final judgment, including a divorce decree, can serve as the basis for such defenses. 99 H. 1, 52 P.3d 255.

The term "may", as set forth in §560:2-114(a), is permissive, and, for purposes of intestate succession, a purported heir may establish his or her parent-child relationship with the decedent by any means permitted by statute, including, but not limited to, this chapter. 103 H. 275, 81 P.3d 1190.

This chapter did not implicate father's fundamental privacy right to procreational autonomy, but rather father's economic interest in not supporting his child, and although father had standing to raise an equal protection challenge to this chapter, that standing was based on a non-suspect classification, i.e., the biological relationship of fathers to their children; thus, because this chapter bears a rational relation to the public welfare, the statute survives rational basis review and father's privacy and equal protection arguments failed. 109 H. 240, 125 P.3d 461.

" **[§584-1] Parent and child relationship defined.** As used in this chapter, "parent and child relationship" includes the legal relationship existing between a child and the child's natural mother, between a child and father whose relationship as parent and child is established under this chapter, or between a child and the child's adoptive parents, incident to which the law confers or imposes rights, privileges, duties, and obligations. [L 1975, c 66, pt of §1; gen ch 1985]

Attorney General Opinions

Cited in discussion of hanai children. Att. Gen. Op. 93-1.

Case Notes

By their plain language, §584-3 and this section do not state that this chapter is the exclusive means by which paternity must be established; thus, this chapter is not the exclusive means by

which a determination of paternity can be made. 99 H. 1, 52 P.3d 255.

" **[\$584-2] Relationship not dependent on marriage.** Any parent and child relationship established under this chapter extends to every such child and to every such parent, regardless of the marital status of the parents. [L 1975, c 66, pt of §1]

" **[\$584-3] How parent and child relationship established.** The parent and child relationship between a child and:

- (1) The natural mother may be established by proof of her having given birth to the child, or under this chapter;
- (2) The natural father may be established under this chapter;
- (3) An adoptive parent may be established by proof of adoption. [L 1975, c 66, pt of §1]

Case Notes

By their plain language, §584-1 and this section do not state that this chapter is the exclusive means by which paternity must be established; thus, this chapter is not the exclusive means by which a determination of paternity can be made. 99 H. 1, 52 P.3d 255.

" **§584-3.5 Expedited process of paternity.** (a) To expedite the establishment of paternity, each public and private birthing hospital or center and the department of health shall provide unwed parents the opportunity to voluntarily acknowledge the paternity of a child during the period immediately prior to or following the child's birth. The voluntary acknowledgment of paternity shall be in writing and shall consist of a single form signed under oath by both the natural mother and the natural father and signed by a witness. The voluntary acknowledgment of paternity form shall include the social security number of each parent. Prior to the signing of the voluntary acknowledgment of paternity form, designated staff members of such facilities shall provide to both the mother and the alleged father, if he is present at the facility:

- (1) Written materials regarding paternity establishment;
- (2) Forms necessary to voluntarily acknowledge paternity; and
- (3) Oral, video, or audio, and written descriptions of the alternatives to, the legal consequences of, and the rights and responsibilities of acknowledging

paternity, including, if one parent is a minor, any right afforded due to minority status.

The completed voluntary acknowledgment forms shall clearly identify the name and position of the staff member who provides information to the parents regarding paternity establishment. The provision by designated staff members of the facility of the information required by this section shall not constitute the unauthorized practice of law. Each facility shall send to the department of health the original acknowledgment of paternity containing the social security numbers, if available, of both parents, with the information required by the department of health so that the birth certificate issued includes the name of the legal father of the child, which shall be promptly recorded by the department of health.

(b) The child support enforcement agency shall:

(1) Provide to any person or facility the necessary:

(A) Materials and forms and a written description of the rights and responsibilities related to voluntary acknowledgment of paternity; and

(B) Training, guidance, and written instructions regarding voluntary acknowledgment of paternity;

(2) Annually assess each facility's paternity establishment program; and

(3) Determine if a voluntary acknowledgment has been filed with the department of health whenever it receives an application for paternity establishment services.

(c) Notwithstanding sections 338-17.7 and 338-18(b), the department of health shall disclose to the child support enforcement agency, upon request, all voluntary acknowledgment of paternity forms on file with the department of health.

(d) As used in this section:

"Agency" means the child support enforcement agency.

"Birthing center" means any facility outside a hospital that provides maternity services.

