

JAN 18 2023

A BILL FOR AN ACT

RELATING TO GENDER-NEUTRAL TERMINOLOGY.

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

1 SECTION 1. Section 321-342, Hawaii Revised Statutes, is
2 amended by amending the definition of "family" to read as
3 follows:

4 ""Family" means:

5 (1) Each legal parent;

6 (2) [~~The~~] Each natural [~~mother,~~

7 ~~(3) The natural father,~~] parent;

8 [~~(4)~~] (3) The adjudicated, presumed, or concerned natural

9 [~~father~~] parent as defined under section 578-2;

10 [~~(5)~~] (4) Each parent's spouse or former spouses;

11 [~~(6)~~] (5) Each sibling or person related by consanguinity

12 or marriage;

13 [~~(7)~~] (6) Each person residing in the same dwelling unit;

14 and

15 [~~(8)~~] (7) Any other person who, or legal entity that, is a

16 child's legal or physical custodian or guardian, or

17 who is otherwise responsible for the child's care,



1 other than an authorized agency that assumes such a
2 legal status or relationship with the child under
3 chapter 587A."

4 SECTION 2. Section 571-61, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§571-61 Termination of parental rights; petition.** (a)
7 Relinquishment. The parents or either parent or the surviving
8 parent who desire to relinquish parental rights to any natural
9 or adopted child and thus make the child available for adoption
10 or readoption, may petition the family court of the circuit in
11 which [~~they or he or she~~] the parents or parent resides, or of
12 the circuit in which the child resides, or was born, for the
13 entry of a judgment of termination of parental rights. The
14 petition shall be verified and shall be substantially in [~~such~~]
15 a form as may be prescribed by the judge or senior judge of the
16 family court. The petition may be filed at any time following
17 the [~~mother's~~] birthing parent's sixth month of pregnancy;
18 provided that no judgment may be entered upon a petition
19 concerning an unborn child until after the birth of the child
20 and in respect to a legal parent or parents until the petitioner
21 or petitioners have filed in the termination proceeding a



1 written reaffirmation of their desires as expressed in the
2 petition or in respect to a legal parent or parents until the
3 petitioner or petitioners have been given not less than ten
4 days' notice of a proposal for the entry of judgment and an
5 opportunity to be heard in connection with [~~such~~] the proposal.

6 (b) Involuntary termination.

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

9 (A) Who has deserted the child without affording
10 means of identification for a period of at least
11 ninety days;

12 (B) Who has voluntarily surrendered the care and
13 custody of the child to another for a period of
14 at least two years;

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

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



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

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

13 (G) Who is found not to be the child's natural or
14 adoptive [~~father-~~] parent.

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



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- 1 (A) Who falls within paragraph (1) (A), (B), (C), (D),
2 (E), or (F);
- 3 (B) Whose child is sought to be adopted by the
4 child's [~~stepfather~~] stepparent and the
5 [~~stepfather~~] stepparent has lived with the child
6 and the child's legal [~~mother~~] parent for a
7 period of at least one year;
- 8 (C) Who is only a concerned [~~father~~] parent who has
9 failed to file a petition for the adoption of the
10 child or whose petition for the adoption of the
11 child has been denied; or
- 12 (D) Who is found to be an unfit or improper parent or
13 to be financially or otherwise unable to give the
14 child a proper home and education.
- 15 (3) In respect to any proceedings under paragraphs (1) and
16 (2), the authority to terminate parental rights may be
17 exercised by the court only when a verified petition,
18 substantially in the form above prescribed, has been
19 filed by some responsible adult person on behalf of
20 the child in the family court of the circuit in which
21 the parent resides or the child resides or was born



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

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

13 (5) The family courts may terminate the parental rights in
14 respect to any child of any natural parent upon a
15 finding by clear and convincing evidence that the
16 natural parent committed sexual assault of the other
17 natural parent, or an equivalent offense under the
18 laws of another state, territory, possession, or
19 Native American tribe where the offense occurred, and
20 the child was conceived as a result of the sexual



