HAWAII STATE HOUSE OF REPRESENTATIVES

REGULAR SESSION OF 2011

ROUGH DRAFT JOURNAL

SIXTEENTH DAY

FEBRUARY 11, 2011

OFFICE OF THE CHIEF CLERK

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SIXTEENTH DAY

Friday, February 11, 2011

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2011, convened at 12:09 o'clock p.m., with Vice Speaker Manahan presiding, after which the Roll was called showing all Members present with the exception of Representative Cabanilla.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Fifteenth Day was deferred.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 7 through 9) were received and announced by the Clerk:

Sen. Com. No. 7, transmitting S.B. No. 1171, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," which passed Third Reading in the Senate on February 10, 2011.

Sen. Com. No. 8, transmitting S.B. No. 244, entitled: "A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII," which passed Third Reading in the Senate on February 10, 2011.

Sen. Com. No. 9, transmitting S.B. No. 101, SD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," which passed Third Reading in the Senate on February 10, 2011.

On motion by Representative Evans, seconded by Representative Pine and carried, the following Senate Bills passed First Reading by title and further action was deferred: (Representatives Cabanilla and Mizuno were excused.)

S.B. No. 101, SD 1
S.B. No. 244
S.B. No. 1171

INTRODUCTIONS

The following introductions were made to the Members of the House:

Representative McKelvey introduced Ms. Inga Gibson of the Humane Society of the United States; Ms. Pam Burns of the Hawaiian Humane Society, Ms. Ginny Tiu and other animal rights advocates who were here for Animal Awareness Day.

Representative Mizuno introduced the homeschooled students of Generation Joshua.

At 12:13 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:30 o'clock p.m.

ORDER OF THE DAY

REPORTS OF STANDING COMMITTEES

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 207) recommending that H.B. No. 512, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 512, HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce, seconded by Representative Evans.

Representative M. Lee rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of the measure. Mr. Speaker, according to Dr. R. Sean Morrison, Director of Palliative Care at the Mount Sinai School of Medicine "Palliative care is specialized healthcare for anyone who is diagnosed with a serious and life-threatening illness, starting when they get the diagnosis, regardless of prognosis".

"Palliative care means patient and family centered care that optimizes quality of life by anticipating, preventing and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social and spiritual needs to facilitate patient autonomy, access to information and choice.

These days, if you make it to 65, you will probably live beyond 82. The numbers of older citizens is increasing, as well as the numbers of people living with chronic diseases.

Palliative care is often the most desirable and effective care for many of these people, and is a cost effective choice as well.

- Palliative care improves the quality of life.
- Growing bodies of research support the use of palliative care.
- Palliative care is recognized as a medical sub-specialty by internal medicine and family medicine boards.
- Palliative care supports physicians by guiding them in how to deal with patient's need for a plan to proceed with their illness – helping them set goals, and suggesting bedside management of symptoms.
- Palliative care is usually cost effective or cost neutral.

"People have a right to know about palliative care, however standards need to be established that apply to specific situations.

"National Health Care reform included recommendations for the National Institutes of Health to provide more research funding for palliative care.

"Palliative care is not just about better end of life care, but it is about improving care for people with serious or life-threatening illness throughout their life.

"Famous Science Fiction Writer Isaac Asimov once said: 'Life is pleasant; Death is peaceful. It is the transition that is difficult.' Palliative care can ease this transition."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 512, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PALLIATIVE CARE," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives Cabanilla and Hashem being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 208) recommending that H.B. No. 889, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 889, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH,"

passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 209) recommending that H.B. No. 127, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 127, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Pine rose to speak in opposition to the measure, stating:

"Yes, in opposition, Mr. Speaker to Stand. Committee Report 209. What that does is it allows emergency victims who have been involved in a rape to be given access to emergency contraception. What I have a problem with is that this particular bill does not have a religious exemption.

"For example, St. Francis which is in my district in Ewa Beach, testified that they will have to close down because of course the land owned is still owned by the Catholic Association. And so I'm hoping that the Judiciary Committee will add the religious exemption so that we can move on and help those women that want to be helped. I think that the religious entities that did testify were more than willing to be compassionate as well to the rape victims, and bring them to those hospitals that could care for them in this way."

Representative Fontaine rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Ching rose in opposition to the measure and asked that the remarks of Representative Pine be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Yamane rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ward rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Choy rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Riviere rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Har rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Johanson rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Mizuno rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Aquino rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Cullen rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Souki rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative M. Lee rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in support. In 2009, there were 125,910 rapes in the United States. According to the most recent Crime in Hawaii report, there were 363 forcible rapes reported to law enforcement in Hawaii in 2008. Many of these survivors required emergency medical care at one of Hawaii's emergency rooms. Rape is one of the most violent crimes.

"Sexual assault is a life threatening event and one that causes most victims long-term trauma. Survivors often suffer depression, intense fear, anxiety, and symptoms of posttraumatic stress disorder. Healing can take a lifetime. Victims are often blamed and scrutinized.

"In the aftermath of rape, victims find themselves dealing with a host of reproductive and sexual health issues, including pregnancy. Statistics vary, but indicate the approximately 5-8% of all rapes result in pregnancy.

"Emergency contraceptives are a safe and effective way to prevent a pregnancy as the result of a rape. EC are high dose contraceptives that, when taken a within a recommended time period after a sexual assault, will prevent pregnancy. EC is not the "abortion" pill, nor does it cause abortion.

"Providing EC in the ER is the accepted standard of care. The American Medical Association's Guidelines for treating sexual assault victims states that victims should be informed about and provided EC. The American College of Obstetrics and Gynecology also supports this standard of care.

"Fifteen states and the District of Columbia have adopted legislation requiring the provision of information about and/or access to EC to sexual assault victims in emergency rooms. This past year, the federal government also standardized rules regarding EC and now requires that all military and federal hospitals stock EC. The Army Medical Command Regulations advise discussing and providing EC to sexual assault victims.

"However in Hawaii, sexual assault victims do not always have access to emergency contraception when they are patients in a local emergency room. Statewide surveys of Hawaii emergency rooms have revealed that many facilities lack any clear policy on emergency contraception.

"This is 2011. It has been 16 years since the American Medical Association said that Emergency Contraception for the victims of rape was the accepted standard of care. Bills such as this have been introduced by the Women's Legislative Caucus for over 10 years.

"Since then there have been many articles reporting cases of hospitals locked in doctrinal dilemmas regarding women's right to the accepted standard of care.

"Writing in the New York Times on January 28, 2011, Nicolas D. Kristof reported that "The National Women's Law Center has just issued a report quoting doctors at religious affiliated hospitals saying they are sometimes forced by doctrine to provide substandard care to women with miscarriages or ectopic pregnancies in ways that can leave them infertile or even endanger their lives." A hospital is Phoenix was recently stripped of its religious affiliation and a supervisor punished for giving permission to terminate the pregnancy of a mother of 4 children who would have died without the procedure.

"Yet strangely, more than 400 Catholic Hospitals do observe the accepted standard of care after rape.

"Kristof goes on to say: "to me, the battle taking place illuminates two rival approaches within any spiritual tradition—one approach focuses on dogma, sanctity, rules and punishment, while the other exalts compassion for the needy, mercy for sinners, and above all inclusiveness" I would like to insert his article in the Journal.

"Mr. Speaker, while in most cases legislating care is not warranted, there is no excuse for Hawaii to have neglected to insist upon the accepted care for victims of rape for so long—victims who are in an immediate crisis hours and days after an assault. Giving deference to hospital hurts victims and prevents them from getting the proper care.

"The present bill is an amended version which is not perfect because it requires an exceptionally difficult standard to meet in terms of accessibility, but it can be fixed. Please support the victims not the system. Let's ensure that some of Hawaii's most vulnerable patients have access to quality, compassionate care after a sexual assault, no matter which emergency room they arrive in. Thank you."

Representative Awana rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I'm voting with reservations and I'd just like to add that I hope as this measure moves forward, that the religious exemption is looked into closer. Thank you."

Representative Morita rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Morita's written remarks are as follows:

"Thank you, Mr. Speaker. I rise in support of this measure.

"For over eight years, St. Francis Healthcare System has actively lobbied against providing emergency contraceptives (EC) for rape victims in an emergency room setting. In 2003 Senate Bill 658 resulted in a Governor's veto based on this opposition. And in subsequent years, other bills have been tied up in various Committees because of St. Francis' insistence for a religious exemption.

"Many would agree and support that healthcare institutions that limit their services to members of their own faith, such as the Christian Science sanatoriums, should be allowed to use religious briefs as a framework for providing services. However, once a religious affiliated organization, such as a clinic or hospital, move into a secular purpose, that is providing medical care or social services to the general public and accept public funding, that organization should no longer be shielded from general application of the law.

"There are three key reasons why the status quo in Hawaii is not good enough when it comes to compassionate emergency care for rape victims and do not warrant any type of religious exemption.

"First and currently, the prescribed rape treatment is a protocol, not a law or even a rule or regulation. This protocol is a recommended practice, not a mandate. The protocol can be ignored, withdrawn or weakened in any situation or at any point.

"Second, although existing rape protocols has been a positive step forward in improving the care of sexual assault survivors, it stops short of requiring hospitals to provide EC onsite. Hospitals may give the patient a prescription to be filled elsewhere or refer her to another provider. However, sending a traumatized rape victim to a pharmacy or yet another health facility should not be an acceptable practice, especially when it concerns dispensing a time-sensitive medication such as EC. A traumatized patient's emergency healthcare needs should all be met in the emergency room.

"Third, according to a 2002 Healthy Mothers, Healthy Babies survey, 90% of Hawaii's hospital emergency rooms do not provide EC onsite to rape victims. For rape victims who chose not to report the rape to the police or call a rape crisis center, but instead goes directly to an emergency room, there is a possibility that all treatment options may not be disclosed. This will increase the chance of an unintended pregnancy and the victim having to face an agonizing decision of what to do next should a pregnancy result from the rape. A law is needed to ensure a rape victim has all health care options disclosed to her to make an informed decision based on her own personal beliefs.

"But most importantly, the Ethical and Religious Directives for Catholic Health Care Services make an exception for rape victims, stating that "a female who has been raped should be able to defend herself against a potential conception from the sexual assault." An article in the September-October 2002 Health Progress, the journal of the Catholic Health Association of the United States, written by the Association's Senior Director of Ethics, explains this exception. The article states that "Catholic teaching allows for the administration of emergency contraception within certain moral limits. Measures taken to prevent conception in such cases fall outside the general prohibition against contraception because the assailant's act is a violation of justice, and any semen within the woman's body is considered a continuation of the unjust aggression against which she may licitly defend herself."

"The article continues to say that studies calling EC an "abortifacient" do not have definitive evidence to support their theories and that it is actually "highly unlikely" that EC destroys or interferes with the implantation of a fertilized egg (a pre- existing pregnancy).

"At the heart of this matter are the ethical underpinnings of healthcare delivery, which is the patient's right to make his or her own decision. In 1982 the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research found, ". . . judgment about which choice will best serve well-being properly belongs to the patient, a physician is obliged to mention all alternative treatments, including those he or she does not provide or favor, so long as they are supported by respectable medical opinion."

"The decision to use EC should be the sole decision of the rape victim, based on her own religious or ethical beliefs and after all medical options have been disclosed to make an informed decision. A rape victim should not be told to get emergency services somewhere else. That is not compassionate care. This bill will help to provide the compassionate care that a victim of sexual assault is entitled to morally and legally."

Representative Thielen rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I am in strong support and may I adopt the comments of the Vice Chair of Finance, please," and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 127, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTHCARE," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Ching, Cullen, Fontaine, Pine, Riviere and Ward voting no, and with Representatives Cabanilla and Hashem being excused.

Representative McKelvey, for the Committee on Economic Revitalization & Business presented a report (Stand. Com. Rep. No. 210) recommending that H.B. No. 734, as amended in HD 1, pass Second Reading and be referred to the Committee on Human Services.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 734, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE ECONOMIC OPPORTUNITY POVERTY REDUCTION TASK FORCE," passed Second Reading and was referred to the Committee on Human Services, with Representatives Cabanilla and Hashem being excused.

Representative McKelvey, for the Committee on Economic Revitalization & Business presented a report (Stand. Com. Rep. No. 211) recommending that H.B. No. 980, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 980, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative McKelvey, for the Committee on Economic Revitalization & Business presented a report (Stand. Com. Rep. No. 212) recommending that H.B. No. 1342, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1342, HD 1, entitled: "A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives Cabanilla and Hashem being excused.

Representative McKelvey, for the Committee on Economic Revitalization & Business presented a report (Stand. Com. Rep. No. 213) recommending that H.B. No. 1621, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1621, HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I was going to go, 'woof woof.' You know unfortunately, Mr. Speaker, I'm rising to speak against the bill. Thank you. In all due respect to the Majority Leader, I think we all want to ban' puppy mills.' They're inhumane. They're disgraceful. They're disgusting. They're ... I can't think of all of the negative words with which to describe them. But this bill doesn't do it really in the correct way. And I have a few reasons for that.

"The intent of the bill as we all know, was to regulate the retail sale of puppies by large commercial dog breeders. Those breeders that are advertising on the Internet. The ones that are stocking some of the pet stores and have disgraceful, inhumane housing for these .... I can't even call it housing, but places where these dogs are kept.

"The bill as amended is now going to regulate all dog breeders. And it establishes arbitrary limits on dog ownership, regardless of the care and nurturing the dogs receive. That's the important thing. A well-run operation that nurtures and cares for the dogs shouldn't be banned. City and County zoning laws already establish limits on the number of dogs allowed on residential properties, but these laws are being broken by puppy mill operators and the City isn't enforcing their law.

"As presented, House Bill 1621 is a deterrent to hobby breeders and dog fanciers. Responsible hobby breeders seldom profit from their breeding programs. The cost of quality animals, vet costs, cost for health clearances, stud fees, cost of whelping and raising a litter. There's a need for hobby breeders to produce quality dogs because the reality is that many pet owners want a certain type of dog, with a certain temperament and health guarantees.

"I'm going to go ahead and put the rest of my comments into the Journal with your permission, Mr. Speaker, but I just would like to say that the limit laws are difficult to enforce. There's a better way to get at this where we really focus on the number of puppies that are sold to retail outlets, and that include sales over the Internet. And the main thing is breeders need to be licensed with yearly inspections. If an inspector went to the place that I understand is being run in Waimanalo, that inspector will be appalled at what is going on. And they have been. The media has gone out there and filmed. It's disgraceful, and disgraceful that we let it continue to operate.

"This isn't the best way to do it, but I really thank everyone in this Body for being concerned and wanting to find a solution this Session so we can ban these inhumane puppy mills from our Aloha State. Thank you."

Representative Thielen's written remarks are as follows:

"In order to prevent and regulate puppy mills, we need to establish a permitting and licensing requirement for large scale commercial breeding facilities which are producing and selling a defined number of puppies to retail outlets, including through the internet. These facilities would be required to meet certain quality standards regarding the care, housing and socialization of their dogs and puppies. Legislation should require county animal control officers to establish permitting process for breeders, defining large commercial dog breeders as a person, firm, partnership, corporation, pet store, or other association that has sold, whelped, transferred, or given away all or part of ten or more litters or thirty or more dogs during the preceding twelve months. Sales should include retail as well as internet sales. Additional legislation should require pet stores and large scale commercial dog breeders to provide puppy purchasers with written statement of the dog's history, including where the puppy was whelped, as well as a policy for refunds for preexisting medical conditions."

Representative Morikawa rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1621, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DOGS," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representative Thielen voting no, and with Representatives Cabanilla and Hashem being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 214) recommending that H.B. No. 1464, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1464, HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, seconded by Representative Evans.

Representative Yamane rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1464, HD 1, entitled: "A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Cabanilla, for the Committee on Housing presented a report (Stand. Com. Rep. No. 215) recommending that H.B. No. 1135, as amended in HD 1, pass Second Reading and be referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1135, HD 1, entitled: "A BILL FOR AN ACT RELATING TO MORTGAGE FORECLOSURES," passed Second Reading and was referred jointly to the Committee on Consumer Protection & Commerce and the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representatives Morita and Chang, for the Committee on Energy & Environmental Protection and the Committee on Water, Land, & Ocean Resources presented a report (Stand. Com. Rep. No. 216) recommending that H.B. No. 122, as amended in HD 1, pass Second Reading and be referred to the Committee on Agriculture.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 122, HD 1, entitled: "A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY," passed Second Reading and was referred to the Committee on Agriculture, with Representatives Cabanilla and Hashem being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 217) recommending that H.B. No. 835, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 835, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Marumoto rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I will vote with reservations on Stand. Com. No. 217, House Bill 835, House Draft 1. This proposes an amendment to our State Constitution to Article VII, Section 6, relating to the disposition of excess revenues. I believe that we voted on a change this past year so I don't know whether that one will take precedence over this one if this one should also pass the Legislature and be put on the ballot and pass.

"But this would keep the surplus, excess revenues, and allow them to be put into the Employee's Retirement System, and I question whether excess tax revenue funds should go into a Fund which pays employee's pensions.

"I don't think the taxpayers would appreciate the fact that the money might be going to public employees only because ... Well, I'll just leave it there. I will look at the bill as it comes into Finance Committee. Thank you."

Representative Souki rose to speak in support of the measure with reservations, stating:

"Yes, I wish to speak with reservations on this measure. First of all, I don't really think you need to have a Constitutional Amendment on this issue. Number two, this language is too narrow as it restricts the funds only to one certain activity.

"One problem we know is the problem with the unfunded liability, but there are many, many other problems, and many other needs. And to restrict this to only one area, I believe, doesn't really serve the purpose of something like this. Thank you, very much."

Representative Belatti rose in support of the measure with reservations and asked that the remarks of Representative Souki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 835, HD 1, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, RELATING TO THE DISPOSITION OF EXCESS REVENUES," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 218) recommending that H.B. No. 772, HD 1, as amended in HD 2, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 772, HD 2, entitled: "A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representatives Mizuno and Awana, for the Committee on Human Services and the Committee on International Affairs presented a report (Stand. Com. Rep. No. 219) recommending that H.B. No. 871, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committees be adopted, and that H.B. No. 871, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Ward rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, on Stand. Com. Rep. No. 219, with your indulgence. Mr. Speaker, I rise with reservations on this particular measure. Generally speaking, when a bill gets introduced it's for a reason and it has logic. People understand it and it's discussed. This bill had none of the above. No testimony. No one really understood it. It was contradictory in that some states have a particular Uniform Interstate Family Support Act which we are already in compliance, so we don't have to do it. There's no necessity to do it.

"But the hooker is that it says we agree with all the new updates in the Hague Convention of which no one produced anything to say what it is we are agreeing to or not agreeing to. So to give it a *carte blanche* without knowing what it is and it's not necessary, and no one came and really fought for it. I think, I hope, the next Committee will have a hard look at it to see what we're really getting into and discern it accordingly. Thank you."

Representative McKelvey rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I stand in support, but I do have some slight reservations. By Hawaii moving first before the federal government acts, this will take us out of compliance with federal law. Thank you, very much."

Representative Awana rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support for Stand. Com. Report 219. Thank you, Mr. Speaker. I'd just like to mention, if you're looking at the SCR 219, it does state that there was testimony provided on this measure. And it was the decision of both Chairs at that time to go ahead and pass this measure because it does merit further review. As matter of fact, it is being looked at, at the federal level so it warrants further discussion. We did place a defective date on it, as well as place the comments made by the AG's Department, if you look at the SCR 219.

"And lastly, we realize the concerns from the Representative from Hawaii Kai. If you look at the report, you can see that those issues are addressed. Thank you."

Representative Mizuno rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support on Stand. Com. Report No. 219, House Bill 871. Thank you, very much. If I could have the words of the Chair of International Affairs placed in the Journal as if they were my own. Thank you, very much. And I have just a few more comments to add.

"At the hearing, we did have two commissioners on the uniform state laws testify in support for this measure. While we agree with the prior speakers that this bill may not be ripe to go into law, nevertheless we wanted to move this measure to the Judiciary Committee where they can hold this measure as a vehicle. Again, based on the two commissioners on uniform state laws they had indicated that they wanted this vehicle to be ready once there is an update to the Uniform Interstate Family Support Act. We have about a year and a half to go into compliance with this. This is a vehicle and once it is ready to go, we'll be able to move on it. So for those reason I support this measure. Thank you, Mr. Speaker."

The motion was put to vote by the Chair and carried, and the report of the Committees was adopted and H.B. No. 871, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Hanohano, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 220) recommending that H.B. No. 222, as amended in HD 1, pass Second Reading and be referred to the Committee on Water, Land, & Ocean Resources.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 222, HD 1, pass Second Reading and be referred to the Committee on Water, Land, & Ocean Resources, seconded by Representative Evans.

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 222, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS," passed Second Reading and was referred to the Committee on Water, Land, & Ocean Resources, with Representatives Cabanilla and Hashem being excused.

Representative Hanohano, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 221) recommending that H.B. No. 396, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 396, entitled: "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Hanohano, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 222) recommending that H.B. No. 1225, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1225, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Thielen rose to speak in opposition to the measure, stating:

"Mr. Speaker, I'm rising to cast a no vote because I don't believe we should enable gambling on Hawaiian Homelands, or any other Hawaii lands. Thank you."

Representative Fontaine rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Marumoto rose to speak in opposition to the measure, stating:

"Mr. Speaker, I am a no vote on this particular measure. Although it sounds innocuous, you know you have grandmas playing bingo, I will remind you that in San Francisco they do allow gambling and people, non-profit entities, can use this as a fundraising technique. They're able to bid on certain territories, but I find that they tend to pick areas where there's low-income housing and low-income neighborhoods. They find that these are the best for attracting bingo players. So I feel that people who want to make money prey upon the poor by establishing bingo in certain underprivileged areas. I think this is a very insidious form of gambling, so I am voting no. Thank you."

Representative Carroll rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. Yes, gaming is a very controversial issue, and we've gone through many other bills today, and on other days. I would just like to say that I'm in support of this because the State has a fiduciary responsibility to the Hawaiian Homes Act. When we became a State in 1959 there was a Compact that was made between the federal government and the State. But the State hasn't been able to fulfill that fiduciary responsibility, and there has been liability issues because of lawsuits.

Yes, we tried in the several years to raise revenues for the Department of Hawaiian Homelands, and with the $600 million settlement that the Legislature is mandated to put $30 million in the budget, that goes away in 2014. The Department has tried every other way through commercialization and other means to try and raise that money.

"Bingo is certainly a more conservative type of gaming. And I take offense that someone would say that bingo is something that we would place in areas of low income. I beg to differ that not everyone who lives on Hawaiian Homes is of the low-income bracket.

"Therefore I support this measure because I believe that should we be able to do bingo in one designated area, which is one license, which is what the bill says. That Hawaiian Homes will have an opportunity by placing it in a location that visitors may be able to participate, and provide revenue to the State.

"If you look at the bill, it provides 20% to the State fund, as well as 1% to the compulsive gambling programs, and 4% for the administrative costs. We're looking at bingo as a sustainable way, one way to fulfill the State's responsibility to the Department of Hawaiian Homelands. And two, to provide some revenue. You may or may not agree that this type of gaming, but if not gaming and not raising taxes, then we need to look at everything that's on the table.

