

ACT 383

H.B. NO. 118

A Bill for an Act Relating to Unmarried Couples.

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

Part I

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER 572C
RECIPROCAL BENEFICIARIES

§ -1 **Purpose.** The purpose of this chapter is to extend certain rights and benefits which are presently available only to married couples to couples composed of two individuals who are legally prohibited from marrying under state law.

§ -2 **Findings.** The legislature finds that the people of Hawaii choose to preserve the tradition of marriage as a unique social institution based upon the committed union of one man and one woman. The legislature further finds that because of its unique status, marriage provides access to a multiplicity of rights and benefits throughout our laws that are contingent upon that status. As such, marriage should be subject to restrictions such as prohibiting respective parties to a valid marriage contract from standing in relation to each other, i.e. brother and sisters of the half as well as to the whole blood, uncle and niece, aunt and nephew.

However, the legislature concurrently acknowledges that there are many individuals who have significant personal, emotional, and economic relationships with another individual yet are prohibited by such legal restrictions from marrying. For example, two individuals who are related to one another, such as a widowed mother and her unmarried son, or two individuals who are of the same gender. Therefore, the legislature believes that certain rights and benefits presently available only to married couples should be made available to couples comprised of two individuals who are legally prohibited from marrying one another.

§ -3 **Definitions.** For the purposes of this chapter:

“Declaration of reciprocal beneficiary relationship” means a statement in a form issued by the director that declares the intent of two people to enter into a relationship. By signing it, two people swear under penalty of perjury that they meet the requirements for a valid reciprocal beneficiary relationship.

“Director” means the director of health.

“Reciprocal beneficiaries” means two adults who are parties to a valid reciprocal beneficiary relationship and meet the requisites for a valid reciprocal beneficiary relationship as defined in section -4.

§ -4 **Requisites of a valid reciprocal beneficiary relationship.** In order to enter into a valid reciprocal beneficiary relationship, it shall be necessary that:

- (1) Each of the parties be at least eighteen years old;

- (2) Neither of the parties be married nor a party to another reciprocal beneficiary relationship;
- (3) The parties be legally prohibited from marrying one another under chapter 572;
- (4) Consent of either party to the reciprocal beneficiary relationship has not been obtained by force, duress, or fraud; and
- (5) Each of the parties sign a declaration of reciprocal beneficiary relationship as provided in section -5.

§ -5 Registration as reciprocal beneficiaries; filing fees; records. (a) Two persons, who meet the criteria set out in section -4, may enter into a reciprocal beneficiary relationship and register their relationship as reciprocal beneficiaries by filing a signed notarized declaration of reciprocal beneficiary relationship with the director. For the filing of the declaration, the director shall collect a fee of \$8, which shall be remitted to the director of finance for deposit into the general fund.

(b) Upon the payment of the fee, the director shall register the declaration and provide a certificate of reciprocal beneficiary relationship to each party named on the declaration. The director shall maintain a record of each declaration of reciprocal beneficiary relationship filed with or issued by the director.

§ -6 Rights and obligations. Upon the issuance of a certificate of reciprocal beneficiary relationship, the parties named in the certificate shall be entitled to those rights and obligations provided by the law to reciprocal beneficiaries. Unless otherwise expressly provided by law, reciprocal beneficiaries shall not have the same rights and obligations under the law that are conferred through marriage under chapter 572.

§ -7 Termination of reciprocal beneficiary relationship; filing fees and records; termination upon marriage. (a) Either party to a reciprocal beneficiary relationship may terminate the relationship by filing a signed notarized declaration of termination of reciprocal beneficiary relationship by either of the reciprocal beneficiaries with the director. For the filing of the declaration, the director shall collect a fee of \$8, which shall be remitted to the director of finance for deposit into the general fund.

(b) Upon the payment of the fee, the director shall file the declaration and issue a certificate of termination of reciprocal beneficiary relationship to each party of the former relationship. The director shall maintain a record of each declaration and certificate of termination of reciprocal beneficiary relationship filed with or issued by the director.

(c) Any marriage license subsequently issued by the department to any individual registered as a reciprocal beneficiary shall automatically terminate the individual's existing reciprocal beneficiary relationship.

(d) If either party to a reciprocal beneficiary relationship enters into a legal marriage, the parties shall no longer have a reciprocal beneficiary relationship and shall no longer be entitled to the rights and benefits of reciprocal beneficiaries."

SECTION 2. Chapter 87, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§87- Reciprocal beneficiary family coverage defined; reciprocal beneficiary employees, state and counties, and fund responsibility costs. (a) The board of trustees shall establish a reciprocal beneficiary family coverage health

benefits plan for an employee who is a reciprocal beneficiary under chapter and elects to enroll in reciprocal beneficiary family coverage.

(b) As used in this section, reciprocal beneficiary family coverage means coverage under a health benefits plan that insures, originally or upon subsequent amendment, an employee who is a reciprocal beneficiary, the other party to the employee's reciprocal beneficiary relationship, and any dependent-beneficiary of the employee, any unmarried child of the non-employee reciprocal beneficiary under age nineteen, or a surviving beneficiary of the employee.

(c) This section shall be repealed on June 30, 1999."

SECTION 3. Chapter 323, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§323- Hospital visitation policy and extension of authority to reciprocal beneficiaries. A reciprocal beneficiary, as defined in chapter , of a patient shall have the same rights as a spouse with respect to visitation and making health care decisions for the patient."

SECTION 4. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part 10A to read as follows:

"§431:10A- Reciprocal beneficiary family coverage defined; policyholder and employer responsibility for costs; availability. (a) Any other law to the contrary notwithstanding, reciprocal beneficiary family coverage, as defined in subsection (b), shall be made available to reciprocal beneficiaries, as defined in chapter , but only to the extent that family coverage, as defined in section 431:10A-103, is currently available to individuals who are not reciprocal beneficiaries.

(b) As used in this section, reciprocal beneficiary family coverage means a policy that insures, originally or upon subsequent amendment, a reciprocal beneficiary who shall be deemed the policyholder, the other party to the policyholder's reciprocal beneficiary relationship registered pursuant to chapter , dependent children or any child of any other person dependent upon either reciprocal beneficiary.

(c) If a reciprocal beneficiary policyholder incurs additional costs or premiums, if any, by electing reciprocal beneficiary family coverage under this section, the employer may pay additional costs or premiums."

SECTION 5. Section 431:10A-104, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A policy of accident and sickness insurance shall neither be delivered nor issued for delivery to any person in this State unless:

- (1) The entire monetary and other considerations are expressed in the policy;
- (2) The time at which the insurance takes effect and terminates is expressed in or determinable from the policy;
- (3) It purports to insure only one person, except that a policy may provide family coverage as defined in section 431:10A-103[;] or reciprocal beneficiary family coverage as defined in section 431:10A- ;
- (4) The style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten point with a lower case unspaced alphabet length not less than one hundred and twenty

- point. The text shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions;
- (5) The exceptions and reductions of indemnity are set forth in the policy and, except the required and optional provisions set forth in section 431:10A-105 and section 431:10A-106, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as exceptions, or exceptions and reductions; provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction shall be included with the benefit provision to which it applies;
 - (6) Each policy form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page; and
 - (7) It does not contain any provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner."

SECTION 6. Section 431:10A-115, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All policies providing family coverage, as defined in section 431:10A-103 and reciprocal beneficiary family coverage, as defined in section 431:10A-____, on an expense incurred basis shall provide that the benefits applicable for children shall be payable for newborn infants from the moment of birth; provided that the coverage for newly born children shall be limited to the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the policy may require that notification of birth and payment of the required premium must be furnished the insurer within thirty-one days after the date of birth in order to have the coverage continue beyond the thirty-one-day period."

SECTION 7. Section 431:10A-206, Hawaii Revised Statutes, is amended to read as follows:

"§431:10A-206 Coverage of newborn children. All group or blanket policies providing family coverage, as defined in section 431:10A-103 and reciprocal beneficiary family coverage, as defined in section 431:10A-____, on an expense incurred basis shall provide coverage for newborn children in compliance with section 431:10A-115."

SECTION 8. Section 431L-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Where a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage,¹ as defined in section 431:10A-103 and reciprocal beneficiary family coverage, as defined in section 431:10A-____, the insurer shall be required:

- (1) To permit the parent to enroll, under the family coverage or reciprocal beneficiary family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

- (2) If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage or reciprocal beneficiary family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state agency administering the child support enforcement program; and
- (3) Not to disenroll (or eliminate coverage of) the child unless the insurer is provided satisfactory written evidence that:
 - (A) The court or administrative order is no longer in effect; or
 - (B) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment."

SECTION 9. Section 431L-4, Hawaii Revised Statutes, is amended to read as follows:

"[§431L-4] Employer obligations. Where a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this State, the employer is required:

- (1) To permit the parent to enroll under family coverage, as defined in section 431:10A-103 or reciprocal beneficiary family coverage, as defined in section 431:10A-___, any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;
- (2) If the parent is enrolled but fails to make application to obtain coverage of the child, to enroll the child under family coverage or reciprocal beneficiary family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or by the state agency administering the child support enforcement program;
- (3) Not to disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that:
 - (A) The court or administrative order is no longer in effect;
 - (B) The child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or
 - (C) The employer has eliminated family health coverage or reciprocal beneficiary family coverage for all of its employees[.]; and
- (4) To withhold from the employee's compensation the employee's share (if any) of premiums for health coverage and to pay this amount to the insurer."

