

**ACT 160**

S.B. NO. 109

A Bill for an Act Relating to Gender-Neutral Terminology.

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

SECTION 1. Section 321-342, Hawaii Revised Statutes, is amended by amending the definition of “family” to read as follows:

““Family” means:

- (1) Each legal parent;
- (2) [The] Each natural [~~mother;~~] parent;

- ~~[(3)]~~ ~~The natural father;~~
- ~~[(4)]~~ (3) The adjudicated, presumed, or concerned natural ~~[father]~~ parent as defined under section 578-2;
- ~~[(5)]~~ (4) Each parent's spouse or former spouses;
- ~~[(6)]~~ (5) Each sibling or person related by consanguinity or marriage;
- ~~[(7)]~~ (6) Each person residing in the same dwelling unit; and
- ~~[(8)]~~ (7) Any other person who, or legal entity that, is a child's legal or physical custodian or guardian, or who is otherwise responsible for the child's care, other than an authorized agency that assumes such a legal status or relationship with the child under chapter 587A."

SECTION 2. Section 571-61, Hawaii Revised Statutes, is amended to read as follows:

**"§571-61 Termination of parental rights; petition.** (a) Relinquishment. The parents or either parent or the surviving parent who desire to relinquish parental rights to any natural or adopted child and thus make the child available for adoption or readoption, may petition the family court of the circuit in which ~~[they or he or she]~~ the parents or parent resides, or of the circuit in which the child resides, or was born, for the entry of a judgment of termination of parental rights. The petition shall be verified and shall be substantially in ~~[such]~~ a form as may be prescribed by the judge or senior judge of the family court. The petition may be filed at any time following the ~~[mother's]~~ birthing parent's sixth month of pregnancy; provided that no judgment may be entered upon a petition concerning an unborn child until after the birth of the child and in respect to a legal parent or parents until the petitioner or petitioners have filed in the termination proceeding a written reaffirmation of their desires as expressed in the petition or in respect to a legal parent or parents until the petitioner or petitioners have been given ~~[not]~~ no less than ten days' notice of a proposal for the entry of judgment and an opportunity to be heard in connection with ~~[such]~~ the proposal.

(b) Involuntary termination.

- (1) The family courts may terminate the parental rights ~~[in]~~ with respect to any child as to any legal parent:
  - (A) Who has deserted the child without affording means of identification for a period of at least ninety days;
  - (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
  - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
  - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
  - (E) Whose child has been removed from the parent's physical custody pursuant to legally authorized judicial action under section 571-11(9), and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
  - (F) Who is found by the court to be mentally ill or intellectually disabled and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child; or
  - (G) Who is found not to be the child's natural or adoptive ~~[father-]~~ non-birthing parent.

- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal ~~[father]~~ non-birthing parent who is an adjudicated, presumed or concerned ~~[father]~~ non-birthing parent under chapter 578, or who is named as the ~~[father]~~ non-birthing parent on the child's birth certificate:
  - (A) Who falls within paragraph (1)(A), (B), (C), (D), (E), or (F);
  - (B) Whose child is sought to be adopted by the child's ~~[stepfather]~~ birthing parent's spouse and the ~~[stepfather]~~ birthing parent's spouse has lived with the child and the child's legal ~~[mother]~~ birthing parent for a period of at least one year;
  - (C) Who is only a concerned ~~[father]~~ non-birthing parent who has failed to file a petition for the adoption of the child or whose petition for the adoption of the child has been denied; or
  - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to any proceedings under paragraphs (1) and (2), the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days ~~[prior to]~~ before the hearing upon the parent whose rights are sought to be terminated. If personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural ~~[father]~~ non-birthing parent who is not the child's legal, adjudicated, presumed or concerned ~~[father]~~ non-birthing parent under chapter 578.
- (5) The family courts may terminate the parental rights in respect to any child of any natural parent upon a finding by clear and convincing evidence that the natural parent committed sexual assault of the other natural parent, or an equivalent offense under the laws of another state, territory, possession, or Native American tribe where the offense occurred, and the child was conceived as a result of the sexual assault perpetrated by the parent whose rights are sought to be terminated; provided that:
  - (A) The court shall accept, as conclusive proof of the sexual assault, a guilty plea or conviction of the child's natural parent for the sexual assault, or an equivalent offense under the laws of another state, territory, possession, or Native American tribe where the offense occurred, of the other natural parent;
  - (B) Termination shall mean, when used with respect to parental rights in this paragraph, a complete and final termination of the parent's right to custody of, guardianship of, visitation with, access to, and inheritance from a child;
  - (C) The termination of parental rights shall not affect the obligation of the child's natural parent to support the child;
  - (D) The court may order the child's natural parent to pay child support;