1 assault perpetrated by the parent whose rights are
2 sought to be terminated; provided that:

3 (A) The court shall accept, as conclusive proof of
4 the sexual assault, a guilty plea or conviction
5 of the child's natural parent for the sexual
6 assault, or an equivalent offense under the laws
7 of another state, territory, possession, or
8 Native American tribe where the offense occurred,
9 of the other natural parent;

10 (B) Termination shall mean, when used with respect to
11 parental rights in this paragraph, a complete and
12 final termination of the parent's right to
13 custody of, guardianship of, visitation with,
14 access to, and inheritance from a child;

15 (C) The termination of parental rights shall not
16 affect the obligation of the child's natural
17 parent to support the child;

18 (D) The court may order the child's natural parent to
19 pay child support;

20 (E) It is presumed that termination of parental
21 rights is in the best interest of the child if



1 the child was conceived as a result of the sexual
2 assault;

3 (F) This paragraph shall not apply if subsequent to
4 the date of the sexual assault, the child's
5 natural parent and custodial natural parent
6 cohabituate and establish a mutual custodial
7 environment for the child; and

8 (G) The custodial natural parent may petition the
9 court to reinstate the child's natural parent's
10 parental rights terminated pursuant to this
11 paragraph.

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

18 If the [~~mother~~] birthing parent of the child files with the
19 petition an affidavit representing that the identity or
20 whereabouts of the child's [~~father~~] natural parent is unknown to
21 [~~her~~] or not ascertainable by [~~her~~] the birthing parent or that



1 other good cause exists why notice cannot or should not be given
2 to the [~~father,~~] natural parent, the court shall conduct a
3 hearing to determine whether notice is required.

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

14 SECTION 3. Section 578-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§578-1 Who may adopt; jurisdiction; venue. Any [~~proper~~]
17 unmarried adult person[~~, not married,~~] or any person married to
18 the legal [~~father or mother~~] parent of a minor child, or a
19 [~~husband and wife~~] married couple jointly, may petition the
20 family court of the circuit in which the person or persons
21 reside or are in military service or the family court of the



1 circuit in which the individual to be adopted resides or was
2 born or in which a child placing organization approved by the
3 department of human services under the provisions of section
4 346-17 having legal custody (as defined in section 571-2) of the
5 child is located, for leave to adopt an individual toward whom
6 the person or persons do not sustain the legal relationship of
7 parent and child and for a change of the name of the individual.
8 When adoption is the goal of a permanent plan recommended by the
9 department of human services and ordered pursuant to section
10 587A-31, the department may petition for adoption on behalf of
11 the proposed adoptive parents. The petition shall be in [~~such~~]
12 a form and shall include [~~such~~] information and exhibits as may
13 be prescribed by the family court."

14 SECTION 4. Section 578-2, Hawaii Revised Statutes, is
15 amended as follows:

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

17 "(a) Persons required to consent to adoption. Unless
18 consent is not required or is dispensed with under subsection
19 (c) [~~hereof~~], a petition to adopt a child may be granted only if
20 written consent to the proposed adoption has been executed by:

21 (1) The [~~mother~~] birthing parent of the child;



- 1 (2) A legal [~~father~~] parent [~~as~~] to whom the child is a
2 legitimate child;
- 3 (3) An adjudicated [~~father~~] parent whose relationship to
4 the child has been determined by a court;
- 5 (4) A presumed [~~father~~] natural parent under [~~section 578-~~
6 ~~2(d);~~] subsection (d);
- 7 (5) A concerned natural [~~father~~] parent who is not the
8 legal, adjudicated, or presumed [~~father~~] parent but
9 who has demonstrated a reasonable degree of interest,
10 concern or responsibility as to the welfare of a
11 child, either:
- 12 (A) During the first thirty days after [~~such~~] the
13 child's birth; or
- 14 (B) [~~Prior to~~] Before the execution of a valid
15 consent by the [~~mother~~] birthing parent of the
16 child; or
- 17 (C) [~~Prior to~~] Before the placement of the child with
18 adoptive parents;
19 whichever period of time is greater;
- 20 (6) Any person or agency having legal custody of the child
21 or legally empowered to consent;



1 (7) The court having jurisdiction of the custody of the
2 child, if the legal guardian or legal custodian of the
3 person of the child is not empowered to consent to
4 adoption; and

5 (8) The child to be adopted if the child is more than ten
6 years of age, unless the court, in the best interest
7 of the child, dispenses with the child's consent."