SECTION 10. Section 509-2, Hawaii Revised Statutes, is amended to read as follows:

"§509-2 Creation of joint tenancy, tenancy by the entirety, and tenancy in common. (a) Land, or any interest therein, or any other type of property or property rights or interests or interest therein, may be conveyed by a person to oneself and another or others as joint tenants, or by a person to oneself and one's spouse[,] or reciprocal beneficiary, or by spouses to themselves, or by reciprocal beneficiaries to themselves, as tenants by the entirety, or by joint tenants to themselves and another or others as joint tenants, or tenants in common to themselves or to themselves and another or others as joint tenants, or by tenants by the entirety to themselves or themselves and another or others as joint tenants or as tenants in common, or by one tenant by the entirety to the tenant's spouse or reciprocal beneficiary of all of the tenant's interest or interests, without the necessity of conveying through a third party, and each such instrument shall be construed as

validly creating a joint tenancy, tenancy by the entirety, tenancy in common, or single ownership, as the case may be, if the tenor of the instrument manifestly indicates such intention.

(b) For the purposes of this chapter:

“Reciprocal beneficiary” means an adult who is a party to a registered reciprocal beneficiary relationship in accordance with chapter , and has a valid certificate of reciprocal beneficiary relationship that has not been terminated.”

SECTION 11. Section 560:2-201, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Reciprocal beneficiary” means an adult who is a party to a registered reciprocal beneficiary relationship in accordance with chapter , and has a valid certificate of reciprocal beneficiary relationship that has not been terminated.

“Reciprocal beneficiary relationship” is the registered status of two adults defined in chapter .”

SECTION 12. Section 560:2-202, Hawaii Revised Statutes, is amended to read as follows:

“§560:2-202 Elective share. (a) Elective-share amount. The surviving spouse or reciprocal beneficiary of a decedent who dies domiciled in this State has a right of election, under the limitations and conditions stated in this part, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, or the reciprocal beneficiary and the decedent were in a reciprocal beneficiary relationship, in accordance with the following schedule:

<u>If the decedent and the spouse were married to each other[:], or the decedent and the reciprocal beneficiary were in a relationship:</u>	<u>The elective-share percentage is:</u>
Less than 1 year	Supplemental amount only.
1 year but less than 2 years	3% of the augmented estate.
2 years but less than 3 years	6% of the augmented estate.
3 years but less than 4 years	9% of the augmented estate.
4 years but less than 5 years	12% of the augmented estate.
5 years but less than 6 years	15% of the augmented estate.
6 years but less than 7 years	18% of the augmented estate.
7 years but less than 8 years	21% of the augmented estate.
8 years but less than 9 years	24% of the augmented estate.
9 years but less than 10 years	27% of the augmented estate.
10 years but less than 11 years	30% of the augmented estate.
11 years but less than 12 years	34% of the augmented estate.
12 years but less than 13 years	38% of the augmented estate.
13 years but less than 14 years	42% of the augmented estate.
14 years but less than 15 years	46% of the augmented estate.
15 years or more	50% of the augmented estate;

provided, however, the surviving spouse or reciprocal beneficiary may elect to take a share smaller than that to which the surviving spouse or reciprocal beneficiary is entitled hereunder.

(b) Supplemental elective-share amount. If the sum of the amounts described in sections 560:2-207, 560:2-209(a)(1), and that part of the elective-share amount

payable from the decedent's probate estate and nonprobate transfers to others under section 560:2-209(b) and (c) is less than \$50,000, the surviving spouse or reciprocal beneficiary is entitled to a supplemental elective-share amount equal to \$50,000 minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in section 560:2-209(b) and (c).

(c) Effect of election on statutory benefits. If the right of election is exercised by or on behalf of the surviving spouse[,], or reciprocal beneficiary, the surviving spouse's or reciprocal beneficiary's homestead allowance, exempt property, and family allowance, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(d) Non-domiciliary. The right, if any, of the surviving spouse or reciprocal beneficiary of a decedent who dies domiciled outside this State to take an elective share in property in this State is governed by the law of the decedent's domicile at death."

SECTION 13. Section 560:2-208, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Exclusions:

- (1) The value of any property is excluded from the decedent's nonprobate transfers to others:
 - (A) To the extent the decedent received adequate and full consideration in money or money's worth for a transfer of the property; or
 - (B) If the property was transferred with the written joinder of, or if the transfer was consented to in writing by, the surviving spouse[.] or reciprocal beneficiary.
- (2) The augmented estate shall not include the value of any property that either:
 - (A) Is held in a trust created and funded by any party other than the decedent [or], the surviving spouse[.]; or the reciprocal beneficiary; or
 - (B) Was received by either spouse during marriage or either reciprocal beneficiary during a reciprocal beneficiary relationship, by gift, devise, inheritance or distribution from a trust created and funded by any party other than the decedent [or], the surviving spouse, or the reciprocal beneficiary; provided that such property was kept segregated from property includible in the augmented estate.”

SECTION 14. Section 560:2-209, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) In a proceeding for an elective share, the following are applied first to satisfy the elective-share amount and to reduce or eliminate any contributions due from the decedent's probate estate and recipients of the decedent's nonprobate transfers to others:

- (1) Amounts included in the augmented estate under section 560:2-204 which pass or have passed to the surviving spouse or reciprocal beneficiary by testate or intestate succession and amounts included in the augmented estate under section 560:2-206; and
- (2) Amounts included in the augmented estate under section 560:2-207 up to the applicable percentage thereof. For the purposes of this subsec-

tion, the “applicable percentage” is twice the elective-share percentage set forth in the schedule in section 560:2-202(a) appropriate to the length of time [the]:

- (A) The spouse and the decedent were married to each other[.]; or
- (B) The reciprocal beneficiary and the decedent were in a reciprocal beneficiary relationship.

(b) If, after the application of subsection (a), the elective-share amount is not fully satisfied or the surviving spouse or reciprocal beneficiary is entitled to a supplemental elective-share amount, amounts included in the decedent’s probate estate and in the decedent’s nonprobate transfers to others, other than amounts included under section 560:2-205(3)(A) or (C), are applied first to satisfy the unsatisfied balance of the elective-share amount or the supplemental elective-share amount. The decedent’s probate estate and that portion of the decedent’s nonprobate transfers to others are so applied that liability for the unsatisfied balance of the elective-share amount or for the supplemental elective-share amount is equitably apportioned among the recipients of the decedent’s probate estate and of that portion of the decedent’s nonprobate transfers to others in proportion to the value of their interests therein.”

SECTION 15. Section 560:2-301, Hawaii Revised Statutes, is amended to read as follows:

“§560:2-301 Entitlement of spouse[;] or reciprocal beneficiary; premarital will. (a) If a testator’s surviving spouse married the testator, or the testator’s reciprocal beneficiary entered into a reciprocal beneficiary relationship with the testator, after the testator executed the testator’s will, the surviving spouse or reciprocal beneficiary is entitled to receive, as an intestate share, no less than the value of the share of the estate the spouse or reciprocal beneficiary would have received if the testator had died intestate as to that portion of the testator’s estate, if any, that neither is devised to a child of the testator who was born before the testator married the surviving spouse or entered into a reciprocal beneficiary relationship with the surviving reciprocal beneficiary and who is not a child of the surviving spouse or reciprocal beneficiary, nor is devised to a descendant of such a child or passes under section 560:2-603 or 560:2-604 to such a child or to a descendant of such a child, unless:

- (1) It appears from the will or other evidence that the will was made in contemplation of [the]:
 - (A) The testator’s marriage to the surviving spouse; or
 - (B) The testator’s entering into a reciprocal beneficiary relationship with the reciprocal beneficiary;
- (2) The will expresses the intention that it is to be effective notwithstanding any subsequent marriage[;], or reciprocal beneficiary relationship; or
- (3) The testator provided for the spouse or reciprocal beneficiary by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator’s statements or is reasonably inferred from the amount of the transfer or other evidence.

(b) In satisfying the share provided by this section, devises made by the will to the testator’s surviving spouse, or reciprocal beneficiary, if any, are applied first, and other devises, other than a devise to a child of the testator who was born before the testator married the surviving spouse, or entered a reciprocal beneficiary relationship with the reciprocal beneficiary, and who is not a child of the surviving spouse or reciprocal beneficiary, or a devise or substitute gift under section 560:2-

603 or 560:2-604 to a descendant of such a child, abate as provided in section 560:3-902.”

SECTION 16. Section 560:2-711, Hawaii Revised Statutes, is amended to read as follows:

“§560:2-711 Interest in “heirs” and like. If an applicable statute or a governing instrument calls for a present or future distribution to or creates a present or future interest in a designated individual’s “heirs”, “heirs at law”, “next of kin”, “relatives”, or “family”, or language of similar import, the property passes to those persons, including the State, and in such shares as would succeed to the designated individual’s intestate estate under the intestate succession law of the designated individual’s domicile if the designated individual died when the disposition is to take effect in possession or enjoyment. If the designated individual’s surviving spouse or reciprocal beneficiary is living but is remarried or has terminated the reciprocal beneficiary relationship at the time the disposition is to take effect in possession or enjoyment, the surviving spouse or reciprocal beneficiary is not an heir of the designated individual.”

SECTION 17. Section 560:2-802, Hawaii Revised Statutes, is amended to read as follows:

“§560:2-802 Effect of divorce, annulment, [and] decree of separation[.], and termination of reciprocal beneficiary relationship. (a) An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section. An individual who has terminated a reciprocal beneficiary relationship with the decedent is not deemed a surviving reciprocal beneficiary unless, by virtue of a subsequent registration as a reciprocal beneficiary, the individual is the reciprocal beneficiary of the decedent at the time of death.

(b) For purposes of parts 1, 2, 3, and 4 of this article, and of section 560:3-203, a surviving spouse or reciprocal beneficiary does not include:

- (1) An individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this State, unless subsequently they participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife;
- (2) An individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual; [or]
- (3) An individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights[.]; or
- (4) An individual who does not have a certificate of reciprocal beneficiary relationship declaring the decedent as their reciprocal beneficiary or the relationship has been terminated under chapter or otherwise.”

SECTION 18. Section 560:2-804, Hawaii Revised Statutes, is amended to read as follows:

“§560:2-804 Revocation of probate and nonprobate transfers by divorce[.] or termination of reciprocal beneficiary relationship; no revocation by other changes of circumstances. (a) Definitions. In this section:

“Disposition or appointment of property” includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

“Divorce or annulment” means any divorce or annulment, or any dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of section 560:2-802. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

“Divorced individual” includes an individual whose marriage has been annulled.

