

ACT 116

H. B. NO. 1795-70

A Bill for an Act Relating to Divorce and Amending Chapter 580, Hawaii Revised Statutes.

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

SECTION 1. Section 580-41, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 580-41 Grounds for divorce. Divorces from the bond of matrimony shall be granted for the causes hereinafter set forth and no other:

- (1) For adultery in either party;
- (2) For wilful and utter desertion for the term of six months;
- (3) When either party is sentenced to imprisonment for life or for seven years or more; and after divorce for such cause no pardon granted to a party so sentenced shall affect the divorce;
- (4) For insanity of either party, where the same has existed for three years or more next preceding the filing of the complaint;
- (5) For extreme cruelty;
- (6) For habitual drunkenness or the habitual excessive use of opium, morphine, or any other like drug, continued for a period of not less than one year;
- (7) When one party to the marriage, whether intentionally, studiedly, wilfully, deliberately, or not, inflicts grievous mental suffering upon the other, continued over a course of not less than sixty days, as to render the life of the other burdensome and intolerable and their further living together insupportable;
- (8) When the husband, being of sufficient ability to provide suitable maintenance for his wife, neglects or refuses to do so for a continuous period of not less than sixty days;

- (9) Upon application of either party, when the parties have lived separate and apart under a decree of separation from bed and board entered by any court of competent jurisdiction, the term of separation has expired, and no reconciliation has been effected;
- (10) Upon the application of either party, when the parties have lived separate and apart under a decree of separate maintenance entered by any court of competent jurisdiction for a period of more than two years, and no reconciliation has been effected.
- (11) Upon the application of either party, when the parties have lived separate and apart for a continuous period of more than two years immediately preceding the application, there is no reasonable likelihood that cohabitation will be resumed, and the court is satisfied that, in the particular circumstances of the case, it would not be harsh and oppressive to the defendant or contrary to the public interest to grant a divorce on this ground on the complaint of the plaintiff.

If the party applying for divorce does not insist upon a divorce from the bond of matrimony, a divorce only from bed and board shall be granted, and the relations of the parties after such divorce shall be regulated by the laws concerning separation.”

SECTION 2. Section 580-45, Hawaii Revised Statutes, is hereby amended to read as follows:

“**Sec. 580-45 Decree.** If after a full hearing, the court or judge is of opinion that a divorce ought to be granted, either from the bonds of matrimony or from bed and board, a decree shall be signed, filed, and entered, which shall take effect from and after such time as may be fixed by the court or judge in the decree. In case of a decree dissolving the bonds of matrimony, such time so fixed shall not be more than one month from and after the date of the decree.

When a divorce is granted because of habitual drunkenness, habitual use of narcotics, or adultery, the court may in its discretion designate grievous mental suffering as the ground for divorce in the divorce decree, if it determines that such would be in the best interests of the children or would conduce toward rehabilitation of either party.

Any provision to the contrary notwithstanding, except as hereinafter provided, if after a full hearing, the court or judge is of the opinion that a divorce from the bonds of matrimony ought to be granted, and there is a child of the parties less than eighteen years of age or in posse, an interlocutory decree, effective from and after such time as may be fixed by the court or judge in the decree not earlier than the date of final hearing and not later than one month after the date of the decree, shall be signed, filed, and entered adjudging that the party in whose favor the court or judge decides, is entitled to a divorce from the bonds of matrimony and granting or reserving for future determination such relief authorized by section 580-47 as may appear just and equitable, but the interlocutory decree shall not operate to dissolve the bonds of matrimony. After the entry of the interlocutory decree, neither party shall have the right to dismiss the action without the consent of the other. If the interlocutory decree

has remained in force for six months or more and the parties have not reconciled, the court or judge on motion of either party, or upon its own motion, shall enter a final decree dissolving the bonds of matrimony and granting such other and further relief as may be necessary to complete disposition of the action; provided, that upon all the children of the parties either attaining eighteen years of age or becoming married or otherwise emancipated or adopted or deceased, or upon the decease of either party, within six months after the effective date of the interlocutory decree, the court or judge upon motion and due proof of the facts shall enter the final decree effective as of the date of the event; provided, further, that if any appeal has been taken from the judgment of divorce embodied in the interlocutory decree or if a motion for a new trial has been made, the final decree shall not be entered until the appeal or motion has been finally disposed of, nor then, if the judgment has been reversed or the motion granted. Motions for entry of final decree may be heard ex parte on affidavit or the court or judge may require notice to the other party or other interested persons and a hearing, as the circumstances and the interests of justice may dictate in the discretion of the court or judge.

If the parties have been separated for six months or more under a decree of separation or a decree of separate maintenance, or if a divorce is granted pursuant to section 580-41(11), then the court shall not enter an interlocutory decree but shall proceed to grant an absolute divorce.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

* Edited accordingly