8 2. By amending subsections (c) through (e) to read:

9 "(c) Persons as to whom consent not required or whose
10 consent may be dispensed with by order of the court.

11 (1) Persons as to whom consent not required:

12 (A) A parent who has deserted a child without
13 affording means of identification for a period of
14 ninety days;

15 (B) A parent who has voluntarily surrendered the care
16 and custody of the child to another for a period
17 of two years;

18 (C) A parent of the child in the custody of another,
19 if the parent for a period of at least one year
20 has failed to communicate with the child when
21 able to do so;



- 1 (D) A parent of a child in the custody of another, if
2 the parent for a period of at least one year has
3 failed to provide for the care and support of the
4 child when able to do so;
- 5 (E) A natural [~~father~~] parent who was not married to
6 the child's [~~mother~~] birthing parent at the time
7 of the child's conception or birth and who does
8 not fall within the provisions of subsection
9 (a) (3), (4), or (5);
- 10 (F) A parent whose parental rights have been
11 judicially terminated under the provisions of
12 sections 571-61 to 571-63, or under the
13 provisions of any other state or other law by a
14 court or other agency having jurisdiction to take
15 the action;
- 16 (G) A parent who is judicially declared mentally ill
17 or intellectually disabled and [~~who is~~] found by
18 the court to be incapacitated from giving consent
19 to the adoption of the child;
- 20 (H) Any legal guardian or legal custodian of the
21 child sought to be adopted, other than a parent,



1 who has failed to respond in writing to a request
2 for consent for a period of sixty days or who,
3 after examination of the person's written reasons
4 for withholding consent, is found by the court to
5 be withholding the person's consent unreasonably;

6 (I) A parent of a child who has been in the custody
7 of a petitioner under this chapter for a period
8 of at least one year and who entered the United
9 States of America as a consequence of
10 extraordinary circumstances in the child's
11 country of origin, by reason of which
12 extraordinary circumstances the existence,
13 identity, or whereabouts of the child's parents
14 is not reasonably ascertainable or there is no
15 reasonable means of obtaining suitable evidence
16 of the child's identity or availability for
17 adoption;

18 (J) Any parent of the individual to be adopted, if
19 the individual is an adult eligible for adoption
20 under subsection (b); and



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- 1 (K) A parent whose parental and custodial duties and
2 rights have been divested by an award of
3 permanent custody pursuant to section 587A-33;
- 4 (2) Persons whose consent may be dispensed with by order
5 of the court. The court may dispense with the consent
6 of a parent who comes within subsection (a) (3), (4),
7 or (5) [~~herein~~], upon finding that:
- 8 (A) The petitioner is the [~~stepfather~~] stepparent of
9 the child and the child has lived with the
10 child's legal [~~mother~~] birthing parent and the
11 petitioning [~~stepfather~~] stepparent for a period
12 of at least one year;
- 13 (B) The [~~father~~] parent is a concerned [~~father~~]
14 parent as provided by subsection (a) (5) [~~7~~
15 ~~herein~~], and has not filed a petition to adopt
16 the child, or the petition to adopt the child
17 filed by the [~~father~~] parent has been denied; or
- 18 (C) The [~~father~~] parent is an adjudicated, presumed,
19 or concerned [~~father~~] parent as provided by
20 [~~subsections~~] subsection (a) (3), (4), or (5) [~~7~~
21 ~~herein~~], and is not a fit and proper person or is



1 not financially or otherwise able to give the
2 child a proper home and education.