“Governing instrument” means a governing instrument executed by [the]:

- (1) A divorced individual before the divorce or annulment of the individual’s marriage to the individual’s former spouse[.]; or
- (2) An individual who is a former reciprocal beneficiary before the termination of the reciprocal beneficiary relationship with the individual’s former reciprocal beneficiary.

“Relative of the divorced individual’s former spouse” means an individual who is related to the divorced individual’s former spouse by blood, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

“Revocable”, with respect to a disposition, appointment, provision, or nomination, means one under which [the]:

- (1) The divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the individual’s former spouse or former spouse’s relative, whether or not the divorced individual was then empowered to designate the individual’s self in place of the individual’s former spouse or in place of the individual’s former spouse’s relative and whether or not the divorced individual then had the capacity to exercise the power[.]; or
- (2) An individual who is a former reciprocal beneficiary, at the time of the termination, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the individual’s former partner or former partner’s relative, whether or not the individual was then empowered to designate the individual’s self in place of the individual’s former partner or in place of the individual’s former partner’s relative and whether or not the individual who is the former reciprocal beneficiary then had the capacity to exercise the power.

“Termination” means the dissolution of a reciprocal beneficiary relationship under chapter between two adults.

(b) Revocation upon divorce[.] or termination. Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the [marital] estate made between the divorced individuals before or after the marriage, divorce, [or] annulment, between two former reciprocal beneficiaries before the termination of a reciprocal beneficiary relationship, the divorce or annulment of a marriage[.] or the termination of a reciprocal beneficiary relationship:

- (1) Revokes any revocable:
 - (A) Disposition or appointment of property made by a divorced individual or a former reciprocal beneficiary to the individual’s former spouse or reciprocal beneficiary in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual’s former spouse[.] or reciprocal beneficiary;
 - (B) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual’s

former spouse or an³ individual's former reciprocal beneficiary or on a relative of the divorced individual's former spouse[;] or an individual's former reciprocal beneficiary; and

- (C) Nomination in a governing instrument, nominating a divorced individual's former spouse or a relative of the divorced individual's former spouse or an individual's former reciprocal beneficiary or a relative of the former reciprocal beneficiary to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian; and

- (2) Severs the interests of the former spouses or reciprocal beneficiaries in property held by them at the time of the divorce [or], annulment, or termination, as joint tenants with the right of survivorship or as community property with the right of survivorship, transforming the interests of the former spouses or reciprocal beneficiaries into tenancies in common.

(c) Effect of severance. A severance under subsection (b)(2) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses or reciprocal beneficiaries unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(d) Effect of revocation. Provisions of a governing instrument are given effect as if the former spouse or reciprocal beneficiary and relatives of the former spouse or reciprocal beneficiary disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse or reciprocal beneficiary and relatives of the former spouse or reciprocal beneficiary died immediately before the divorce [or], annulment[.], or termination.

(e) Revival if divorce nullified[.] or reciprocal beneficiary relationship re-registered. Provisions revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

Provisions revoked solely by this section are revived by the an⁴ individual's re-registering a reciprocal beneficiary relationship to the former reciprocal beneficiary.

(f) No revocation for other change of circumstances. No change of circumstances other than as described in this section and in section 560:2-803 effects a revocation.

- (g) Protection of payors and other third parties.

- (1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment, [or] remarriage, termination, or re-registration of a reciprocal beneficiary relationship, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the divorce, annulment, [or] remarriage[.], termination, or re-registration of a reciprocal beneficiary relationship. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section;
- (2) Written notice of the divorce, annulment, [or] remarriage, termination, or re-registration of a reciprocal beneficiary relationship under this

subsection must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, [or] remarriage, termination, or re-registration of a reciprocal beneficiary relationship, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the judicial circuit of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

- (h) Protection of bona fide purchasers; personal liability of recipient.
- (1) A person who purchases property from a former spouse, former reciprocal beneficiary, relative of a former spouse[,], or reciprocal beneficiary, or any other person for value and without notice, or who receives from a former spouse, a former reciprocal beneficiary, relative of a former spouse[,], or reciprocal beneficiary, or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a former spouse, former reciprocal beneficiary, relative of a former spouse[,], or reciprocal beneficiary, or other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section;
- (2) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a former spouse, former reciprocal beneficiary, relative of the former spouse[,], or reciprocal beneficiary, or any other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted."

SECTION 19. Sections 560:1-201, 560:2-102, 560:2-103, 560:2-114, 560:2-203, 560:2-205, 560:2-206, 560:2-207, 560:2-210, 560:2-211, 560:2-212, 560:2-213, 560:2-214, 560:2-402, 560:2-403, 560:2-404, 560:2-405, 560:2-705, 560:2-803, 560:3-203, 560:3-301, 560:3-302, 560:3-403, 560:3-703, 560:3-713, 560:3-901, 560:3-902, 560:3-906, 560:3-915, 560:3-916, 560:3-1212, 560:5-301, 560:5-309, 560:5-311, 560:5-312, 560:5-408, 560:5-410, 560:5-422, 560:5-601, and 560:6-107, Hawaii Revised Statutes, are amended by substituting the term "spouse or reciprocal beneficiary", or like terms, wherever the word "spouse", or like term, appears, as the context requires.

SECTION 20. Section 663-3, Hawaii Revised Statutes, is amended to read as follows:

“§663-3 Death by wrongful act. (a) When the death of a person is caused by the wrongful act, neglect, or default of any person, the deceased’s legal representative, or any of the persons [hereinafter] enumerated[,] in subsection (b), may maintain an action against the person causing the death or against the person responsible for the death. The action shall be maintained on behalf of the persons [hereinafter] enumerated[,] in subsection (b), except that the legal representative may recover on behalf of the estate the reasonable expenses of the deceased’s last illness and burial.

(b) In any action under this section, such damages may be given as under the circumstances shall be deemed fair and just compensation, with reference to the pecuniary injury and loss of love and affection, including:

- (1) [loss] Loss of society, companionship, comfort, consortium, or protection[.];
- (2) [loss] Loss of marital care, attention, advice, or counsel[.];
- (3) Loss of care, attention, advice, or counsel of a reciprocal beneficiary as defined in chapter _____;
- [(3) loss] (4) Loss of filial care or attention[.]; or
- [(4) loss] (5) Loss of parental care, training, guidance, or education, suffered as a result of the death of the person;

by the surviving spouse, reciprocal beneficiary, children, father, mother, and by any person wholly or partly dependent upon the deceased person. The jury or court sitting without jury shall allocate the damages to the persons entitled thereto in its verdict or judgment, and any damages recovered under this section, except for reasonable expenses of last illness and burial, shall not constitute a part of the estate of the deceased. Any action brought under this section shall be commenced within two years from the date of death of the injured person, except as otherwise provided.”

Part II

SECTION 21. Section 79-7, Hawaii Revised Statutes, is amended to read as follows:

“§79-7 Vacation allowances on termination of employment. An employee whose employment is voluntarily terminated without prejudice during any calendar year shall be entitled to all of the employee’s accumulated vacation allowance plus the employee’s current accrued vacation allowance to and including the date of termination, notwithstanding that the current accrued vacation allowance may not have been recorded at the time. An employee whose employment is involuntarily terminated otherwise than for cause due to the employee’s own misconduct shall be entitled to all of the employee’s accumulated vacation allowance and current accrued vacation allowance, and the date of such termination shall be fixed so as to permit the employee to take the leave. The date of discharge of an employee whose employment is terminated for cause due to the employee’s own misconduct may, within the discretion of the department head concerned, be fixed so as to permit the allowance of all or any part of any accumulated vacation allowance and current earned vacation allowance. If any employee dies with accumulated or current accrued vacation earned but not taken, an amount equal to the value of the employee’s pay over the period of such earned vacation, and any earned and unpaid wages, shall be paid to the person or persons who may have been designated as the beneficiary or beneficiaries by the employee during the employee’s lifetime in a

verified written statement filed with the comptroller or other disbursing officer who issues warrants or checks to pay the employee for the employee's services as a public officer or public employee, or, failing the designation, to the employee's surviving spouse[,] or reciprocal beneficiary, or, failing the surviving spouse[,] or reciprocal beneficiary, to the employee's estate.

Whenever an employee's service is to be terminated, voluntarily or involuntarily, the service, at the option of the department head or other appointing power concerned, may be terminated forthwith and the retiring employee may be paid forthwith, in lieu of the employee's vacation allowance, the amount of compensation to which the employee would be entitled or which the employee would be allowed during the vacation period if the employee were permitted to take the employee's vacation in the normal manner, and in such case the employee's position may be declared vacant and may be permanently filled by a new appointee before the expiration of any vacation period following the date of the termination. Prompt notice upon such forms and in such manner as may be required by the personnel classification board having jurisdiction over the position shall be given by the department head of any action taken under this provision."

SECTION 22. Section 79-13, Hawaii Revised Statutes, is amended to read as follows:

"§79-13 Funeral leave. Three days' leave with pay, on such days as may be designated by the officer or employee, shall be granted any officer or employee in the service of the State or any county upon the death of any member of the officer's or employee's immediate family. The term "immediate family" shall include the spouse[,] or reciprocal beneficiary, children, parents, siblings, father-in-law, mother-in-law, grandparents, of the officer or employee, or an individual who has become a member of an immediate family through the Hawaiian "hanai" custom; provided, however, an individual affected by the "hanai" relationship shall be entitled to utilize funeral leave only for those members of the individual's immediate family resulting from the "hanai" relationship."

