

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE FAMILY COURT.

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

1 SECTION 1. The legislature finds that delays experienced
2 by parents and children while awaiting the disposition of
3 appeals from family court decisions could arguably violate the
4 due process clauses of both the state and federal constitutions.
5 Such delays conflict with the mission of the family court,
6 which, as stated on the family court's website, is "to provide a
7 fair, speedy, economical, and accessible forum for the
8 resolution of matters involving families and children."

9 The legislature further finds that in recent years, some
10 parents and children have had to wait up to eight years for
11 their cases to be resolved. For example, the delays between the
12 filing of the family court order and the decision by the supreme
13 court have lasted as long as:

14 (1) Seven years and eight months in *Cox v. Cox*, 138 Hawaii
15 476 (2016);

16 (2) Four years and eleven months in *Brutsch v. Brutsch*,
17 139 Hawaii 373 (2017); and



(3) Two years and six months in *Tumaneng v. Tumaneng*, 138 Hawaii 468, (2016).

Delays can result in unacceptable incongruities if the matter to be decided becomes moot while the appeal is pending, such as when a child reaches the age of majority before the final child custody order makes its way through the appeals process.

Therefore, the purpose of this Act is to expedite the process for appealing family court orders by making the orders appealable directly to the supreme court instead of to the intermediate court of appeals.

SECTION 2. Section 571-54, Hawaii Revised Statutes, is amended to read as follows:

"§571-54 Appeal. (a) An interested party, aggrieved by any order or decree of the court, may appeal to the ~~[intermediate appellate]~~ supreme court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court, and review shall be governed by chapter 602, except as hereinafter provided. Where the decree or order affects the custody of a child or minor, the appeal shall be heard at the earliest practicable time. In cases under



1 section 571-11, the record on appeal shall be given a fictitious
2 title, to safeguard against publication of the names of the
3 children or minors involved.

4 (b) The stay of enforcement of an order or decree, or the
5 pendency of an appeal, shall not suspend the order or decree of
6 the court regarding a child or minor, or discharge the child or
7 minor from the custody of the court or of the person,
8 institution, or agency to whose care the child or minor has been
9 committed, unless otherwise ordered by the family court or by
10 the [~~appellate~~] supreme court after an appeal is taken. Pending
11 final disposition of the case, the family court or the
12 [~~appellate~~] supreme court, after the appeal is taken, may make
13 such order for temporary custody as is appropriate in the
14 circumstances. If the [~~appellate~~] supreme court does not
15 dismiss the proceedings and discharge the child or minor, it
16 shall affirm or modify the order of the family court and remand
17 the child or minor to the jurisdiction of the court for
18 disposition not inconsistent with the appellate court's finding
19 on the appeal.



1 (c) An order or decree entered in a proceeding based upon
2 section 571-11(1), (2), or (6) shall be subject to appeal only
3 as follows:

4 Within twenty days from the date of the entry of any such
5 order or decree, any party directly affected thereby may file a
6 motion for a reconsideration of the facts involved. The motion
7 and any supporting affidavit shall set forth the grounds on
8 which a reconsideration is requested and shall be sworn to by
9 the movant or the movant's representative. The judge shall hold
10 a hearing on the motion, affording to all parties concerned the
11 full right of representation by counsel and presentation of
12 relevant evidence. The findings of the judge upon the hearing
13 of the motion and the judge's determination and disposition of
14 the case thereafter, and any decision, judgment, order, or
15 decree affecting the child and entered as a result of the
16 hearing on the motion, shall be set forth in writing and signed
17 by the judge. Any party aggrieved by ~~[any such]~~ the findings,
18 judgment, order, or decree shall have the right to appeal
19 therefrom to the ~~[intermediate appellate]~~ supreme court, upon
20 the same terms and conditions as in other cases in the circuit
21 court, and review shall be governed by chapter 602; provided



1 that no [~~such~~] motion for reconsideration shall operate as a
2 stay of [~~any such~~] the findings, judgment, order, or decree
3 unless the judge of the family court so orders; and provided
4 further that no informality or technical irregularity in the
5 proceedings prior to the hearing on the motion for
6 reconsideration shall constitute grounds for the reversal of
7 [~~any such~~] the findings, judgment, order, or decree by the
8 [~~appellate~~] supreme court."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.

15 INTRODUCED BY: 



S.B. NO. 632

Report Title:

Family Court; Supreme Court

Description:

Makes decisions of the family court appealable to the supreme court instead of the intermediate court of appeals.

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