"One last comment. I also know that the federal government allows for military bases to provide bingo as another means of entertainment in gambling. Therefore, I support this measure strongly and ask my colleagues to please allow for more discussion so that we can take this to the discussion of one, fulfilling our mandate; but two, more importantly, looking at ways to raise revenue. Thank you."

Representative Choy rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative McKelvey rose in support of the measure and asked that the remarks of Representative Carroll be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Morita rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Ward rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I rise in opposition. Thank you, Mr. Speaker. Just a few comments. And again, I'm not a prude about bingo, but we know where this is going. The 'elephant in the room' is here. We know where this is going. And I just wanted to mention, it's fascinating because over the last how many years, when we bring up gambling, there is I believe one proposal that said we'll give some of the money for education. Now maybe we'd like to earmark some for compulsive gambling. And for logic, it's an interesting thing for me as a former teacher at Maemae School.

"You know, teachers try to, I believe, help children to attain the best potential they can. We know that one of the values we want to establish in our children, our students, is one of delayed gratification. Work hard. Do the thing that is not necessarily immediate gratification, but for their own good. In fact, there are studies that show that the ability to delay gratification is probably one of the most top indicators of success in any individual's life. Philosophically, we've actually got a real interesting contradiction, and then you got the compulsive gambling.

"And I'd just like to add, it's 2011. It's 2011 and with all due respect, I love bingo too. But there are a lot of other ways, there are options, it's a beauty of the contemporary time we live in. So creative. So many other ways to raise funds. Thank you."

Representative Johanson rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Marumoto rose to respond, stating:

"Mr. Speaker, still in opposition. My apology to the Representative from Hana. I did not mean to infer that all people who live on Hawaiian Homelands are underprivileged. I simply was referring to the fact that in San Francisco, generally, bingo areas that are sought after are where underprivileged people reside. Thank you."

Representative Herkes rose to speak in support of the measure, stating:

"In support. In California, bingo is for the benefit of schools. You can only have one paid employee. All the rest of the staff that runs the bingo are volunteers. The particular case that I know of, the bingo in California that my wife ran, they would send those students on trips. They have been to Paris. Been to London. They've been all over the world based on the bingo. And I said it many times that bingo, and there are families of farmers from all over the territory came in to play bingo, and it was a very nice pleasant evening. In support."

Representative Yamane rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Evans rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise in support. I'd like the words from the Representative from Hana as my own. And I also want to really say, the last speaker really hit home on the fact that churches where I grew up, churches had bingo and the church members volunteered. That was a way to raise money, but more importantly, it was a way to socialize. And there were many Sunday afternoons that I spent under a tent playing bingo with my grandmother. I think that the point is to keep this measure moving forward.

"And some people think it's just for finances, but I would argue it's much more than that. When I visit senior centers in my district, they play bingo. That's something they do. They enjoy it. They have fun. It may be that we just need to take a look at if there is any money associated with it, that it really doesn't go to the general fund. Maybe it stays where the bingo game is, and it stays with Hawaiian Homelands. So I encourage Members to move this forward. Thank you."

Representative M. Lee rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Takumi rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Aquino rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Cullen rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Takai rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Awana rose to disclose a potential conflict of interest, stating:

"Thank you, Mr. Speaker. I'd like to ask for a ruling on possible conflict. I am a lessee on a Hawaiian Homestead land," and the Chair ruled, "no conflict."

Representative Awana asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Hashem rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Nishimoto rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1225, entitled: "A BILL FOR AN ACT RELATING TO BINGO," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Aquino, Ching, Choy, Cullen, Fontaine, Johanson, M. Lee, Marumoto, Morita, Nishimoto, Takai, Takumi, Thielen, Ward and Yamane voting no, and with Representatives Cabanilla and Hashem being excused.

Representative Hanohano, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 223) recommending that H.B. No. 1489, as amended in HD 1, pass Second Reading and be referred to the Committee on Housing.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1489, HD 1, entitled: "A BILL FOR AN ACT RELATING TO DEPARTMENT OF HAWAIIAN HOME LANDS," passed Second Reading and was referred to the Committee on Housing, with Representatives Cabanilla and Hashem being excused.

Representative Hanohano, for the Committee on Hawaiian Affairs presented a report (Stand. Com. Rep. No. 224) recommending that H.B. No. 1627, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1627, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Ward rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I rise with slight reservations. Mr. Speaker, this is the 'Mini-Akaka Bill,' or if you interpret what is in place, it is the Akaka Bill turned up on its head. Instead of starting with the federal government, we're starting at the State and progressing the same way that the Akaka Bill has. And if there's any bill that needs to be pushed along with a lot, lot, lot more discussion, it's this one. So with reservation, and I just wanted to flag this as a big, heavy, game-changing bill and we need to really discern it very, very specifically."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Awana rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Souki rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1627, HD 1, entitled: "A BILL FOR AN ACT RELATING TO GOVERNMENT," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Aquino, for the Committee on Public Safety & Military Affairs presented a report (Stand. Com. Rep. No. 225) recommending that H.B. No. 461, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 461, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE

UNIFORM MILITARY AND OVERSEAS VOTERS ACT," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Aquino, for the Committee on Public Safety & Military Affairs presented a report (Stand. Com. Rep. No. 226) recommending that H.B. No. 1000, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1000, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ENHANCED 911 SERVICES," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives Cabanilla and Hashem being excused.

Representative Yamane, for the Committee on Health presented a report (Stand. Com. Rep. No. 227) recommending that H.B. No. 1443, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1443, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HEALTH INSURANCE," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives Cabanilla and Hashem being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 228) recommending that H.B. No. 466, as amended in HD 1, pass Second Reading and be referred to the Committee on Consumer Protection & Commerce.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 466, HD 1, entitled: "A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION," passed Second Reading and was referred to the Committee on Consumer Protection & Commerce, with Representatives Cabanilla and Hashem being excused.

Representative Rhoads, for the Committee on Labor & Public Employment presented a report (Stand. Com. Rep. No. 229) recommending that H.B. No. 385, as amended in HD 1, pass Second Reading and be referred to the Committee on Legislative Management.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 385, HD 1, pass Second Reading and be referred to the Committee on Legislative Management, seconded by Representative Evans.

Representative Fontaine rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I rise in opposition to Stand. Com. Rep. No. 229. This is potentially going to be a nightmare if we're going to have collective bargaining with our legislative session staff, and I do not believe this is a good measure and should not go forward. Thank you."

Representative Thielen rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Ching rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Johanson rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

"With reservations, and comments please. What I wanted to express, and I hope that the Legislative Management Committee will consider is, I think it's somewhat problematic in a body that is largely compromised of elected and/or quasi-appointed, chosen people, to have a scenario in which case that potential prerogative may be usurped by this piece of legislation. So I just wanted to raise those reservations, and I hope that they will be considered as this measure may be subject to amendment."

Representative Souki rose to speak in support of the measure with reservations, stating:

"Yes, with reservations. I'm quite concerned with the referral, that it's only going to Legislative Management. In respect to the Chair, I'm sure he'll do a very fair job, but it should be going to Judiciary and the whole works because this is a big change here. Thank you, very much."

Representative McKelvey rose in support of the measure with reservations and asked that the remarks of Representative Souki be entered into the Journal as his own, and the Chair "so ordered." (By reference only.)

Representative Cullen rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Brower rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Awana rose in support of the measure with reservations and asked that the remarks of Representative Souki be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Ward rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, with reservations, and just to reinforce what the Representative from Maui said. Every card check bill always went through Judiciary, even though I sit on Legislative Management, and I'm pleased to hear it. But I think he's correct. We steered this one in the probable wrong direction, but hopefully it'll get cut off at Legislative Management.

"I love my staff. I don't think they want to get unionized, at least that's what they tell me so far. But after I make this speech I'll probably find out. Thank you."

Representative Har rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 385, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING," passed Second Reading and was referred to the Committee on Legislative Management, with Representatives Fontaine and Thielen voting no, and with Representatives Cabanilla and Hashem being excused.

Representative McKelvey, for the Committee on Economic Revitalization & Business presented a report (Stand. Com. Rep. No. 230) recommending that H.B. No. 1651, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1651, HD 1, pass Second Reading and be referred to the Committee on Judiciary, seconded by Representative Evans.

Representative Marumoto rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. I am with reservations on this House Bill 1651, House Draft 1, Relating to Shipboard Gaming. Thank you. Gaming sounds, perhaps a better word than gambling. It doesn't sound as bad, but I still think that it should be called gambling.

"This will allow shipboard gaming in the archipelagic waters of Hawaii, and apparently it limits it to only ships with 1,000 passengers and that people must stay overnight. So that's a very large ship. I think we only have one or two of them in our waters.

"But I don't think we could allow them to have gambling. Please correct me if I'm wrong, but I think that by Congressional Act they are not allowed

to have gambling, so I don't see how we can override Congress in this particular area. But the fear of this particular bill is that it could revert back to its original form in which it would allow much smaller ships that are docked in Hawaii to have gambling. On page 7, I believe I was reading the draft that was given to us in Committee so I am assuming that it is the same in the Committee Report, but it talked about, the Board shall have all the power necessary to fully and effectively supervise all shipboard gaming operations including, but not limited to, the following: to determine the types and numbers of shipboard gaming licenses to be permitted, and the types and numbers of ships a licensee may own under this chapter.

"So I just was wondering, this Board could give out several licenses. We don't know how many. They could give them out. And a licensee could have many ships. So I'm curious as to really whether this bill will revert back to this original form. And whether you could have ships that are sailing in the archipelagic waters, or ships that could simply tie up at one port or another and conduct their activities. I look forward to hearing the testimony on this bill in the Judiciary Committee. Thank you."

Representative Wooley rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you. Mr. Speaker, a no vote and just brief remarks. Thank you. We shouldn't roll the dice with Hawaii's reputation as a paradise. A paradise doesn't include gambling. Thank you."

Representative Fontaine rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. A no vote for me also, and brief comments. It's opening up Pandora's Box if we start going down this path. I'd also like to remind everyone too that the type of clientele that are attracted to this type of activity is not the kind of visitors that we're getting now. This could lead to having more organized crime and other activities in the State. Thank you."

Representative Choy rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Ching rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. A no vote. Thank you. And I just want to be very quick on this. I just wanted to mention that the Honolulu Police Department did testify, I believe, in opposition."

Representative Cullen rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Johanson rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Nishimoto rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, a no vote. And may the words of the Police Captain from Maui be inserted in the Journal as my own," and the Chair "so ordered. (By reference only.)

Representative Pine rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Rhoads rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative M. Lee rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Luke rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Herkes rose to speak in support of the measure, stating:

"I'm in support. Does anybody in this Chamber actually think there's no gambling in Hawaii? I'd be interested to know how much was gambled on the Super Bowl just in this State. Thank you."

Representative Takai rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Aquino rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Belatti rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Morita rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Souki rose to speak in support of the measure, stating:

"Yes, a big yes vote, and I wish to have the words of the Representative from the Big Island as my own. And also I would ask my friends who go to Vegas, maybe they should be thinking about Representative Herkes' words. Thank you, very much."

Representative Saiki rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative McKelvey rose to speak in support of the measure, stating:

"Thank you very much, Mr. Speaker. In support. And first of all, to address the concerns of the good Representative from Kaimuki, I hope I'm correct with her district. That was not the intent to have that language still included in that bill. So I apologize to her and the other Members for that legislative oversight.

"Again, though why would we, if I felt and I'm not 100% saying, 'aye,' but we've got to keep some vehicles for discussion alive. Because if nothing else, we can go back to the taxpayers of the State of Hawaii and say that we looked at all options before we just went right to taxation to address a $850 million deficit.'

"We worked hard, your Committee did, to really narrow the scope of this, Mr. Speaker. Only two vessels, interisland cruise ships, only two of them, over 1,000 passengers with an overnight stay, because we realized the implications of this.

"But again, I feel that we have to keep all options on the table so at the end of the day, we can at least go back to the public and say we explored every option, no matter how divisive or polarizing it may have been, at least we looked at everything.

"So I do respect the no votes in this Chamber, Mr. Speaker, and I'm glad we're having this debate. But again, your Committee felt that we just needed to move forward with some vehicles to continue the discussion on this issue. Thank you."

Representative Thielen rose to respond, stating:

"I'm still no, Mr. Speaker. Yes, in response to the comments just made, keeping all options on the table, where are the options that support our small business community that will enable them to add jobs to the job market, enable them to thrive? We don't have those.

"When you're talking about options, you're either talking about raising fees, raising taxes, starting gambling in our State. All concepts that are dead ends. Where's the global thinking to say, 'What will make our economy move forward?' Part of that are green energy jobs. I'm a huge proponent of that. Part of that is getting the government off of the backs of

small business and helping them. Not looking at them like the enemy, but helping them, working hand in hand. That's the way we move this State forward. It's called economic development. Thank you."

Representative Riviere rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative McKelvey rose to respond, stating:

"Thank you very much, Mr. Speaker. Still in support with a rebuttal. If you look at the Order of the Day yesterday, you'll see that your Committee moved out the capital loan program for DBEDT, a preference for small business under the Procurement Code. And of course we're working on, what I feel is very exciting initiative to bring in, the film industry to Hawaii.

"And my record has shown that I've been a complete supporter, as your Committee has, of the green energy jobs and the energy division as well. So to say that we're doing nothing for the economy but looking at gaming, I believe is not accurate and deserves a response. Thank you, very much."

Representative Yamane rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Takumi rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Awana rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. In consideration of the comments made by the legislator from Lahaina, with reservations."

Representative Hashem rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Thielen rose, stating:

"Mr. Speaker, may we please just have a count of the no votes?"

At 1:10 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:10 o'clock p.m.

At this time, the Chair announced:

"Thank you. Before the recess, a vote count was requested for Stand. Com. Rep. No. 230. The count for the no votes is 20. It is 30 ayes, and 20 noes."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1651, HD 1, entitled: "A BILL FOR AN ACT RELATING TO SHIPBOARD GAMING," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Aquino, Belatti, Ching, Choy, Cullen, Fontaine, Johanson, M. Lee, Luke, Morita, Nishimoto, Pine, Rhoads, Saiki, Takai, Takumi, Thielen, Ward, Wooley and Yamane voting no, and with Representatives Cabanilla and Hashem being excused.

Representative Takumi, for the Committee on Education presented a report (Stand. Com. Rep. No. 231) recommending that S.B. No. 8, SD 1, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and S.B. No. 8, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO EDUCATION," passed Second Reading and was referred to the Committee on Finance, with Representatives Cabanilla and Hashem being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 232) recommending that H.B. No. 1141, as amended in HD 1, pass Second Reading and be referred to the Committee on Judiciary.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 1141, HD 1, entitled: "A BILL FOR AN ACT RELATING TO THE UNIFORM INFORMATION PRACTICES ACT," passed Second Reading and was referred to the Committee on Judiciary, with Representatives Cabanilla and Hashem being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 233) recommending that H.B. No. 1272, pass Second Reading and be referred to the Committee on Finance.

Representative B. Oshiro moved that the report of the Committee be adopted, and that H.B. No. 1272, pass Second Reading and be referred to the Committee on Finance, seconded by Representative Evans.

Representative M. Lee rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, please note my strong reservations to this, and I'd like to put some comments in the Journal," and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"I rise with reservations on this measure which would require the Director of the DCCA to reduce the monies paid to support Olelo's educational and governmental access facilities by an unspecified percentage in FY 2011-2012 and to transfer these funds to the general fund.

"The present financial situation of the State, and possible changes to government services and non-profits, make it even more important than ever that the people have a forum to express their opinions and ideas: and that public hearings and meetings are accessible.

"As a long time producer of an Olelo program, I feel it is more important than ever that we have public access TV. We have just seen a dramatic uprising in Egypt, where the people have used media to express their frustration with government.

"We need to expand rather than restrict the rights of our citizens to public access. We are the envy of many states and should continue our leadership in this area."

Representative Jordan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Thielen rose to speak in opposition to the measure, stating:

"A no vote on the same measure. This is the public access television. Thank you."

Representative Keith-Agaran rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Pine rose to speak in support of the measure with reservations, stating:

"Yes, reservations and a brief comments. Yes, what this bill does is it directs DCCA to reduce the money paid to support Public Educational and Government access facilities, which would include the video that's given to the public from what we do here. I just believe that open access to what is going on here, as well as allowing some return to the public from what the cable television is taking away from us, should never be cut."

Representative McKelvey rose to speak in support of the measure with reservations, stating:

"Thank you, Mr. Speaker. With reservations. And I just would like the written comments from the good Representative of Mililani entered to the record as if they were my own. I do believe this might violate federal law," and the Chair "so ordered. (By reference only.)

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Awana rose in support of the measure with reservations and asked that the remarks of Representative M. Lee be entered into the Journal as her own, and the Chair "so ordered." (By reference only.)

Representative Chong rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. This is one of many measures that we're looking at to balance the $800 million shortfall. Other proposals that have been included, as many people know on this Floor include, reductions in core services whether it be Medicaid or TANF, whether it be an increase in fees or taxes.

"Is Public Access in Education and Government important, the PEGs? Yes. But everything should be looked at, especially if we're going to talk about things such as Medicaid of which 60% are children. Whether you want to talk about State Hospitals, whether you want to talk about education, Furlough Fridays, or other core programs of government. Thank you."

Representative Souki rose to speak in support of the measure with reservations, stating:

"Yes, Mr. Speaker. With reservations. My concern is the continued 'nickel and diming,' rather than looking at the whole fiscal picture on a broad basis. Thank you, very much."

Representative Fontaine rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Riviere rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Cullen rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 1272, entitled: "A BILL FOR AN ACT RELATING TO CABLE TELEVISION," passed Second Reading and was referred to the Committee on Finance, with Representative Thielen voting no, and with Representatives Cabanilla and Hashem being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 234) recommending that H.B. No. 724, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 724, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FOSTER CARE SERVICES," passed Second Reading and was referred to the Committee on Finance, with Representatives Cabanilla and Hashem being excused.

Representative Mizuno, for the Committee on Human Services presented a report (Stand. Com. Rep. No. 235) recommending that H.B. No. 736, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committee was adopted and H.B. No. 736, HD 1, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY CARE FOSTER FAMILY HOMES," passed Second Reading and was referred to the Committee on Finance, with Representatives Cabanilla and Hashem being excused.

Representatives Rhoads and McKelvey, for the Committee on Labor & Public Employment and the Committee on Economic Revitalization & Business presented a report (Stand. Com. Rep. No. 236) recommending that H.B. No. 884, as amended in HD 1, pass Second Reading and be referred to the Committee on Finance.

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, the report of the Committees was adopted and H.B. No. 884, HD 1, entitled: "A BILL FOR AN ACT RELATING TO FAMILY LEAVE," passed Second Reading and was referred to the Committee on Finance, with Representatives Cabanilla and Hashem being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 237) recommending that H.B. No. 1077, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 237 on H.B. No. 1077, HD 2, was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 1077, HD 2, were made available to the Members of the House.

At 1:15 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 1:15 o'clock p.m., with the Speaker presiding.

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering a certain Senate Bill for Third Reading by consent calendar. (Representatives Cabanilla and Luke were excused.)

THIRD READING

S.B. No. 232, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 232, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition. Regardless of what side anybody is on this issue, Mr. Speaker, to be frank, there's been civil union fatigue that set in on both sides. I mean, people have worked long and hard, calls, faxes, hearings. We went through a real good dialogue and I think everybody should be proud of this because there are no surprises that are here. It was totally vetted. And I know I'm probably on the side that's going to lose 31 to 20, but I want to say a few things before that vote is taken, if I may, Mr. Speaker.

"Mr. Speaker, Mr. Shakespeare said in his discourse in *Romeo and Juliet*, a rose by any other name is what he was describing with his love. However in this case, a rose by any other name is a civil union, by any other name is same-sex marriage. The point is, it means that names of things do not matter; only what things actually mean.

"Mr. Speaker, the bottom line is that this bill is almost, legally, a mirror image of marriage. If it was not about marriage, and it was only about rights and benefits, we already have the aloha solution, and that's the

reciprocal beneficiaries. We could dump in the 49 pages of those rights and benefits if we wanted to do that.

"But, Mr. Speaker, don't take it from me. This is just the beginning to same-sex marriage. If I may quote one of the progenitors of the movement here saying that the only thing equal to marriage is marriage. Civil unions is just a legal recognition to provides and responsibilities, benefits and obligations. But it does not have the same social meaning as marriage which is an institution. Marriage has meaning. This was also a parallel by the ACLU which basically said, this is just one of the first and necessary steps.

"The point is, Mr. Speaker, that what we have today is a bill that in and of itself is fine, but it's a legal strategy set to put same-sex marriage into motion. And I think some of the comments are apt from New Jersey which had a Civil Unions Commission that stated, Civil unions invite and encourage unequal treatment of same-sex couples and their children. Civil unions are not respected in the real world, and domestic partners are not respected in the real world either. Marriage equality goes beyond getting the enumerated rights that are involved in equality because real marriage equality was about the dignity that comes with the word and the societal approval that comes with the word marriage.'

"That Mr. Speaker, is saying that we are just beginning a process and that by if you will ..."

Representative Brower rose to a point of order, stating:

"Mr. Speaker, a point of order. The Representative from Hawaii Kai, Queen's Gate's time has run out."

Representative Ward responded, stating:

"I believe we have five minutes, Mr. Speaker, and it's only three minutes and four seconds, thanks to this new technology that we have. The only time I ever used it."

Representative Brower: "I apologize, Mr. Speaker. I tried."

Representative Ward: "Thank you, Mr. Speaker. Do I get the seconds that he took off my clock here?"

Speaker Say: "It stopped at 3:04 so please proceed."

Representative Ward continued, stating:

"One of the bottom lines, Mr. Speaker, is that striking civil unions is on its way as we setup civil unions it's being struck down because of the things that I just said. And if the legal community has any examples, that is in Connecticut, Massachusetts, and other places that's exactly been the pattern.

"So just that we keep our eyes open, but we also keep our eyes open in that we look at what the people of Hawaii have said. 69 to 70% said we don't want same-sex marriage. So our obligation as we pass this is to make them aware with their eyes open that this bill today has begun its momentum toward same-sex marriage. That is one of the bottom lines.

"Another bottom line is that we are, with other states, a little bit out of where they're going. 31 other states have passed Constitutional Amendments prohibiting same-sex marriage. Another 42 states have passed statutes defining marriage between a man and woman. Even Governor Abercrombie and President Obama have said they are not for same-sex marriage. But again, in the beginning Shakespearean quote, a rose by any other name is still a rose, Mr. Speaker.

"So this is not an 'I told you so' speech. It's just saying connect the dots and you see the runway. You can see same-sex marriage is coming and it's coming soon. At the same time we can say when others in this Chamber said, you can't legislate morality. In effect, we are beginning this day by passing this bill.

"My fear is that for the many children, churches, synagogues, mosques, and temples who will unfortunately never agree with this government dictate because of some of their values which may in time turn into hate speech, Mr. Speaker. That is a big fear that many people in the community do have. So civil rights may have prevailed in framing this argument."