3 (d) Presumption of [~~paternity.~~] biological parentage. A
4 [~~man~~] person is presumed to be the natural [~~father~~] parent of a
5 child if:

6 (1) [~~He~~] The person and the child's [~~natural mother~~]
7 birthing parent are or have been married to each other
8 and the child is born during the marriage, or within
9 three hundred days after the marriage is terminated by
10 death, annulment, declaration of invalidity, or
11 divorce, or after a decree of separation is entered by
12 a court;

13 (2) Before the child's birth, [~~he~~] the person and the
14 child's [~~natural mother~~] birthing parent have
15 attempted to marry each other by a marriage solemnized
16 in apparent compliance with law, although the
17 attempted marriage is or could be declared invalid,
18 and:

19 (A) If the attempted marriage could be declared
20 invalid only by a court, the child is born during
21 the attempted marriage, or within three hundred



1 days after its termination by death, annulment,
2 declaration of invalidity, or divorce; or

3 (B) If the attempted marriage is invalid without a
4 court order, the child is born within three
5 hundred days after the termination of
6 cohabitation;

7 (3) After the child's birth, [~~he~~] the person and the
8 child's [~~natural mother~~] birthing parent have married,
9 or attempted to marry, each other by a marriage
10 solemnized in apparent compliance with law, although
11 the attempted marriage is or could be declared
12 invalid; and

13 (A) [~~He~~] The person has acknowledged [~~his paternity~~]
14 the person's biological parentage of the child in
15 writing filed with the department of health;

16 (B) With [~~his~~] the person's consent [~~he~~] the person
17 is named as the child's [~~father~~] parent on the
18 child's birth certificate; or

19 (C) [~~He~~] The person is obligated to support the child
20 under a written voluntary promise or by court
21 order;



- 1 (4) While the child is under the age of majority, [~~he~~] the
2 person receives the child into [~~his~~] the person's home
3 and openly holds out the child as [~~his~~] the person's
4 natural child; or
- 5 (5) [~~He~~] The person acknowledges [~~his paternity~~] the
6 person's biological parentage of the child in writing
7 filed with the department of health, which shall
8 promptly inform the [~~mother~~] birthing parent of the
9 filing of the acknowledgment, and [~~she~~] the birthing
10 parent does not dispute the acknowledgment within a
11 reasonable time after being informed thereof, in a
12 writing filed with the department of health. If
13 another [~~man~~] person is presumed under this section to
14 be the child's [~~father,~~] natural parent,
15 acknowledgment may be effected only with the written
16 consent of the presumed [~~father~~] parent or after the
17 presumption has been rebutted. If the acknowledgment
18 is filed and not disputed by the [~~mother~~] birthing
19 parent and if another [~~man~~] person is not presumed
20 under this section to be the child's [~~father,~~] parent,



1 the department of health shall prepare a new
2 certificate of birth in accordance with chapter 338.

3 (e) Notice of hearing; minor parent; consent authorizing
4 selection of adoptive parents. No hearing of a petition for
5 adoption shall be had unless each of the living parents of the
6 child who falls within the provisions of subsection (a) and who
7 has not consented to the proposed adoption, but who is alleged
8 to ~~[come]~~ fall within the provisions of ~~[subsection]~~ subsections
9 (c)(1)(A), (B), (C) and (D) or (c)(2) ~~[of this section]~~, and any
10 ~~[man]~~ person whose name appears as ~~[father]~~ parent on the
11 child's birth certificate, shall have had due notice, actual or
12 constructive, of the allegations of the petition and of the time
13 and place of the hearing thereof. Such notice need not be given
14 to any parent whose parental rights have been legally terminated
15 as hereinabove provided or whose consent has been filed with the
16 court.

17 The minority of a child's parent shall not be a bar to the
18 right of ~~[such]~~ the parent to execute a valid and binding
19 consent to the adoption of ~~[such]~~ the child.

20 Any parental consent required hereunder shall be valid and
21 binding even though it does not designate any specific adoptive



1 parent or parents, if it clearly authorizes the department of
2 human services, or a child placing organization approved by the
3 department under the provisions of section 346-17 or some proper
4 person not forbidden by law to place a child for adoption, to
5 select and approve an adoptive parent or parents for the child.