- (E) It is presumed that termination of parental rights is in the best interest of the child if the child was conceived as a result of the sexual assault;
- (F) This paragraph shall not apply if subsequent to the date of the sexual assault, the child's natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and
- (G) The custodial natural parent may petition the court to reinstate the child's natural parent's parental rights terminated pursuant to this paragraph.

[Such] The authority provided under this section may be exercised under this chapter only when a verified petition, substantially in the form [above] prescribed[;] above, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the [mother] birthing parent of the child files with the petition an affidavit representing that the identity or whereabouts of the child's [father] non-birthing parent is unknown to [her] or not ascertainable by [her] the birthing parent or that other good cause exists why notice cannot or should not be given to the [father;] non-birthing parent, the court shall conduct a hearing to determine whether notice is required.

If the court finds that good cause exists why notice cannot or should not be given to the child's [father;] non-birthing parent, and that the [father] non-birthing parent is neither the legal nor adjudicated nor presumed [father] non-birthing parent of the child, nor has [he] the non-birthing parent demonstrated a reasonable degree of interest, concern, or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of the [father's] non-birthing parent's parental rights and the subsequent adoption of the child without notice to the [father;] non-birthing parent."

SECTION 3. Section 578-1, Hawaii Revised Statutes, is amended to read as follows:

**"§578-1 Who may adopt; jurisdiction; venue.** Any [proper] unmarried adult person, [not married, or any] person married to the legal [father or mother] birthing parent or non-birthing parent of a minor child, or [a husband and wife] married couple jointly[;] may petition the family court of the circuit in which the person or persons reside or are in military service [~~or the family court of the circuit~~], in which the individual to be adopted resides or was born, or in which a child placing organization approved by the department of human services under the provisions of section 346-17 having legal custody (as defined in section 571-2) of the child is located[;] for leave to adopt an individual toward whom the person or persons do not sustain the legal relationship of parent and child and for a change of the name of the individual. When adoption is the goal of a permanent plan recommended by the department of human services and ordered pursuant to section 587A-31, the department may petition for adoption on behalf of the proposed adoptive parents. The petition shall be in [such] a form and shall include [such] information and exhibits as may be prescribed by the family court."

SECTION 4. Section 578-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:  
 "(a) Persons required to consent to adoption. Unless consent is not required or is dispensed with under subsection (c) [~~hereof~~], a petition to adopt a

child may be granted only if written consent to the proposed adoption has been executed by:

- (1) The ~~[mother]~~ birthing parent of the child;
- (2) A legal ~~[father]~~ non-birthing parent [as] to whom the child is a legitimate child;
- (3) An adjudicated ~~[father]~~ non-birthing parent whose relationship to the child has been determined by a court;
- (4) A presumed ~~[father]~~ non-birthing parent under ~~[section 578-2(d);]~~ subsection (d);
- (5) A concerned natural ~~[father]~~ non-birthing parent who is not the legal, adjudicated, or presumed ~~[father]~~ non-birthing parent but who has demonstrated a reasonable degree of interest, concern, or responsibility as to the welfare of a child, either:
  - (A) During the first thirty days after ~~[such]~~ the child's birth; ~~[or]~~
  - (B) ~~[Prior to]~~ Before the execution of a valid consent by the ~~[mother]~~ birthing parent of the child; or
  - (C) ~~[Prior to]~~ Before the placement of the child with adoptive parents;
 

whichever period of time is greater;
- (6) Any person or agency having legal custody of the child or legally empowered to consent;
- (7) The court having jurisdiction of the custody of the child, if the legal guardian or legal custodian of the person of the child is not empowered to consent to adoption; and
- (8) The child to be adopted if the child is more than ten years of age, unless the court, in the best interest of the child, dispenses with the child's consent."

2. By amending subsections (c) through (e) to read:

"(c) Persons as to whom consent not required or whose consent may be dispensed with by order of the court.