"Birthing hospital" means any hospital with licensed obstetric-care units, any hospital licensed to provide obstetric services, or any licensed birthing center associated with a hospital.

"Facility" means a birthing hospital or a birthing center.

(e) The signed voluntary acknowledgment of paternity shall constitute a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment:

(1) Within sixty days of signature; or

(2) Before the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order to which the signatory is a party,

whichever is sooner.

(f) Following the sixty-day period referred to in subsection (e), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger. The legal responsibilities of any signatory arising from the acknowledgment, including child support obligations, shall not be suspended during the challenge, except for good cause shown.

(g) The courts and office of child support hearings of this State shall give full faith and credit to affidavits for the voluntary acknowledgment of paternity signed in any other state and these affidavits shall constitute legal findings of paternity subject to subsections (e) and (f).

(h) Judicial and administrative proceedings shall not be required or permitted to ratify an unchallenged acknowledgment of paternity. [L 1996, c 154, §1; am L 1997, c 293, §41; am L 1998, c 83, §10; am L 2001, c 95, §8]

" **§584-4 Presumption of paternity.** (a) A man is presumed to be the natural father of a child if:

- (1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
- (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (A) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
 - (B) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;
- (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

- (A) He has acknowledged his paternity of the child in writing filed with the department of health;
 - (B) With his consent, he is named as the child's father on the child's birth certificate; or
 - (C) He is obligated to support the child under a written voluntary promise or by court order;
- (4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child;
 - (5) Pursuant to section 584-11, he submits to court ordered genetic testing and the results, as stated in a report prepared by the testing laboratory, do not exclude the possibility of his paternity of the child; provided the testing used has a power of exclusion greater than 99.0 per cent and a minimum combined paternity index of five hundred to one; or
 - (6) A voluntary, written acknowledgment of paternity of the child signed by him under oath is filed with the department of health. The department of health shall prepare a new certificate of birth for the child in accordance with section 338-21. The voluntary acknowledgment of paternity by the presumed father filed with the department of health pursuant to this paragraph shall be the basis for establishing and enforcing a support obligation through a judicial proceeding.

(b) A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man. [L 1975, c 66, pt of §1; am L 1987, c 100, §3; am L 1995, c 106, §1; am L 1997, c 293, §42]

Case Notes

Legislature has not mandated that the presumption of paternity in subsection (a)(1) be rebutted before a paternity action against another man can be brought. 88 H. 159 (App.), 963 P.2d 1135.

Where no conflict existed between two or more subsection (a) presumptions, subsection (b), which calls for the resolution of conflicting subsection (a) presumptions, was not applicable to case and family court was not required to choose between conflicting presumptions. 88 H. 159 (App.), 963 P.2d 1135.

Family court did not err in holding that plaintiff was child's "legal father", and that mother was estopped from challenging plaintiff's parentage of child where, pursuant to this section, plaintiff and child did have a presumptive "parent and child relationship"; mother and plaintiff married after child's birth, with plaintiff's consent, mother had child's birth certificate changed to identify plaintiff as child's father, and there was substantial evidence that while child was under the age of majority, plaintiff received child into plaintiff's home and openly held out child as plaintiff's natural child. 118 H. 86 (App.), 185 P.3d 834 (2008).

" **[\$584-5] Reserved.**

" **§584-6 Determination of father and child relationship; who may bring action; when action may be brought; process, warrant, bond, etc.** (a) A child, or guardian ad litem of the child, the child's natural mother, whether married or unmarried at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or alleging himself to be the natural father, or his personal representative or parent if the father has died; or a presumed father as defined in section 584-4, or his personal representative or parent if the presumed father has died; or the child support enforcement agency, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship in accordance with the following:

- (1) If the child is the subject of an adoption proceeding, action may be brought:
 - (A) Within thirty days after the date of the child's birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or
 - (B) Any time prior to the date of execution by the mother of a valid consent to the child's adoption, or prior to placement of the child with adoptive parents;
- (2) If the child has not become the subject of an adoption proceeding, within three years after the child reaches the age of majority or any time after that for good cause; provided that any period of time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed;

(3) This section shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise; and

(4) A personal representative in this section may be appointed by the court upon a filing of an ex parte motion by one of the parties entitled to file a paternity action. Probate requirements need not be met. However, appointment of the personal representative in this section is limited to representation in chapter 584 proceedings.

(b) When an action is brought under this section, process shall issue in the form of a summons and an order directed to the alleged or presumed father, the mother or both, requiring each to appear and to show cause why the action should not be brought.