6 SECTION 5. Section 578-14.5, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (b) to read:

9 "(b) All affected public agencies and all child placing
10 organizations approved by the department of human services under
11 section 346-17 shall make reasonable efforts to complete this
12 form with medical information on both natural parents, to obtain
13 from the natural parents written consent to the release of this
14 information to or for the benefit of the adopted child, and
15 whenever possible, to obtain from the [~~natural mother~~] birthing
16 parent a signed release to receive a copy of all of [~~her~~] the
17 birthing parent's medical records, relating to the birth of the
18 adopted child, which are within the possession of the hospital
19 or other facility at which the child was born. When applicable,
20 the family court may require the petitioner or the petitioner's
21 agent in the adoption proceeding to obtain this completed form



1 from the natural parents with their consents and the signed
2 release from the [~~natural mother.~~] birthing parent."

3 2. By amending subsection (g) to read:

4 "(g) The completed forms and, if applicable, the
5 previously sealed copy of the [~~natural mother's~~] birthing
6 parent's medical records shall be forwarded to the department of
7 health. The department shall extract from the medical records
8 pertinent information relating to inheritable diseases and
9 genetic disorders and shall retain this information in an
10 abstract. The completed forms and the abstract, if available,
11 shall be included in the department's adoption records."

12 3. By amending subsection (i) to read:

13 "(i) Upon the filing of the application in subsection (h),
14 the department of health shall furnish the applicant with a copy
15 of the completed forms and, if available, the abstract of
16 pertinent information from the natural [~~mother's~~] parent's
17 medical records. The department is authorized to disclose the
18 information under this subsection without prior court approval,
19 notwithstanding section 338-20(e).

20 Nothing in this section shall be construed or applied in
21 any manner to require any public agency or child placing



1 organization to reveal the identities of the natural parents
2 without their consents."

3 SECTION 6. Section 578-15, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) The records in adoption proceedings, after the
6 petition is filed and [~~prior to~~] before the entry of the decree,
7 shall be open to inspection only by the parties or their
8 attorneys, the director of human services or the director's
9 agent, or by any proper person on a showing of good cause
10 therefor, upon order of the court. Except in the case of an
11 individual being adopted by a person married to the legal
12 [~~father or mother~~] parent of the individual or unless authorized
13 by the court, no petition for adoption shall set forth the name
14 of the individual sought to be adopted or the name of either of
15 the parents of the individual; provided that the legal name of
16 the individual and the name of each of the individual's legal
17 parents may be added to the petition by amendment during the
18 course of the hearing thereof and shall be included in the
19 decree. The hearing of the petition shall be in chambers and
20 shall not be open to the public.



1 (b) Upon the entry of the decree, or upon the later
2 effective date of the decree, or upon the dismissal or
3 discontinuance or other final disposition of the petition, the
4 clerk of the court shall seal all records in the proceedings;
5 provided that upon the written request of the petitioner or
6 petitioners, the court may waive the requirement that the
7 records be sealed. The seal shall not be broken and the records
8 shall not be inspected by any person, including the parties to
9 the proceedings, except:

- 10 (1) Upon order of the family court upon a showing of good
11 cause;
- 12 (2) After the adopted individual attains the age of
13 eighteen and upon submission to the family court of a
14 written request for inspection by the adopted
15 individual or the adoptive parents;
- 16 (3) After the adopted individual attains the age of
17 eighteen and upon submission to the family court of a
18 written request for inspection by the natural parents;
- 19 (4) Upon request by the adopted individual or the adoptive
20 parents for information contained in the records



1 concerning ethnic background and necessary medical
2 information; or

3 (5) Upon request by a natural parent for a copy of the
4 original birth certificate.

5 As used in this subsection, "natural parent" means a biological
6 [~~mother or father,~~] parent, or a legal parent who is not also
7 the biological parent."