- (1) Persons as to whom consent is not required:
  - (A) A parent who has deserted a child without affording means of identification for a period of ninety days;
  - (B) A parent who has voluntarily surrendered the care and custody of the child to another for a period of two years;
  - (C) A parent of the child in the custody of another, if the parent for a period of at least one year has failed to communicate with the child when able to do so;
  - (D) A parent of a child in the custody of another, if the parent for a period of at least one year has failed to provide for the care and support of the child when able to do so;
  - (E) A natural ~~[father]~~ non-birthing parent who was not married to the child's ~~[mother]~~ birthing parent at the time of the child's conception or birth and who does not fall within the provisions of subsection (a)(3), (4), or (5);
  - (F) A parent whose parental rights have been judicially terminated under the provisions of sections 571-61 to 571-63, or under the provisions of any other state or other law by a court or other agency having jurisdiction to take the action;
  - (G) A parent who is judicially declared mentally ill or intellectually disabled and ~~[who is]~~ found by the court to be incapacitated from giving consent to the adoption of the child;
  - (H) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond

- in writing to a request for consent for a period of sixty days or who, after examination of the person's written reasons for withholding consent, is found by the court to be withholding the person's consent unreasonably;
- (I) A parent of a child who has been in the custody of a petitioner under this chapter for a period of at least one year and who entered the United States of America as a consequence of extraordinary circumstances in the child's country of origin, by reason of which extraordinary circumstances the existence, identity, or whereabouts of the child's parents is not reasonably ascertainable or there is no reasonable means of obtaining suitable evidence of the child's identity or availability for adoption;
  - (J) Any parent of the individual to be adopted, if the individual is an adult eligible for adoption under subsection (b); and
  - (K) A parent whose parental and custodial duties and rights have been divested by an award of permanent custody pursuant to section 587A-33;
- (2) Persons whose consent may be dispensed with by order of the court. The court may dispense with the consent of a parent who comes within subsection (a)(3), (4), or (5) ~~[herein]~~, upon finding that:
- (A) The petitioner is the ~~[stepfather of the child]~~ child's birthing parent's spouse and the child has lived with the child's legal ~~[mother]~~ birthing parent and the petitioning ~~[stepfather]~~ birthing parent's spouse for a period of at least one year;
  - (B) The ~~[father]~~ non-birthing parent is a concerned ~~[father]~~ non-birthing parent as provided by subsection (a)(5)~~[; herein]~~ and has not filed a petition to adopt the child, or the petition to adopt the child filed by the ~~[father]~~ non-birthing parent has been denied; or
  - (C) The ~~[father]~~ non-birthing parent is an adjudicated, presumed, or concerned ~~[father]~~ non-birthing parent as provided by ~~[subsections]~~ subsection (a)(3), (4), or (5)~~[; herein]~~ and is not a fit and proper person or is not financially or otherwise able to give the child a proper home and education.
- (d) Presumption of [paternity:] biological parentage. A ~~[man]~~ person is presumed to be the natural ~~[father]~~ non-birthing parent of a child if:
- (1) ~~[He]~~ The person and the child's ~~[natural mother]~~ birthing parent are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
  - (2) Before the child's birth, ~~[he]~~ the person and the child's ~~[natural mother]~~ birthing parent have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and~~[:]~~ if the attempted marriage:
    - (A) ~~[If the attempted marriage could]~~ Could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
    - (B) ~~[If the attempted marriage is]~~ Is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;

- (3) After the child's birth, ~~[he]~~ the person and the child's ~~[natural mother]~~ birthing parent have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid; and
  - (A) ~~[He]~~ The person has acknowledged ~~[his paternity]~~ the person's biological parentage of the child in writing filed with the department of health;
  - (B) With ~~[his]~~ the person's consent ~~[he]~~, the person is named as the child's ~~[father]~~ non-birthing parent on the child's birth certificate; or
  - (C) ~~[He]~~ The person is obligated to support the child under a written voluntary promise or by court order;
- (4) While the child is under the age of majority, ~~[he]~~ the person receives the child into ~~[his]~~ the person's home and openly holds out the child as ~~[his]~~ the person's natural child; or
- (5) ~~[He]~~ The person acknowledges ~~[his paternity]~~ the person's biological parentage of the child in writing filed with the department of health, which shall promptly inform the ~~[mother]~~ birthing parent of the filing of the acknowledgment, and ~~[she]~~ the birthing parent does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the department of health. If another ~~[man]~~ person is presumed under this section to be the child's ~~[father,]~~ non-birthing parent, acknowledgment may be effected only with the written consent of the presumed ~~[father]~~ non-birthing parent or after the presumption has been rebutted. If the acknowledgment is filed and not disputed by the ~~[mother]~~ birthing parent and if another ~~[man]~~ person is not presumed under this section to be the child's ~~[father,]~~ non-birthing parent, the department of health shall prepare a new certificate of birth in accordance with chapter 338.