If, at any stage of the proceedings, there appears probable cause to believe that the alleged or presumed father, the mother, or both, will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the court may issue a warrant directed to the sheriff, deputy sheriff, or any police officer within the circuit, requiring the alleged or presumed father, the mother, or both, to be arrested and brought for pre-trial proceedings before the family court. Upon such pre-trial proceedings, the court may require the alleged or presumed father, the mother, or both, to enter into bond with good sureties to the State in a sum to be fixed by the court for each person's appearance and the trial of the proceeding in the family court. If the alleged or presumed father, the mother, or both, fails to give the bond required, the court may forthwith commit that person to the custody of the chief of police of the county, there to remain until that person enters into the required bond or otherwise is discharged by due process of law. If the alleged or presumed father, the mother, or both, fails to appear in any proceeding under this chapter, any bond for that person's appearance shall be forfeited; but the trial of, or other proceedings in, the action shall, nevertheless, proceed as though that person were present; and upon the findings of the court it shall make such orders as it deems proper as though that person were in court.

In case of forfeiture of any appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the parent whose parent-child relationship is established under this chapter.

(c) Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with section 584-

13(b), between the alleged or presumed father and the mother or child, shall not bar an action under this section.

(d) If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

(e) Subject to the requirements of section 584-4(b), where a married woman has not had sexual contact with her spouse or resided in the same house with the spouse for at least three hundred days prior to the birth of the child and the spouse cannot be contacted after due diligence, the court may accept an affidavit by the married woman, attesting to her diligent efforts to contact her spouse and providing clear and convincing evidence to rebut the presumption of his paternity of the subject child, and upon the court's satisfaction, notice to the spouse may be waived and the spouse need not be made a party in the paternity proceedings. The court, after receiving evidence, may also enter a finding of nonpaternity of the spouse. [L 1975, c 66, pt of §1; am L 1983, c 288, §1; am L 1986, c 332, §19; am L 1987, c 339, §4; am L 1989, c 211, §10; am L 1990, c 281, §11; am L 1991, c 224, §1; am L 2013, c 136, §1]

Cross References

Sheriff, etc., see §26-14.6.

Case Notes

Limitation period. 59 H. 259, 581 P.2d 310.

A final divorce decree is not an "agreement" within the meaning of subsection (c); it constitutes a final judgment of the family court; thus, this section did not permit mother to escape the preclusive effect of the divorce decree. 99 H. 1, 52 P.3d 255.

Section does not permit the relitigation of the issue of paternity where it has already been determined in a prior proceeding. 99 H. 1, 52 P.3d 255.

Subsection (a) permitted presumed father to bring a paternity action for the purpose of declaring the nonexistence of a father and child relationship between presumed father and daughter. 9 H. App. 623, 859 P.2d 922.

Child support enforcement agency was authorized, under §§576D-3, 576D-4, and subsection (a), to bring action to establish paternity of a child, "born out of wedlock" for purposes of §576D-3(b), where mother, though married to husband at time child was born, alleged that appellant, and not husband, was child's natural father. 88 H. 159 (App.), 963 P.2d 1135.

" **[\$584-6.5] Temporary support order based on probable paternity.** In all contested paternity actions where a presumption of paternity as defined in section 584-4 exists, upon motion by a party, the court shall order temporary support for the child pending a judicial determination of parentage. [L 1997, c 293, pt of §8]

" **§584-7 REPEALED.** L 1991, c 224, §3.

" **§584-8 Jurisdiction; venue.** (a) Without limiting the jurisdiction of any other court, the family court has jurisdiction of an action brought under this chapter. The action may be joined with an action for divorce, annulment, separate maintenance, or support.

(b) A person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute, personal jurisdiction may be acquired by personal service outside this State or by service by certified or registered mail, postage prepaid, with return receipt requested.

(c) In addition to any other method of service provided by statute or court rule, if the respondent is not found within the circuit, service may be effectuated by registered or certified mail, with request for a return receipt and direction to deliver to addressee only. The return receipt signed by the respondent shall be prima facie evidence that the respondent accepted delivery of the complaint and summons on the date set forth on the receipt. For service effectuated by registered or certified mail, an electronic copy or facsimile of the signature of the served individual on certified mailers provided by the United States Postal Service shall constitute valid proof of service on the individual. Actual receipt by the respondent of the complaint and summons sent by registered or certified mail shall be the equivalent to personal service on the respondent by an authorized process server as of the date of the receipt.