Representative Ching rose to yield her time, and the Chair "so ordered."

Representative Ward continued, stating:

"Thank you, Mr. Speaker. I'm just wrapping up. So Mr. Speaker, civil rights may have prevailed in defining the issue and as I said earlier, likely it's going to be 20 to 31, but never in the history of our country has a civil right ever challenged our churches, synagogues, mosques, temples, more than this one. May this Body remain as a peacekeeper between the gulf that we are creating between our communities. Thank you, Mr. Speaker."

Representative Saiki rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Saiki's written remarks are as follows:

"Mr. Speaker. I support civil unions, but am submitting written remarks because I believe that Section 2, Subsection -9 of this legislation is ambiguous and may lead to potential litigation.

"Subsection -9 mandates that all "rights, benefits, protections and responsibilities" designated to married persons shall be afforded to civil union partners. This section was worded after a similar provision found in Conn. Gen. Stat. § 46b-38nn, which provides as follows:

> Parties to a civil union shall have all same benefits, protections and responsibilities under law, whether derived from the general statues, administrative regulations or court rules, policy, common law or any other source of civil law, as are granted to spouses in a marriage, which is defined as the union of one man and one woman.

Conn. Gen .Stat. § 46b-38nn. This Connecticut provision has been the subject of litigation concerning the issue of whether civil union partners enjoy equal benefits as do married person under § 46b-38nn. See Kerrigan v. Commissioner of Health, 957 A.2nd 407 (Conn. 2008).

"To avoid confusion and litigation in Hawaii, the rights, benefits, protection s and responsibilities afforded to civil union partners should be clearly delineated in statute, as has been done for married persons through the enactment of hundreds of provisions in the Hawaii Revised Statutes. Such provisions s have been identified in H.B. 1453, Relating to Legal Relationships. I am including a copy of H.B. 1453 in my written remarks because it may provide future guidance concerning the scope of benefits to be provided to civil union partners. Thank you."

H.B. NO. 1453

A BILL FOR AN ACT RELATING TO LEGAL RELATIONSHIPS

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The intent of this Act is to recognize civil unions in Hawaii. By establishing the status of civil unions in our State, it is not the legislature's intent to revise the definition or eligibility requirements of marriage under chapter 572, Hawaii Revised Statutes.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER A

CIVIL UNIONS

§A-1 Definitions. For the purposes of this chapter:

"Declaration of civil union" means a statement in a form issued by the director that declares the intent of two people to enter into a civil union.

"Director" means the director of health.

"Civil union partners" means two adults who are parties to a valid civil union and meet the requisites for a valid civil union as provided in section A-2.

§A-2 Requisites of a valid civil union. To enter into a valid civil union, it shall be necessary that:

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

(2) Neither of the parties be a spouse in a marriage, a party to a reciprocal beneficiary relationship, or a partner in another civil union;

(3) The parties be of the same sex; provided that the respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brothers and sisters of the half as well as to the whole blood, uncle and nephew, aunt and niece, whether the relationship is the result of the issue of parents married or not married to each other;

(4) Consent of either party to the civil union has not been obtained by force, duress, or fraud; and

(5) Each of the parties sign and file a declaration of civil union as provided in section A-4.

§A-3 Persons under control of conservator or guardian. (a) No civil union license may be issued to any applicant under the supervision or control of a conservator or guardian, appointed in accordance with chapter 560, unless the written consent of the conservator or guardian, signed and notarized, is filed with the agent.

(b) Any person who enters into a civil union without the consent provided for in subsection (a) shall acquire no rights, by that civil union, in the property of any person who was under the control or supervision of a conservator or guardian at the time the civil union was entered into.

§A-4 Declaration as partners to a civil union; filing fees; records. (a) Two persons, who meet the criteria set out in section A-2, may enter into a civil union and shall declare their relationship as partners to a civil union by filing a signed notarized declaration of civil union 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. By signing the declaration, two people swear under penalty of perjury that they meet the requirements for a valid civil union. By signing the declaration, two people swear under penalty of perjury that they meet the requirements for a valid civil union.

(b) Upon the payment of the fee, the director shall file the declaration and provide a certificate of civil union to each party named on the declaration. The director shall maintain a record of each declaration of civil union filed and each certificate of civil union issued by the director.

§A-5 Rights and obligations. Upon the issuance of a certificate of civil union, the parties named in the certificate shall be entitled to those rights and obligations provided by law to civil union partners.

§A-6 Civil union partner liabilities. Both partners to a civil union shall be bound to maintain, provide for, and support one another during the civil union and shall be liable for all debts contracted by one another for necessaries for themselves, one another, or their family during the civil union; provided that when a support or maintenance obligation, however designated, is imposed upon a civil union partner under this chapter or any other law, the amount of the obligation shall be determined by the appropriate court as provided in section B-28.

§A-7 May be personal representative, guardian, trustee, or other fiduciary. A partner to a civil union may be a personal representative, guardian, trustee, custodian, or other fiduciary and may bind the person's self and the estate the person represents without any act or assent on the part of the person's partner.

§A-8 Civil unions performed in other jurisdictions. All unions between two individuals not recognized under section 572-3 shall be recognized as civil unions provided that the relationship meets the eligibility requirements of this chapter."

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER B

TERMINATION OF CIVIL UNIONS

PART I. GENERAL PROVISIONS

§B-1 Jurisdiction; hearing. Exclusive original jurisdiction in matters terminating a civil union, subject to section 603-37 as to change of venue, and subject also to appeal according to law, is conferred upon the family court of the circuit in which the applicant has been domiciled or has been physically present for a continuous period of at least three consecutive months prior to the application therefor. No absolute termination of a civil union shall be granted for any cause unless either party to the civil union has been domiciled or has been physically present in the State for a continuous period of not less than six months prior to the application for termination. A person who may be residing on any military or federal base, installation, or reservation within the State or who may be present in the State under military orders shall not thereby be prohibited from meeting the requirements of this section.

§B-2 Commencement of action; summons. An action for termination of a civil union is commenced by filing a complaint with the court, which complaint shall be signed and sworn to by the applicant and shall set forth sufficient facts to constitute a claim for relief. Upon the filing of the complaint, the clerk shall issue a summons and deliver it for service to a person authorized to serve process in civil actions. The summons shall:

(1) Be signed by the clerk and be under the seal of the court;

(2) Contain the name of the court and the names of the parties;

(3) Be directed to the defendant;

(4) State the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which the defendant is required to appear and defend, which shall not be less than twenty days after the service of the summons and complaint upon the defendant; and

(5) Notify the defendant that in case of the defendant's failure to appear and defend, as required, further proceedings may be taken, including judgment for the relief demanded in the complaint, without further notice to the defendant.

Alternative complaints for termination of a civil union may be set forth or combined in one complaint.

§B-3 Service. (a) The complaint for termination of a civil union and the summons shall be served by an authorized process server on the defendant personally if the defendant is within the State, unless the defendant enters an appearance in the case, and except as hereinafter otherwise provided.

(b) If service by an authorized process server is not feasible or is inconvenient or if the defendant is outside of the State, the court may authorize the service to be made by any other responsible person, or the court may authorize notice of the pendency of the action and of a time and place of hearing, which shall be not less than twenty days after the giving of personal notice, to be given to the defendant personally by such person and in such manner as the court shall designate and the case may be heard and determined at or after the time specified in the notice.

(c) If the defendant is outside of the circuit, the court may authorize service by registered or certified mail, with request for a return receipt and direction to deliver to addressee only. The return receipt signed by the defendant shall be prima facie evidence that the defendant accepted delivery of the complaint and summons on the date set forth on the receipt. Actual receipt by the defendant of the complaint and summons sent by registered or certified mail shall be equivalent to personal service on the defendant by an authorized process server as of the date of the receipt.

(d) If it appears that the defendant has refused to accept service by mail, or is in concealment or otherwise evading service, or that the plaintiff does not know the address or residence of the defendant and has not been able to ascertain the same after reasonable and due inquiry and search for at least fifteen days either before or after the filing of the complaint, the court may authorize notice of the pendency of the action and of a time and place of hearing, which shall not be less than twenty days after the last publication of the published notice, to be given to the defendant by publication thereof at least once in each of three successive weeks in a newspaper suitable for the advertisement of notices of judicial proceedings, published in the State, and the case may be heard and determined at or after the time specified in the notice.

(e) If the plaintiff, as a result of impoverishment, is unable to publish notice as required by subsection (d), the plaintiff shall file an affidavit attesting to impoverishment and to the fact that, after due and diligent search, the whereabouts of the individual sought to be served are unknown. Upon those filings, the court shall order that service be made by forwarding a certified copy of the pleadings and process to the individual at the last known address by registered or certified mail, with a return receipt requested and a directive to deliver to addressee only, sending a certified copy of the pleadings and process to the defendant's closest known relative, if any can be found, and by posting a copy of the pleadings and process at the courthouse in which the pleadings and process has been filed. Service shall be completed thirty days after mailing. The plaintiff shall attest to the fact of the mailing and the date thereof by affidavit, attaching the sender's receipt for that mail and, if available, the return receipt and envelope.

§B-4 Personal judgment against absent defendant. In any proceeding in the family court, the court shall have the power to render a personal judgment against a party who is outside of this State and over whom jurisdiction is acquired by service of process in the manner set forth in section B-3(b) or (c), if the party was personally served with a copy of the summons or order to show cause and complaint or other pleading upon which the judgment is based and if the party was a domiciliary of this State at the time:

(1) That the cause of action that is the subject of the proceeding arose;

(2) Of the commencement of the proceeding; or

(3) Of service.

§B-5 Cross-complaint. In any action for termination of a civil union, a cross-complaint for termination of a civil union may be filed and affirmative relief granted thereon as fully and effectually as on an original complaint. The cross-complaint shall be signed and sworn to by the cross-complainant and shall be served in the same manner as an original complaint.

§B-6 Proof. Upon the hearing of every complaint for termination of a civil union, the court shall require exact legal proof upon every point, notwithstanding the consent of the parties. Where the matter is uncontested and the court, in its discretion, waives the need for a hearing, then the court shall require exact legal proof upon every point by affidavit.

§B-7 Guardian ad litem for incompetent defendant. In any case where the court has reason to believe that the defendant in an action for termination of a civil union is not fully competent to conduct the defendant's defense or to comprehend the nature of the proceedings, the court may appoint a guardian ad litem to represent the interests of the defendant. The court may assess the reasonable fees and expenses of the guardian ad litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify.

§B-8 Examination of parties to prevent collusion. Upon the hearing of any complaint for the termination of a civil union, the court may examine either or both of the parties, upon oath, in order to prevent collusion.

§B-9 Procedure when collusion suspected. If there is any reason to suspect collusion, or that important testimony can be procured that has not been produced, the court shall continue the cause from time to time while the reason for suspicion continues. The attorney general or other prosecuting officer and parties not of record shall be heard, to establish the fact of collusion or of the existence of testimony not produced.

§B-10 Temporary support; other expenses. After the filing of a complaint for termination of a civil union the court may make orders relative to the personal liberty and support of either partner to a civil union, pending the complaint, as the court may deem fair and reasonable and may enforce the orders by summary process. The court may also compel either partner to a civil union to advance reasonable amounts for the compensation of witnesses and other expenses of the trial, including attorney's fees, to be incurred by the other partner to the civil union and may from time to time amend and revise the orders.

§B-11 Restraining orders; appointment of master. (a) When a complaint for termination of a civil union is filed in this State, the court, on an application by either party, supported by affidavit or a statement made under penalty of perjury, without a hearing, may enjoin and restrain each of the parties to that action from transferring, encumbering, wasting, or otherwise disposing of any of their property, whether real, personal, or mixed, over and above current income, except as necessary for the ordinary course of a business or for usual current living expenses, without the consent and concurrence of the other party to the action for termination of a civil union or further specific order of the court. Where restraining orders are issued against the other party to the action, the person shall be served promptly with the order and shall be entitled to a prompt hearing to show cause why the order should not be enforced.

(b) In all actions for termination of a civil union, the court shall have the power to issue restraining orders against a person or persons not a party to the action, as shall be reasonably required during the pendency of the action, to preserve the estates of the parties. Where restraining orders are issued against a person or persons not a party to the action, such persons shall be promptly served with the order and shall be entitled to a prompt hearing within a reasonable time to show cause why the order should not be enforced.

(c) In all actions for termination of a civil union, the court shall have the power to appoint a master, or masters, to make preliminary findings and to report to the court on any issue. The written reports of a master shall be available to interested parties and may be received in evidence if no objection is made or, if objection is made, may be received in evidence, provided the person or persons responsible for the reports are available for cross-examination as to any matter contained therein. When a report is received in evidence, any party may introduce other evidence supplementing, supporting, modifying, or rebutting the whole or any part of the report.

(d) Whenever it is made to appear to the court, after the filing of any complaint, that there are reasonable grounds to believe that a party may inflict physical abuse upon, threaten by words or conduct, or harass the other party, the court may issue a restraining order to prevent any physical abuse, threats, or harassment and shall enjoy in respect thereof the powers pertaining to a court of equity. Where necessary, the order may require either or both of the parties involved to leave the shared residence during the period of the order and may also restrain the party to whom the order is directed from contacting, threatening, or physically abusing the children or other relative of the partner to the civil union who may be residing with that partner at the time of the granting of the restraining order. The order may also restrain a party's agents, servants, employees, attorneys, or other persons in active concert or participation with the respective party.

(e) A knowing or intentional violation of a restraining order issued pursuant to this section is a misdemeanor. A person convicted under this section shall undergo domestic violence intervention at any available domestic violence program as ordered by the court. The court additionally shall sentence a person convicted under this section as follows:

(1) For a first conviction for violation of the restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours and be fined not less than $150 nor more than $500; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and

(2) For the second and any subsequent conviction for violation of the restraining order, the person shall serve a mandatory minimum jail sentence of thirty days and be fined not less than $250 nor more than $1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

The court may suspend any jail sentence, except for the mandatory sentences under paragraphs (1) and (2), upon condition that the defendant remain alcohol and drug-free, conviction-free or complete court-ordered assessments or intervention. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor offense. All remedies for the enforcement of judgments shall apply to this section.

Any law enforcement officer shall enforce a restraining order issued pursuant to this subsection, including lawfully ordering the restrained party

to voluntarily leave for a three-hour cooling off period, or, with or without a warrant, when the law enforcement officer has reasonable grounds to believe that the restrained party has violated the restraining order, arresting the restrained party.

(f) Any fines collected pursuant to subsection (e) shall be deposited into the spouse and child abuse special account established under section 601-3.6.

§B-12 Care, custody, education, and maintenance of children pendente lite. During the pendency of any action for termination of a civil union, the court may make orders concerning the care, custody, education, and maintenance of the minor children of the parties to the action as law and justice may require and may enforce the orders by summary process. The court may revise and amend the orders from time to time.

§B-13 Sequestration of property. The court may order that all property within the State of a party to an action for termination of a civil union be sequestered and applied to the payment of any allowance ordered by the court for the support and maintenance of either partner to the civil union or for the support, maintenance, and education of minor children, whether temporary or permanent, where service or notice has been effected by any of the methods set forth in section B-3.

§B-14 Security and enforcement of maintenance and alimony. Whenever the court makes an order or decree requiring a partner to a civil union to provide for the care, maintenance, and education of children, or for an allowance to the other partner to a civil union, the court may require the person subject to the order or decree to give reasonable security for the maintenance and allowance. Upon neglect or refusal to give the security, or upon default of the person subject to the order or decree and the person's surety to provide the maintenance and allowance, the court may sequester the person's personal estate and the rents and profits of the person's real estate and may appoint a receiver thereof and cause the person's personal estate and the rents and profits of the person's real estate to be applied towards the maintenance and allowance, as the court, from time to time, deems just and reasonable.

§B-15 County attorneys to represent court. The county attorneys of Maui and Kauai and the corporation counsels of the city and county of Honolulu and the county of Hawaii, within their respective counties and when and to the extent authorized by their respective county governing bodies and upon request of the family court, shall represent the court in any contempt proceeding for the enforcement of any order or decree for support of a partner to a civil union or child support or both, except that fees may be charged as provided for by chapter 576D.

§B-16 Termination decree, support order; social security number. The social security number of any individual who is party to a termination decree or subject to a support order issued under this chapter shall be placed in the records relating to the matter.

PART II. TERMINATION

§B-21 Termination. The family court shall decree a termination of a civil union upon the application of either party when the court finds:

(1) The civil union is irretrievably broken; or

(2) The parties have lived separate and apart for a continuous period of two years or more immediately preceding the application, there is no reasonable likelihood that cohabitation will be resumed, and the court is satisfied that, in the particular circumstances of the case, it would not be harsh and oppressive to the defendant or contrary to the public interest to terminate a civil union on this ground on the complaint of the plaintiff.

§B-22 Battered partner to a civil union; exemption from mediation in termination proceedings. (a) In contested termination proceedings where there are allegations of abuse of a partner to a civil union, the court shall not require a party alleging the abuse to participate in any component of any mediation program against the wishes of that party.

(b) A mediator who receives a referral or order from a court to conduct mediation shall screen for the occurrence of family violence between the parties. A mediator shall not engage in mediation when it appears to the mediator or when either party asserts that family violence has occurred unless:

(1) Mediation is authorized by the victim of the alleged family violence;

(2) Mediation is provided in a specialized manner that protects the safety of the victim by a mediator who is trained in family violence; and

(3) The victim is permitted to have, in attendance at the mediation, a supporting person of the victim's choice including but not limited to an attorney or advocate. If the victim chooses to exercise the option, any other party to the mediation will be permitted to have in attendance at the mediation, a supporting person of the party's choice including but not limited to an attorney or advocate.

(c) In a proceeding concerning the custody or visitation of a child, if a protective order is in effect, the court shall not require a party alleging family violence to participate in any component of any mediation program against the wishes of that party.

(d) In a proceeding concerning the custody or visitation of a child, if there is an allegation of family violence and a protective order is not in effect, the court may order mediation or refer either party to mediation only if:

(1) Mediation is authorized by the victim of the alleged family violence;

(2) Mediation is provided in a specialized manner that protects the safety of the victim by a mediator who is trained in family violence; and

(3) The victim is permitted to have in attendance at mediation, a supporting person of the victim's choice including but not limited to an attorney or advocate. If the victim chooses to exercise this option, any other party to the mediation will be permitted to have, in attendance at the mediation, a supporting person of the party's choice, including but not limited to an attorney or advocate.

§B-23 Irretrievable breakdown. (a) If both of the parties by complaint or otherwise have stated under oath or affirmation that the civil union is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding whether the civil union is irretrievably broken. The court, in its discretion, may waive a hearing on an uncontested complaint for termination of a civil union and admit proof by affidavit.

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

(1) Make a finding whether the civil union is irretrievably broken, or

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

§B-24 Recrimination no defense. Recrimination shall not be a defense to an application for termination of a civil union.

§B-25 Persons affected with Hansen's disease represented by attorney general. Upon application of the director of health, the attorney general or the attorney general's deputies shall represent any person affected with Hansen's disease detained at any hospital, settlement, or place for the care and treatment of persons affected with Hansen's disease in proceedings for termination of a civil union.

§B-26 Decree. If, after a full hearing, the court is of opinion that a civil union ought to be terminated, a decree shall be signed, filed, and entered. The court, in its discretion, may waive a hearing on an uncontested complaint for termination of a civil union and admit proof by affidavit. A decree dissolving the civil union, shall take effect from and after the time as may be fixed by the court, provided that the time so fixed shall not be more than one month from and after the date of the decree.

§B-27 Final judgment; nunc pro tunc entry; validation of certain civil unions. Whenever either party to an action to terminate a civil union is entitled to a final decree dissolving the civil union, but by mistake, negligence, or inadvertence the final decree has not been entered, the court on motion of either party or upon its own motion may cause a final decree

to be entered granting the termination of the civil union as of the date when the decree could have been entered. Upon the entry of the final decree, the parties to the action to terminate the civil union shall be deemed to have been restored to the status of single persons as of the date set forth in the final decree, and any civil union of either party after the date of the final decree shall not be subject to attack on the grounds that the civil union was contracted at a time when the party was a partner to the terminated civil union. The court may cause a final decree to be entered nunc pro tunc as provided in this section even though another final decree may have been entered previously but by mistake, negligence, or inadvertence was not entered as soon as a final decree could have been entered.

§B-28 Support orders; division of property. (a) Upon termination of a civil union, 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 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 joint or separate; and

(4) Allocating, as between the parties, the responsibility for the payment of the debts of the parties, whether joint or separate, and the attorney's fees, costs, and expenses incurred by each party by reason of the action to terminate the civil union. 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 termination of the civil union, and all other circumstances of the burdens imposed upon either party for the benefit of the children of the parties, 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, 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 the adult child's nineteenth birthday, shall send notice by regular mail to the adult child and the custodial parent that prospective child support shall be suspended unless proof is provided by the custodial parent or adult child to the child support enforcement agency, prior to 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.

(b) In addition to any other relevant factors considered under this section, the court, in ordering support and maintenance for a partner to a civil union, also shall consider the following factors:

(1) Financial resources of the parties;

(2) Ability of the party seeking support and maintenance to meet the party's needs independently;

(3) Duration of the civil union;

(4) Standard of living established during the civil union;

(5) Age of the parties;

(6) Physical and emotional condition of the parties;

(7) Usual occupation of the parties during the civil union;

(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 that party's own needs while meeting the needs of the party seeking support and maintenance;

(12) Other factors 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.

(c) 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 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.

(d) An order as to the custody, management, and division of property and as to the payment of debts and the attorney's fees, costs, and expenses incurred in the action to terminate a civil union shall be final and conclusive as to both parties, subject only to appeal as in civil cases. The court, at all times including during the pendency of any appeal, shall have the power to grant any and all orders that may be necessary to protect and provide for the support and maintenance of the parties and any children of the parties to secure justice, to compel either party to advance reasonable amounts for the expenses of the appeal, including attorney's fees to be incurred by the other party, and to amend and revise any orders from time to time.

(e) No order entered under the authority of subsection (a) or entered thereafter revising an order that provides for the support, maintenance, and education of the children of the parties shall impair the power of the court, from time to time, to revise its orders providing for the support, maintenance, and education of the children of the parties upon a showing of a change in the circumstances of either party or any child of the parties since the entry of any prior order relating to the support, maintenance, and education. The establishment of the guidelines or the adoption of any modifications made to the guidelines set forth in section 576D-7 may constitute a change in circumstances sufficient to permit review of the support order. A material change of circumstances will be presumed if support as calculated pursuant to the guidelines is either ten per cent greater or less than the support amount in the outstanding support order. The need to provide for the child's health care needs through health insurance or other means shall be a basis for petitioning for a modification of the support order. The most current guidelines shall be used to calculate the amount of the child support obligation.

(f) Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party, or upon a showing of other good cause, the moving party, in the discretion of the court and upon adequate notice to the other party, may be granted a hearing. The fact that the moving party is in default or arrears in the performance of any act or payment of any sums theretofore ordered to be done or paid by the party shall not necessarily constitute a bar to the granting of the hearing. The court, upon such hearing and for good cause shown, may amend or revise any order and shall consider all proper circumstances in determining the amount of the allowance, if any, that shall be ordered.

