

ACT 22

A Bill for an Act Relating to Practice and Procedure in Divorce, Annulment, and Separation Proceedings.

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency: Act 232, Regular Session of 1965, established the family court effective July 1, 1966, at which time it is anticipated that improved techniques will be applied to the solution of child and family problems, including improved evidentiary rules and court practice and court procedure. On the other hand, existing statutes, some of which date from 1870, set out details of practice and procedure some of which are archaic and all of which should be left subject to the general rule-making power of the supreme court. In order to be able to prepare properly for the inauguration of the family court, the law must be amended.

SECTION 2. Section 324-22, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Section 324-22. Commencement of action; summons. An action for annulment, divorce, or separation is commenced by filing a complaint with the court, which complaint shall be signed and sworn to by the applicant and shall set forth sufficient facts to constitute a claim for relief. Upon the filing of the complaint, the clerk shall forthwith issue a summons and deliver it for service to a person authorized to serve process in civil actions. The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which the defendant is required to appear and defend which shall not be less than twenty days after the service of the summons and complaint upon the defendant, and shall notify the defendant that in case of his failure to appear and defend as required further proceedings may be taken including judgment for the relief demanded in the complaint without further notice to the defendant. Alternative complaints for annulment, divorce, or separation may be set forth or combined in one complaint."

SECTION 3. Section 324-23, Revised Laws of Hawaii 1955, as amended, as set out in the 1963 Supplement, is hereby further amended by deleting the references therein to "the libellee or" in lines 4, 13, 19-20, 25, 33-34, 38-39, and 49, by substituting the word "complaint" for the word "libel" in lines 11, 18, and 37, by substituting the word "defendant" for the word "libellee" in lines 29-30, by substituting the word "plaintiff" for the word "libellant" in line 32, and by substituting the word "twenty" for the word "thirty" in line 46.

SECTION 4. Section 324-24, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“Section 324-24. Cross-complaint. In any action for annulment, divorce, or separation, a cross-complaint for annulment, divorce, or separation may be filed and affirmative relief granted thereon as fully and effectually as on an original complaint. The cross-complaint shall be signed and sworn to by the cross-complainant and shall be served in the same manner as an original complaint.”

SECTION 5. Section 324-25, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Section 324-25. Proof. Upon the hearing of every complaint for annulment, divorce or separation, the judge shall require exact legal proof upon every point, notwithstanding the consent of the parties.”

SECTION 6. In any existing statutes of the State wherein reference is made to “libel”, “libellant”, “libellee”, “cross-libel”, “cross-libellant”, and “cross-libellee”, in relation to matrimonial actions, the same are and shall be deemed to have been amended to conform to the terminology set forth in the amended sections herein.

SECTION 7. Nothing contained herein shall be construed to restrict or limit the power of the supreme court to promulgate rules and regulations which shall have the force and effect of law relating to process, practice, procedures and appeals in proceedings for annulment, divorce, and separation.

SECTION 8. This Act shall take effect on July 1, 1966.
(Approved April 5, 1966.) **H.B. 293.**