(d) If it appears that the respondent has refused to accept service by registered or certified mail or is concealing oneself or evading service, or the petitioner does not know the address or residence of the respondent and has not been able to ascertain the same after reasonable and due inquiry and search, the court may authorize notice of the paternity action and the time and date of hearing by publication or by any other manner that is reasonably calculated to give the party actual notice of

proceedings and an opportunity to be heard, including the following:

- (1) When publication is authorized, the summons shall be published once a week for four consecutive weeks in a publication of general circulation in the circuit. The publication of general circulation shall be designated by the court in the order for publication of the summons. Notice by publication shall have the same force and effect as such person having been personally served with the summons; provided that the date of the last publication shall be set not less than twenty-one days prior to the return date stated in the summons. Proof of service shall be satisfied by an affidavit or declaration by the authorized representative for the publication that the notice was given in the manner prescribed by the court.
- (2) When posting to an online publication website is authorized, proof of service shall be satisfied by an affidavit or declaration by the authorized representative for the publication that the notice was given in the manner prescribed by the court.
- (3) When service by electronic mail or posting to a social networking account is authorized, proof of service shall be satisfied by an affidavit or declaration by the process server that the notice was given in the manner prescribed by the court.
- (4) When service is made by posting to a public bulletin board, proof of service shall be satisfied by an affidavit or declaration by the process server that the notice was given in the manner prescribed by the court.
- (e) The action may be brought in the county in which the child, the mother, or the alleged father resides or is found or in which the child was born or, if the father is deceased, in which proceedings for probate of the father's estate have been or could be commenced. [L 1975, c 66, pt of §1; am L 1986, c 300, §1; am L 1996, c 17, §1; am L 2009, c 115, §7; gen ch 2009; am L 2016, c 83, §1]

Rules of Court

Service, see HFCR rules 4, 5.

Case Notes

Subsection (d) allows a paternity action to be brought after the death of the putative father. 99 H. 138 (App.), 53 P.3d 277.

" **[§584-8.5] Paternity determinations from other states and territories.** Paternity determinations from other states and territories, whether established through voluntary acknowledgment or through administrative or judicial processes, shall be treated the same as a paternity adjudication in this State. [L 1994, c 26, §1]

" **§584-9 Parties; guardian ad litem for minor presumed or alleged father; county attorney or corporation counsel to represent custodial parent or agency; notice to parents.** (a) The child may be made a party to the action and may be represented by the child's general guardian or a guardian ad litem appointed by the court. The child's mother or father shall not represent the child as guardian or otherwise. Subject to section 584-6(e), the natural mother, each man presumed to be the father under section 584-4, each man alleged to be the natural father, and the child support enforcement agency, if public assistance moneys are or have been paid for the support of the subject child, shall be made parties, or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard.

(b) If it appears to the satisfaction of the court that the natural mother or a man alleged or presumed to be the father of the child is a minor, the court shall also cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parent or guardian who has physical custody of the minor. The court may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parent or guardian of any such minor cannot be found, the notice may be served in such manner as the court may direct pursuant to sections 634-21 to 634-24. The court may align the parties.

(c) The county attorney or corporation counsel, upon request of the child support enforcement agency, shall represent the child support enforcement agency. Fees may be charged of the applicant for child support enforcement agency's services as provided for by chapter 576D. [L 1975, c 66, pt of §1; am L 1984, c 230, §2; gen ch 1985; am L 1986, c 235, §2 and c 332, §20; am L 1991, c 224, §2; am L 1992, c 87, §13; am L 1993, c 119, §1; am L 1997, c 294, §6]

Guardians ad litem, see HFCR rule 17(c).
Parties, see Hawaii Family Court Rules, part A(IV).

Case Notes

No requirement under subsection (a) that the child must be made a party to the paternity proceeding or that a guardian ad litem must be appointed to represent the child's interests in a paternity proceeding. 88 H. 159 (App.), 963 P.2d 1135.

Cited: 9 H. App. 623, 859 P.2d 922.

" **[§584-10] Pretrial proceedings.** As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship has been brought, an informal hearing shall be held. The public shall be barred from the hearing. A record of the proceeding or any portion thereof shall be kept if any party requests, or the court orders. Rules of evidence need not be observed. [L 1975, c 66, pt of §1]

Rules of Court

Pre-trial procedure, see HFCR rule 16.