(g) The responsible parent or the custodial parent shall have a right to petition the family court or the child support enforcement agency not more than once every three years for review and adjustment of the child support order, without having to show a change in circumstances. The responsible or custodial parent shall not be precluded from petitioning the family court

or the child support enforcement agency for review and adjustment more than once in any three-year period if the second or subsequent request is supported by proof of a substantial or material change of circumstances.

(h) Attorney's fees and costs. The court hearing any motion for orders either revising an order for the custody, support, maintenance, and education of the children of the parties, or an order for the support and maintenance of one party by the other, or a motion for an order to enforce any order, or any order made under subsection (a) of this section may make orders requiring either party to pay or contribute to the payment of the attorney's fees, costs, and expenses of the other party relating to the motion and hearing as appears just and equitable after consideration of the respective merits of the parties, the relative abilities of the parties, the economic condition of each party at the time of the hearing, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case.

§B-29 Notice to parties with children. When a party files for termination of a civil union and there are minor children involved, or when a party institutes a proceeding under chapter 576D or 576E, the court or the office of child support hearings shall provide notice to each party informing them of the opportunity to enter into an alternative arrangement for direct payment of child support under chapter 576D. A party may petition the court at any time, under chapter 576D or 576E, to opt out of the child support enforcement agency system, and the petition shall be assigned priority upon the docket and be acted upon expeditiously by the court.

§B-30 Support of insane partner after termination of a civil union. In every action for termination of a civil union where a decree is granted to the plaintiff and the defendant is insane at the time of the decree, the court, at any time after entering the decree, may revise and alter the decree so far as the support and maintenance of the insane person is concerned and may provide for maintenance by the plaintiff out of any property or earnings acquired by the plaintiff subsequently, as well as previously, to the decree of termination. In its discretion, the court making the order for maintenance may require the plaintiff to give security to the satisfaction of the court for the faithful execution of the order.

§B-31 Modification of alimony on subsequent entry into civil union. (a) Upon the subsequent entry into a civil union of a party in whose favor a final decree or order for support and maintenance has been made, all rights to receive and all duties to make payments for support and maintenance shall automatically terminate for all payments due after the date of the entry into a civil union, unless the final decree or order, or an agreement of the parties approved by the final decree or order, provides specifically for the payments to continue after a subsequent entry into a civil union.

(b) The party who subsequently enters into a civil union shall file a notice of the civil union with the court that made the order for support and maintenance and serve within thirty days of the civil union, by personal service or registered or certified mail, a copy of the notice on the former paying party. In any proceeding relating to the payment of support and maintenance to a party who subsequently enters into a civil union, the failure of that party to file a notice of the civil union shall be considered by the court in awarding attorney's fees and costs for the proceeding and in determining reimbursement to the former paying party.

§B-32 Civil union after termination. Whenever a civil union is terminated by decree, either party to the civil union may enter into a subsequent civil union at any time.

§B-33 Property rights following termination of a civil union. (a) Every decree terminating a civil union that does not specifically recite that the final division of the property of the parties is reserved for further hearing, decision, and orders shall finally divide the property of the parties to the action.

(b) Following the entry of a decree of termination of a civil union in which the final division of the property of the parties to 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 the action shall continue to have all of the rights to and interests in the property of the other party to the action as provided by chapter 560, or as otherwise provided by law to the same extent the party would have had such rights or interests if the decree terminating the civil union had not been entered, until the entry of a decree or order finally dividing the property of the parties to the action to terminate a civil union or as provided in subsection (d) of this section.

(c) When a party to an action to terminate a civil union has entered into a subsequent civil union or marriage following the entry of a decree of termination of a civil union, in which the final division of the property of the parties is reserved for further hearings, decisions, and orders, but prior to the entry of a decree or order finally dividing the property owned by the parties to that action, notwithstanding the provisions of chapter 560, the present partner or spouse of the party to the former civil union shall have none of the rights or interests in the former partner's real property or personal estate as provided in chapter 560 or as otherwise provided by law, until such time as the decree or order shall be entered finally dividing the property owned by the parties or either of them as of the effective date of the entry of the decree of termination of the prior civil union. Upon the entry of a decree or order finally dividing the property of the parties to an action to terminate a civil union in which a decree of termination has been entered, the present partner or spouse of a party who has entered into a subsequent civil union or marriage shall have all of the rights of a partner or spouse as provided by chapter 560, or as otherwise provided by law, in and to the property of the partner or spouse as is vested in the partner or spouse by 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 termination of the prior civil union.

(d) Following the entry of a decree of termination of a civil union, or the entry of a decree or order finally dividing the property of the parties to an action to terminate a civil union if the same is reserved in the decree of termination, or the elapse of one year after entry of a decree or order reserving the final division of property of the party, a partner to a terminated civil union shall not be entitled to dower or curtesy in the former partner's real estate, or any part thereof, nor to any share of the former partner's personal estate."

SECTION 4. Chapter 651, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"<u>§651- Effect of termination of a civil union; reconciliation.</u> <u>Following the entry of a decree terminating a civil union, each civil union partner may claim a separate real property exemption under this part as a person. A subsequent reconciliation of the civil union partners when evidenced by a dismissal of the termination action shall cancel a separate claim for a real property exemption, and the civil union partners shall have one real property exemption.</u>"

SECTION 5. Section 11-72, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In assigning the precinct officials, the following criteria shall be followed:

(1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they may be chosen from without the precinct or representative district, or if qualified persons either in or without the precinct or representative district are not available to serve, the chief election officer may designate precinct officials who are not registered voters if the persons so designated are otherwise qualified and shall have attained the age of sixteen years on or before June 30, of the year of the election in which they are appointed to work;

(2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform their duties as needed in any precinct;

(3) No parent, spouse, reciprocal beneficiary, <u>civil union partner,</u> child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which the person is a candidate. No candidate who failed to be nominated in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following; and

(4) The chairperson of the precinct officials shall be the first named precinct official on the list prepared by the chief election officer.

The remainder of the precinct officials shall be apportioned as follows:

(A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices that were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for these offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, and state representative;

(B) If a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subparagraph (A);

(C) In the case of the above division resulting in parties having fractional positions, a whole position shall go to the party with the larger number of votes cast; and

(D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer."

SECTION 6. Section 11-302, Hawaii Revised Statutes, is amended by amending the definition of "immediate family" as follows:

""Immediate family" means a candidate's spouse [~~or~~], reciprocal beneficiary, [~~as defined in section 572C-3,~~] or civil union partner, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses [~~or~~], reciprocal beneficiaries, or civil union partners of such persons. For the purposes of this part, "reciprocal beneficiaries" shall have the same meaning as in section 572C-3 and "civil union partners" shall have the same meaning as in section A-1."

SECTION 7. Section 76-103, Hawaii Revised Statutes, is amended to read as follows:

"**§76-103 Veteran's preference.** The extent to which veteran's preference shall be given to veterans, to disabled veterans, to spouses of disabled veterans, to civil union partners of disabled veterans, [~~and~~] to surviving spouses of deceased servicemen who have not remarried, and to surviving civil union partners of deceased servicemen who have not entered into a subsequent civil union shall be provided by rules [~~and regulations~~]."

SECTION 8. Section 87A-1, Hawaii Revised Statutes, is amended by amending the definitions of "dependent-beneficiary", "employee-beneficiary", and "qualified beneficiary" to read as follows:

""Dependent-beneficiary" means an employee-beneficiary's:

(1) Spouse;

(2) Partner in a civil union;

(3) [~~Unmarried child~~] Child not married or not in a civil union deemed eligible by the board, including a legally adopted child, stepchild, foster child, or recognized natural child who lives with the employee-beneficiary; and

[~~(3)~~] (4) [~~Unmarried child~~] Child not married or not in a civil union regardless of age who is incapable of self-support because of a mental or physical incapacity, [~~which~~] that existed prior to the [~~unmarried~~] child's reaching the age of nineteen years.

"Employee-beneficiary" means:

(1) An employee;

(2) The beneficiary of an employee who is killed in the performance of the employee's duty;

(3) An employee who retired prior to 1961;

(4) The beneficiary of a retired member of the employees' retirement system; a county pension system; or a police, firefighters, or bandsmen pension system of the State or a county, upon the death of the retired member;

(5) The surviving child of a deceased retired employee, if the child is unmarried or not in a civil union and under the age of nineteen; [~~or~~]

(6) The surviving spouse of a deceased retired employee, if the surviving spouse does not subsequently remarry; or

(7) The surviving civil union partner of a deceased retired employee, if the surviving civil union partner does not subsequently enter into a civil union;

provided that the employee, the employee's beneficiary, or the beneficiary of the deceased retired employee is deemed eligible by the board to participate in a health benefits plan or long-term care benefits plan under this chapter.

"Qualified-beneficiary" means, for purposes of the long-term care benefits plan, a former employee or an employee who is not eligible for benefits due to a reduction in work hours, including the spouse, divorced spouse, civil union partner, former civil union partner, parents, grandparents, in-law parents, and in-law grandparents of an employee or retiree; provided that the beneficiary was enrolled in the plan before the employee or former employee became ineligible for benefits."

SECTION 9. Section 87A-18, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The board may establish a long-term care benefits plan or plans for employee-beneficiaries; the spouses, civil union partners, parents, grandparents, in-law parents, and in-law grandparents of employee-beneficiaries; and qualified-beneficiaries. The plan or plans shall be at no cost to employers and shall comply with article 10H of chapter 431.

(b) Notwithstanding any other law to the contrary, long-term care benefits shall be available only to:

(1) Employee-beneficiaries and their spouses, civil union partners, parents, and grandparents;

(2) Employee-beneficiary in-law parents and grandparents[~~;~~] and

(3) Qualified-beneficiaries who enroll between the ages of twenty and eighty-five,

who comply with the plan's age, enrollment, medical underwriting, and contribution requirements."

SECTION 10. Section 87A-23, Hawaii Revised Statutes, is amended to read as follows:

"**§87A-23 Health benefits plan supplemental to medicare.** The board shall establish a health benefits plan, which takes into account benefits available to an employee-beneficiary and spouse or civil union partner under medicare, subject to the following conditions:

(1) There shall be no duplication of benefits payable under medicare. The plan under this section, which shall be secondary to medicare, when combined with medicare and any other plan to which the health benefits plan is subordinate under the National Association of Insurance Commissioners' coordination of benefit rules, shall provide benefits that approximate those provided to a similarly situated beneficiary not eligible for medicare;

(2) The State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund a contribution equal to an amount not less than the medicare part B premium, for each of the following who are enrolled in the medicare part B medical insurance plan: (A) an employee-beneficiary who is a retired employee, (B) an employee-beneficiary's spouse or civil union partner while the employee-beneficiary is living, and (C) an employee-beneficiary's spouse[~~,~~] or civil union partner, after the death of the employee-beneficiary, if the spouse or civil union partner qualifies as an employee-beneficiary. For purposes of this section, a "retired employee" means retired members of the employees' retirement system; a county pension system; or a police, firefighters, or bandsmen pension system of the State or a county as set forth in chapter 88. If the amount reimbursed by the fund under this section is less than the actual cost of the medicare part B medical insurance plan due to an increase in the medicare part B medical insurance plan rate, the fund shall reimburse each employee-beneficiary and employee-beneficiary's spouse or civil union partner for the cost increase within thirty days of the rate change. Each employee-beneficiary and employee-beneficiary's spouse or civil union partner who becomes entitled to reimbursement from the fund for medicare part

B premiums after July 1, 2006, shall designate a financial institution account into which the fund shall be authorized to deposit reimbursements. This method of payment may be waived by the fund if another method is determined to be more appropriate;

(3) The benefits available under this plan, when combined with benefits available under medicare or any other coverage or plan to which this plan is subordinate under the National Association of Insurance Commissioners' coordination of benefit rules, shall approximate the benefits that would be provided to a similarly situated employee-beneficiary not eligible for medicare;

(4) All employee-beneficiaries or dependent-beneficiaries who are eligible to enroll in the medicare part B medical insurance plan shall enroll in that plan as a condition of receiving contributions and participating in benefits plans under this chapter. This paragraph shall apply to retired employees, their spouses[,] or civil union partners, and the surviving spouses or civil union partners of deceased retirees and employees killed in the performance of duty; and

(5) The board shall determine which of the employee-beneficiaries and dependent-beneficiaries, who are not enrolled in the medicare part B medical insurance plan, may participate in the plans offered by the fund."

SECTION 11. Section 87A-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund a monthly contribution equal to the amount established under chapter 89C or specified in the applicable public sector collective bargaining agreements, whichever is appropriate, for each of their respective employee-beneficiaries and employee-beneficiaries with dependent-beneficiaries, which shall be used toward the payment of costs of a health benefits plan; provided that:

(1) The monthly contribution shall be a specified dollar amount;

(2) The monthly contribution shall not exceed the actual cost of a health benefits plan;

(3) If both husband and wife, or both partners in a civil union, are employee-beneficiaries, the total contribution by the State or the county shall not exceed the monthly contribution for a family plan; and

(4) If the State or any of the counties establish cafeteria plans in accordance with Title 26, United States Code section 125, the Internal Revenue Code of 1986, as amended, and part II of chapter 78, the monthly contribution for those employee-beneficiaries who participate in a cafeteria plan shall be made through the cafeteria plan, and the payments made by the State or counties shall include their respective contributions to the fund and their employee-beneficiary's share of the cost of the employee-beneficiary's health benefits plan."

SECTION 12. Section 87A-33, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Effective July 1, 2003, there is established a base monthly contribution for health benefit plans that the State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund, up to the following:

(1) $218 for each employee-beneficiary enrolled in supplemental medicare self plans;

(2) $671 for each employee-beneficiary enrolled in supplemental medicare family plans;

(3) $342 for each employee-beneficiary enrolled in non-medicare self plans; and

(4) $928 for each employee-beneficiary enrolled in non-medicare family plans.

The monthly contribution by the State or county shall not exceed the actual cost of the health benefits plan or plans. If both husband and wife, or both partners in a civil union, are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate.

(c) Effective July 1, 2004, there is established a base monthly contribution for health benefit plans that the State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund, up to the following:

(1) $254 for each employee-beneficiary enrolled in supplemental medicare self plans;

(2) $787 for each employee-beneficiary enrolled in supplemental medicare family plans;

(3) $412 for each employee-beneficiary enrolled in non-medicare self plans; and

(4) $1,089 for each employee-beneficiary enrolled in non-medicare family plans.

The monthly contribution by the State or county shall not exceed the actual cost of the health benefit plan or plans and shall not be required to cover increased benefits above those initially contracted for by the fund for plan year 2004-2005. If both husband and wife, or both partners in a civil union, are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate."

SECTION 13. Section 87A-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund a monthly contribution equal to one-half of the base monthly contribution set forth under section 87A-33(b) for retired employees enrolled in medicare or non-medicare health benefits plans. If both husband and wife, or both partners in a civil union, are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for supplemental medicare family or non-medicare family plan, as appropriate."

SECTION 14. Section 87A-35, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund:

(1) For retired employees enrolled in medicare or non-medicare health benefit plans with ten or more years but fewer than fifteen years of service, a monthly contribution equal to one-half of the base monthly contribution set forth under section 87A-33(b); and

(2) For retired employees enrolled in medicare or non-medicare health benefit plans with at least fifteen but fewer than twenty-five years of service, a monthly contribution of seventy-five per cent of the base monthly contribution set forth under section 87A-33(b).

If both husband and wife, or both partners in a civil union, are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate."

SECTION 15. Section 87A-36, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund:

(1) For retired employees based on the self plan with ten or more years but fewer than fifteen years of service, a monthly contribution equal to one-half of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b);

(2) For retired employees based on the self plan with at least fifteen but fewer than twenty-five years of service, a monthly contribution equal to seventy-five per cent of the base medicare or non-medicare monthly contribution set forth under section 87A-33(b);

(3) For retired employees based on the self plan with twenty-five or more years of service, a monthly contribution equal to [~~one hundred~~] one hundred per cent of the base medicare or non-

medicare monthly contribution set forth under section 87A-33(b); and

(4) One-half of the monthly contributions for the employee-beneficiary or employee-beneficiary with dependent-beneficiaries upon the death of the employee, as defined in paragraph (1)(E) of the definition of "employee" in section 87A-1.

If both husband and wife, or both partners in a civil union, are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for two supplemental medicare self or non-medicare self plans, as appropriate."

SECTION 16. 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 parts II, VII, and VIII) 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, or civil union partner, the pension so granted shall cease when the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, remarries, marries, or enters into a new reciprocal beneficiary relationship[~~.~~] or civil union.

(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, or civil union partner at the time the pension was first granted to the recipient or beneficiary dies, then the spouse [~~or~~], reciprocal beneficiary, or civil union partner, as long as the spouse [~~or~~], reciprocal beneficiary, or civil union partner remains unmarried [~~or~~], not in a reciprocal beneficiary relationship, or not in a civil union, shall be paid sixty per cent of the amount of the pension payable to the beneficiary."

SECTION 17. 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, or civil union partner is less than $2,400 a year shall, for the recipient and the recipient's spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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, or civil union partner dies, then the spouse [~~or~~], reciprocal beneficiary, or civil union partner shall be eligible for benefits under this section as long as the spouse [~~or~~], reciprocal beneficiary, or civil union partner remains unmarried and does not enter into a new reciprocal beneficiary relationship[~~, shall be eligible for benefits under this section.~~] or civil union."

SECTION 18. 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, or civil union partners 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 19. Section 88-83, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) No election by a member under this section shall take effect unless:

(1) The spouse [~~or~~], reciprocal beneficiary, or civil union partner of the member is furnished written notification that:

(A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;

(B) Provides information indicating the effect of the election; and

(C) Is determined adequate by rules adopted by the board in accordance with chapter 91;

(2) The member selects option 2 or option 3 and designates the spouse [~~or~~], reciprocal beneficiary, or civil union partner as the beneficiary; or

(3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:

(A) There is no spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(B) The spouse [~~or~~], reciprocal beneficiary, or civil union partner cannot be located;

(C) The member has failed to notify the system that the member has a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or has failed to provide the system with the name and address of the member's spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner; or

(D) Of other reasons, as established by board rules adopted in accordance with chapter 91.

Any notice provided to a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or determination that the notification of a spouse [~~or~~], reciprocal beneficiary, or civil union partner, cannot be provided, shall be effective only with respect to that spouse[~~or~~], reciprocal beneficiary[~~.~~], or civil union partner. The system will rely upon the representations made by a member as to whether the member has a spouse [~~or~~], reciprocal beneficiary, or civil union partner and the name and address of the member's spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner.

(d) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:

(1) The terms and conditions of the various benefit options;

(2) The rights of the member's spouse [~~or~~], reciprocal beneficiary, or civil union partner under subsection (c) to be notified of the member's election of a benefit option; and

(3) The member's right to make, and the effect of, a revocation of an election of a benefit option."

SECTION 20. 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, or civil union partner, a benefit as specified under subsection (a)(1), (2), or (3);

(2) To the deceased member's children under age eighteen, if there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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 civil union partner and no children under the age of eighteen, a benefit as specified under subsection (a)(1)."

SECTION 21. Section 88-85, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the case of an accidental death as determined by the board pursuant to section 88-85.5, 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 there shall be paid in lieu of the ordinary death benefit payable under section 88-84, a pension of one-half of the average final compensation of the member:

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

(2) If there be no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, or if the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner dies or remarries, marries, or enters into a new reciprocal beneficiary relationship or civil union 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 the age of eighteen, divided in the 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 the age of eighteen; or

(3) If there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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 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.

The pension shall be effective on the first day of the month following the member's death, except for the month of December, when benefits shall be effective on the first or last day of the month."

SECTION 22. Section 88-93, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

"**§88-93 Named beneficiaries by members and by former employees; effect of marriage, entry into reciprocal beneficiary relationship[,] or civil union, divorce, termination of reciprocal beneficiary relationship[,] or civil union, or death.** (a) All written designations of beneficiaries for members and for former employees shall become null and void when:

(1) The beneficiary predeceases the member or former employee;

(2) The member or former employee is divorced from the beneficiary;

(3) The member or former employee is unmarried, and subsequently marries; [~~or~~]

(4) The member or former employee enters into or terminates a reciprocal beneficiary relationship[.]; or

(5) The member or former employee enters into or terminates a civil union.

Any of the above events shall operate as a complete revocation of the designation and, except as provided in sections 88-84(b) and 88-338(b) all benefits payable by reason of the death of the member or former employee shall be payable to the member's or former employee's estate unless, after the death, divorce, or marriage, or entry into or termination of a reciprocal beneficiary relationship[,] or civil union, the member or former employee makes other provision in a written designation duly executed and filed with the board."

SECTION 23. 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, or civil union partner 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 or civil union partner until death, marriage, or entry into a new reciprocal beneficiary relationship or civil union, and $7.50 per month to the widow [~~or~~], reciprocal beneficiary, or civil union partner for each child so long as the child shall reside with the widow [~~or~~], reciprocal beneficiary, or civil union partner or is supported by the widow [~~or~~], reciprocal beneficiary[.], or civil union partner. Upon the death of such widow [~~or~~], reciprocal beneficiary, or civil union partner, or in the event the deceased member leaves no widow [~~or~~], reciprocal beneficiary, or civil union partner, 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, or civil union partner, 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, shall 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, or civil union partner, 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 or entry into a new reciprocal beneficiary relationship or civil union of any widow [~~or~~], reciprocal beneficiary, or civil union partner 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 24. Section 88-189, Hawaii Revised Statutes, is amended to read as follows:

"**§88-189 Widow's, widower's, [~~and~~] reciprocal beneficiary's, and civil union partner's pensions.** The widow and widower [~~or~~], reciprocal beneficiary, or civil union partner 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, widower, [~~or~~] reciprocal beneficiary, or civil union partner remains unmarried or has not entered into a new reciprocal beneficiary relationship[.] or civil union."

SECTION 25. Section 88-283, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) No election by a member under this section shall take effect unless:

(1) The spouse [~~or~~], reciprocal beneficiary, or civil union partner of the member is furnished written notification that:

(A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;

(B) Provides information indicating the effect of the election; and

(C) Is determined adequate by rules adopted by the board in accordance with chapter 91;

(2) The member selects option A or option B and designates the spouse [~~or~~], reciprocal beneficiary, or civil union partner as the beneficiary; or

(3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:

(A) There is no spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(B) The spouse [~~or~~], reciprocal beneficiary, or civil union partner cannot be located;

(C) The member has failed to notify the system that the member has a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or has failed to provide the system with the name and address of the member's spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner; or

(D) Of other reasons, as established by board rules adopted in accordance with chapter 91.

Any notice provided to a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or determination that the notification of a spouse [~~or~~], reciprocal beneficiary, or civil union partner cannot be provided, shall be effective only with respect to that spouse [~~or~~], reciprocal beneficiary[~~,~~], or civil union partner. The system shall rely upon the representations made by a member as to whether the member has a spouse [~~or~~], reciprocal beneficiary, or civil union partner and the name and address of the member's spouse [~~or~~], reciprocal beneficiary[~~,~~], or civil union partner.