SECTION 23. Section 83-8, Hawaii Revised Statutes, is amended to read as follows:

"[[§83-8]] Travel and transportation expenses. Whenever any unit of government of this State will benefit from a temporary intergovernmental assignment, it may, in accordance with applicable statutes and rules, pay for or reimburse another government for travel and transportation expenses of an employee on such an assignment, or a portion of such expenses, by agreement between the sending and the receiving agencies. Such expenses may include a per diem allowance if the period of assignment will be for less than eight months or the costs of moving the employee's spouse or reciprocal beneficiary, and children, household goods and personal effects between agencies if the period of assignment will be for eight months or longer."

SECTION 24. Section 87-23.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The board of trustees shall determine the benefits of a long-term care benefits plan for employee-beneficiaries, their spouses[,] or reciprocal beneficiaries, and qualified-beneficiaries. The plan shall comply with the provisions of article 10A, part V, of chapter 431, upon initial plan implementation only.

(b) Notwithstanding any other law to the contrary, such benefits shall be available only to employee-beneficiaries, their spouses[,], or reciprocal beneficiaries, and qualified-beneficiaries who enroll between the ages of twenty and eighty-five. Eligible persons must comply with the plan's age, enrollment, medical underwriting, and contribution requirements."

SECTION 25. Section 88-1, Hawaii Revised Statutes, is amended to read as follows:

"§88-1 Restrictions. The provisions of this section shall be applicable to every pension and to every recipient or beneficiary thereof, granted or provided for by any special act of the legislature (other than benefits, or the recipients thereof, payable to beneficiaries or retirants of the employees' retirement system under part II) whether the pension be payable by the State or by any county, or by any board, commission, bureau, department, or other agency thereof:

- (1) No recipient or beneficiary shall be permitted to draw any pension, or any portion thereof, in excess of \$50 per month, while the recipient or beneficiary is holding any salaried position or office in, under or by authority of the United States, the State, or any political subdivision thereof. This paragraph shall not apply to any recipient or beneficiary who is elected to the legislature or to the council of any county.
- (2) If the recipient or beneficiary is a surviving spouse[,], or reciprocal beneficiary, the pension so granted shall cease when the surviving spouse or reciprocal beneficiary remarries[,], marries, or enters into a new reciprocal beneficiary relationship.
- (3) Any pension payable to any minor shall cease when the minor reaches the age of eighteen years.
- (4) If any recipient or beneficiary of a pension, having a spouse or reciprocal beneficiary at the time the pension was first granted to the recipient or beneficiary dies, then the spouse[,], or reciprocal beneficiary, as long as the spouse or reciprocal beneficiary remains unmarried[,], or not in a reciprocal beneficiary relationship, shall be paid sixty per cent of the amount of the pension payable to the beneficiary."

SECTION 26. Section 88-4, Hawaii Revised Statutes, is amended to read as follows:

"§88-4 Medical aid, etc., when free. Every recipient of any retirement allowance or pension payable by the State or by any county or by any other governmental body or agency created by or under the laws of the State who is actually and solely dependent upon the recipient's retirement allowance or pension for the recipient's maintenance and support or whose total income in whatever form or from whatever source received, including but not limited to, the recipient's retirement allowance or pension and any income of the recipient's spouse or reciprocal beneficiary is less than \$2,400 a year shall, for the recipient and the recipient's spouse[,], or reciprocal beneficiary, be entitled to free medical treatment from any government physician employed by the State or any county and to free hospitalization at any state hospital or at a hospital where county patients are treated at county expense in the county wherein the recipient resides.

Whenever a retirant or pensioner having a spouse or reciprocal beneficiary dies, then the spouse[,], or reciprocal beneficiary, as long as the spouse or reciprocal beneficiary remains [single,] unmarried and does not enter into a reciprocal beneficiary relationship, shall be eligible for benefits under this section."

SECTION 27. Section 88-5, Hawaii Revised Statutes, is amended to read as follows:

“§88-5 List of pensioners, who shall provide. The proper department of each county shall determine who is entitled to benefits under section 88-4 and shall provide to any government physician employed by the State or any county, and any county hospital or a hospital where county patients are treated at county expense in the county wherein the pensioner or beneficiary resides, a current list of pensioners and their [spouses] or reciprocal beneficiaries who are entitled to benefits under section 88-4. Upon request, the state retirement system shall provide to the proper departments of each county such information as may be required to administer section 88-4.”

SECTION 28. Section 88-84, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the member’s designation of beneficiary is void as specified in section 88-93, or if the member did not designate a beneficiary, there shall be payable:

- (1) To the surviving spouse[,], or reciprocal beneficiary, an allowance payable under option 3 of section 88-83 if the member had at least ten years of credited service but was ineligible for service retirement at the time of death in service, which allowance shall be computed on the basis of section 88-76; or if the member was eligible for service retirement at the time of death in service, the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option 2 of section 88-83; or a benefit as specified under subsection (a)(1);
- (2) To the deceased member’s dependent child, or children under age eighteen if there is no surviving spouse[,], or reciprocal beneficiary, an equally divided benefit as specified under subsection (a)(1); or
- (3) To the deceased member’s estate, if there is no surviving spouse or reciprocal beneficiary or dependent child or children, a benefit as specified under subsection (a)(1).”

SECTION 29. Section 88-85, Hawaii Revised Statutes, is amended to read as follows:

“§88-85 Accidental death benefit. Upon the receipt of proper proofs of a member’s death by the board of trustees, there shall be paid to the member’s designated beneficiary or to the member’s estate the amount of the member’s accumulated contributions and if, upon the receipt of evidence or proofs that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or that the death was due to the result of some occupational hazard, the board shall decide that the death was the result of an accident in the performance of duty and not caused by wilful negligence on the part of the member, there shall be paid in lieu of the ordinary death benefits provided by the contributions of the State or county, a pension of one-half of the average final compensation of the member:

- (1) To the surviving spouse or reciprocal beneficiary of the member to continue until the surviving spouse or reciprocal beneficiary remarries[;], marries, or enters into a new reciprocal beneficiary relationship; or

- (2) If there be no surviving spouse[,] or reciprocal beneficiary, or if the surviving spouse or reciprocal beneficiary dies or remarries, marries, or enters into a new reciprocal beneficiary relationship before any child of the deceased member shall have attained the age of eighteen years, then to the deceased member's child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half of the deceased member's final compensation until every child dies, or attains such age; or
- (3) If there is no surviving spouse or reciprocal beneficiary or child under the age of eighteen years surviving the deceased member, then to the deceased member's dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there is no such nomination, then to the deceased member's dependent father or to the deceased member's dependent mother as the board, in its discretion, shall direct to continue for life.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in death to a firefighter, police officer, or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no wilful negligence on the firefighter's, police officer's, or sewer worker's part, and as a result of the inherent occupational hazard of exposure to and inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such firefighter, police officer, or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition."

SECTION 30. Section 88-93, Hawaii Revised Statutes, is amended to read as follows:

"§88-93 Named beneficiaries by active members; effect of marriage, entry into reciprocal beneficiary relationship, divorce, termination of reciprocal beneficiary relationship, or death. All nominations by written designation of beneficiaries shall become null and void when:

- (1) The beneficiary predeceases the member;
- (2) The member is divorced from the beneficiary; [or]
- (3) The member is unmarried, and subsequently marries[.]; or
- (4) The member enters into or terminates a reciprocal beneficiary relationship.

Any of the above events shall operate as a complete revocation of such designation and all benefits payable by reason of the death of the member shall be payable to the member's legal representatives unless, after the death, divorce or marriage, or entry into or termination of reciprocal beneficiary relationship, the member makes other provision in a written designation duly executed and filed with the board of trustees."

SECTION 31. Section 88-163, Hawaii Revised Statutes, is amended to read as follows:

"§88-163 Death benefits: funeral expenses; payments to dependents. (a) Upon the death of any member of the police force, fire department, or band, as a result of any injury received or disease contracted while in the performance of his duty, or when entitled to a pension under this part or who has been pensioned under this part there shall be paid, for funeral expenses, a sum not to exceed \$100. Should

the deceased member leave a dependent widow or reciprocal beneficiary and a child or children under the age of eighteen years, then there shall be paid out of the system \$50 per month to the widow until her death or remarriage or to the reciprocal beneficiary until death, marriage, or entry into a new reciprocal beneficiary relationship and \$7.50 per month to the widow or reciprocal beneficiary for each child so long as the child shall reside with the widow or reciprocal beneficiary or is supported by [her.] the widow or reciprocal beneficiary. Upon the death of such widow[,] or reciprocal beneficiary, or in the event the deceased member leaves no widow or reciprocal beneficiary but a child or children under the age of eighteen years, then there shall be paid out of the system \$50 per month to the child or children of the deceased member under the age of eighteen years with each child, if there be more than one, receiving an equal share of the \$50 per month payment plus \$7.50 per month. All payments to a child of a deceased member provided for herein shall cease when he or she arrives at the age of eighteen years.

(b) If any member of the police force, fire department or band, dies not leaving a widow[,] or reciprocal beneficiary, but leaving a father or mother dependent upon him, the father or mother (but not both) shall, upon satisfactory proof of dependency being made to the board of trustees receive from the system a sum not exceeding \$50 per month. The board shall determine whether the father or mother is dependent and how much of the amount herein provided for shall be paid to him or her. If there be no widow or reciprocal beneficiary and no child and no father or mother, but dependent brothers or sisters, then such pension shall be paid to them in such sums as shall not exceed the aggregate amount of \$30 per month. All pensions authorized as provided in this subsection shall be subject to reduction by the board of trustees whenever, in its judgment, circumstances make it reasonable, fair, or necessary. All pensions so reduced may thereafter be restored or further reduced as the board may deem best.

(c) On the remarriage of any widow or reciprocal beneficiary entitled to the benefits of any sum, or in the event of any father or mother, brothers or sisters ceasing to be dependents then the payments to them shall cease."