Case Notes

In a paternity action, §584-13 and this section mandate that an informal, pre-trial hearing be held by the court to evaluate the likelihood of establishing at trial the alleged father as the natural father, to determine whether declaring paternity would be in the best interest of the child, and to recommend settlement to the parties; such a hearing is not required before a court may order genetic testing of the parties. 88 H. 159 (App.), 963 P.2d 1135.

" **§584-11 Genetic tests.** (a) The court may, and upon request of a party, shall, require the child, mother, or alleged father to submit to genetic tests, including blood tests. If the requesting party is the mother or the alleged father, the court shall require that the request be made pursuant to a sworn statement. The sworn statement made by the party must either:

- (1) Allege paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or
- (2) Deny paternity setting forth facts establishing a reasonable possibility of the non-existence of sexual contact between the parties. The testing utilized

must have a power of exclusion greater than ninety-nine point zero per cent (99.0%) and a minimum combined paternity index of five hundred to one, and shall be performed by an expert qualified as an examiner of genetic markers, appointed by the court. The laboratory performing the testing shall be one approved by an accreditation body designated by the United States Secretary of Health and Human Services.

(b) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiners of genetic markers.

(c) In all cases, the court shall determine the number and qualifications of the experts.

(d) "Genetic test" means the testing of inherited or genetic characteristics (genetic markers) and includes blood testing for paternity purposes.

(e) In any trial brought under this chapter, a report of the facts and results of genetic tests ordered by the court under this chapter shall be admissible in evidence by affidavit of the person whose name is signed to the report, attesting to the procedures followed in obtaining the report. A report of the facts and results of genetic tests shall be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made. The genetic testing performed shall be of a type generally acknowledged as reliable by accreditation bodies designated by the United States Secretary of Health and Human Services. An alleged parent or party to the paternity action who objects to the admission of the report concerning the genetic test results must file a motion no later than twenty days after receiving a copy of the report and shall show good cause as to why a witness is necessary to lay the foundation for the admission of the report as evidence. The court may, sua sponte, or at a hearing on the motion determine whether a witness shall be required to lay the foundation for the admission of the report as evidence. The right to call witnesses to rebut the report is reserved to all parties.

(f) Should an original test result be contested, the court shall order further genetic testing with payment of the testing to be advanced and paid for by the contesting party. [L 1975, c 66, pt of §1; am L 1989, c 34, §1; am L 1992, c 139, §1; am L 1994, c 27, §1; am L 1997, c 293, §43]

Rules of Court

Physical and mental examinations, see HFCR rule 35.

" **§584-12 Evidence relating to paternity.** Evidence relating to paternity may include:

- (1) Evidence of sexual intercourse between the mother and the alleged father at any possible time of conception;
- (2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;
- (3) Genetic test results, including blood test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;
- (4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests;
- (5) A voluntary, written acknowledgment of paternity;
- (6) Bills for pregnancy and childbirth, including medical insurance premiums covering this period and genetic testing, without the need for foundation testimony or other proof of authenticity or accuracy, and these bills shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child; and
- (7) All other evidence relevant to the issue of paternity of the child. [L 1975, c 66, pt of §1; am L 1989, c 34, §2; am L 1996, c 154, §2; am L 1998, c 153, §9]

Rules of Court

Physical and mental examinations, see HFCR rule 35.

" **§584-13 Pretrial recommendations.** (a) On the basis of the information produced at the pre-trial hearing, the judge conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

- (1) That the action be dismissed with or without prejudice;
- (2) That the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not

determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge conducting the hearing. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the judge conducting the hearing shall consider the best interest of the child, in the light of the factors enumerated in section 576D-7, discounted by the improbability, as it appears to him, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him; or

(3) That the alleged father voluntarily acknowledge his paternity of the child.

(b) If the parties accept a recommendation made in accordance with subsection (a), judgment shall be entered accordingly.

(c) If a party refuses to accept a recommendation made under subsection (a) and genetic tests, including blood tests have not been taken, the court shall require the parties to submit to genetic tests, if practicable. Thereafter the judge shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

(d) The guardian ad litem may accept or refuse to accept a recommendation under this section.

(e) The informal hearing may be terminated and the action set for trial if the judge conducting the hearing finds it unlikely that all parties would accept a recommendation he might make under subsection (a) or (c). [L 1975, c 66, pt of §1; am L 1989, c 34, §3]

Revision Note

In subsection (a)(2), reference to "576D-7" substituted for "584-15(e)".

Case Notes

The language of subsection (c) conditioning genetic testing on such testing being "practicable" refers only to the practical

aspects of completing the testing and does not permit the family court to consider the "best interest of the child" in deciding whether to order testing in the first place. 99 H. 1, 52 P.3d 255.