(d) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:

(1) The terms and conditions of the various benefit options;

(2) The rights of the member's spouse [~~or~~], reciprocal beneficiary, or civil union partner under subsection (c) to be notified of the member's election of a benefit option; and

(3) The member's right to make, and the effect of, a revocation of an election of a benefit option."

SECTION 26. Section 88-286, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner and children under the age of eighteen of a member at the time of the member's death shall be eligible for a death benefit if the member suffers either:

(1) An ordinary death after accumulating ten years of credited service and the member dies:

(A) While in service; or

(B) While on authorized leave without pay; or

(2) An accidental death.

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

(1) For the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, an allowance equal to one-half of the member's accrued maximum retirement allowance unreduced for age, payable until remarriage, marriage, or entry into a new reciprocal beneficiary relationship[~~,~~] or civil union, as if the member had retired on the first day of a month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed; and for each child under the age of eighteen an allowance equal to ten per cent of the member's accrued maximum retirement allowance unreduced for age, payable until the child attains age eighteen; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed twenty per cent of the member's accrued retirement allowance unreduced for age; or

(2) For the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, if the member was eligible for retirement at the time of death in service, and death occurred after June 30, 1990, an allowance that would have been payable as if the member had retired on the first day of a month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed and had elected to receive a retirement allowance under option B of section 88-283; and

(3) If there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, each child under the age of eighteen shall receive an allowance equal to twenty per cent of the member's accrued maximum retirement allowance unreduced for age, payable on the first day of a month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed, until the child attains age eighteen; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed forty per cent of the member's accrued maximum retirement allowance unreduced for age.

For the purpose of determining eligibility for the 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. The application for ordinary death benefits shall be filed no later than three years from the date of the member's death.

(c) In the case of accidental death as determined by the board pursuant to section 88-85.5, the death benefit shall be effective on the first day of the month following the member's death, except for the month of December when retirement on the first or last day of the month shall be allowed, as follows:

(1) For the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, an allowance equal to thirty per cent of the member's average final compensation, payable until remarriage, marriage, or upon entry into a new reciprocal beneficiary relationship[~~;~~] or civil union;

(2) If there is a surviving spouse [~~or~~], reciprocal beneficiary, or civil union, each child under the age of eighteen shall receive an allowance equal to the greater of:

(A) Ten per cent of the member's accrued maximum retirement allowance unreduced for age; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed twenty per cent of the member's accrued maximum 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 children under the age of eighteen shall not exceed six per cent of the member's average final compensation.

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

(3) If there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, each child under the age of eighteen shall receive an allowance equal to the greater of:

(A) Twenty per cent of the member's accrued maximum retirement allowance unreduced for age; provided that the aggregate death benefits for all the children under the age of eighteen shall not exceed forty per cent of the member's accrued maximum 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 children under the age of eighteen shall not exceed twelve per cent of the member's average final compensation.

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

SECTION 27. Section 88-333, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

"(e) No election by a member under this section shall take effect unless:

(1) The spouse [~~or~~], reciprocal beneficiary, or civil union partner of the member is furnished written notification that:

(A) Specifies the retirement date, the benefit option selected, and the beneficiary designated by the member;

(B) Provides information indicating the effect of the election; and

(C) Is determined adequate by rules adopted by the board in accordance with chapter 91;

(2) The member selects option 2 or option 3 under section 88-83 and designates the spouse [~~or~~], reciprocal beneficiary, or civil union partner as the beneficiary; or

(3) It is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:

(A) There is no spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(B) The spouse [~~or~~], reciprocal beneficiary, or civil union partner cannot be located;

(C) The member has failed to notify the system that the member has a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or has failed to provide the system with the name and address of the member's spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner; or

(D) Of other reasons, as established by board rules adopted in accordance with chapter 91.

Any notice provided to a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or determination that the notification of a spouse [~~or~~], reciprocal beneficiary, or civil union partner cannot be provided shall be effective only with respect to that spouse or reciprocal beneficiary. The system shall rely upon the representations made by a member as to whether the member has a spouse [~~or~~], reciprocal beneficiary, or civil union partner and the name and address of the member's spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner.

(f) Each member, within a reasonable period of time before the member's retirement date, shall be provided a written explanation of:

(1) The terms and conditions of the various benefit options;

(2) The rights of the member's spouse [~~or~~], reciprocal beneficiary, or civil union partner under subsection (e) to be notified of the member's election of a benefit option; and

(3) The member's right to make, and the effect of, a revocation of an election of a benefit option."

SECTION 28. Section 88-338, 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, the death benefit in the case of ordinary death shall be payable:

(1) To the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, a benefit as specified under subsection (a);

(2) To the deceased member's children under age eighteen, if there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, an equally divided benefit as specified under paragraph (1) or (2) of subsection (a); or

(3) To the deceased member's estate, if there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, or children under the age of eighteen, a benefit as specified under paragraph (1) or (2) of subsection (a)."

SECTION 29. Section 88-339, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the case of an accidental death as determined by the board pursuant to section 88-85.5, 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 there shall be paid in lieu of the ordinary death benefit payable under section 88-338 a pension of one-half of the average final compensation of the member:

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

(2) If there be no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, or if the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner dies or remarries, marries, or enters into a new reciprocal beneficiary relationship or civil union 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 that age, divided in a 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 that age; or

(3) If there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner and no 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 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.

The pension shall be effective on the first day of the month following the member's death, except for the month of December, when benefits shall be effective on the first or last day of the month."

SECTION 30. 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 or civil union partner 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 31. Section 111-2, Hawaii Revised Statutes, is amended by amending the definition of "family" to read as follows:

""Family" means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, civil union, adoption, or legal guardianship."

SECTION 32. 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, or civil union partners, 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[~~.~~], or civil union partner. 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 33. Section 171-99, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Assignment; certificate of occupation or homestead lease. No existing certificate of occupation or existing homestead lease, or fractional interest thereof, shall be transferable or assignable except by conveyance, devise, bequest, or intestate succession and with the prior approval of the board of land and natural resources; provided that transfer or assignment by conveyance, devise, or bequest shall be limited to a member or members of the occupier's or lessee's family.

For the purposes of this section, "family" means the spouse, reciprocal beneficiary, civil union partner, children, parents, siblings, grandparents, grandchildren, nieces, nephews, a parent's siblings, children of a parent's siblings, and grandchildren of a parent's siblings, of the occupier or lessee.

All the successors shall be subject to the performance of the unperformed conditions of the certificate of occupation or the homestead lease."

SECTION 34. 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~~] and civil union partners that arose as an immediate and direct result of a disaster."

SECTION 35. 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 and civil union partner 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 36. Section 231-57, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§231-57**[~~]~~] **Apportionment of joint refunds.** In the case of a setoff against a joint income tax refund, the State may make separate refunds of withheld taxes upon request by a husband or wife, or partner in a civil union, who has filed the joint return. The refund payable to each spouse or civil union partner shall be proportioned to the gross earnings of each shown by the information returns filed by the employer or otherwise shown to the satisfaction of the State."

SECTION 37. Section 235-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Civil union partner" or "partners in a civil union" means two adults who are parties to a valid civil union and meet the requisites for a valid civil union as provided in section A-2."

SECTION 38. Section 235-2.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, subject to the following:

(1) Sections 63(c)(1)(B) (relating to the additional standard deduction), 63(c)(1)(C) (relating to the real property tax deduction), 63(c)(1)(D) (relating to the disaster loss deduction), 63(c)(1)(E) (relating to the motor vehicle sales tax deduction), 63(c)(4) (relating to inflation adjustments), 63(c)(7) (defining the real property tax deduction), 63(c)(8) (defining the disaster loss deduction), 63(c)(9) (defining the motor vehicle sales tax deduction), and 63(f) (relating to additional amounts for the aged or blind) of the Internal Revenue Code shall not be operative for purposes of this chapter;

(2) Section 63(c)(2) (relating to the basic standard deduction) of the Internal Revenue Code shall be operative, except that the standard deduction amounts provided therein shall instead mean:

(A) $4,400 in the case of:

(i) A joint return as provided by section 235-93; or

(ii) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code)[~~;~~] or surviving partner in a civil union;

(B) $3,212 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);

(C) $2,200 in the case of an individual who is not married or not in a civil union, and who is not a surviving spouse, a surviving partner in a civil union, or head of household; or

(D) $2,200 in the case of a married individual or civil union partner filing a separate return;

(3) Section 63(c)(5) (limiting the basic standard deduction in the case of certain dependents) of the Internal Revenue Code shall be operative, except that the limitation shall be the greater of $500 or such individual's earned income; and

(4) The standard deduction amount for nonresidents shall be calculated pursuant to section 235-5."

SECTION 39. Section 235-4, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Nonresidents. In the case of a nonresident, the tax applies to the income received or derived from property owned, personal services performed, trade, or business carried on, and any and every other source in the State.

In the case of a nonresident spouse or civil union partner filing a joint return with a resident spouse[,] or civil union partner, the tax applies to the entire income of the nonresident spouse or civil union partner computed without regard to source in the State.

(c) Change of status. Except where a joint return is filed, when the status of a taxpayer changes during the taxable year from resident to nonresident, or from nonresident to resident, the tax imposed by this chapter applies to the entire income earned during the period of residence in the manner provided in subsection (a) [~~of this section~~] and during the period of nonresidence the tax shall apply upon the income received or derived as a nonresident in the manner provided in subsection (b) [~~of this section;~~]; provided that if it cannot be determined whether income was received or derived during the period of residence or during the period of nonresidence, there shall be attributed to the State [~~such~~] the portion of the income as is determined by applying to [~~such~~] the income for the whole taxable year the ratio which the period of residence in the State bears to the whole taxable year, unless the taxpayer shows to the satisfaction of the department of taxation that the result is to attribute to the state income, dependent upon residence, received or derived during the period of nonresidence, in which event the amount of income as to which such showing is made shall be excluded.

The apportionment of income provided by this subsection shall not apply where one spouse or civil union partner is a resident of this State and a joint return is filed with the nonresident spouse or civil union partner in which event the tax shall be computed on their aggregate income in the manner provided in section 235-52 without regard to source in the State. Where, however, both spouses or both partners in a civil union change their status from resident to nonresident or from nonresident to resident, their income shall be apportioned in the manner provided in this subsection."

SECTION 40. Section 235-5.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) There shall be allowed as a deduction from gross income the amount, not to exceed $5,000, paid in cash during the taxable year by an individual taxpayer to an individual housing account established for the individual's benefit to provide funding for the purchase of the individual's first principal residence. A deduction not to exceed $10,000 shall be allowed for a married couple or partners in a civil union filing a joint return. No deduction shall be allowed on any amounts distributed less than three hundred sixty-five days from the date on which a contribution is made to the account. Any deduction claimed for a previous taxable year for amounts distributed less than three hundred sixty-five days from the date on which a contribution was made shall be disallowed and the amount deducted shall be included in the previous taxable year's gross income and the tax reassessed. The interest paid or accrued within the taxable year on the account shall not be included in the individual's gross income. For purposes of this section, the term "first principal residence" means a residential property purchased with the payment or distribution from the individual housing account which shall be owned and occupied as the only home by an individual who did not have any interest in, individually, or whose spouse or civil union partner did not have any interest in, if the individual is married[,] or in a civil union, a residential property within the last five years of opening the individual housing account.

In the case of a married couple or partners in a civil union filing separate returns, the sum of the deductions allowable to each of them for the taxable year shall not exceed $5,000, or $10,000 for a joint return, for amounts paid in cash, excluding interest paid or accrued thereon.

The amounts paid in cash allowable as a deduction under this section to an individual for all taxable years shall not exceed $25,000, excluding interest paid or accrued. In the case of married individuals or civil union partners having separate individual housing accounts, the sum of the separate accounts and the deduction under this section shall not exceed $25,000, excluding interest paid or accrued thereon.

(b) For purposes of this section, the term "individual housing account" means a trust created or organized in Hawaii for the exclusive benefit of an individual, or, in the case of a married individual[,] or a partner in a civil union, for the exclusive benefit of the individual and spouse or civil union partner jointly, but only if the written governing instrument creating the trust meets the following requirements:

(1) Contributions shall not be accepted for the taxable year in excess of $5,000 (or $10,000 in the case of a joint return) or in excess of $25,000 for all taxable years, exclusive of interest paid or accrued;

(2) The trustee is a bank, a savings and loan association, a credit union, or a depository financial services loan company, chartered, licensed, or supervised under federal or state law, whose accounts are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or any agency of this State or any federal agency established for the purpose of insuring accounts in these financial institutions. The financial institution must actively make residential real estate mortgage loans in Hawaii;

(3) The assets of the trust shall be invested only in fully insured savings or time deposits. Funds held in the trust may be commingled for purposes of investment, but individual records shall be maintained by the trustee for each individual housing account holder which show all transactions in detail;

(4) The entire interest of an individual [~~or~~], married couple, or civil union partners for whose benefit the trust is maintained shall be distributed to the individual [~~or~~], married couple, or civil union partners not later than one hundred twenty months after the date on which the first contribution is made to the trust;

(5) Except as provided in subsection (g), the trustee shall not distribute the funds in the account unless it (A) verifies that the money is to be used for the purchase of a first principal residence located in Hawaii, and provides that the instrument of payment is payable to the mortgagor, construction contractor, or other vendor of the property purchased; or (B) withholds an amount equal to ten per cent of the amount withdrawn from the account and remits this amount to the director within ten days after the date of the withdrawal. The amount so withheld shall be applied to the liability of the taxpayer under subsections (c) and (e); and

(6) If any amounts are distributed before the expiration of three hundred sixty-five days from the date on which a contribution is made to the account, the trustee shall so notify in writing the taxpayer and the director. If the trustee makes the verification required in paragraph (5)(A), then the department shall disallow the deduction under subsection (a) and subsections (c), (e), and (f) shall not apply to that amount. If the trustee withholds an amount under paragraph (5)(B), then the department shall disallow the deduction under subsection (a) and subsection (e) shall apply, but subsection (c) shall not apply."

2. By amending subsections (g) and (h) to read:

"(g) No tax liability shall be imposed under this section if:

(1) The payment or distribution is attributable to the individual dying or becoming totally disabled; or

(2) Residential property subject to subsection (f) is transferred by will or by operation of law or sold due to the death or total disability of an individual or individual's spouse[,] or civil union partner,

subject to the following:

An individual shall not be considered to be totally disabled unless proof is furnished of the total disability in the form and manner as the director may require.

Upon the death of an individual for whose benefit an individual housing account has been established, the funds in the account shall be payable to the estate of the individual; provided that if the account was held jointly by the decedent and a spouse or civil union partner of the decedent, the account shall terminate and be paid to the surviving spouse[,] or civil union partner; or, if the surviving spouse or civil union partner so elects, the spouse or civil union partner may continue the account as an individual housing account. Upon the total disability of an individual for whose benefit an individual housing account has been established, the individual or the individual's authorized representative may elect to continue the account or terminate the account and be paid the assets; provided that if the account was held jointly by a totally disabled person and a spouse or civil union partner of that person, then the spouse or civil union partner, or an authorized representative, may elect to continue the account or terminate the account and be paid the assets.

(h) If the individual for whose benefit the individual housing account was established subsequently marries or enters into a civil union with a person who has or has had any interest in residential property, the individual's housing account shall be terminated, the funds therein shall be distributed to the individual, and the amount of the funds shall be includable in the individual's gross income for the taxable year in which [~~such~~] the marriage or civil union took place; provided that the tax liability defined under subsection (f) shall not be imposed."

SECTION 41. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

(1) Income not subject to taxation by the State under the Constitution and laws of the United States;

(2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;

(3) Any compensation received in the form of a pension for past services;

(4) Compensation paid to a patient affected with Hansen's disease employed by the State or the United States in any hospital, settlement, or place for the treatment of Hansen's disease;

(5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;

(6) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any express exemption or exclusion;

(7) Income received by each member of the reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States of America, and the Hawaii national guard as compensation for performance of duty, equivalent to pay received for forty-eight drills (equivalent of twelve weekends) and fifteen days of annual duty, at an:

(A) E-1 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2004;

(B) E-2 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2005;

(C) E-3 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2006;

(D) E-4 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2007; and

(E) E-5 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2008;

(8) Income derived from the operation of ships or aircraft if the income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country; provided that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft that are documented or registered under the laws of the United States;

(9) The value of legal services provided by a prepaid legal service plan to a taxpayer, the taxpayer's spouse, the taxpayer's civil union partner, and the taxpayer's dependents;

(10) Amounts paid, directly or indirectly, by a prepaid legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, the taxpayer's spouse, the taxpayer's civil union partner, and the taxpayer's dependents;

(11) Contributions by an employer to a prepaid legal service plan for compensation (through insurance or otherwise) to the employer's employees for the costs of legal services incurred by the employer's employees, their spouses, their civil union partners, and their dependents;

(12) Amounts received in the form of a monthly surcharge by a utility acting on behalf of an affected utility under section 269-16.3 shall not be gross income, adjusted gross income, or taxable income for the acting utility under this chapter. Any amounts retained by the acting utility for collection or other costs shall not be included in this exemption; and

(13) One hundred per cent of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of owners under chapter 514A or 514B, or the residential cooperative corporation of the leasehold units.

For purposes of this paragraph:

"Fee simple owner" shall have the same meaning as provided under section 516-1; provided that it shall include legal and equitable owners;

"Legal and equitable owner", and "leased fee interest" shall have the same meanings as provided under section 516-1; and

"Condominium project" and "cooperative project" shall have the same meanings as provided under section 514C-1."

SECTION 42. Section 235-7.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For purposes of this section, the parent whose taxable income shall be taken into account shall be:

(1) In the case of parents who are not married (within the meaning of section 235-93), the custodial parent (within the meaning of section 152(e) (with respect to the support test in case of child of divorced parents, etc.) of the Internal Revenue Code) of the child, and

(2) In the case of married individuals or civil union partners filing separately, the individual with the greater taxable income."

SECTION 43. Section 235-12.5, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Notwithstanding subsection (g), for any renewable energy technology system, an individual taxpayer may elect to have any excess of the credit over payments due refunded to the taxpayer, if:

(1) All of the taxpayer's income is exempt from taxation under section 235-7(a)(2) or (3); or

(2) The taxpayer's adjusted gross income is $20,000 or less (or $40,000 or less if filing a tax return as married filing jointly);

provided that tax credits properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided further that no refund on account of the tax credit allowed by this section shall be made for amounts less than $1.

A husband and wife or partners in a civil union, who do not file a joint tax return shall only be entitled to make this election to the extent that they would have been entitled to make the election had they filed a joint tax return.

The election required by this subsection shall be made in a manner prescribed by the director on the taxpayer's return for the taxable year in which the system is installed and placed in service. A separate election may be made for each separate system that generates a credit. An election once made is irrevocable."

SECTION 44. Section 235-51, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) There is hereby imposed on the taxable income of (1) every taxpayer who files a joint return under section 235-93; and (2) every surviving spouse or surviving civil union partner; a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over $4,000	1.40% of taxable income
Over $4,000 but not over $8,000	$56.00 plus 3.20% of excess over $4,000
Over $8,000 but not over $16,000	$184.00 plus 5.50% of excess over $8,000
Over $16,000 but not over $24,000	$624.00 plus 6.40% of excess over $16,000
Over $24,000 but not over $32,000	$1,136.00 plus 6.80% of excess over $24,000
Over $32,000 but not over $40,000	$1,680.00 plus 7.20% of excess over $32,000
Over $40,000 but not over $60,000	$2,256.00 plus 7.60% of excess over $40,000
Over $60,000 but not over $80,000	$3,776.00 plus 7.90% of excess over $60,000
Over $80,000	$5,356.00 plus 8.25% of excess over $80,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:	The tax shall be:
Not over $4,800	1.40% of taxable income
Over $4,800 but not over $9,600	$67.00 plus 3.20% of excess over $4,800
Over $9,600 but not over $19,200	$221.00 plus 5.50% of excess over $9,600
Over $19,200 but not over $28,800	$749.00 plus 6.40% of excess over $19,200
Over $28,800 but not over $38,400	$1,363.00 plus 6.80% of excess over $28,800
Over $38,400 but not over $48,000	$2,016.00 plus 7.20% of excess over $38,400
Over $48,000 but not over $72,000	$2,707.00 plus 7.60% of excess over $48,000
Over $72,000 but not over $96,000	$4,531.00 plus 7.90% of excess over $72,000
Over $96,000	$6,427.00 plus 8.25% of excess over $96,000.

In the case of any taxable year beginning after December 31, 2008:

If the taxable income is:	The tax shall be:
Not over $4,800	1.40% of taxable income
Over $4,800 but not over $9,600	$67.00 plus 3.20% of excess over $4,800
Over $9,600 but not over $19,200	$221.00 plus 5.50% of excess over $9,600
Over $19,200 but not over $28,800	$749.00 plus 6.40% of excess over $19,200
Over $28,800 but not over $38,400	$1,363.00 plus 6.80% of excess over $28,800
Over $38,400 but not over $48,000	$2,016.00 plus 7.20% of excess over $38,400
Over $48,000 but not over $72,000	$2,707.00 plus 7.60% of excess over $48,000
Over $72,000 but not over $96,000	$4,531.00 plus 7.90% of excess over $72,000
Over $96,000 but not over $300,000	$6,427.00 plus 8.25% of excess over $96,000
Over $300,000 but not over $350,000	$23,257.00 plus 9.00% of excess over $300,000
Over $350,000 but not over $400,000	$27,757.00 plus 10.00% of excess over $350,000
Over $400,000	$32,757.00 plus 11.00% of excess over $400,000."

2. By amending subsection (c) to read:

"(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, surviving civil union partner, or the head of a household) and (2) on the taxable income of every married individual or civil union partner who does not make a single return jointly with the individual's spouse or civil union partner under section 235-93 a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:	The tax shall be:
Not over $2,000	1.40% of taxable income
Over $2,000 but not over $4,000	$28.00 plus 3.20% of excess over $2,000
Over $4,000 but not over $8,000	$92.00 plus 5.50% of excess over $4,000
Over $8,000 but not over $12,000	$312.00 plus 6.40% of excess over $8,000
Over $12,000 but not over $16,000	$568.00 plus 6.80% of excess over $12,000
Over $16,000 but not over $20,000	$840.00 plus 7.20% of excess over $16,000
Over $20,000 but not over $30,000	$1,128.00 plus 7.60% of excess over $20,000
Over $30,000 but not over $40,000	$1,888.00 plus 7.90% of excess over $30,000
Over $40,000	$2,678.00 plus 8.25% of excess over $40,000.

In the case of any taxable year beginning after December 31, 2006:

If the taxable income is:	The tax shall be:
Not over $2,400	1.40% of taxable income
Over $2,400 but not over $4,800	$34.00 plus 3.20% of excess over $2,400
Over $4,800 but not over $9,600	$110.00 plus 5.50% of excess over $4,800
Over $9,600 but not over $14,400	$374.00 plus 6.40% of excess over $9,600
Over $14,400 but not over $19,200	$682.00 plus 6.80% of excess over $14,400
Over $19,200 but	$1,008.00 plus 7.20% of

not over $24,000	excess over $19,200
Over $24,000 but not over $36,000	$1,354.00 plus 7.60% of excess over $24,000
Over $36,000 but not over $48,000	$2,266.00 plus 7.90% of excess over $36,000
Over $48,000	$3,214.00 plus 8.25% of excess over $48,000.