SECTION 32. Section 88-189, Hawaii Revised Statutes, is amended to read as follows:

"§88-189 Widow's [and], widower's,⁴ and reciprocal beneficiary's pensions. The widow and widower or reciprocal beneficiary of any deceased man or woman, who have been previously granted or are found subsequent to his or her death to have been entitled to a pension under this part, or to have had ten or more years of service although he or she had not reached the age of sixty years, shall be eligible for a pension equal to the same amount, including all the bonuses provided in section 88-11, and all other benefits, that the said deceased was receiving or entitled to receive at the time of his or her death, and all future benefits deriving thereto, so long as the widow [or], widower, or reciprocal beneficiary remains unmarried[.] or has not entered into a new reciprocal beneficiary relationship."

SECTION 33. Section 88-286, Hawaii Revised Statutes, is amended to read as follows:

"§88-286 Death benefit. (a) The surviving spouse or reciprocal beneficiary and dependent child or children of a member at the time of the member's death shall be eligible for a death benefit if the member suffers either an accidental death or an ordinary death while in service after accumulating ten years of credited service.

(b) In the case of ordinary death, the death benefit shall be as follows:

- (1) For the surviving spouse[,], or reciprocal beneficiary, an allowance equal to one-half of the member's accrued normal retirement allowance unreduced for age, payable to the surviving spouse or reciprocal beneficiary until remarriage[,], marriage, or entry into a new reciprocal beneficiary relationship; or if the member was eligible for retirement at the time of the member's death in service, and death occurred after June 30, 1990, the surviving spouse or reciprocal beneficiary may elect the allowance that would have been payable if the member had retired the day prior to death and had elected to receive a retirement allowance under option B and computed on the basis of section 88-283;
- (2) If there is a surviving spouse[,], or reciprocal beneficiary, each dependent child under age eighteen shall receive an allowance equal to ten per cent of the member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed twenty per cent of the member's accrued normal retirement allowance unreduced for age; and
- (3) If there is no surviving spouse[,], or reciprocal beneficiary, each dependent child under age eighteen shall receive an allowance equal to twenty per cent of the member's accrued normal retirement allowance unreduced for age, payable to each dependent child until the dependent child attains age eighteen; provided that the aggregate death benefits for all the dependent children shall not exceed forty per cent of the member's accrued normal retirement allowance unreduced for age.

For the purpose of determining eligibility for ordinary death benefit, a year round school employee shall be considered in service during the July and August preceding a transfer to a traditional school schedule if the employee was in service for the entire prior school year and has a contract for the upcoming traditional school year.

- (c) In the case of accidental death, the death benefit shall be as follows:
 - (1) For the surviving spouse[,], or reciprocal beneficiary, the amount of the death benefit shall be thirty per cent of the member's average final compensation, payable until remarriage;
 - (2) If there is a surviving spouse[,], or reciprocal beneficiary, each dependent child under eighteen shall receive an allowance equal to the greater of:
 - (A) Ten per cent of the member's accrued normal retirement allowance, unreduced for age; provided that the aggregate death benefits for all the dependent children shall not exceed twenty per cent of the member's accrued normal retirement allowance unreduced for age; or
 - (B) Three per cent of the member's average final compensation; provided that the aggregate death benefits for all the dependent children shall not exceed six per cent of the member's average final compensation.

The death benefit under this paragraph shall be payable to each dependent child until the dependent child attains age eighteen; and

- (3) If there is no surviving spouse[,], or reciprocal beneficiary, each dependent child under eighteen shall receive an allowance equal to the greater of:
 - (A) Twenty per cent of the member's accrued normal retirement allowance, unreduced for age; provided that the aggregate death benefits for all the dependent children shall not exceed forty per

cent of the member's accrued normal retirement allowance unreduced for age; or

- (B) Six per cent of the member's average final compensation; provided that the aggregate death benefits for all the dependent children shall not exceed twelve per cent of the member's average final compensation.

The death benefit under this paragraph shall be payable to each dependent child until the dependent child attains age eighteen."

SECTION 34. Section 105-2, Hawaii Revised Statutes, is amended to read as follows:

"§105-2 Exceptions. Section 105-1 shall not apply to:

- (1) The governor;
- (2) The mayor of any county;
- (3) Any member of a police department or a fire department or of the staff of a hospital, or any officer or employee of the board of water supply of the city and county of Honolulu, when using a motor vehicle for a personal purpose incidental to the person's service or work (but not for pleasure);
- (4) Any officer or employee of the State who, upon written recommendation of the comptroller, is given written permission by the governor to use, operate, or drive for personal use (but not for pleasure) any motor vehicle owned or controlled by the State;
- (5) Any officer or employee of any county who, upon written recommendation of the budget director, is given written permission by the mayor, to use, operate or drive for personal use (but not for pleasure) any motor vehicle owned or controlled by the county;
- (6) Any officer or employee of the State, or of any county, who, in case of emergency, because of the person's illness, or the person's incapacity caused by accident while at work, or because of the illness of a member of the person's immediate family including a reciprocal beneficiary while the person is at work, is conveyed in a motor vehicle to the person's place of abode, or to a hospital or other place, but every such use of such a motor vehicle shall be certified to by the officer or by the head of the department, commission, board, bureau, agency, or instrumentality controlling or possessing the motor vehicle immediately thereafter, and the certificate shall be forthwith filed with the comptroller, in the case of the State, or with the budget director, in the case of a county; and
- (7) The assigned driver of a Van Go Hawaii vehicle or any other state ridesharing program vehicle."

SECTION 35. Section 171-74, Hawaii Revised Statutes, is amended to read as follows:

"§171-74 Qualifications of lessees. To qualify for a residential lease under this part, the lessee shall:

- (1) Be of legal age and have at least one person, related to the lessee by blood or marriage and solely dependent upon the lessee for support, who will occupy the premises with the lessee; provided that this requirement shall not apply to a husband and wife or to reciprocal beneficiaries who are joint lessees, even if both are employed;

- (2) Be a citizen and a resident of the State for not less than five years immediately preceding the issuance of the lease;
- (3) Have a gross income not in excess of \$20,000 a year, including the gross income of the lessee's spouse[.] or reciprocal beneficiary. In determining gross income, the standard income tax exemption for each of the lessee's dependents, as determined by the income tax laws of the State, shall be allowed; and
- (4) Have such other qualifications as may be established by the board of land and natural resources.

Any person who, after taking a residential lease, through change or circumstances, loses the qualifications initially required of the person or becomes disqualified to take a residential lease, shall not thereby be required to surrender the person's residential lease, but shall be entitled to continue to hold the same."

SECTION 36. Section 171-99, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Interests, descent; certificate of occupation or homestead lease. In case of the death of any occupier or lessee under an existing certificate of occupation or existing homestead lease, all the interest of the occupier or lessee, any conveyance, devise, or bequest to the contrary notwithstanding, in land held by the decedent by virtue of such certificate of occupation or homestead lease shall vest in the relations of the decedent as follows:

- (1) In the widow [or], widower[;], or reciprocal beneficiary;
- (2) If there is no widow [or], widower[;], or reciprocal beneficiary, then in the children;
- (3) If there are no children, then in the widows [or], widowers, or reciprocal beneficiaries of the children;
- (4) If there are no such widows [or], widowers, or reciprocal beneficiaries, then in the grandchildren;
- (5) If there are no grandchildren, then in the parents or surviving parent;
- (6) If there are no parents or surviving parent, then in the sisters and brothers;
- (7) If there are no sisters and brothers, then in the widowers [or], widows, or reciprocal beneficiaries of the sisters and brothers;
- (8) If there are no such widowers [or], widows, or reciprocal beneficiaries, then in the nieces and nephews;
- (9) If there are no nieces or nephews, then in the widowers [or], widows, or reciprocal beneficiaries of the nieces and nephews;
- (10) If there are no such widowers [or], widows, or reciprocal beneficiaries, then in the grandchildren of the sisters and brothers;
- (11) If there are no grandchildren of any sister or brother, then in the State.

All the successors, except the State, shall be subject to the performance of the unperformed conditions of the certificate of occupation, or the homestead lease, in like manner as the decedent would have been subject to the performance if the decedent had continued alive; provided that if a widow [or], widower, or reciprocal beneficiary, in whom the interest shall have vested, shall thereafter marry again and deace leaving a widower [or], widow, or reciprocal beneficiary and a child or children of the first marriage surviving, the interest of the deceased shall vest in such child or children; and provided further that in case two or more persons succeed together to the interest of any occupier or lessee, according to the foregoing provisions, they shall hold the same by joint tenancy so long as two or more shall survive, but upon the death of the last survivor, the estate shall descend as provided above."

SECTION 37. Section 209-28, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Personal loans may be made for the purpose of meeting necessary expenses or to satisfy serious needs of individuals and families including reciprocal beneficiaries which arose as an immediate and direct result of a disaster.”

SECTION 38. Section 209-29, Hawaii Revised Statutes, is amended to read as follows:

“**§209-29 Eligibility for loans.** Loans may be made to individuals, partnerships, corporations, cooperatives, or other business associations, but only if the applicant:

- (1) Suffered loss of or damage to property in a rehabilitation area as a result of a state disaster;
- (2) For a commercial loan, had operated an industrial, manufacturing, processing, wholesaling, or retailing business, or professional or service business, or building rental business, immediately before the disaster;
- (3) Presents a suitable program for:
 - (A) Rehabilitation or re-establishment of the applicant's business to its predisaster level when applying for a commercial loan; or
 - (B) Meeting necessary expenses and satisfying the serious needs of the applicant and the applicant's family including reciprocal beneficiary when applying for a personal loan;
- (4) Has reasonable ability to repay the loan; and
- (5) For a commercial loan, presents written evidence that the Small Business Administration had declined an application for financial assistance under the Small Business Administration Disaster Loan Program or has reduced the amount of the loan request; provided that the declination was not due to the applicant's having sufficient financial resources to rehabilitate the applicant; or
- (6) For a commercial loan, cannot secure any loans from the Small Business Administration Disaster Loan Program because the making of the loans is not covered by the program, and the director of business, economic development, and tourism is reasonably satisfied that the applicant is not able to secure loans from private lending institutions and does not have sufficient financial resources to rehabilitate the applicant.