In a paternity action, §584-10 and this section mandate that an informal, pre-trial hearing be held by the court to evaluate the likelihood of establishing at trial the alleged father as the natural father, to determine whether declaring paternity would be in the best interest of the child, and to recommend settlement to the parties; such a hearing is not required before a court may order genetic testing of the parties. 88 H. 159 (App.), 963 P.2d 1135.

" **§584-14 Civil action.** (a) An action under this chapter shall be a civil action governed by the Hawaii rules of civil procedure or the Hawaii family court rules. The mother of the child and the alleged father shall be competent to testify and may be compelled to testify, provided that no criminal prosecution, other than a prosecution for perjury, shall afterwards be had against the mother or the alleged father for or on account of any transaction, matter, or thing concerning which she or he may testify or produce evidence, documentary or otherwise. Sections 584-11 and 584-12 shall apply in any action brought under this chapter.

(b) Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of conception of the child shall be inadmissible in evidence, unless offered by the mother.

(c) In an action against an alleged father, evidence offered by him with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child shall be admissible in evidence only if he has undergone and made available to the court genetic tests, including blood tests the results of which do not exclude the possibility of his paternity of the child. [L 1975, c 66, pt of §1; am L 1979, c 105, §58; am L 1989, c 34, §4]

Law Journals and Reviews

The Richardson Years: A Golden Age of Law in Hawai'i. 33 UH L. Rev. 71 (2010).

Case Notes

No right to jury trial. 5 H. App. 558, 705 P.2d 535.

Court properly excluded evidence of sexual access to mother within and without probable conception period; exclusion of sexual access information and preclusion of cross-examination of mother regarding her earlier pregnancy did not violate due process. 6 H. App. 629, 736 P.2d 448.

" **§584-15 Judgment or order.** (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued under section 584-23.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Upon neglect or refusal to give this security, or upon default of the father or the father's surety in compliance with the terms of the judgment, the court may order the forfeiture of any such security and the application of the proceeds thereof toward the payment of any sums due under the terms of the judgment and may also sequester the father's personal estate, and the rents and profits of the father's real estate, and may appoint a receiver thereof, and may cause the father's personal estate, including any salaries, wages, commissions, or other moneys owed to him and the rents and profits of his real estate, to be applied toward the meeting of the terms of the judgment, to the extent that the court, from time to time, deems just and reasonable. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement, including but not limited to medical insurance premiums, such as for MedQuest, which cover the periods of pregnancy, childbirth, and confinement. The court may further order the noncustodial parent to reimburse the custodial parent, the child, or any public agency for reasonable expenses incurred prior to entry of judgment, including support, maintenance, education, and funeral expenses expended for the benefit of the child.

(d) Support judgment or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit the father's liability for past support of

the child to the proportion of the expenses already incurred that the court deems just.

(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall use the guidelines established under section 576D-7. Provision may be made for the support, maintenance, and education of an adult or minor child and an incompetent adult child, whether or not the petition is made before or after the child has attained the age of majority.

(f) Whenever a parent of a child is a minor, unmarried, and not able to provide full support, the court may order one or both parents of the minor to support the child until the minor reaches the age of majority, is otherwise emancipated, or is financially able to fully support the child, whichever occurs first. For this purpose:

- (1) The judgment or order for support shall be made against the parent or parents of the minor to the extent that the minor is unable to support the child;
- (2) The resources, standard of living, and earning ability of the parent or parents of the minor shall be considered under subsection (d) in determining the amount of support; and
- (3) The parent or parents of the minor shall be an obligor under this chapter and chapter 571 and any action against the obligor to collect support may be pursued against the parent or parents of the minor. [L 1975, c 66, pt of §1; am L 1986, c 235, §1 and c 332, §21; am L 1990, c 133, §1; am L 1995, c 107, §1; am L 1997, c 294, §7]

Rules of Court

Decrees and orders, see Hawaii Family Court Rules, part A(VII).

Case Notes

Order adjudging paternity but reserving child support, custody, and other matters is not final and appealable. 5 H. App. 610, 704 P.2d 940.

In determining support award, court should not rely on only one or two factors to exclusion of others. Court abused its discretion in making child support award. 6 H. App. 629, 736 P.2d 448.