In the case of any taxable year beginning after December 31, 2008:

If the taxable income is:	The tax shall be:
Not over $2,400	1.40% of taxable income
Over $2,400 but not over $4,800	$34.00 plus 3.20% of excess over $2,400
Over $4,800 but not over $9,600	$110.00 plus 5.50% of excess over $4,800
Over $9,600 but not over $14,400	$374.00 plus 6.40% of excess over $9,600
Over $14,400 but not over $19,200	$682.00 plus 6.80% of excess over $14,400
Over $19,200 but not over $24,000	$1,008.00 plus 7.20% of excess over $19,200
Over $24,000 but not over $36,000	$1,354.00 plus 7.60% of excess over $24,000
Over $36,000 but not over $48,000	$2,266.00 plus 7.90% of excess over $36,000
Over $48,000 but not over $150,000	$3,214.00 plus 8.25% of excess over $48,000
Over $150,000 but not over $175,000	$11,629.00 plus 9.00% of excess over $150,000
Over $175,000 but not over $200,000	$13,879.00 plus 10.00% of excess over $175,000
Over $200,000	$16,379.00 plus 11.00% of excess over $200,000."

SECTION 45. Section 235-52, Hawaii Revised Statutes, is amended to read as follows:

"**§235-52 Tax in case of joint return or return of surviving spouse[:] or surviving civil union partner.** In the case of a joint return of a husband and wife or partners in a civil union under section 235-93, the tax imposed, as near as may be, by this chapter shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this section and section 235-53, a return of a surviving spouse, as defined in the Internal Revenue Code, or surviving civil union partner shall be treated as a joint return of a husband and wife or civil union partners under section 235-93."

SECTION 46. Section 235-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In computing the taxable income of any individual, there shall be deducted, in lieu of the personal exemptions allowed by the Internal Revenue Code of 1986, as amended, and except as provided in subsection (c), personal exemptions computed as follows: Ascertain the number of exemptions which the individual can lawfully claim under the Internal Revenue Code, add an additional exemption for the taxpayer or the taxpayer's spouse or civil union partner who is sixty-five years of age or older within the taxable year, and multiply that number by $1,144, for taxable years beginning after December 31, 1984. A nonresident shall prorate the personal exemptions on account of income from sources outside the State as provided in section 235-5. In the case of an individual with respect to whom an exemption under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the personal exemption amount applicable to such individual under this subsection for such individual's taxable year shall be zero."

SECTION 47. Section 235-55.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) Definitions of qualifying individual and employment- related expenses. For purposes of this section:

(1) Qualifying individual. The term "qualifying individual" means:

(A) A dependent of the taxpayer who is under the age of thirteen and with respect to whom the taxpayer is entitled to a deduction under section 235-54(a),

(B) A dependent of the taxpayer who is physically or mentally incapable of caring for oneself, or

(C) The spouse or civil union partner of the taxpayer, if the spouse or civil union partner is physically or mentally incapable of caring for oneself.

(2) Employment-related expenses.

(A) In general. The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:

(i) Expenses for household services, and

(ii) Expenses for the care of a qualifying individual.

Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight.

(B) Exception. Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of:

(i) A qualifying individual described in paragraph (1)(A), or

(ii) A qualifying individual (not described in paragraph (1)(A)) who regularly spends at least eight hours each day in the taxpayer's household.

(C) Dependent care centers. Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if:

(i) Such center complies with all applicable laws, rules, and regulations of this State, if the center is located within the jurisdiction of this State; or

(ii) Such center complies with all applicable laws, rules, and regulations of the jurisdiction in which the center is located, if the center is located outside the State; and

(iii) The requirements of subparagraph (B) are met.

(D) Dependent care center defined. For purposes of this paragraph, the term "dependent care center" means any facility which:

(i) Provides care for more than six individuals (other than individuals who reside at the facility), and

(ii) Receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit)."

2. By amending subsections (d) and (e) to read:

"(d) Earned income limitation.

(1) In general. Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed:

(A) In the case of an individual who is not married or in a civil union at the close of [~~such~~] the year, [~~such~~] the individual's earned income for [~~such~~] the year, or

(B) In the case of an individual who is married or in a civil union at the close of [~~such~~] the year, the lesser of [~~such~~] the individual's earned income or the earned income of the individual's spouse or civil union partner for [~~such~~] the year.

(2) Special rule for spouse or civil union partner who is a student or incapable of caring for oneself. In the case of a spouse or civil union partner who is a student or a qualified individual described in subsection (b)(1)(C), for purposes of paragraph (1), [~~such~~] the spouse or civil union partner shall be deemed for each month during which [~~such~~] the spouse or civil union partner is a full-time student at an educational institution, or is [~~such~~] a qualifying individual, to be gainfully employed and to have earned income of not less than:

(A) $200 if subsection (c)(1) applies for the taxable year, or

(B) $400 if subsection (c)(2) applies for the taxable year.

In the case of any husband and wife, or partners in a civil union, this paragraph shall apply with respect to only one spouse or civil union partner for any one month.

(e) Special rules. For purposes of this section:

(1) Maintaining household. An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for the period is furnished by the individual (or, if the individual is married or in a civil union during the period, is furnished by the individual and the individual's spouse[~~).~~] or civil union partner).

(2) Married couples and partners in a civil union must file joint return. If the taxpayer is married or in a civil union at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse or civil union partner file a joint return for the taxable year.

(3) Marital status. An individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(4) Certain married individuals living apart. If:

(A) An individual who is married and who files a separate return:

(i) Maintains as the individual's home a household that constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(ii) Furnishes over half of the cost of maintaining the household during the taxable year, and

(B) During the last six months of the taxable year the individual's spouse is not a member of the household,

the individual shall not be considered as married.

(5) Special dependency test in case of divorced parents, etc. If:

(A) Paragraph (2) or (4) of section 152(e) of the Internal Revenue Code of 1986, as amended, applies to any child with respect to any calendar year, and

(B) The child is under age thirteen or is physically or mentally incompetent of caring for the child's self,

in the case of any taxable year beginning in the calendar year, the child shall be treated as a qualifying individual described in subsection (b)(1)(A) or (B) (whichever is appropriate) with respect to the custodial parent (within the meaning of section 152(e)(1) of the Internal Revenue Code of 1986, as amended), and shall not be treated as a qualifying individual with respect to the noncustodial parent.

(6) Payments to related individuals. No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual:

(A) With respect to whom, for the taxable year, a deduction under section 151(c) of the Internal Revenue Code of 1986, as amended (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or the taxpayer's spouse, or

(B) Who is a child of the taxpayer (within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986, as amended) who has not attained the age of nineteen at the close of the taxable year.

For purposes of this paragraph, the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

(7) Student. The term "student" means an individual who, during each of five calendar months during the taxable year, is a full-time student at an educational organization.

(8) Educational organization. The term "educational organization" means a school operated by the department of education under chapter 302A, an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986, as amended, or a university, college, or community college.

(9) Identifying information required with respect to service provider. No credit shall be allowed under subsection (a) for any amount paid to any person unless:

(A) The name, address, taxpayer identification number, and general excise tax license number of the person are included on the return claiming the credit,

(B) If the person is located outside the State, the name, address, and taxpayer identification number, if any, of the person and a statement indicating that the service provider is located outside the State and that the general excise tax license and, if applicable, the taxpayer identification numbers are not required, or

(C) If the person is an organization described in section 501(c)(3) of the Internal Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code, the name and address of the person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

SECTION 48. Section 235-55.7, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The tax credits shall be deductible from the taxpayer's individual net income tax for the tax year in which the credits are properly claimed; provided that a husband and wife or partners in a civil union filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credits to which they would have been entitled had a joint return been filed. In the event the allowed tax credits exceed the amount of the income tax payments due from the taxpayer, the excess of credits over payments due shall be refunded to the taxpayer; provided that allowed tax credits properly claimed by an individual who has no income tax liability shall be paid to the individual; and provided further that no refunds or payments on account of the tax credits allowed by this section shall be made for amounts less than $1."

SECTION 49. Section 235-55.85, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Each resident individual taxpayer may claim a refundable food/excise tax credit multiplied by the number of qualified exemptions to which the taxpayer is entitled in accordance with the table below; provided that a husband and wife or partners in a civil union filing separate tax returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed.

Adjusted gross income:	Credit per exemption:
Under $5,000	$85
$5,000 under $10,000	75
$10,000 under $15,000	65
$15,000 under $20,000	55

$20,000 under $30,000	45
$30,000 under $40,000	35
$40,000 under $50,000	25
$50,000 and over	0."

SECTION 50. Section 235-61, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

"(c) For each withholding period (whether weekly, biweekly, monthly, or otherwise) the amount of tax to be withheld under this section shall be at a rate which, for the taxable year, will yield the tax imposed by section 235-51 upon each employee's annual wage, as estimated from the employee's current wage in any withholding period, but for the purposes of this subsection of the rates provided by section 235-51 the maximum to be taken into consideration shall be eight per cent. The tax for the taxable year shall be calculated upon the following assumptions:

(1) That the employee's annual wage, as estimated from the employee's current wage in the withholding period, will be the employee's sole income for the taxable year;

(2) That there will be no deductions therefrom in determining adjusted gross income;

(3) That in determining taxable income there shall be a standard deduction allowance which shall be an amount equal to one exemption (or more than one exemption if so prescribed by the director) unless (A) the taxpayer is married or in a civil union and the taxpayer's spouse or civil union partner is an employee receiving wages subject to withholding, or (B) the taxpayer has withholding exemption certificates in effect with respect to more than one employer. For the purposes of this section, any standard deduction allowance under this paragraph shall be treated as if it were denominated a withholding exemption;

(4) That in determining taxable income there also will be deducted the amount of exemptions and withholding allowances granted to the employee in the computation of taxable income, as shown by a certificate to be filed with the employer as provided by subsection (f); and

(5) If it appears from the certificate filed pursuant to subsection (f) that the employee, under section 235-93, is entitled to make a joint return, that the employee and the employee's spouse or civil union partner will so elect."

2. By amending subsections (f) and (g) to read:

"(f) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed certificate relating to the number of exemptions which the employee claims, which shall in no event exceed the number to which the employee is entitled on the basis of the existing facts, and also showing whether the employee is married or in a civil union and [~~is~~], under section 235-93, is entitled to make a joint return. The certificate shall be in [~~such~~] the form and contain [~~such~~] information as may be prescribed by the department.

If, on any day during the calendar year, there is a change in the employee's marital or civil union status and the employee no longer is entitled to make a joint return, or the number of exemptions to which the employee is entitled is less than the number of exemptions claimed by the employee on the certificate then in effect with respect to the employee, the employee shall within ten days thereafter furnish the employer with a new certificate showing the employee's present marital or civil union status, or relating to the number of exemptions which the employee then claims, which shall in no event exceed the number to which the employee is entitled on the basis of the existing facts. If, on any day during the calendar year, there is a change in the employee's marital or civil union status and though previously not entitled to make a joint return the employee now is so entitled, or the number of exemptions to which the employee is entitled is greater than the number of exemptions claimed, the employee may furnish the employer with a new certificate showing the employee's present marital or civil union status, or relating to the number of exemptions which the employee then claims, which shall in no event exceed the number to which the employee is entitled on the basis of the existing facts.

Such certificate shall take effect at the times set forth in the Internal Revenue Code.

(g) In determining the deduction allowed by subsection (c)(4) an employee shall be entitled to withholding allowances or additional reductions in withholding under this subsection. In determining the number of additional withholding allowances or the amount of additional reductions in withholding under this subsection, the employee may take into account (to the extent and in the manner provided by rules) estimated itemized deductions and tax credits allowable under this chapter; and such additional deductions and other items as may be specified by the director in rules. For the purposes of this subsection a fractional number shall not be taken into account unless it amounts to one-half or more, in which case it shall be increased to the next whole number.

(1) As used in this subsection, unless the context otherwise requires:

(A) "Estimated itemized deductions" means the aggregate amount which the employee reasonably expects will be allowed as deductions under sections 235-2.3, 235-2.4, 235-2.45, and 235-7, other than the deductions referred to in Internal Revenue Code section 151 and those deductions required to be taken into account in determining adjusted gross income under Internal Revenue Code section 62(a) (with the exception of paragraph 10 thereof) for the estimation year. In no case shall the aggregate amount be greater than the sum of:

(i) The amount of the deductions reflected in the employee's net income tax return for the taxable year preceding the estimation year of (if a return has not been filed for the preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year; or

(ii) The amount of estimated itemized deductions and tax credits allowable under this chapter and any additional deductions to which entitled; and

(iii) The amount of the employee's determinable additional deductions for the estimation year.

(B) "Estimated wages" means the aggregate amount which the employee reasonably expects will constitute wages for the estimation year[~~;~~].

(C) "Determinable additional deductions" means those estimated itemized deductions which:

(i) Are in excess of the deductions referred to in subparagraph (A) reflected on the employee's net income tax return for the taxable year preceding the estimation year; and

(ii) Are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to cause an increase in the amount of such deductions on the net income tax return for the estimation year.

(D) "Estimation year", in the case of an employee who files the employee's return on the basis of a calendar year, means the calendar year in which the wages are paid; provided that in the case of an employee who files the employee's return on a basis other than the calendar year, the employee's estimation year, and the amounts deducted and withheld to be governed by the estimation year, shall be determined under rules prescribed by the director of taxation.

(2) Under this subsection, the following special rules shall apply:

(A) Married individuals[~~,~~] or partners in a civil union. The number of withholding allowances to which a husband and wife or partners in a civil union are entitled under this subsection shall be determined on the basis of their combined wages and deductions. This subparagraph shall not apply to a husband and wife or partners in a civil union who filed separate returns for the taxable year preceding the estimation year and who reasonably expect to file separate returns for the estimation year;

(B) Limitation. In the case of employees whose estimated wages are at levels at which the amounts deducted and withheld under

this chapter generally are insufficient (taking into account a reasonable allowance for deductions and exceptions) to offset the liability for tax under this chapter with respect to the wages from which the amounts are deducted and withheld, the director may by rule reduce the withholding allowances to which those employees would, but for this subparagraph, be entitled under this subsection;

(C) Treatment of allowances. For purposes of this chapter, any withholding allowance under this subsection shall be treated as if it were denominated a withholding exemption.

(3) The director may prescribe tables by rule under chapter 91 pursuant to which employees shall determine the number of withholding allowances to which they are entitled under this subsection."

SECTION 51. Section 235-93, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) A husband and wife, having that status for purposes of the Internal Revenue Code and entitled to make a joint federal return for the taxable year, and partners in a civil union that was entered into during or prior to the taxable year may make a single return jointly of taxes under this chapter for the taxable year. In that case the tax shall be computed on their aggregate income as provided in section 235-52, and the liability with respect to the tax shall be joint and several. For purposes of this chapter "aggregate income" means the income of both spouses or civil union partners without regard to source in the State.

(b) If an individual has filed a separate return for a taxable year for which a joint return could have been made by the taxpayer and the taxpayer's spouse[;] or civil union partner, an election thereafter to make a joint return for the taxable year shall be made only upon compliance with rules of the department of taxation, which may limit the election and prescribe the terms and provisions applicable in such cases as nearly as may be in conformity with the Internal Revenue Code."

SECTION 52. Section 235-102.5, Hawaii Revised Statutes, is amended to read as follows:

"**§235-102.5 Income check-off authorized.** (a) Any individual whose state income tax liability for any taxable year is $3 or more may designate $3 of the liability to be paid over to the Hawaii election campaign fund, any other law to the contrary notwithstanding, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife or partners in a civil union having a state income tax liability of $6 or more, each spouse or civil union partner may designate that $3 be paid to the fund. The director of taxation shall revise the individual state income tax form to allow the designation of contributions to the fund on the face of the tax return and immediately above the signature lines. An explanation shall be included which clearly states that the check-off does not constitute an additional tax liability. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made whether by an original or amended return may not be revoked.

(b) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is $2 or more may designate $2 of the refund to be deposited into the school-level minor repairs and maintenance special fund established by section 302A-1504.5, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife or partners in a civil union having a state income tax refund of $4 or more, each spouse or civil union partner may designate that $2 be deposited into the special fund. The director of taxation shall revise the individual state income tax return form to allow the designation of contributions to the special fund on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked.

(c) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is $2 or more may designate $2 of the refund to be paid over to the libraries special fund established by section 312-3.6, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife or partners in a civil union having a state income tax refund of $4 or more, each spouse or civil union partner may designate that $2 be deposited into the special fund. The director of taxation shall revise the individual state income tax form to allow the designation of contributions to the fund on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked.

(d) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is $5 or more may designate $5 of the refund to be paid over as follows:

(1) One-third to the Hawaii children's trust fund under section 350B-2; and

(2) Two-thirds to be divided equally among:

(A) The domestic violence and sexual assault special fund under the department of health in section 321-1.3;

(B) The spouse and child abuse special account under the department of human services in section 346-7.5; and

(C) The spouse and child abuse special account under the judiciary in section 601-3.6.

When designated by a taxpayer submitting a state income tax return to the department, the department of budget and finance shall allocate the moneys among the several funds as provided in this subsection. In the case of a joint return of a husband and wife or partners in a civil union having a state income tax refund of $10 or more, each spouse or civil union partner may designate that $5 be paid over as provided in this subsection. The director of taxation shall revise the individual state income tax form to allow the designation of contributions pursuant to this subsection on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked."

SECTION 53. Section 235-110.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The tax credit claimed under this section by the principal operator shall be deductible from the principal operator's individual or corporate income tax liability, if any, for the tax year in which the credit is properly claimed; provided that a husband and wife or partners in a civil union filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credit to which they would have been entitled had a joint return been filed. If the tax credit claimed by the principal operator under this section exceeds the amount of the income tax payments due from the principal operator, the excess of credit over payments due shall be refunded to the principal operator from the state highway fund; provided that the tax credit properly claimed by a principal operator who has no income tax liability shall be paid to the principal operator from the state highway fund; and provided further no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than $1."

SECTION 54. 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 that is executed prior to January 1, 1967;

(2) Any document or instrument that is given to secure a debt or obligation;

(3) Any document or instrument that 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, partners in a civil union, 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 that 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 that 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, or civil union partners who are parties to a divorce action or termination of a reciprocal beneficiary relationship or civil union that is executed pursuant to an order of the court in the divorce action or termination of a reciprocal beneficiary relationship[~~;~~] or civil union;

(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;

(15) Any document or instrument conveying real property, or any interest therein, from an entity that is a party to a merger or consolidation under chapter 414, 414D, 415A, 421, 421C, 425, 425E, or 428 to the surviving or new entity;

(16) Any document or instrument conveying real property, or any interest therein, from a dissolving limited partnership to its corporate general partner that owns, directly or indirectly, at least a ninety per cent interest in the partnership, determined by applying section 318 (with respect to constructive ownership of stock) of the [~~federal~~] Internal Revenue Code of 1986, as amended, to the constructive ownership of interests in the partnership; and

(17) Any document or instrument conveying real property to any nonprofit or for-profit organization that has been certified by the Hawaii housing finance and development corporation for low-income housing development."

SECTION 55. Section 321-471, Hawaii Revised Statutes, is amended by amending the definition of "family or household members" as follows:

""Family or household members" as used in this section means:

(1) Each legal parent;

(2) The natural mother;

(3) The natural father;

(4) Each natural or adopted child;

(5) Each sibling or person related by consanguinity;

(6) Spouses or former spouses;

(7) Reciprocal beneficiaries or former reciprocal beneficiaries;

(8) Civil union partners or former civil union partners;

[~~(8)~~] (9) Each person who has or has had a dating relationship;

[~~(9)~~] (10) Each person jointly residing or formerly residing in the same dwelling unit; and

[~~(10)~~] (11) Any other person who, or legal entity that, is a victim's legal or physical custodian or guardian, or who is otherwise responsible for the victim's care, other than an authorized agency that assumes such a legal status or relationship with the victim under chapter 587."

SECTION 56. Section 323-2, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§323-2**[~~]~~] **Hospital visitation policy and extension of authority to reciprocal beneficiaries**[~~.~~] **and civil union partners.** A reciprocal beneficiary, as defined in chapter 572C, and a civil union partner, as defined by section A-1, of a patient shall have the same rights as a spouse with respect to visitation and making health care decisions for the patient."

SECTION 57. Section 324-22, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The use of 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 or the patient's immediate family, including a reciprocal beneficiary[~~,~~] or civil union partner, in that order of priority."

SECTION 58. Section 327-2, Hawaii Revised Statutes, is amended as follows:

1. By adding the definition of "civil union partner" to read:

""Civil union partner" means a party to a valid civil union as established in chapter A."

2. By amending the definition of "disinterested witness" to read:

""Disinterested witness" means a witness other than the spouse, reciprocal beneficiary, civil union partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term shall not include a person to which an anatomical gift could pass under section 327-11."

SECTION 59. Section 327-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Subject to subsections (b) and (c) and unless barred by subsection (d), an anatomical gift of a decedent's body or body part for purposes of transplantation, therapy, research, or education may be made, in the order of priority listed, by any member of the following classes of persons who is reasonably available:

(1) An agent of the decedent at the time of death who could have made an anatomical gift under section 327-4(2) immediately before the decedent's death;

(2) The spouse [~~or~~], reciprocal beneficiary, or civil union partner of the decedent;

(3) Adult children of the decedent;

(4) Parents of the decedent;

(5) Adult siblings of the decedent;

(6) Adult grandchildren of the decedent;

(7) Grandparents of the decedent;

(8) An adult who exhibited special care and concern for the decedent;

(9) The persons who were acting as the guardian of the person of the decedent at the time of death; and

(10) Any other person having the authority to dispose of the decedent's body."

SECTION 60. Section 327E-2, Hawaii Revised Statutes, is amended by amending the definition of "interested persons" to read as follows:

""Interested persons" means the patient's spouse, unless legally separated or estranged, a reciprocal beneficiary, a civil union partner, any adult child, either parent of the patient, an adult sibling or adult grandchild of the patient, or any adult who has exhibited special care and concern for the patient and who is familiar with the patient's personal values."

SECTION 61. 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[,] or a civil union partner, and no collections shall be made where in the judgment of the director, [~~such~~] the collections would tend to make the patient or the patient's family, including a reciprocal beneficiary[,] or civil union partner, a public charge or deprive the patient and the patient's family, including a reciprocal beneficiary[,] or civil union partner, 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, or pursuant to contract with the director under section 334-2.5, 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, or civil union partner of a patient shall be liable for the expenses attending the reception, maintenance, and treatment of that minor child or spouse [~~or~~], reciprocal beneficiary, or civil union partner 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, or pursuant to contract with the director under section 334-2.5."

SECTION 62. 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 civil union partner, 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[,] or civil union partner, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary[,] or civil union partner, is notified of the emergency admission but the patient's family, including a reciprocal beneficiary[,] or civil union partner, 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 63. 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, or civil union partner, 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, or civil union partner, 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~~] the person can be found within the State. Notice shall also be given to such other persons as the court may designate."