Paragraph (6) shall be applied in the alternative with respect to paragraph (5) of this section.”

SECTION 39. Section 247-3, Hawaii Revised Statutes, is amended to read as follows:

“**§247-3 Exemptions.** The tax imposed by section 247-1 shall not apply to:

- (1) Any document or instrument which is executed prior to January 1, 1967.
- (2) Any document or instrument which is given to secure a debt or obligation.
- (3) Any document or instrument which only confirms or corrects a deed, lease, sublease, assignment, transfer, or conveyance previously recorded or filed.

- (4) Any document or instrument between husband and wife, reciprocal beneficiaries, or parent and child, in which only a nominal consideration is paid.
- (5) Any document or instrument in which there is a consideration of \$100 or less paid or to be paid.
- (6) Any document or instrument conveying real property which is executed pursuant to an agreement of sale, and where applicable, any assignment of the agreement of sale, or assignments thereof; provided that the taxes under this chapter have been fully paid upon the agreement of sale, and where applicable, upon such assignment or assignments of agreements of sale.
- (7) Any deed, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, instrument or writing in which the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof are the only parties thereto.
- (8) Any document or instrument executed pursuant to a tax sale conducted by the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof for delinquent taxes or assessments.
- (9) Any document or instrument conveying real property to the United States or any agency or instrumentality thereof or the State or any agency, instrumentality, or governmental or political subdivision thereof pursuant to the threat of the exercise or the exercise of the power of eminent domain.
- (10) Any document or instrument which solely conveys or grants an easement or easements.
- (11) Any document or instrument whereby owners partition their property, whether by mutual agreement or judicial action; provided that the value of each owner's interest in the property after partition is equal in value to that owner's interest before partition.
- (12) Any document or instrument between marital partners or reciprocal beneficiaries who are parties to a divorce action or termination of reciprocal beneficiary relationship which is executed pursuant to an order of the court in the divorce action[.] or termination of reciprocal beneficiary relationship.
- (13) Any document or instrument conveying real property from a testamentary trust to a beneficiary under the trust.
- (14) Any document or instrument conveying real property from a grantor to the grantor's revocable living trust, or from a grantor's revocable living trust to the grantor as beneficiary of the trust."

SECTION 40. Section 306-1, Hawaii Revised Statutes, is amended by amending the definitions of "university athletic unit", "university dining unit", "university health unit", "university housing unit", and "university parking unit" to read as follows:

""University athletic unit" means athletic facilities of every nature devoted either exclusively to use by the university, including its students, faculties, guests, employees, and their families[,] including reciprocal beneficiaries, or both to university and non-university uses, for the enjoyment or utilization of, or for the privilege of observance of athletic contests or exhibitions conducted in or by means of, which facilities a fee is imposed or a charge made. A university athletic unit includes, but is

not limited to, gymnasium, field house, stadium, playing field, baseball diamond, courts suitable for tennis, volleyball, and basketball, swimming and diving pools.

“University dining unit” means a structure or facility suitable for the feeding and boarding of students enrolled in the university, members of the faculties of the university, guests, employees of the university, and members of the families including reciprocal beneficiaries of any such persons, for the use and services of which a fee is imposed or charge made. A university dining unit may be a separate structure or structures or included in another university project.

“University health unit” means a facility for the treatment, diagnosing or prevention of illness of students enrolled in the university, members of the faculties of the university, persons temporarily visiting the university, employees of the university, and members of the families including reciprocal beneficiaries of any such persons, for the use and services of which a fee is imposed or charge made. A university health center includes, but is not limited to, health centers, infirmaries and clinics, and may be a separate structure or structures or included in another university project.

“University housing unit” means a structure or structures suitable for the housing of and use and occupancy as a dwelling by students enrolled in the university, members of the faculties of the university, persons temporarily visiting the university at the invitation or request of the board, employees of the university, and members of the families including reciprocal beneficiaries of any such persons, for the use and occupancy of which a fee or rent is charged. A university housing unit includes, but is not limited to, dormitories, apartments, and other multiple unit buildings, houses and other single unit buildings.

“University parking unit” means a facility for the parking or storage, or both, of vehicles owned or used by students enrolled in the university, members of the faculties of the university, persons temporarily visiting the university, employees of the university, and members of the families including reciprocal beneficiaries of any such person, for the use, services or occupancy of which a fee is imposed or charge made. A university parking unit includes, but is not limited to, parking spaces on streets, alleys, drives and other roadways under the jurisdiction of the board, paved or unpaved surface areas or lots, and subsurface, surface or above surface structure or structures, and may be a separate structure or structures or included in another university project.”

SECTION 41. Section 324-22, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The use of such additional information obtained by researchers shall also be governed by subsection (a) and in addition, where the patient is still living and the information is to be obtained directly from the patient, the researcher shall first obtain the approval of the patient, the patient’s immediate family[,], including a reciprocal beneficiary, or attending physician, in that order of priority.”

SECTION 42. Section 327-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent’s body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

- (1) The spouse or reciprocal beneficiary of the decedent;
- (2) An adult son or daughter of the decedent;
- (3) Either parent of the decedent;

- (4) An adult brother or sister of the decedent;
- (5) A grandparent of the decedent; and
- (6) A guardian of the person of the decedent at the time of death.”

SECTION 43. Section 327-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to section 327-3. The request shall be made with reasonable discretion and sensitivity to the circumstances of the family[.] including a reciprocal beneficiary. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 327-6. An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The director of health may adopt rules to implement this subsection.”

SECTION 44. Section 334-6, Hawaii Revised Statutes, is amended to read as follows:

“§334-6 Fees; payment of expenses for treatment services. (a) Pursuant to chapter 91, the director shall establish reasonable charges for treatment services and may make collections on such charges. In making the collections on such charges the director shall take into consideration the financial circumstances of the patient and the patient’s family[.] including a reciprocal beneficiary, and no collections shall be made where in the judgment of the director, such collections would tend to make the patient or the patient’s family including a reciprocal beneficiary, a public charge or deprive the patient and the patient’s family including a reciprocal beneficiary, of necessary support.

(b) Every person hospitalized at a psychiatric facility or receiving treatment services through a community mental health center under the jurisdiction of the State or a county, or at a psychiatric facility or through a community mental health center which derives more than fifty per cent of its revenues from the general fund of the State, shall be liable for the expenses attending their reception, maintenance, and treatment and any property not exempt from execution belonging to the person shall be subject to sequestration for the payment of the expenses. Every parent or legal guardian of a patient who is a minor and every spouse or reciprocal beneficiary of a patient shall be liable for the expenses attending the reception, maintenance, and treatment of that minor child or spouse or reciprocal beneficiary who is hospitalized at a psychiatric facility or receiving treatment through a community mental health center under the jurisdiction of the State or a county, or at a psychiatric facility or through a community mental health center which derives more than fifty per cent of its revenues from the general fund of the State.”

SECTION 45. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Emergency hospitalization. If the physician or the psychologist who performs the emergency examination has reason to believe that the patient is:

- (1) Mentally ill or suffering from substance abuse;

(2) Imminently dangerous to self or others, or is gravely disabled, or is obviously ill; and

(3) In need of care or treatment, or both;

the physician or the psychologist may direct that the patient be hospitalized on an emergency basis or cause the patient to be transferred to another psychiatric facility for emergency hospitalization, or both. The patient shall have the right immediately upon admission to telephone the patient's guardian or a family member including a reciprocal beneficiary, or an adult friend and an attorney. If the patient declines to exercise that right, the staff of the facility shall inform the adult patient of the right to waive notification to the family including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary, is notified of the emergency admission but the patient's family including a reciprocal beneficiary, need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with an attorney in private."

SECTION 46. Section 334-60.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The court shall set a hearing on the petition and notice of the time and place of such hearing shall be served in accordance with, and to those persons specified in, a current order of commitment. If there is no current order of commitment, notice of the hearing shall be served personally on the subject of the petition and served personally or by certified or registered mail, return receipt requested, deliverable to the addressee only, on the subject's spouse[,], or reciprocal beneficiary, legal parents, adult children, and legal guardian, if one has been appointed. If the subject of the petition has no living spouse[,], or reciprocal beneficiary, legal parent and adult children, or if none can be found, notice of the hearing shall be served on at least one of the subject's closest adult relatives if any can be found. Notice of the hearing shall also be served on the public defender, attorney for the subject of the petition, or other court-appointed attorney as the case may be. If the subject of the petition is a minor, notice of the hearing shall also be served upon the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition if such person can be found within the State. Notice shall also be given to such other persons as the court may designate."

SECTION 47. Section 334-60.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The court may adjourn or continue a hearing for failure to timely notify a spouse[,], or reciprocal beneficiary, guardian, relative, or other person determined by the court to be entitled to notice, or for failure by the subject to contact an attorney as provided in section 334-60.4(b)(7) if the court determines the interests of justice so require."

SECTION 48. Section 334-125, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notice of the hearing shall be:

- (1) Served personally on the subject of the petition pursuant to family court rules; and
- (2) Delivered personally or mailed by certified or registered mail, return receipt requested, deliverable to addressee only, to as many as are known to the petitioner of the subject's spouse[,], or reciprocal beneficiary.

ciary, legal parents, adult children, and legal guardian, if one has been appointed. Petitioner shall certify that such notices have been mailed, and to whom, but proof of receipt of such notices is not required. Notice shall also be served on any other person that the court designates.”

SECTION 49. Section 351-2, Hawaii Revised Statutes, is amended by amending the definition of “relative” to read as follows:

““Relative” means a victim’s spouse[,] or reciprocal beneficiary, parent, grandparent, stepparent, child, grandchild, stepchild, brother, sister, half brother, half sister, stepbrother, stepsister, or spouse’s or reciprocal beneficiary’s parents;”

SECTION 50. Section 352-13, Hawaii Revised Statutes, is amended to read as follows:

“§352-13 Evaluation, counseling, training. The director shall provide the opportunity for intelligence and aptitude evaluation, psychological testing and counseling, prevocational and vocational training, and employment counseling to all persons committed to the youth correctional facilities. Counseling services shall be available for the committed person’s family including a reciprocal beneficiary, during the term of commitment.”