(e) Notice of hearing; minor parent; consent authorizing selection of adoptive parents. No hearing of a petition for adoption shall be had unless each of the living parents of the child who falls within the provisions of subsection (a) and who has not consented to the proposed adoption, but who is alleged to ~~[come]~~ fall within the provisions of ~~[subsection]~~ subsections (c)(1)(A), (B), (C) and (D) or (c)(2) ~~[of this section]~~, and any ~~[man]~~ person whose name appears as ~~[father]~~ non-birthing parent on the child's birth certificate, shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof. ~~[Such]~~ The notice need not be given to any parent whose parental rights have been legally terminated as hereinabove provided or whose consent has been filed with the court.

The minority of a child's parent shall not be a bar to the right of ~~[such]~~ the parent to execute a valid and binding consent to the adoption of ~~[such]~~ the child.

Any parental consent required hereunder shall be valid and binding even though it does not designate any specific adoptive parent or parents, if it clearly authorizes the department of human services, or a child placing organization approved by the department under the provisions of section 346-17 or some proper person not forbidden by law to place a child for adoption, to select and approve an adoptive parent or parents for the child."

SECTION 5. Section 578-14.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) All affected public agencies and all child placing organizations approved by the department of human services under section 346-17 shall make reasonable efforts to complete this form with medical information on both natural parents, to obtain from the natural parents written consent to the release of this information to or for the benefit of the adopted child, and whenever possible, to obtain from the ~~[natural mother]~~ birthing parent a signed release to receive a copy of all of ~~[her]~~ the birthing parent’s medical records, relating to the birth of the adopted child, ~~[which]~~ that are within the possession of the hospital or other facility at which the child was born. When applicable, the family court may require the petitioner or the petitioner’s agent in the adoption proceeding to obtain this completed form from the natural parents with their consents and the signed release from the ~~[natural mother]~~ birthing parent.”

2. By amending subsection (g) to read:

“(g) The completed forms and, if applicable, the previously sealed copy of the ~~[natural mother’s]~~ birthing parent’s medical records shall be forwarded to the department of health. The department shall extract from the medical records pertinent information relating to inheritable diseases and genetic disorders and shall retain this information in an abstract. The completed forms and the abstract, if available, shall be included in the department’s adoption records.”

3. By amending subsection (i) to read:

“(i) Upon the filing of the application in subsection (h), the department of health shall furnish the applicant with a copy of the completed forms and, if available, the abstract of pertinent information from the ~~[natural mother’s]~~ birthing parent’s medical records. The department is authorized to disclose the information under this subsection without prior court approval, notwithstanding section 338-20(e).

Nothing in this section shall be construed or applied in any manner to require any public agency or child placing organization to reveal the identities of the natural parents without their consents.”

SECTION 6. Section 578-15, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The records in adoption proceedings, after the petition is filed and ~~[prior to]~~ before the entry of the decree, shall be open to inspection only by the parties or their attorneys, the director of human services or the director’s agent, or ~~[by]~~ any proper person on a showing of good cause therefor, upon order of the court. Except in the case of an individual being adopted by a person married to the legal ~~[father or mother]~~ birthing parent or non-birthing parent of the individual or unless authorized by the court, no petition for adoption shall set forth the name of the individual sought to be adopted or the name of either of the parents of the individual; provided that the legal name of the individual and the name of each of the individual’s legal parents may be added to the petition by amendment during the course of the hearing thereof and shall be included in the decree. The hearing of the petition shall be in chambers and shall not be open to the public.

(b) Upon the entry of the decree, or upon the later effective date of the decree, or upon the dismissal or discontinuance or other final disposition of the petition, the clerk of the court shall seal all records in the proceedings; provided that upon the written request of the petitioner or petitioners, the court may waive the requirement that the records be sealed. The seal shall not be broken and the records shall not be inspected by any person, including the parties to the proceedings, except:

(1) Upon order of the family court upon a showing of good cause;

- (2) After the adopted individual attains the age of eighteen and upon submission to the family court of a written request for inspection by the adopted individual or ~~[the]~~ adoptive parents;
- (3) After the adopted individual attains the age of eighteen and upon submission to the family court of a written request for inspection by the natural parents;
- (4) Upon request by the adopted individual or ~~[the]~~ adoptive parents for information contained in the records concerning ethnic background and necessary medical information; or
- (5) Upon request by a natural parent for a copy of the original birth certificate.