Assuming arguendo that §571-52.5 and this section embrace the same subject matter, it cannot be said as a matter of statutory

construction that the former ousts the latter in the matter of past child support; subsection (d) affords the court discretion to limit past child support to a proportion of the expenses already incurred on behalf of the child that it deems just. 98 H. 58 (App.), 41 P.3d 720.

In paternity proceedings, the child support enforcement agency may not obtain a judgment for an amount of money unless and until it proves payment by the department of human services of at least that amount to or for the benefit of the child. 105 H. 79 (App.), 93 P.3d 1186.

Notwithstanding §346-37.1(b) and subsection (e), when read together, the statutes do not create a §346-37.1 "debt due and owing to the department of human services by the natural or adoptive parent or parents who are responsible for support of such children" in the amount calculated in accordance with the applicable child support guidelines. 105 H. 79 (App.), 93 P.3d 1186.

Mentioned: 85 H. 108 (App.), 937 P.2d 949.

" **§584-16 Costs.** The court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pre-trial proceedings, including genetic tests, subject to the provisions of section 584-11(f), to be paid by the parties in proportions and at times determined by the court. The court may order the proportion of any indigent party to be paid by the State, or such person as the court shall direct. [L 1975, c 66, pt of §1; am L 1989, c 34, §5; am L 1997, c 293, §44]

Cross References

Maximum fees for appointed counsel and guardian ad litem, see §571-87.

Case Notes

Party in paternity action may be ordered to pay costs of the action to the department of social services and housing. 5 H. App. 558, 705 P.2d 535.

No abuse of discretion in award of attorney's fees and costs. 6 H. App. 629, 736 P.2d 448.

Authorizes reimbursement of costs of service. 8 H. App. 50, 792 P.2d 308.

Application of section limited to paternity actions. 85 H. 108 (App.), 937 P.2d 949.

" **§584-17 Enforcement of judgment or order.** (a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent the person has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the child support enforcement agency, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Wilful failure to obey the judgment or order of the court shall be a civil contempt of the court. All remedies for the enforcement of judgments shall apply to this chapter. When a court of competent jurisdiction issues an order compelling a parent to furnish support, including child support, medical support, or other remedial care, for the parent's child, it shall constitute prima facie evidence of a civil contempt of court upon proof that:

- (1) The order was made, filed, and served on the parent or proof that the parent was present in court at the time the order was pronounced; and
- (2) The parent did not comply with the order.

An order of civil contempt of court based on prima facie evidence under this subsection shall clearly state that the failure to comply with the order of civil contempt of court may subject the parent to a penalty that may include imprisonment or, if imprisonment is immediately ordered, the conditions that must be met for release from imprisonment. A party may also prove civil contempt of court by means other than prima facie evidence under this subsection. [L 1975, c 66, pt of §1; gen ch 1985; am L 1986, c 332, §22; am L 2008, c 157, §2]

" **§584-18 Modification of judgment or order.** (a) The court shall have continuing jurisdiction to modify or revoke a judgment or order:

- (1) For future education and support; and
- (2) With respect to matters listed in section 584-15(c) and (d) and section 584-17(b), except that a court entering a judgment or order for the payment of a lump sum or the purchase of an annuity under section 584-15(d) may specify that the judgment or order may not be modified or revoked.

(b) In those cases where child support payments are to continue due to the adult child's pursuance of education, the child support enforcement agency, three months prior to the adult child's nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support will be suspended unless proof is provided by the custodial parent or adult child, to the child support enforcement agency, prior to the child's nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency, hearings officer, or court upon the child reaching the age of nineteen years. In addition, if applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent's income and income assignment orders.

(c) The need to provide for the child's health care needs through health insurance or other means shall be a basis for petitioning for a modification of the support order. [L 1975, c 66, pt of §1; am L 1992, c 212, §4; am L 1997, c 293, §45]

" **§584-19 Right to counsel; free transcript on appeal.**

(a) At a pre-trial hearing and in further proceedings, any party may be represented by counsel. The court may appoint counsel for a party who is financially unable to obtain counsel.