SECTION 51. Section 353-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director or a designated agent may grant furloughs to committed persons with a minimum or lower security classification in any correctional facility of the department for the purpose of employment, social reorientation, education, or training, or any other valid purpose as determined by the director. Special out-of-state furloughs may be granted to those already otherwise furloughed, at no cost to the State, when death or critical illness or injury to the committed person’s immediate family including a reciprocal beneficiary, occurs. Any committed person who is engaged in private employment, by contract or otherwise, not under the immediate custody of the State shall not be considered an agent or employee of the State. Any moneys earned from employment by such person shall be used to satisfy a restitution order and to reimburse the State for the cost of room and board. If any earned moneys remain after these expenses have been paid, that amount shall be held in an individual account for the committed person.

When an inmate is granted a special out-of-state furlough, the director shall inform the authorities of the state to which the inmate is to be furloughed of the inmate’s arrival.”

SECTION 52. Section 386-34, Hawaii Revised Statutes, is amended to read as follows:

“§386-34 Payment after death. Where an employee is entitled to weekly income and indemnity benefits for permanent total or permanent partial disability and dies from any cause other than the compensable work injury, payment of any unpaid balance of the benefits to the extent that the employer is liable therefor, but not to exceed the amount prescribed under section 386-32(a) for other cases, shall be made to the employee’s dependents as provided herein. If, at the time of the death, the employee is entitled to any benefits from the special compensation fund, the benefits shall also be paid to the employee’s dependents as provided herein:

- (1) To a dependent widow [or], widower, or reciprocal beneficiary, for the use of the widow [or], widower, or reciprocal beneficiary, and the dependent children, if any. The director of labor and industrial relations may from time to time apportion such compensation among the widow [or], widower, or reciprocal beneficiary, and any dependent children.
- (2) If there be no dependent widow [or], widower, or reciprocal beneficiary, but one or more dependent children, then to such child or children to be divided equally among them if more than one.
- (3) If there be no dependent widow, widower, reciprocal beneficiary, or child, but there be a dependent parent, then to such parent, or if both parents be dependent, to both of them, to be divided equally between them; or if there be no such parents, but a dependent grandparent, then to such grandparent, or if more than one, then to all of them to be divided equally among them.
- (4) If there be no dependent widow, widower, reciprocal beneficiary, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, then to such dependent, or if more than one, then to all of them to be divided equally among them.
- (5) If there be no such dependents, the unpaid balance of the compensation shall be paid in a lump sum into the special compensation fund."

SECTION 53. Section 386-41, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Funeral and burial allowance. Where a work injury causes death, the employer shall pay funeral expenses not to exceed ten times the maximum weekly benefit rate to the mortician and burial expenses not to exceed five times the maximum weekly benefit rate to the cemetery selected by the family including a reciprocal beneficiary or next of kin of the deceased or in the absence of such family including a reciprocal beneficiary or next of kin, by the employer. Such payments shall be made directly to the mortician and cemetery; provided that when the deceased has a pre-paid funeral and burial plan such payments for funeral and burial expenses, not to exceed the foregoing limits, shall be made directly to the surviving spouse or reciprocal beneficiary or the decedent’s estate if there is no surviving spouse[.] or reciprocal beneficiary.

(b) Weekly benefits for dependents. In addition, the employer shall pay weekly benefits to the deceased’s dependents at the percentages of the deceased’s average weekly wages specified below, taking into account not more than the maximum weekly benefit rate prescribed in section 386-31 divided by .6667 and not less than the minimum prescribed in the section divided by .6667.

To the dependent widow [or], widower, or reciprocal beneficiary, if there are no dependent children, fifty per cent.

To the dependent widow [or], widower, or reciprocal beneficiary, if there are one or more dependent children of the deceased, sixty-six and two-thirds per cent. The compensation to the widow [or], widower, or reciprocal beneficiary shall be for the use and benefit of the widow [or], widower, or reciprocal beneficiary and of the dependent children, and the director of labor and industrial relations from time to time may apportion the compensation between them in such way as the director deems best.

If there is no dependent widow [or], widower, or reciprocal beneficiary, but a dependent child, then to the child forty per cent, and if there is more than one dependent child, then to the children in equal parts sixty-six and two-thirds per cent.

If there is no dependent widow, widower, or reciprocal beneficiary, or child, but there is a dependent parent, then to the parent, if wholly dependent fifty per cent,

or if partially dependent twenty-five per cent; if both parents are dependent, then one-half of the foregoing compensation to each of them; if there is no dependent parent, but one or more dependent grandparents, then to each of them the same compensation as to a parent.

If there is no dependent widow, widower, or reciprocal beneficiary, child, parent or grandparent, but there is a dependent grandchild, brother, or sister, or two or more of them, then to those dependents thirty-five per cent for one dependent, increased by fifteen per cent for each additional dependent, to be divided equally among the dependents if more than one."

SECTION 54. Section 386-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following persons, and no others, shall be deemed dependents and entitled to income, and indemnity benefits under this chapter:

A child who is (1) unmarried and under eighteen years, or (2) unmarried and under twenty years if the child is a full-time student at a high school, business school, or technical school, or unmarried and under twenty-two years if the child is a full-time undergraduate student at a college, or (3) unmarried and incapable of self-support, or (4) married and under eighteen years, if actually dependent upon the deceased;

The surviving spouse[,], or reciprocal beneficiary, if either living with the deceased at the time of the injury or actually dependent upon the deceased;

A parent or grandparent, if actually dependent upon the deceased;

A grandchild, brother, or sister, if (1) under eighteen years or incapable of self-support, and (2) actually and wholly dependent upon the deceased."

SECTION 55. Section 386-43, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The weekly benefits to dependents shall continue:

To a surviving spouse[,], or reciprocal beneficiary, until death [or], remarriage, marriage, or entry into a new reciprocal beneficiary relationship with two years' compensation in one sum upon remarriage[,], marriage, or entry into a new reciprocal beneficiary relationship.

To or for a child, (1) so long as unmarried, until attainment of the age of eighteen, or (2) so long as unmarried, until attainment of the age of twenty if the child is a full-time student at a high school, business school, technical school, or unmarried and under twenty-two years if the child is a full-time undergraduate student at a college, or (3) so long as unmarried, until termination of the child's incapability of self-support, or (4) until marriage, except that in the case of a married child under eighteen, weekly benefits shall continue during the period of actual dependency until attainment of the age of eighteen.

To a parent or grandparent, for the duration, whether continuous or not, of such actual dependency, provided that the amount of the weekly benefits shall at no time exceed the amount payable at the time of death.

To or for a grandchild, brother, or sister, for the period in which he or she remains actually and wholly dependent until attainment of the age of eighteen or termination of the incapability of self-support.

(b) The aggregate weekly benefits payable on account of any one death shall not exceed the product of 312 times the effective maximum weekly benefit rate prescribed in section 386-31, but this limitation shall not apply with respect to benefits to a surviving spouse or reciprocal beneficiary who is physically or mentally incapable of self-support and unmarried as long as he or she remains in that

condition and to benefits to a child and to benefits to an unmarried child over eighteen incapable of self-support as long as he or she is otherwise entitled to such compensation.”

SECTION 56. Section 388-4, Hawaii Revised Statutes, is amended to read as follows:

“§388-4 Payment of wages to relatives of deceased employees. Where an employee dies leaving any wages, vacation, or sick leave pay due the employee, the employer shall, within thirty days after such death, whether or not a personal representative has been appointed, pay the wages, vacation, or sick leave pay in an amount not exceeding \$2,000 to, and upon application by the surviving spouse or reciprocal beneficiary or, if none, by an adult child. The employer shall require the applicant to show proof of his or her relationship to the deceased by affidavit and to acknowledge receipt of the payment in writing. Any such payment shall discharge the employer to the extent thereof and the employer shall not be liable to the decedent’s estate. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.”

SECTION 57. Section 398-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An employee shall be entitled to a total of four weeks of family leave during any calendar year upon the birth of a child of the employee or the adoption of a child, or to care for the employee’s child, spouse[,], or reciprocal beneficiary, or parent with a serious health condition.”

SECTION 58. Section 431:10-234, Hawaii Revised Statutes, is amended to read as follows:

“§431:10-234 Spouses’ and reciprocal beneficiaries’ right in life insurance policy. (a) Every life insurance policy made payable to or for the benefit of the spouse or the reciprocal beneficiary of the insured, and every life insurance policy assigned, transferred, or in any way made payable to a spouse or reciprocal beneficiary, or to a trustee for the benefit of a spouse[,], or a reciprocal beneficiary, regardless of how the assignment or transfer is procured, shall, unless contrary to the terms of the policy, inure to the separate use and benefit of such spouse[,], or reciprocal beneficiary.

(b) Without the consent of one’s spouse[,], or reciprocal beneficiary, a married person or an individual who is registered as a reciprocal beneficiary, may contract, pay for, take out, and hold a policy on the life or health of one’s spouse, reciprocal beneficiary, or children, or against loss by such spouse, or reciprocal beneficiary, or children due to disablement by accident. Premiums paid on the policy by a married person or reciprocal beneficiary shall be held to have been that person’s separate estate, and the policy shall inure to the use and benefit of that person and that person’s children, free from any claim by the spouse, or reciprocal beneficiary, or others.”