SECTION 64. 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, civil union partner, 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 65. 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, or civil union partner, 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 66. Section 338-1, Hawaii Revised Statutes, is amended by amending the definition of "public health statistics" to read as follows:

""Public health statistics" includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, morbidity, marital status, civil union status, and data incidental thereto."

SECTION 67. Section 338-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department shall not permit inspection of public health statistics records, or issue a certified copy of any [~~such~~] record or part thereof, unless it is satisfied that the applicant has a direct and tangible interest in the record. The following persons shall be considered to have a direct and tangible interest in a public health statistics record:

(1) The registrant;

(2) The spouse of the registrant;

(3) The civil union partner of the registrant;

[~~(3)~~] (4) A parent of the registrant;

[~~(4)~~] (5) A descendant of the registrant;

[~~(5)~~] (6) A person having a common ancestor with the registrant;

[~~(6)~~] (7) A legal guardian of the registrant;

[~~(7)~~] (8) A person or agency acting on behalf of the registrant;

[~~(8)~~] (9) A personal representative of the registrant's estate;

[~~(9)~~] (10) A person whose right to inspect or obtain a certified copy of the record is established by an order of a court of competent jurisdiction;

[~~(10)~~] (11) Adoptive parents who have filed a petition for adoption and who need to determine the death of one or more of the prospective adopted child's natural or legal parents;

[~~(11)~~] (12) A person who needs to determine the marital status of a former spouse in order to determine the payment of alimony;

(13) A person who needs to determine the civil union status of a former civil union partner in order to determine the payment of alimony;

[~~(12)~~] (14) A person who needs to determine the death of a nonrelated co-owner of property purchased under a joint tenancy agreement; and

[~~(13)~~] (15) A person who needs a death certificate for the determination of payments under a credit insurance policy."

SECTION 68. Section 338-29.5, Hawaii Revised Statutes, is amended to read as follows:

"**§338-29.5 Late [~~registration of death, fetal death, marriage, and divorce.~~] registration.** (a) When a death, fetal death, marriage, [~~or~~] civil union, divorce, or termination occurring in this State has not been registered, a certificate may be filed in accordance with rules adopted by the department of health. The certificate shall be registered subject to any evidentiary requirements that the department adopts by rule to substantiate the alleged facts of death, fetal death, marriage, [~~or~~] civil union, divorce[~~.~~], or termination.

(b) Certificates of death, fetal death, marriage, [~~or~~] civil union, divorce, or termination registered one year or more after the date of occurrence shall be marked "late" and shall show on the face the date of the late registration.

(c) As used in this section, "late" means one year or more after the date of the death, fetal death, marriage, [~~or~~], civil union, divorce[~~.~~], or termination."

SECTION 69. Section 346-237, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) After a petition has been filed, the matter shall be set for hearing and a notice of hearing shall be issued to all parties to the proceeding. The parties to the proceeding shall include:

(1) The vulnerable adult;

(2) Any caregiver of the vulnerable adult;

(3) A representative of the facility in which the vulnerable adult resides or is a patient;

(4) The spouse or civil union partner and adult children of the vulnerable adult;

(5) The parents of the vulnerable adult, unless waived by the court for good cause;

(6) Any guardian or conservator who may have been appointed; and

(7) Any other person or entity affected by the order for immediate protection."

SECTION 70. Section 351-2, Hawaii Revised Statutes, is amended by amending the definition of "relative" as follows:

""Relative" means a victim's spouse [~~or~~], reciprocal beneficiary, civil union partner, parent, grandparent, stepparent, child, grandchild, stepchild, brother, sister, half brother, half sister, stepbrother, stepsister, spouse's or reciprocal beneficiary's or civil union partner's parents, niece, nephew, or person residing in the same dwelling unit as the victim;"

SECTION 71. 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[~~,~~] or civil union partner, during the term of commitment."

SECTION 72. 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[~~,~~] or civil union partner, 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 73. Section 353-28.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) For the purposes of this section, "family members" means persons who are related to each other by blood, marriage, adoption, or legal guardianship, or as reciprocal beneficiaries[~~,~~] or civil union partners."

SECTION 74. Section 377-1, Hawaii Revised Statutes, is amended by amending the definition of "employee" to read as follows:

"(3) "Employee" includes any person, other than an independent contractor, working for another for hire in the State, and shall not be limited to the employees of a particular employer unless the context clearly indicates otherwise; and includes any individual whose work has ceased solely as a consequence of or in connection with any current labor dispute or because of any unfair labor practice on the part of an employer and (A) who has not refused or failed to return to work upon the final disposition of a labor dispute or a charge of an unfair labor practice by a tribunal having competent jurisdiction of the same or whose jurisdiction was accepted by the employee or the employee's representative, (B) who has not been found to be committing or a party to any unfair labor practice hereunder, (C) who has not obtained regular and substantially equivalent employment elsewhere, or (D) who has not been absent from the individual's employment for a substantial period of time during which reasonable expectancy of settlement has ceased (except by an employer's unlawful refusal to bargain) and whose place has been filled by another engaged in the regular manner for an indefinite or protracted period and not merely for the duration of a strike or lockout; but shall not include any individual employed in the domestic service of a family or person at the family's or person's home or any individual employed by the individual's parent [~~or~~], spouse, civil union partner, or any person employed in an executive or supervisory capacity, or any individual employed by any employer employing less than two individuals, or any individual subject to the jurisdiction of the Federal Railway Labor Act or the National Labor Relations Act, as amended from time to time; provided that the term "employee" includes any individual subject to the jurisdiction of the National Labor Relations Act, as amended from time to time, but over whom the National Labor Relations Board has declined to exercise jurisdiction or has indicated by its decisions and policies that it will not assume jurisdiction."

SECTION 75. Section 378-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Civil union status" means the state of being a partner in a civil union."

SECTION 76. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

"**§378-2 Discriminatory practices made unlawful; offenses defined.** It shall be an unlawful discriminatory practice:

(1) Because of race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, civil union status, or arrest and court record:

(A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate

against any individual in compensation or in the terms, conditions, or privileges of employment;

(B) For any employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual;

(C) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination;

(D) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees; or

(E) For any employer or labor organization to refuse to enter into an apprenticeship agreement as defined in section 372-2; provided that no apprentice shall be younger than sixteen years of age;

(2) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because the individual has opposed any practice forbidden by this part or has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;

(3) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so;

(4) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard;

(5) For any employer to refuse to hire or employ or to bar or discharge from employment, any individual because of assignment of income for the purpose of satisfying the individual's child support obligations as provided for under section 571-52;

(6) For any employer, labor organization, or employment agency to exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(7) For any employer or labor organization to refuse to hire or employ or to bar or discharge from employment, or withhold pay, demote, or penalize a lactating employee because an employee breastfeeds or expresses milk at the workplace. For purposes of this paragraph, the term "breastfeeds" means the feeding of a child directly from the breast; or

(8) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment of any individual because of the individual's credit history or credit report, unless the information in the individual's credit history or credit report directly relates to a bona fide occupational qualification under section 378-3(2)."

SECTION 77. Section 383-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) "Employment" shall not include:

(1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit:

(A) That, during each calendar quarter in both the current and the preceding calendar years, paid less than $20,000 in cash remuneration to individuals employed in agricultural labor, including labor performed by an alien referred to in subparagraph (C); and

(B) That had, in each of the current and the preceding calendar years:

(i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees, including labor performed by an alien referred to in subparagraph (C); or

(ii) No more than nine individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week, including labor performed by an alien referred to in subparagraph (C); or

(C) If such agricultural labor is performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;

(2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority as set forth in section 3306(c)(2) of the Internal Revenue Code of 1986, as amended;

(3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is $50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter if:

(A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or

(B) The individual was regularly employed as determined under subparagraph (A) by the employing unit in the performance of the service during the preceding calendar quarter;

(4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;

(B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except:

(i) The service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(ii) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year; and

(iii) Service performed in connection with the catching or taking of salmon or halibut for commercial purposes;

(5) Service performed by an individual in the employ of the individual's son, daughter, [~~or~~] spouse, or civil union partner, and service performed by a child under the age of twenty-one in the employ of the child's [~~father or mother;~~] parent;

(6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall apply to those instrumentalities, and to services performed for those instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this

State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of those instrumentalities with respect to that year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;

(7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to the service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1986, as amended;

(8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;

(9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of the Internal Revenue Code), if:

(i) The remuneration for the service is less than $50; or

(ii) The service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;

(B) Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university; or

(C) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of such program, and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(10) Service performed in the employ of a foreign government, including service as a consular or other officer or employee of a nondiplomatic representative;

(11) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;

(13) Service performed by an individual for an employing unit as an insurance producer, if all service performed by the individual for the employing unit is performed for remuneration solely by way of commission;

(14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;

(16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;

(17) Service performed by an individual for an employing unit as a real estate salesperson, if all service performed by the individual for the employing unit is performed for remuneration solely by way of commission;

(18) Service performed by a registered sales representative for a registered travel agency, when the service performed by the individual for the travel agent is performed for remuneration by way of commission;

(19) Service performed by a vacuum cleaner salesperson for an employing unit, if all services performed by the individual for the employing unit are performed for remuneration solely by way of commission;

(20) Service performed for a family-owned private corporation organized for profit that employs only members of the family who each own at least fifty per cent of the shares issued by the corporation; provided that:

(A) The private corporation elects to be excluded from coverage under this chapter;

(B) The election for exclusion shall apply to all shareholders and under the same circumstances;

(C) No more than two members of a family may be eligible per entity for exclusion under this paragraph;

(D) The exclusion shall be irrevocable for five years;

(E) The family-owned private corporation presents to the department proof that it has paid federal unemployment insurance taxes as required by federal law; and

(F) The election to be excluded from coverage shall be effective the first day of the calendar quarter in which the application and all substantiating documents requested by the department are filed with the department;

(21) Service performed by a direct seller as defined in section 3508 of the Internal Revenue Code of 1986;

(22) Service performed by an election official or election worker as defined in section 3309(b)(3)(F) of the Internal Revenue Code of 1986, as amended;

(23) Service performed by an inmate or any person committed to a penal institution[.]; and[]

(24) Domestic in-home and community-based services for persons with developmental disabilities and mental retardation under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined and amended from time to time by the department of human services, performed by an individual whose services are contracted by a recipient of social service payments and who voluntarily agrees in writing to be an independent contractor of the recipient of social service

payments unless the individual is an employee and not an independent contractor of the recipient of social service payments under the Federal Unemployment Tax Act."

SECTION 78. 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, widower, [~~or~~], reciprocal beneficiary, or civil union partner, for the use of the widow, widower, [~~or~~], reciprocal beneficiary, or civil union partner, and the dependent children, if any. The director of labor and industrial relations may from time to time apportion such compensation among the widow, widower, [~~or~~], reciprocal beneficiary, or civil union partner, and any dependent children.

(2) If there be no dependent widow, widower, [~~or~~], reciprocal beneficiary, or civil union partner, 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 civil union partner, 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, or civil union partner, 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 79. 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, civil union partner, or next of kin of the deceased or in the absence of such family, including a reciprocal beneficiary, civil union partner, 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 civil union partner, or the decedent's estate if there is no surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner.

(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, widower, [~~or~~] reciprocal beneficiary, or civil union partner, if there are no dependent children, fifty per cent.

To the dependent widow, widower, [~~or~~] reciprocal beneficiary, or civil union partner, if there are one or more dependent children of the deceased, sixty-six and two-thirds per cent. The compensation to the widow, widower, [~~or~~] reciprocal beneficiary, or civil union partner, shall be for the use and benefit of the widow, widower, [~~or~~] reciprocal beneficiary, or civil union partner, 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, widower, [~~or~~] reciprocal beneficiary, or civil union partner, 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 civil union partner, 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, or civil union partner, 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 80. 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, or civil union partner, 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 81. 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, or civil union partner, until death, remarriage, marriage, or entry into a new reciprocal beneficiary relationship or civil union with two years' compensation in one sum upon remarriage, marriage, or entry into a new reciprocal beneficiary relationship[~~.~~] or civil union.

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, or civil union partner who is physically or mentally incapable of self-support and unmarried or not in a reciprocal beneficiary relationship or civil union 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 82. 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 civil union partner, 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 83. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

"**§392-5 Excluded services.** "Employment" as defined in section 392-3 shall not include:

(1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than $225;

(2) Service not in the course of the employer's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is $50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer's trade or business during a calendar quarter only if:

(A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or

(B) The individual was regularly employed, as determined under subparagraph (A), by the employer in the performance of the service during the preceding calendar quarter;

(3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;

(4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except:

(A) The service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);

(B) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the current or preceding calendar year, had in the employer's employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week; and

(C) The service performed in connection with the catching or taking of salmon or halibut for commercial purposes;

(5) Service performed by an individual in the employ of the individual's son, daughter, [~~or~~] spouse, or civil union partner, and service performed by a child under the age of twenty-one in the employ of the child's [~~father or mother;~~] parent;

(6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter;

(7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing that is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1986;

(8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;

(9) Service performed in any calendar quarter in the employ of any nonprofit organization exempt from income tax under section 501 of the Internal Revenue Code of 1986, if:

(A) The remuneration for such service is less than $50;

(B) The service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

(C) The service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of nonsecular duties required by the order; or

(D) The service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;

(10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if:

(A) No part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual; and

(B) Eighty-five per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;

(11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if:

(A) Admission to membership in the association is limited to individuals who are officers or employees of the United States government; and

(B) No part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;

(12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1986, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;

(13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if:

(A) The service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(B) The United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to

similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;

(15) Service performed by an individual for an employer as an insurance producer, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;

(16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;

(18) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;

(19) Domestic in-home and community-based services for persons with developmental disabilities and mental retardation under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined by the department of human services, performed by an individual whose services are contracted by a recipient of social service payments and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments;

(20) Service performed by a vacuum cleaner salesperson for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission; or

(21) Service performed by an individual for an employer as a real estate salesperson or as a real estate broker, if all the service performed by the individual for the employer is performed for remuneration solely by way of commission."

SECTION 84. Section 393-5, Hawaii Revised Statutes, is amended to read as follows:

"**§393-5 Excluded services.** "Employment" as defined in section 393-3 does not include:

(1) Service performed by an individual in the employ of an employer who, by the laws of the United States, is responsible for care and cost in connection with such service;

(2) Service performed by an individual in the employ of the individual's spouse, civil union partner, son, or daughter, and service performed by an individual under the age of twenty-one in the employ of the individual's [~~father or mother;~~] parent;

(3) Service performed in the employ of a voluntary employee's beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if:

(A) Admission to membership in the association is limited to individuals who are officers or employees of the United States government; and

(B) No part of the net earnings of the association inures (other than through such payments) to the benefits of any private shareholder or individual;

(4) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor if all service performed by the individual for the employer is performed for remuneration by way of commission;

(5) Service performed by an individual for an employer as a real estate salesperson or as a real estate broker if all service performed by the individual for the employer is performed for remuneration by way of commission;

(6) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the provisions of law relating to federal employment, including unemployment compensation; and

(7) Domestic in-home and community-based services for persons with developmental disabilities and mental retardation under the medicaid home and community-based services program pursuant to title 42 Code of Federal Regulations sections 440.180 and 441.300, and title 42 Code of Federal Regulations, part 434, subpart A, as amended, and identified as chore, personal assistance and habilitation, residential habilitation, supported employment, respite, and skilled nursing services, as the terms are defined and amended from time to time by the department of human services, performed by an individual whose services are contracted by a recipient of social service payments and who voluntarily agrees in writing to be an independent contractor of the recipient of social service payments."

SECTION 85. 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 civil union partner, or parent with a serious health condition."

SECTION 86. Section 431:10-234, Hawaii Revised Statutes, is amended to read as follows:

"**§431:10-234 Spouses' [~~and~~], reciprocal beneficiaries', and civil union partners' right in life insurance policy.** (a) Every life insurance policy made payable to or for the benefit of the spouse [~~or~~], the reciprocal beneficiary, or the civil union partner of the insured, and every life insurance policy assigned, transferred, or in any way made payable to a spouse [~~or~~], reciprocal beneficiary, or civil union partner, or to a trustee for the benefit of a spouse [~~or~~], a reciprocal beneficiary, or civil union partner, 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[~~,~~], or civil union partner.

(b) Without the consent of one's spouse [~~or~~], reciprocal beneficiary, or civil union partner, a married person or an individual who is registered as a reciprocal beneficiary[~~,~~] or civil union partner, may contract, pay for, take out, and hold a policy on the life or health of one's spouse, reciprocal beneficiary, civil union partner, or children, or against loss by such spouse, [~~or~~] reciprocal beneficiary, or civil union partner, or children due to disablement by accident. Premiums paid on the policy by a married person [~~or~~], reciprocal beneficiary, or civil union partner 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 civil union partner, or others."

SECTION 87. Section 431:10A-104, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A policy of accident and health or 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 and civil union family coverage as defined in section 431:10A-601;

(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 twenty point. The text shall include all printed matter except the name and address of the insurer, name or title of the policy, a brief description, if any, and captions and subcaptions;

(5) The exceptions and reductions of indemnity are set forth in the policy and, except for the required and optional provisions set forth in sections 431:10A-105 and 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 88. 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 and civil union family coverage, as defined in section 431:10A-601, 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 89. Section 431:10A-120, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each policy of accident and health or sickness insurance, other than life insurance, disability income insurance, and long-term care insurance, issued or renewed in this State, each employer group health policy, contract, plan, or agreement issued or renewed in this State, all accident and health or sickness insurance policies issued or renewed in this State, all policies providing family coverages as defined in section 431:10A-103, and all policies providing reciprocal beneficiary and civil union family coverage as defined in section 431:10A-601, shall contain a provision for coverage for medical foods and low-protein modified food products for the treatment of an inborn error of metabolism for its policyholders or dependents of the policyholder in this State; provided that the medical food or low-protein modified food product is:

(1) Prescribed as medically necessary for the therapeutic treatment of an inborn error of metabolism; and

(2) Consumed or administered enterally under the supervision of a physician or osteopathic physician licensed under chapter 453.

Coverage shall be for at least eighty per cent of the cost of the medical food or low-protein modified food product prescribed and administered pursuant to this subsection."

SECTION 90. Section 431:10A-206, Hawaii Revised Statutes, is amended to read as follows:

"**§431:10A-206 Coverage of newborn children.** All group or blanket disability policies providing family coverage, as defined in section 431:10A-103 and reciprocal beneficiary and civil union family coverage, as defined in section 431:10A-601, on an expense incurred basis shall provide coverage for newborn children in compliance with section 431:10A-115."

SECTION 91. Section 431:10A-601, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§431:10A-601**[~~]~~] **Reciprocal beneficiary and civil union family coverage defined; policyholder and employer responsibility for costs; availability.** (a) Any other law to the contrary notwithstanding, reciprocal beneficiary and civil union family coverage, as defined in subsection (b), shall be made available to reciprocal beneficiaries as defined in chapter 572C and partners in a civil union as defined in chapter A 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[~~.~~] or partners in a civil union.

(b) As used in this section, "reciprocal beneficiary and civil union family coverage" means a policy that insures, originally or upon subsequent amendment, a reciprocal beneficiary or civil union partner who shall be deemed the policyholder, the other party to the policyholder's reciprocal-beneficiary relationship registered pursuant to chapter 572C, or civil union registered pursuant to chapter A and dependent children or any child of any other person dependent upon either reciprocal beneficiary[~~.~~] or partner to a civil union.

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

SECTION 92. Section 431:10C-103, Hawaii Revised Statutes, is amended by amending the definition of "insured" as follows:

""Insured" means:

(1) The person identified by name as insured in a motor vehicle insurance policy complying with section 431:10C-301; and

(2) A person residing in the same household with a named insured, specifically:

(A) A spouse [~~or~~], reciprocal beneficiary, or civil union partner, or other relative of a named insured; and

(B) 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~~] that may include reciprocal beneficiaries[~~,~~] and civil union partners, even though the person temporarily lives elsewhere."

SECTION 93. Section 431:10C-302, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to the motor vehicle insurance coverages described in section 431:10C-301, every insurer issuing a motor vehicle insurance policy shall make available to the insured the following optional insurance under the following conditions. Every insurer issuing a commercial motor vehicle insurance policy shall make available to the insured the following optional insurance, except for those benefits under paragraphs (4), (5), (9), (10), and (11) under the following conditions:

(1) At the option of the insured, provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles, including but not limited to collision and comprehensive deductibles of $50, $100, $250, $500, $1,000, $1,500, and $2,000, at appropriately reduced premium rates, as the commissioner, by rule, shall provide;

(2) At the option of the insured, compensation to the insured, the insured's spouse, or civil union partner, any dependents, or any occupants of the insured's vehicle for damages not covered by personal injury protection benefits;

(3) Additional coverages and benefits with respect to any injury or any other loss from motor vehicle accidents or from operation of a motor vehicle for which the insurer may provide for aggregate

limits with respect to such additional coverage so long as the basic liability coverages provided are not less than those required by section 431:10C-301(b)(1) and (2);

(4) At the option of the insured, an option in writing for coverage for wage loss benefits for monthly earnings loss for injury arising out of a motor vehicle accident. Any change in the wage loss benefits coverage selected by an insured shall apply only to benefits arising out of motor vehicle accidents occurring after the date the change becomes effective. Coverage shall be offered in multiples of $500 a month/$3,000 per accident per person, from $500 a month/$3,000 per accident to $2,000 a month/$12,000 per accident; however, nothing shall prevent an insurer from making available higher limits of coverage;

(5) An option in writing for minimum coverage for death benefits for death arising out of a motor vehicle accident in an amount of $25,000, to be paid to the surviving spouse[,] or civil union partner, for the benefit of the spouse or civil union partner and dependent children, or if there are no surviving spouse, civil union partner, or dependent children, then to the estate. Coverage shall also be made available for increased death benefits in increments of $25,000 up to $100,000; however, nothing shall prevent an insurer from making available higher limits of coverage. At the option of the insured, coverage for funeral expenses of $2,000 shall be made available;

(6) Terms, conditions, exclusions, and deductible clauses, coverages, and benefits which:

(A) Are consistent with the required provisions of the policy;

(B) Limit the variety of coverage available so as to give buyers of insurance reasonable opportunity to compare the cost of insuring with various insurers; and

(C) Are approved by the commissioner as fair and equitable;

(7) At appropriately reduced premium rates, deductibles applicable only to claims of an insured in the amounts of $100, $300, $500, and $1,000 from all personal injury protection benefits otherwise payable; provided that if two or more insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them;

(8) Every insurer shall fully disclose the availability of all required and optional coverages and deductibles, including the nature and amounts, at the issuance or delivery of the policy; or, for a policy already issued on January 1, 1998, disclosure shall be made at the first renewal after January 1, 1998. The insurer shall also disclose at issuance or renewal, as applicable, the effect on premium rates and savings of each option and deductible. Further offers or disclosures thereafter shall be required to be included with every other renewal or replacement policy. All elections of coverages, options, and deductibles by a named insured shall be binding upon additional insureds covered under the named insured's policy. The purpose of this paragraph is to inform insureds or prospective insureds of the coverages under this article;

(9) (A) An insurer may make available, and provide at the option of the named insured, the benefits described in section 431:10C-103.5(a) through managed care providers such as a health maintenance organization or a preferred provider organization. The option may include conditions and limitations to coverage, including deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve those conditions and limitations which are substantially comparable to or exceed the coverage provided under section 431:10C-103.6;

(B) An insurer may make available, and provide at the option of the named insured, deductible and coinsurance arrangements whereby the recipient of care, treatment, services, products, expenses, or accommodations shares in the payment obligation;

(C) No deductible or coinsurance under a policy covered under section 431:10C-302(a)(9)(A) or (B) shall be applied with respect to care, treatment, services, products, or accommodation provided or expenses incurred by an insured during the first twenty-four hours in which emergency treatment has been provided or until the insured patient's emergency medical condition is stabilized, whichever is longer;

(D) (i) The optional coverage prescribed in section 431:10C-302(a)(9)(A) and (B) shall apply only to the named insured, resident spouse, resident civil union partner, or resident relative; and

(ii) "Resident relative" means a person who, at the time of the accident, is related by blood, marriage, civil union, or adoption to the named insured [~~or~~], resident spouse, resident civil union partner, and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if living elsewhere;

(E) An agreement made under section 431:10C-302(a)(9) must be a voluntary agreement between the insured and the insurer, and no insurer shall require an insured to agree to those policy provisions as a condition of providing insurance coverage. Requiring an agreement as a precondition to the provision of insurance shall constitute an unfair insurance practice and shall be subject to the provisions, remedies, and penalties provided in article 13; and

(F) An insurer providing the coverages authorized in section 431:10C-302(a)(9)(A) and (B) shall demonstrate in rate filings submitted to the commissioner the savings to the insured to be realized under the plan;

(10) An insurer shall make available optional coverage for naturopathic, acupuncture, nonmedical remedial care, and treatment rendered in accordance with the teachings, faith, or belief of any group which relies upon spiritual means through prayer for healing; and

(11) An insurer may make available optional coverage for chiropractic treatment in addition to chiropractic treatment provided under section 431:10C-103.6 for not more than the lesser of the following:

(A) Thirty additional visits at no more than $75 a visit; or

(B) Treatment as defined by the Hawaii Chiropractic Association guidelines in effect on January 25, 1997.