8 SECTION 7. Section 580-21, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§580-21 Grounds for annulment.** The family court, by a
11 decree of nullity, may declare void the marriage contract for
12 any of the following causes, existing at the time of the
13 marriage:

14 (1) That the parties stood in relation to each other of
15 ancestor and descendant of any degree whatsoever,
16 [~~brother and sister~~] siblings of the half as well as
17 the whole blood, uncle and niece, aunt and nephew,
18 whether the relationship is the result of the issue of
19 parents married or not married to each other;

20 (2) That the parties, or either of them, had not attained
21 the legal age of marriage;



1 (3) That [~~the husband~~] one of the parties had an
2 undivorced [~~wife~~] spouse living[, ~~or the wife had an~~
3 ~~undivorced husband living,~~];

4 (4) That one of the parties lacked the mental capacity to
5 consent to the marriage;

6 (5) That consent to the marriage of the party applying for
7 annulment was obtained by force, duress, or fraud, and
8 there has been no subsequent cohabitation; and

9 (6) That one of the parties was a sufferer of or afflicted
10 with any loathsome disease and the fact was concealed
11 from, and unknown to, the party applying for
12 annulment."

13 SECTION 8. Section 580-22, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§580-22 Nonage.** An action to annul a marriage on the
16 ground that one of the parties was under legal age, may be
17 brought by the parent or guardian entitled to the custody of the
18 minor, or by any person admitted by the court to prosecute as
19 the friend of the minor. In no case shall the marriage be
20 annulled on the application of a party who was of legal age at
21 the time it was contracted; nor when it appears that the



1 parties, after they attained the legal age, had for any time
2 freely cohabited as [~~man and wife.~~] a married couple."

3 SECTION 9. Section 580-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§580-23 Former [~~husband or wife~~] spouse living. A
6 marriage may be declared null on the ground that one of the
7 parties has an undivorced [~~husband or wife~~] spouse living, on
8 the application of either of the parties during the lifetime of
9 the other, or on the application of the former [~~husband or~~
10 ~~wife.~~] spouse."

11 SECTION 10. Section 580-24, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§580-24 Allowance for spouse and family. Every person
14 who is deceived into contracting an illegal marriage with a [~~man~~
15 ~~or woman~~] person having another spouse living, under the belief
16 that [~~he or she~~] the person was unmarried, may be entitled to a
17 just allowance for the support of the deceived spouse and family
18 out of the property of the deceiving spouse, which the deceived
19 spouse may obtain at any time after action commenced upon
20 application to the family court having jurisdiction. In
21 addition to the allowance, the court may also compel the



1 defendant to advance reasonable amounts for the compensation of
2 witnesses and other reasonable expenses of trial to be incurred
3 by the plaintiff."

4 SECTION 11. Section 580-26, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§580-26 **Lack of mental capacity.** The marriage of a
7 person who lacked the mental capacity to consent to the marriage
8 may be annulled on the application of either party, or on the
9 application of a guardian of the party who lacked such capacity;
10 but in such case, no sentence of nullity shall be pronounced if
11 it appears that the parties freely cohabited as [~~husband and~~
12 ~~wife~~] a married couple after the party who lacked [~~such~~] mental
13 capacity attained the mental capacity necessary to consent to
14 marriage."

15 SECTION 12. Section 580-47, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Upon granting a divorce, or thereafter if, in
18 addition to the powers granted in subsections (c) and (d),
19 jurisdiction of those matters is reserved under the decree by
20 agreement of both parties or by order of court after finding
21 that good cause exists, the court may make any further orders as



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



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



1 an order terminating existing assignments against the
2 responsible parent's income and income assignment orders.