SECTION 59. Section 431:10C-103, Hawaii Revised Statutes, is amended by amending the definitions of “no-fault benefits” and “no-fault insured” to read as follows:

“(10) (A) No-fault benefits, sometimes referred to as personal injury protection benefits, with respect to any accidental harm means:

- (i) All appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, and x-ray. The foregoing expenses may include any nonmedical remedial care and treatment rendered in accordance with the teachings, faith, or belief of any group which depends for healing upon spiritual means through prayer;
- (ii) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
- (iii) Monthly earnings loss measured by an amount equal to the lesser of:
 - (I) \$1,200 a month; or
 - (II) The monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity;
- (iv) All appropriate and reasonable expenses necessarily incurred as a result of such accidental harm, including, but not limited to:
 - (I) Expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed not for income but for the benefit of the person or the person's family including a reciprocal beneficiary up to \$800 a month;
 - (II) Funeral expenses not to exceed \$1,500; and
 - (III) Attorney's fees and costs to the extent provided in section 431:10C-211(a);

provided that the term, when applied to a no-fault policy issued at no cost under the provisions of section 431:10C-410(3)(A), shall not include benefits under items (i), (ii), and (iii) for any person receiving public assistance benefits.
- (B) No-fault benefits shall be subject to:
 - (i) An aggregate limit of \$10,000 for services provided under section 431:10C-103(10)(A)(i) and (ii) and \$10,000 for services provided under section 431:10C-103(10)(A)(iii) and (iv) per person or such person's survivor including a reciprocal beneficiary where each applicable policy provides only the basic no-fault coverage;
 - (ii) An aggregate limit of the expanded limits where the insured has contracted for it under an optional additional coverage; or
 - (iii) The aggregate limit shall be subject to the application of benefits or transfer thereof as provided in section 431:10C-103(6).
- (11) No-fault insured means:
 - (A) The person identified by name as insured in a no-fault policy complying with section 431:10C-301; and
 - (B) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of no-fault policy complying with this article:
 - (i) A spouse or reciprocal beneficiary or other relative of a named insured, and

- (ii) A minor in the custody of a named insured or of a relative residing in the same household with a named insured.
A person resides in the same household if the person usually makes the person's home in the same family unit, which may include reciprocal beneficiaries, even though the person temporarily lives elsewhere."

SECTION 60. Section 432:1-104, Hawaii Revised Statutes, is amended by amending the definition of "mutual benefit society" to read as follows:

"(2) Mutual benefit society is any corporation, unincorporated association, society, or entity:

(A) Organized and carried on for the primary benefit of its members and their beneficiaries and not for profit, and:

- (i) Making provision for the payment of benefits in case of sickness, disability, or death of its members, or disability, or death of its members' spouses or reciprocal beneficiaries or children, or

- (ii) Making provision for the payment of any other benefits to or for its members,

whether or not the amount of the benefits is fixed or rests in the discretion of the society, its officers, or any other person or persons; and the fund from which the payment of the benefits shall be defrayed is derived from assessments or dues collected from its members, and the payment of death benefits is made to the families[,] including reciprocal beneficiaries, heirs, blood relatives, or persons named by its members as their beneficiaries; or

(B) Organized and carried on for any purpose, which:

- (i) Regularly requires money to be paid to it by its members, whether the money be in the form of dues, subscriptions, receipts, contributions, assessments or otherwise, and

- (ii) Provides for the payment of any benefit or benefits or the payment of any money or the delivery of anything of value to its members or their relatives[,] including reciprocal beneficiaries, or to any person or persons named by its members as their beneficiaries, or to any class of persons which includes or may include its members,

whether or not the amount or value of the benefit, benefits, money, or thing of value is fixed, or rests in the discretion of the society, its officers, or any other person or persons; or

(C) Organized and carried on for any purpose, whose requirements and provisions although not identical with, are determined by the commissioner to be substantially similar to, those enumerated in [[subparagraphs]] (A) and (B).

Participating in a prepaid legal service plan subject to chapter 488 shall not in itself make a corporation, unincorporated association, society, or entity a mutual benefit society and subject to this article."

SECTION 61. Section 443B-1, Hawaii Revised Statutes, is amended by amending the definition of "debtor" to read as follows:

"“Debtor” means any person or the person’s spouse[,] or reciprocal beneficiary, parent (if the person is a minor), guardian, executor, or administrator obligated or allegedly obligated to pay a debt.”

SECTION 62. Section 453-15, Hawaii Revised Statutes, is amended to read as follows:

“§453-15 Who shall give consent to a postmortem examination. A pathologist or any licensed physician or surgeon may conduct a postmortem examination when written consent thereto is given by whoever of the following assumes custody of the body for purposes of burial: father, mother, husband, wife, reciprocal beneficiary, child, guardian, next of kin, or, in the absence of any of the foregoing, a friend or person, including a governmental agency, charged by law with the responsibility for the burial. If two or more such persons assume custody of the body, the consent of one of them is sufficient. The consent shall include the consent to the retention by the pathologist or licensed physician or surgeon who conducts the postmortem examination of tissues, including fetal material, of the body removed at the time of the postmortem examination to be used for necessary or advisable scientific investigation, including research, teaching, and therapeutic purposes.”

SECTION 63. Section 516-71, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided for in this section, for any sale of a leasehold residential lot, no later than ten calendar days after the acceptance of the deposit, receipt, offer, and acceptance contract (DROA) or other similar contract, the seller shall directly or through the seller’s agent provide to the buyer, a copy of the original recorded lease and any amendments thereto for the buyer’s approval and acceptance. A sale for the purposes of this subsection shall not be deemed to include any transfer to a co-owner, or to a spouse[,] or reciprocal beneficiary, parent or child of the seller, or to any stranger by devise, descent, court order, or by operation of law, including, but not limited to, any transfer by foreclosure, bankruptcy, or partition sale. Upon receipt of the original lease and amendments thereto, the buyer shall have ten calendar days to review, accept, or reject the terms of the lease.”

SECTION 64. Section 586-1, Hawaii Revised Statutes, is amended by amending the definition of “family and household members” to read as follows:

““Family and household members” means spouses or reciprocal beneficiaries, former spouses[,] or former reciprocal beneficiaries, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.”

SECTION 65. Section 663-1, Hawaii Revised Statutes, is amended to read as follows:

“§663-1 Torts, who may sue and for what. Except as otherwise provided, all persons residing or being in the State shall be personally responsible in damages, for trespass or injury, whether direct or consequential, to the person or property of others, or to their spouses[,] or reciprocal beneficiaries, children under majority, or wards, by such offending party, or the offending party’s child under majority, or by the offending party’s command, or by the offending party’s animals, domestic or wild; and the party aggrieved may prosecute therefor in the proper courts.”

SECTION 66. Section 706-670.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) As used in this section, the following terms have the following meanings:

“Offense against the person” means any of the offenses described in chapter 707 and includes any attempt to commit any of those offenses.

“Prisoner” or “parolee” means a person who has been convicted of an offense against the person.

“Surviving immediate family member” means a person who is a surviving grandparent, parent, sibling, spouse[,] or reciprocal beneficiary, child, or legal guardian of a deceased victim.

“Victim” means the person who was the victim of the offense against the person for which the prisoner or parolee was convicted.”

SECTION 67. Section 706-673, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) As used in this section, the following terms have the following meanings:

“Offense against the person” means any of the offenses described in chapter 707 and includes any attempt to commit any of those offenses.

“Prisoner” means a person who has been convicted of an offense against the person.

“Surviving immediate family member” means a person who is a surviving grandparent, parent, sibling, spouse[,] or reciprocal beneficiary, child, or legal guardian of a deceased victim.

“Victim” means the person who was the victim of the offense against the person for which the prisoner was convicted.”

SECTION 68. Section 707-769, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) If the owner of the property is the defendant’s spouse or reciprocal beneficiary, it is a defense to a prosecution for extortion under paragraph (1) of section 707-764 that:

- (a) The property which is obtained or over which unauthorized control is exerted constitutes household belongings; and
- (b) The defendant and the defendant’s spouse or reciprocal beneficiary were living together at the time of the conduct.”

SECTION 69. Section 708-834, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) If the owner of the property is the defendant’s spouse[,] or reciprocal beneficiary, it is a defense to a prosecution for theft of property that:

- (a) The property which is obtained or over which unauthorized control is exerted constitutes household belongings; and
- (b) The defendant and the defendant’s spouse or reciprocal beneficiary were living together at the time of the conduct.”

SECTION 70. Section 709-906, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member, or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of

abuse of a family or household member may, upon request, transport the abused person to a hospital or safe shelter.

For the purposes of this section, “family or household member” means spouses [or], former spouses, reciprocal beneficiaries, former reciprocal beneficiaries, parents, children, and persons jointly residing or formerly residing in the same dwelling unit.”

SECTION 71. Section 801D-2, Hawaii Revised Statutes, is amended by amending the definition of “surviving immediate family members” to read as follows:

““Surviving immediate family members” means surviving grandparents, parents, siblings, spouse, reciprocal beneficiary, children, and any legal guardian of the homicide victim.”

SECTION 72. Any proposed health insurance coverage provided pursuant to this Act shall be exempt from the provisions of part IV of chapter 23, Hawaii Revised Statutes.

SECTION 73. The auditor shall conduct a “closed claim” study to assess the fiscal impacts of providing reciprocal benefits under workers’ compensation, public health fund, public employees’ retirement, and prepaid health insurance provisions. The auditor shall include in the report, data collected from the appropriate state agencies, indicating the number of claims made under each benefit category and the total fiscal impacts upon the State of each benefit category. The auditor shall submit a report to the legislature at least twenty days prior to the convening of the 1999 regular session.

SECTION 74. Notwithstanding any other law to the contrary, the rights and benefits extended by this Act shall be narrowly interpreted and nothing in this Act shall be construed nor implied to create or extend rights or benefits not specifically provided herein.

SECTION 75. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 76. Statutory material to be repealed is bracketed. New statutory material is underscored.⁵

SECTION 77. This Act shall take effect on July 1, 1997.

(Became law on July 8, 1997, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. Comma should not be underscored.
2. “Or” should be underscored.
3. “An” should be underscored.
4. So in original.
5. Edited pursuant to HRS §23G-16.5.