(b) If a party is financially unable to pay the cost of a transcript, the court may furnish on request a transcript for purposes of appeal. [L 1975, c 66, pt of §1]

" **§584-20 Hearings and records; confidentiality.** (a)

Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this chapter shall be held in closed court without admittance of any person other than those persons necessary to the action or proceeding. All papers and records pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the department of health or elsewhere, shall be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

(b) Upon paternity being established, the confidentiality requirement shall not extend to the judgment and all subsequently filed documents that are used in good faith for support and medical expenses, insurance, or enforcement

purposes, except that the confidentiality requirement shall continue to apply to any references to a non-adjudicated alleged or presumed father. [L 1975, c 66, pt of §1; am L 1993, c 118, §1]

" **[\$584-21] Action to declare mother and child relationship.** Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this chapter applicable to the father and child relationship shall apply. [L 1975, c 66, pt of §1]

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

(b) In the best interest of the child or the mother, the court may, and upon request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise. [L 1975, c 66, pt of §1]

Case Notes

Cases under Hawaii uniform parentage act involving written promises for child support are not subject to the court approval specified in §572-22. 87 H. 369 (App.), 956 P.2d 1301.

Subsection (a) applies in situations where the mother and father are not married to each other. 87 H. 369 (App.), 956 P.2d 1301.

" **[\$584-23] Birth records.** (a) Upon order of a court of this State or upon request of a court of another state, or following acknowledgment as provided in section [584-4(a)(6)], the department of health shall prepare a new certificate of birth consistent with the findings of the court or in cases of acknowledgment under section [584-4(a)(6)], consistent with the acknowledgment, and shall substitute the new certificate for the original certificate of birth.

(b) The fact that the father and child relationship was declared or acknowledged after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown.

(c) The evidence upon which the new certificate was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon consent

of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown. [L 1975, c 66, pt of §1]

" **[§584-23.5] Paternity judgment, acknowledgment, support order; social security number.** The social security number of any individual who is subject to a paternity judgment or acknowledgment, or support order issued under this chapter shall be placed in the records relating to the matter. [L 1997, c 293, pt of §8]

" **[§584-23.6] Filing of acknowledgments and adjudications with department of health.** All voluntary acknowledgments and adjudications of paternity by judicial process shall be filed with the department of health for comparison with information in the state case registry. Filing of the adjudications of paternity shall be the responsibility of the natural mother or such person or agency as the court shall direct. [L 1997, c 293, pt of §8]

" **[§584-24] Custodial proceedings.** (a) If a mother relinquishes or proposes to relinquish for adoption a child who has:

- (1) A presumed father under section 584-4(a);
- (2) A father whose relationship to the child has been determined by a court; or
- (3) A father as to whom the child is a legitimate child under prior law of this State or under the law of another jurisdiction;

the father shall be given notice of the adoption proceeding and have the rights provided under chapter 578, unless the father's relationship to the child has been previously terminated or determined by a court not to exist.

(b) If a mother relinquishes or proposes to relinquish for adoption a child who does not have:

- (1) A presumed father under section 584-4(a);
- (2) A father whose relationship to the child has been determined by a court; or
- (3) A father as to whom the child is a legitimate child under prior law of this State or under the law of another jurisdiction;

or if a child otherwise becomes the subject of an adoption proceeding, the court shall determine whether the natural father has exercised parental duties, obligations, and concern for the child in accordance with subsection (c); provided that if the proposed adoptive parent is the spouse of the child's mother, no

notice is required to be given to a father who does not fall within the provisions of subsection (a).

(c) In order to determine the extent of the natural father's exercise of parental duties, obligations, and concern for the child, the court shall cause inquiry to be made of the mother and any other appropriate person. The inquiry shall include the following:

- (1) Whether the mother was married at the time of conception of the child or at any time thereafter;
- (2) Whether, at the time of conception or birth of the child thereafter, the mother was cohabiting with a man whom she alleges to be or who represents or believes himself to be the child's father;
- (3) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy or in connection with the birth of the child.

(d) If, after the inquiry, the court is satisfied that the natural father has exercised parental duties, obligations, and concern for the child, he shall be given notice of the proceeding in accordance with subsection (f). If he fails to appear or, if appearing, fails to claim custodial rights, his parental rights with reference to the child shall be terminated. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

(e) If, after the inquiry, the court is satisfied that the natural father has failed to exercise parental duties, obligations, and concern for the child the court shall enter an order terminating the natural father's parental rights with reference to the child. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this subsection, the order shall not be questioned by any person, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter.

(f) Notice of the proceeding shall be given to any person who is entitled under the provisions of this chapter to receive notice in the manner appropriate under chapter 578. Proof of giving the notice shall be filed with the court before the petition is heard. [L 1975, c 66, pt of §1]

" **[§584-25] Uniformity of application and construction.**
This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the

subject of this chapter among states enacting it. [L 1975, c 66, pt of §1]

" **[§584-26] Short title.** This chapter may be cited as the "Uniform Parentage Act". [L 1975, c 66, pt of §1]