

ACT 83

A Bill for an Act Relating to Child Custody and Visitation and Defining the Powers of the Court with Respect Thereto.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. In actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court may, during the pendency of the action, at the final hearing or any time during the minority of the child, make such order for the custody of such minor child as may seem necessary or proper. In awarding the custody, the court is to be guided by the following standards, considerations and procedures:

(1) Custody should be awarded to either parent according to the best interests of the child.

(2) Custody may be awarded to persons other than the father or mother whenever such award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall prima facie be entitled to an award of custody.

(3) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, his wishes as to custody shall be considered and be given due weight by the court.

(4) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare and custody of any minor child of the parties. When so directed by the court, investigators or professional personnel attached to or assisting the court shall make investigations and reports which shall be made available to all interested parties and counsel before hearing, and such reports may be received in evidence if no objection is made and, if objection is made, may be received in evidence provided the person or persons responsible for such report are available for cross-examination as to any matter which has been investigated.

(5) The court may hear the testimony of any person or expert produced by any party or upon the court's own motion, whose skill, insight, knowledge or experience is such that his testimony is relevant to a just and reasonable determination of what is to the best physical, mental, moral and spiritual well-being of the child whose custody is at issue.

(6) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify such modification or change, and wherever practicable, the same person who made the original order shall hear the motion or petition for modification of the prior award.

(7) Reasonable visitation rights shall be awarded to parents and to any person interested in the welfare of the child in the discretion of the court, unless it is shown that such rights of visitation are detrimental to the best interests of the child.

SECTION 2. This Act shall take effect on July 1, 1965.
(Approved May 14, 1965.) **S.B. 609.**