3 In addition to any other relevant factors considered, the
4 court, in ordering spousal support and maintenance, shall
5 consider the following factors:

- 6 (1) Financial resources of the parties;
- 7 (2) Ability of the party seeking support and maintenance
8 to meet [~~his or her~~] the party's needs independently;
- 9 (3) Duration of the marriage;
- 10 (4) Standard of living established during the marriage;
- 11 (5) Age of the parties;
- 12 (6) Physical and emotional condition of the parties;
- 13 (7) Usual occupation of the parties during the marriage;
- 14 (8) Vocational skills and employability of the party
15 seeking support and maintenance;
- 16 (9) Needs of the parties;
- 17 (10) Custodial and child support responsibilities;
- 18 (11) Ability of the party from whom support and maintenance
19 is sought to meet [~~his or her~~] the party's own needs
20 while meeting the needs of the party seeking support
21 and maintenance;



1 (12) Other factors [~~which~~] that measure the financial
2 condition in which the parties will be left as the
3 result of the action under which the determination of
4 maintenance is made; and

5 (13) Probable duration of the need of the party seeking
6 support and maintenance.

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



1 SECTION 13. Section 580-56, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and (c) to read as follows:

3 "(b) Following the entry of a decree of divorce in any
4 matrimonial action in which the final division of the property
5 of the parties to ~~[such]~~ the action is reserved for further
6 hearings, decisions, and orders, notwithstanding the provisions
7 of section 560:2-802, or any other provisions of the law to the
8 contrary, each party to ~~[such]~~ the action shall continue to have
9 all of the rights to and interests in the property of the other
10 party to ~~[such]~~ the action as provided by chapter 533 and
11 chapter 560, or as otherwise provided by law, to the same extent
12 ~~[he or she]~~ the party would have had such rights or interests if
13 the decree of divorce had not been entered, until the entry of a
14 decree or order finally dividing the property of the parties to
15 ~~[such]~~ the matrimonial action, or as provided in subsection (d)
16 ~~[of this section]~~.

17 (c) When a party to a matrimonial action has remarried
18 following the entry of a decree of divorce, in which the final
19 division of the property of the parties is reserved for further
20 hearings, decisions, and orders, but ~~[prior to]~~ before the entry
21 of a decree or order finally dividing the property owned by the



1 parties to that action, notwithstanding the provisions of
2 chapter 533 and chapter 560, the spouse of [~~such~~] the remarried
3 party shall have none of the rights or interests in the former
4 spouse's real property or personal estate as provided in chapter
5 533 and chapter 560, or as otherwise provided by law, until such
6 time as a decree or order finally dividing the property owned by
7 the parties or either of them as of the effective date of the
8 entry of the decree of divorce dissolving [~~his or her~~] the
9 party's prior marriage shall be entered. Upon the entry of a
10 decree or order finally dividing the property of the parties to
11 a matrimonial action in which a decree of divorce has been
12 entered, the spouse of a party to such action who has remarried
13 shall have all of the rights of a spouse as provided by chapter
14 533 and chapter 560, or as otherwise provided by law, in and to
15 the property of the former spouse vested in [~~such~~] the spouse by
16 [~~such~~] the decree or order finally dividing the property of the
17 parties or either of them, as of the effective date of the entry
18 of the decree of dissolution of the prior marriage."

19 SECTION 14. Section 587A-4, Hawaii Revised Statutes, is
20 amended by amending the definition of "family" to read as
21 follows:



1 ""Family" means each legal parent of a child; the [~~birth~~
2 ~~mother,~~] birthing parent, unless the child has been legally
3 adopted; the concerned [~~birth father~~] natural parent as provided
4 in section 578-2(a)(5), unless the child has been legally
5 adopted; each parent's spouse or former spouse; each sibling or
6 person related by blood or marriage; each person residing in the
7 dwelling unit; and any other person or legal entity with:

8 (1) Legal or physical custody or guardianship of the
9 child, or

10 (2) Responsibility for the child's care.

11 For purposes of this chapter, the term "family" does not apply
12 to an authorized agency that assumes the foregoing legal status
13 or relationship with a child."

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

16 SECTION 16. This Act shall take effect upon its approval.

17

INTRODUCED BY 



S.B. NO. 109

Report Title:

Gender-Neutral Terminology; Statutory Interpretation; Parents; Spouses; Adoption; Divorce

Description:

Replaces gender-specific terminology used in adoption and divorce matters with gender-neutral terminology.

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