As used in this subsection, “natural parent” means a biological ~~[mother or father,]~~ birthing parent or non-birthing parent, or a legal parent who is not also the biological parent.”

SECTION 7. Section 580-21, Hawaii Revised Statutes, is amended to read as follows:

**“§580-21 Grounds for annulment.** The family court, by a decree of nullity, may declare void the marriage contract for any of the following causes, existing at the time of the marriage:

- (1) That the parties stood in relation to each other of ancestor and descendant of any degree whatsoever, ~~[brother and sister]~~ siblings of the half as well as the whole blood, ~~[uncle and niece, aunt and nephew,]~~ a person and the child of the person's biological sibling, whether the relationship is the result of the issue of parents married or not married to each other;
- (2) That the parties, or either of them, had not attained the legal age of marriage;
- (3) That ~~[the husband]~~ one of the parties had an undivorced ~~[wife]~~ spouse living~~[, or the wife had an undivorced husband living];~~
- (4) That one of the parties lacked the mental capacity to consent to the marriage;
- (5) That consent to the marriage of the party applying for annulment was obtained by force, duress, or fraud, and there has been no subsequent cohabitation; and
- (6) That one of the parties was a sufferer of or afflicted with any loathsome disease and the fact was concealed from, and unknown to, the party applying for annulment.”

SECTION 8. Section 580-22, Hawaii Revised Statutes, is amended to read as follows:

**“§580-22 Nonage.** An action to annul a marriage on the ground that one of the parties was under legal age, may be brought by the parent or guardian entitled to the custody of the minor, or by any person admitted by the court to prosecute as the friend of the minor. In no case shall the marriage be annulled on the application of a party who was of legal age at the time it was contracted; nor when it appears that the parties, after they attained the legal age, had for any time freely cohabited as ~~[man and wife,]~~ a married couple.”

SECTION 9. Section 580-23, Hawaii Revised Statutes, is amended to read as follows:

**“§580-23 Former ~~[husband or wife]~~ spouse living.** A marriage may be declared null on the ground that one of the parties has an undivorced ~~[husband~~

~~or wife]~~ spouse living, on the application of either of the parties during the lifetime of the other, or on the application of the former ~~[husband or wife.]~~ spouse.”

SECTION 10. Section 580-24, Hawaii Revised Statutes, is amended to read as follows:

**“§580-24 Allowance for spouse and family.** Every person who is deceived into contracting an illegal marriage with a ~~[man or woman]~~ person having another spouse living, under the belief that ~~[he or she]~~ the person was unmarried, may be entitled to a just allowance for the support of the deceived spouse and family out of the property of the deceiving spouse, which the deceived spouse may obtain at any time after action commenced upon application to the family court having jurisdiction. In addition to the allowance, the court may also compel the defendant to advance reasonable amounts for the compensation of witnesses and other reasonable expenses of trial to be incurred by the plaintiff.”

SECTION 11. Section 580-26, Hawaii Revised Statutes, is amended to read as follows:

**“§580-26 Lack of mental capacity.** The marriage of a person who lacked the mental capacity to consent to the marriage may be annulled on the application of either party, or on the application of a guardian of the party who lacked ~~[such]~~ capacity; ~~[but in such case,]~~ provided that no sentence of nullity shall be pronounced if it appears that the parties freely cohabited as ~~[husband and wife]~~ a married couple after the party who lacked ~~[such]~~ mental capacity attained the mental capacity necessary to consent to marriage.”

