

ACT 11

S. B. NO. 1014

A Bill for an Act Relating to Divorce.

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

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

**“Section 580-41. Divorce.** The family court shall decree a divorce from the bond of matrimony upon the application of either party when the court finds:

- (1) the marriage is irretrievably broken;
- (2) 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;

- (3) the parties have lived separate and apart for a period of two years or more under a decree of separate maintenance entered by any court of competent jurisdiction, and no reconciliation has been effected; or
- (4) the parties have lived separate and apart for a continuous period of two years or more 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 a divorce on this ground on the complaint of the plaintiff.

SECTION 2. Section 580-42, Hawaii Revised Statutes, is repealed.

SECTION 3. A new section is added to the Hawaii Revised Statutes to read as follows:

**“Section 580-42. Irretrievable breakdown.** (a) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding whether the marriage is irretrievably broken.

(b) If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the petition and the prospect of reconciliation, and shall

- (1) Make a finding whether the marriage is irretrievably broken, or
- (2) Continue the matter for further hearing not less than thirty or more than sixty days later, or as soon thereafter as the matter may be reached on the court’s calendar and may suggest to the parties that they seek counseling. At the adjourned hearing, the court shall make a finding whether the marriage is irretrievably broken.”

SECTION 4. Section 580-45, Hawaii Revised Statutes, is 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 from the bonds of matrimony 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.

SECTION 5. Section 580-43, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 580-48, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 580-49, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 580-49. Support of insane spouse after divorce.** In every suit for divorce where a decree is granted to the plaintiff and the defendant is insane at the time of the decree, the court may, at any time after entering the decree, re-

wise and alter the same so far as the support and maintenance of the insane person is concerned, and may provide for such maintenance by the plaintiff out of any property or earnings acquired by the plaintiff subsequently, as well as previously, to the decree of divorce. The court making the order for maintenance, may, in its discretion, require the plaintiff to give security to the satisfaction of the court for the faithful execution of the same.”

SECTION 8. Section 580-50, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 580-53, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 580-54, Hawaii Revised Statutes, is repealed.

SECTION 11. 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 12. This Act shall take effect on July 1, 1972.

(Approved April 11, 1972.)

---

\*Edited accordingly.