SECTION 12. Section 580-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon granting a divorce, or thereafter if, in addition to the powers granted in subsections (c) and (d), jurisdiction of those matters is reserved under the decree by agreement of both parties or by order of court after finding that good cause exists, the court may make any further orders ~~[as shall]~~ that appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney’s fees, costs, and expenses incurred by each party by reason of the divorce. In making these further orders, the court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, the concealment of or failure to disclose income or an asset, or violation of a restraining order issued under section 580-10(a) or (b), if any, by either party, and all other circumstances of the case. In establishing the amounts of child support, the court shall use the guidelines established under section 576D-7. Provision may be made for the support, maintenance, and education of an adult or minor child and for the support, maintenance, and education of an incompetent adult child regardless of whether ~~[or not]~~ the petition is made before or after the child has attained the age of majority. In those cases where child support payments are to continue due to the adult child’s pursuance of education, the agency, three months ~~[prior to]~~ before the adult child’s nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child

support will be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, ~~[prior to]~~ before the child's nineteenth birthday, that the child is presently enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the next semester a post-high school university, college, or vocational school. If the custodial parent or adult child fails to do so, prospective child support payments may be automatically suspended by the child support enforcement agency, hearings officer, or court upon the child reaching the age of nineteen years. In addition, if applicable, the agency, hearings officer, or court may issue an order terminating existing assignments against the responsible parent's income and income assignment orders.

In addition to any other relevant factors considered, the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet ~~[his or her]~~ the party's needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet ~~[his or her]~~ the party's own needs while meeting the needs of the party seeking support and maintenance;
- (12) Other factors ~~[which]~~ that measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made; and
- (13) Probable duration of the need of the party seeking support and maintenance.

The court may order support and maintenance to a party for an indefinite period or until further order of the court; provided that in the event the court determines that support and maintenance shall be ordered for a specific duration wholly or partly based on competent evidence as to the amount of time ~~[which]~~ that will be required for the party seeking support and maintenance to secure adequate training, education, skills, or other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure appropriate employment."

SECTION 13. Section 580-56, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Following the entry of a decree of divorce in any matrimonial action in which the final division of the property of the parties to ~~[such]~~ the action is reserved for further hearings, decisions, and orders, notwithstanding the provisions of section 560:2-802, or any other provisions of the law to the contrary, each party to ~~[such]~~ the action shall continue to have all of the rights to and interests in the property of the other party to ~~[such]~~ the action as provided by

~~[chapter]~~ chapters 533 and [chapter] 560, or as otherwise provided by law, to the same extent ~~[he or she]~~ the party would have had ~~[such]~~ the rights or interests if the decree of divorce had not been entered, until the entry of a decree or order finally dividing the property of the parties to ~~[such]~~ the matrimonial action, or as provided in subsection (d) ~~[of this section]~~.

(c) When a party to a matrimonial action has remarried following the entry of a decree of divorce, in which the final division of the property of the parties is reserved for further hearings, decisions, and orders, but ~~[prior to]~~ before the entry of a decree or order finally dividing the property owned by the parties to that action, notwithstanding the provisions of ~~[chapter]~~ chapters 533 and [chapter] 560, the spouse of ~~[such]~~ the remarried party shall have none of the rights or interests in the former spouse's real property or personal estate as provided in ~~[chapter]~~ chapters 533 and [chapter] 560, or as otherwise provided by law, until ~~[such]~~ the time as a decree or order finally dividing the property owned by the parties or either of them as of the effective date of the entry of the decree of divorce dissolving ~~[his or her]~~ the party's prior marriage shall be entered. Upon the entry of a decree or order finally dividing the property of the parties to a matrimonial action in which a decree of divorce has been entered, the spouse of a party to ~~[such]~~ the action who has remarried shall have all of the rights of a spouse as provided by ~~[chapter]~~ chapters 533 and [chapter] 560, or as otherwise provided by law, in and to the property of the former spouse vested in ~~[such]~~ the spouse by ~~[such]~~ the decree or order finally dividing the property of the parties or either of them, as of the effective date of the entry of the decree of dissolution of the prior marriage."

SECTION 14. Section 587A-4, Hawaii Revised Statutes, is amended by amending the definition of "family" to read as follows:

"“Family” means each legal parent of a child; the ~~[birth mother,]~~ birthing parent, unless the child has been legally adopted; the concerned ~~[birth father]~~ non-birthing parent as provided in section 578-2(a)(5), unless the child has been legally adopted; each parent's spouse or former spouse; each sibling or person related by blood or marriage; each person residing in the dwelling unit; and any other person or legal entity with:

- (1) Legal or physical custody or guardianship of the child, or
- (2) Responsibility for the child's care.

For purposes of this chapter, the term “family” does not apply to an authorized agency that assumes the foregoing legal status or relationship with a child.”

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on January 1, 2024.

(Approved June 29, 2023.)