The commissioner shall adopt rules, including policy limits, terms, and conditions as necessary to implement the requirements of this section."

SECTION 94. Section 431:10C-305, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) (1) Except as provided in paragraph (2), personal injury protection benefits shall be paid primarily from the following sources in the following conditions:

(A) The insurance on the vehicle occupied by the injured person at the time of the accident; or

(B) The insurance on the vehicle which caused accidental harm if the injured person is a pedestrian (including a bicyclist).

If there is no insurance on the vehicle, any other motor vehicle insurance applicable to the injured person shall apply.

No person shall recover personal injury protection benefits from more than one insurer for accidental harm as a result of the same accident;

(2) All personal injury protection benefits shall be paid secondarily and net of any benefits a person is entitled to receive because of the accidental harm from workers' compensation laws; provided that:

(A) The total amount a person is entitled to receive for monthly earnings loss under this article shall be limited to the amount of any applicable coverage under section 431:10C-302, without any deduction of any amount received as compensation for lost earnings under any workers' compensation law;

(B) The aggregate of the payments from both sources shall not exceed eighty per cent of the person's monthly earnings as provided in section 431:10C-302(a)(4). However, if the

person's employer provides both workers' compensation and personal injury protection payments, the aggregate shall not exceed the person's net monthly earnings (computed by subtracting the total of federal and state income taxes and employee social security contributions from the gross monthly earnings), provided that the workers' compensation payments shall not be less than required by chapter 386; and

(C) This section shall not apply to benefits payable to a surviving spouse or surviving civil union partner and any surviving dependent as provided under section 431:10C-304.

If the person does not collect such benefits under the workers' compensation laws by reason of the contest of this right to so collect by the person or organization responsible for payment thereof, the injured person, if otherwise eligible, shall, nevertheless, be entitled to receive personal injury protection benefits and, upon payment thereof, the personal injury protection insurer shall be subrogated to the injured person's rights to collect such benefits."

SECTION 95. Section 431:10D-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Subsection (a) shall not apply to contracts of life insurance insuring only individuals:

(1) Related by marriage, by civil union, by blood, or by legal adoption; or

(2) Having a common interest through ownership of a business enterprise, or of a substantial legal interest or equity in the business enterprise, and who are actively engaged in its management; or

(3) Otherwise having an insurable interest in each other's lives."

SECTION 96. Section 431:10H-205, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) Notwithstanding any other provision of this section, an insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage or termination of a reciprocal beneficiary relationship[.] or civil union."

SECTION 97. Section 431:10H-402, Hawaii Revised Statutes, is amended to read as follows:

"[]§431:10H-402[] **Purchase of policy and payment of premiums on an individual's behalf.** An insurer shall allow a person to purchase an individual or group long-term care insurance policy and pay the premiums for an individual or group long-term care insurance policy that covers the person, the person's spouse, [or] reciprocal beneficiary, or civil union partner, as well as their parents and grandparents, and in-law parents and grandparents. Nothing in this section shall preclude an insurer from underwriting such a policy."

SECTION 98. 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 coverage, as defined in section 431:10A-103, and reciprocal beneficiary and civil union family coverage, as defined in section 431:10A-601, the insurer shall be required:

(1) To permit the parent to enroll, under the family coverage or reciprocal beneficiary and civil union 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 and civil union 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 that will take effect not later than the effective date of disenrollment."

SECTION 99. 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 and civil union family coverage, as defined in section 431:10A-601, 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 and civil union 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 and civil union 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 100. Section 432:1-104, Hawaii Revised Statutes, is amended to read as follows:

"**§432:1-104 Definitions.** For the purposes of this article:

(1) Commissioner means the insurance commissioner of the State of Hawaii.

(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 civil union partners, 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[,] or civil union partners, 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 civil union partners, 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 101. Section 432:1-604, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For the purposes of this section, the term "spouse" means a person who is lawfully married to the patient or in a lawful civil union with the patient under the laws of the State."

SECTION 102. 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, civil union partner, parent (if the person is a minor), guardian, executor, or administrator obligated or allegedly obligated to pay a debt."

SECTION 103. Section 444-28, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The court shall proceed upon such application in a summary manner, and, upon the hearing thereof, the injured person shall be required to show:

(1) The injured person is not a spouse or civil union partner of debtor, or the personal representative of such spouse[~~,~~]or civil union partner.

(2) The injured person has complied with all the requirements of this section.

(3) The injured person has obtained a judgment as set out in subsection (b) of this section, stating the amount thereof and the amount owing thereon at the date of the application.

(4) The injured person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(5) That by such search the injured person has discovered no personal or real property or other assets liable to be sold or applied, or that the injured person has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that the injured person has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized."

SECTION 104. 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, osteopathic 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, civil union partner, 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 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, osteopathic 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 105. Section 453D-14, Hawaii Revised Statutes, is amended to read as follows:

"**[~~[~~§453D-14[~~]~~] Mental health counselor prohibited from testifying in alimony [~~and~~], divorce, or termination actions.** If both parties to a marriage or civil union have obtained mental health counseling from a licensed mental health counselor, the counselor shall be prohibited from testifying in an alimony [~~or~~], divorce, or termination action concerning information acquired in the course of mental health counseling. This section shall not apply to custody actions whether or not part of a divorce or termination proceeding."

SECTION 106. Section 454F-1, Hawaii Revised Statutes, is amended by amending the definition of "immediate family member" to read as follows:

""Immediate family member" means a spouse, civil union partner, child, sibling, parent, grandparent, grandchild, stepparent, stepchild, stepsibling, and equivalent adoptive relationships."

SECTION 107. Section 454F-42, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The court shall proceed upon an application to recover from the mortgage loan recovery fund in a summary manner and, at hearing, the aggrieved person shall be required to show:

(1) The person is not a spouse or civil union partner of the judgment debtor or the personal representative of a spouse or civil union partner of the judgment debtor;

(2) The person has complied with all the requirements of this section;

(3) The person has obtained a judgment or settlement pursuant to section 454F-41(a) that states the amount of the judgment and the amount owed on the judgment debt as of the date of the application;

(4) The person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment; and

(A) The search has uncovered no personal or real property or other assets liable to be sold or applied; or

(B) The search has uncovered personal or real property or other assets liable to be sold or applied, the person has taken all necessary action and completed all necessary proceedings for the realization thereof, and the amount realized was insufficient to satisfy the judgment; provided that the person shall state the amount realized and the balance remaining due on the judgment after application of the amount realized; and

(5) That where the licensee is a judgment debtor in a bankruptcy proceeding, the aggrieved person has obtained an order from the bankruptcy court declaring the judgment against the licensee to be non-dischargeable."

SECTION 108. Section 467-18, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The court shall proceed upon the application in a summary manner and, upon the hearing thereof, the aggrieved person shall be required to show:

(1) The person is not a spouse or civil union partner of debtor, or the personal representative of such spouse[~~;~~] or civil union partner;

(2) The person has complied with all the requirements of this section;

(3) The person has obtained a judgment as set out in subsection (b) of this section, stating the amount thereof and the amount owing thereon at the date of the application;

(4) The person has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment;

(5) That by such search the person has discovered no personal or real property or other assets liable to be sold or applied, or that the person has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that the person has taken all necessary action and proceedings for the realization

thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized; and

(6) That where the real estate broker or real estate salesperson is a debtor in a bankruptcy proceeding, the aggrieved person has obtained an order from the bankruptcy court declaring the judgment against the real estate broker or real estate salesperson to be non-dischargeable."

SECTION 109. Section 477E-3, Hawaii Revised Statutes, is amended to read as follows:

"[{]§477E-3[}] **Prohibited credit discrimination.** (a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of marital or civil union status with respect to any aspect of a credit transaction.

(b) An inquiry of marital or civil union status shall not constitute discrimination for the purposes of this chapter if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.

(c) A request for the signature of both parties to a marriage or civil union for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to, or assigning the earnings and profits, in any transaction involving real property shall not be construed to be discrimination under this part; provided that this provision shall not be construed to permit a creditor to take marital or civil union status into account in connection with the evaluation of creditworthiness of any applicant.

(d) Consideration or application of the real property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for any purpose of this chapter.

(e) Whenever either party to a marriage or civil union contracts separately for credit or a loan, the contracting party shall be solely responsible for the debt so contracted.

(f) Whenever each party to a marriage or civil union separately and voluntarily applies for, and obtains, separate credit accounts or loans with the same creditor, those accounts or loans shall not be aggregated, or otherwise combined, for purposes of determining permissible finance charges, or permissible loan ceilings."

SECTION 110. Section 481E-1, Hawaii Revised Statutes, is amended by amending the definition of "athlete agent" to read as follows:

""Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, civil union partner, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization."

SECTION 111. Section 481J-1, Hawaii Revised Statutes, is amended by amending the definition of "consumer" to read as follows:

""Consumer" means the purchaser, other than for purposes of resale, of a used motor vehicle primarily used for personal, family, or household purposes and subject to a warranty, and the spouse, civil union partner, or child of the purchaser if the motor vehicle is transferred to the spouse, civil union partner, or child during the duration of any warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty."

SECTION 112. Section 489N-1, Hawaii Revised Statutes, is amended by amending the definition of "marital history information" to read as follows:

""Marital or civil union history information" means a declaration of a Hawaii resident's current marital or civil union status, the number of times the Hawaii resident has previously been married[,] or a partner in a civil union, the number of domestic abuse orders of protection issued against the Hawaii resident, and whether any previous marriages or civil unions by the Hawaii resident occurred as a result of receiving services from an international matchmaking organization."

SECTION 113. Section 489N-2, Hawaii Revised Statutes, is amended to read as follows:

"**§489N-2 Dissemination of criminal record and marital or civil union history information.** (a) Each international matchmaking organization doing business in this State shall:

(1) Notify all recruits that criminal history record information and marital or civil union history information is available upon request;

(2) Provide the notice required by paragraph (1) in the recruit's native language and display it in a manner that separates it from other information, is conspicuous, and in lettering not less than one-quarter of an inch high;

(3) Upon request, disseminate to a recruit in the recruit's native language all criminal conviction information and marital or civil union history information in the possession of the international matchmaking organization relating to a Hawaii resident about whom any information is provided to the recruit;

(4) Require a Hawaii resident requesting the services of an international matchmaking organization to submit or authorize the international matchmaking organization access to the resident's complete criminal history and marital or civil union history information; and

(5) Submit an annual report on its business activities to the department of commerce and consumer affairs.

(b) Upon receipt of a request for criminal conviction or marital or civil union history information from a recruit, an international matchmaking organization shall refrain from providing any further services to the recruit or the Hawaii resident with regard to facilitating future interaction between the recruit and the Hawaii resident until the Hawaii resident has submitted to the organization:

(1) The complete transcript of any criminal history record of the Hawaii resident or a statement that there is no record of convictions; provided that these are obtained from the Hawaii criminal justice data center based on a submission of fingerprint impressions and sent directly to the organization by the Hawaii criminal justice data center; and

(2) The Hawaii resident's marital or civil union history information, accompanied by an affirmation by the Hawaii resident that any marital or civil union history information provided is complete and accurate and includes information regarding the Hawaii resident's marriages[,] or civil unions, including annulments, dissolutions, and the number of domestic abuse orders of protection issued against the Hawaii resident that occurred in this State or in any other state or country."

SECTION 114. Section 490:9-102, Hawaii Revised Statutes, is amended by amending the definition of "person related to" to read as follows:

""Person related to", with respect to an individual, means:

(1) The spouse or civil union partner of the individual;

(2) A brother, brother-in-law, sister, or sister-in-law of the individual;

(3) An ancestor or lineal descendant of the individual or the individual's spouse[;] or civil union partner; or

(4) Any other relative, by blood [or] marriage, or civil union, of the individual or the individual's spouse or civil union partner who shares the same home with the individual.

"Person related to", with respect to an organization, means:

(1) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(2) An officer or director of, or a person performing similar functions with respect to, the organization;

(3) An officer or director of, or a person performing similar functions with respect to, a person described in paragraph (1);

(4) The spouse or civil union partner of an individual described in paragraph (1), (2), or (3); or

(5) An individual who is related by blood [~~or~~], marriage, or civil union to an individual described in paragraph (1), (2), (3), or (4) and shares the same home with the individual."

SECTION 115. Section 501-23, Hawaii Revised Statutes, is amended to read as follows:

"**§501-23 Application, form, and contents.** The application shall be in writing, signed, and sworn to by the applicant or by some person duly authorized in the applicant's behalf. If there is more than one applicant, the application shall be signed and sworn to by, or in behalf of, each. It shall contain a description of the land, with a statement of the estate or interest of the applicant in the land. It shall state whether the applicant is married[,] or a party to a civil union, and if married or a party to a civil union, the name in full of the wife or husband or civil union partner, the time and place of marriage[,] or civil union, and the name and office of the officer performing the marriage or civil union ceremony; and if unmarried[,] or not a party to a civil union, whether the applicant has been married, or a party to a civil union, and if so, when and how the marriage or civil union relation terminated; and if by divorce[,] or termination, when, where, and by what court the divorce or termination was granted. It shall also state the name in full and the address of the applicant and also the names and addresses of the adjoining owners and occupants, if known; and if not known, it shall state what search has been made to find them. If the applicant has been known by more than one name, the applicant shall state all the applicant's names in full. It may be in form as follows:

State of Hawaii.

To the Honorable Judge of the Land Court:

I (or we), the undersigned, hereby apply to have the land herein described brought under the operation and provisions of chapter 501 of the Hawaii Revised Statutes and to have my (or our) title therein registered and confirmed as an absolute (qualified or possessory) title. And I (or we) declare:

(1) That I am (or we are) the owner (or owners) in fee simple of a certain parcel of land, with the buildings (if any, and if not, strike out the clause), situate in (here insert accurate description).

(2) That the land at the last assessment for taxation was assessed at....dollars; and the buildings (if any) at....dollars.

(3) That I (or we) do not know of any mortgage or encumbrance affecting the land, or that any other person has any estate or interest therein, legal or equitable, in possession, remainder, reversion, or expectancy. (If any, add "other than as follows," and set forth each clearly.)

(4) That I (or we) obtained title (if by deed, state name of grantor, date, and place of record, and file the deed, or state reason for not filing. If in any other way, state it).

(5) That the land is....occupied (state name in full, residence and post office address of occupant and the nature of the occupancy. If unoccupied, insert "not").

(6) That the names in full and addresses as far as known to me (or us) of the occupants of all lands adjoining the land are as follows: (give post office address, street, and number wherever possible. If names not known, state whether inquiry has been made, and what inquiry.)

(7) That the names and addresses so far as known to me (or us) of the owners of all lands adjoining above land are as follows: (same directions as above.)

(8) That I am (or we are) married or a party to a civil union (follow literally the directions given in section 501-23.)

(9) That my (or our) full name (or names), residence and post office address are as follows:

Dated: .....

(Schedule of documents.)

.....

(Signature).

State of Hawaii } ss.

Dated: .....

Then personally appeared the above named..... known to me to be the signer (or signers) of the foregoing application, and made oath before me, that the statements made therein, so far as made of the signer (or signers) own knowledge are true, and so far as made upon information and belief, that the signer (or signers) believes them to be true.

....., Notary Public."

SECTION 116. Section 501-74, Hawaii Revised Statutes, is amended to read as follows:

"**§501-74 Decree, contents of.** Every decree of registration shall bear the date of the year, day, hour, and minute of its entry, and shall be signed by the registrar. It shall state whether the owner is married or unmarried, party to a civil union or not party to a civil union, and if married or party to a civil union, the full name of the husband or wife[,] or civil union partner. If the owner (or spouse or civil union partner of the owner) has been known by more than one name, all the names of such person shall be stated. The wife's maiden name and surname shall be stated in all cases. If the owner is under disability it shall state the nature of the disability, and if a minor, shall state the minor's age. It shall contain a description of the land as finally determined by the court; and shall set forth the estate of the owner, and also, in such manner as to show their relative priority, all particular estates, mortgages, easements, liens, attachments, and other encumbrances including rights of husband [~~or~~], wife, or civil union partner, if any, to which the land or the owner's estate is subject; and may contain any other matter properly to be determined in pursuance of this chapter. The decree shall be stated in a convenient form for transcription upon the certificate of title hereinafter mentioned."

SECTION 117. Section 501-81, Hawaii Revised Statutes, is amended to read as follows:

"**§501-81 Legal incidents of registered land.** Registered land, and ownership therein, shall in all respects be subject to the same burdens and incidents which attach by law to unregistered land. Nothing in this chapter shall in any way be construed to relieve registered land or the owners thereof from any rights incident to the relation of husband and wife or partners in a civil union; or from liability to attachment or mesne process or levy on execution; or from liability to any lien of any description established by law on land and the buildings thereon, or in the interest of the owner in land or buildings; or to change the laws of descent except as provided in section 501-71; or the rights of partition between coparceners and other cotenants; or the right to take the same by eminent domain; or to relieve such land from liability to be recovered by a trustee in bankruptcy under the provisions of law relating to preferences; or to change or affect in any way any other rights or liabilities created by law and applicable to unregistered land; except as otherwise expressly provided in this chapter."

SECTION 118. Section 501-105, Hawaii Revised Statutes, is amended to read as follows:

"**§501-105 Grantee's address, etc., to be stated.** Every deed or other voluntary instrument presented for recording shall contain or have indorsed upon it the full name or names, if more than one, and the address of the grantee or other person acquiring or claiming an interest under the instrument and every document shall also contain or have indorsed upon it a statement that the grantee is married or unmarried, party to a civil union or not party to a civil union, and if married[,] or party to a civil union, the statement shall give the name in full of the husband or wife[,] or civil union partner. Whenever the grantee is a corporation or partnership, the document shall contain or have indorsed upon it the state where the entity is registered and the entity's address. All names and addresses shall also be entered on all certificates. Notices and processes issued in relation to registered land in pursuance of this chapter may be served upon any person in interest by mailing the same to the address so given, and shall be binding whether such person resides within or without the State.

Any deed conveying one or more but not all lots or all interests in a lot appurtenant to apartments or units in a condominium project in a certificate shall contain full memoranda relating to easements, rights-of-way, and all other liens and encumbrances affecting the particular lot, lots, interest appurtenant to an apartment or unit, or interests appurtenant to apartments or units conveyed. If the deed affects all of the land or interests appurtenant to apartments or units in a certificate of title, encumbrances may be referred to by reference."

SECTION 119. Section 501-196, Hawaii Revised Statutes, is amended to read as follows:

"**§501-196 Alterations upon registration book prohibited when; court hearings; limitations.** No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon, and the approval of the same by the registrar or an assistant registrar except by order of the court recorded with the assistant registrar, provided that the registrar or assistant registrar may correct any clerical error made by personnel of the registrar's or assistant registrar's office. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon; or that the name of any person on the certificate has been changed; or that the registered owner has been married[~~,~~] or a partner to a civil union, or if registered as married or as a partner to a civil union, that the marriage or civil union has been terminated; or that a corporation [~~which~~] that owned registered land and has been dissolved has not conveyed the same within three years after its dissolution, or upon any other reasonable ground. The court shall have jurisdiction to hear and determine the petition after notice to all parties in interest and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper. This section shall not be construed to give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which impairs the title or other interest of a purchaser holding a certificate for value and in good faith, or the purchaser's heirs or assigns, without the purchaser's or their written consent.

Any petition filed under this section and all petitions and motions filed under this chapter after original registration shall be filed and entitled in the original case in which the decree of registration was entered."

SECTION 120. Section 501-246, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§501-246**[~~]~~] **Legal incidents of a leasehold time share interest.** A leasehold time share interest, and ownership therein, shall in all respects be subject to the same burdens and incidents which attach by law to the lessee's interest in a leasehold apartment that is part of a condominium property regime established on unregistered land and which is not utilized in a time share plan.

Nothing in this part shall, in any way, be construed to relieve a leasehold time share interest or the owners thereof:

(1) From any rights incident to the relation of husband and wife[~~;~~] or partners in a civil union;

(2) From liability to attachment or mesne process or levy on execution;

(3) From liability to any lien of any description established by law on the leasehold time share interest, or in the interest of the owner in the leasehold time share interest;

(4) To change the laws of descent;

(5) The rights of partition between coparceners and other cotenants;

(6) The right to take the same by eminent domain;

(7) To relieve such leasehold time share interest from liability to be recovered by a trustee in bankruptcy under the provisions of law relating to preferences; or

(8) To change or affect in any way any other rights or liabilities created by law and applicable to the lessee's interest in a leasehold apartment which is part of a condominium property regime established on unregistered land and which is not utilized in a time share plan; except as otherwise expressly provided in this part."

SECTION 121. Section 501-268, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]**§501-268**[~~]~~] **Legal incidents of deregistered land.** Nothing in this part shall in any way be construed to relieve deregistered land or the owners of deregistered land from:

(1) Any rights incident to the relation of husband and wife[~~;~~] or partners in a civil union;

(2) Liability to attachment or mesne process or levy on execution;

(3) Liability to any lien of any description established by law on the deregistered land, or in the interest of the owner in the deregistered land;

(4) The right to change the laws of descent;

(5) The rights of partition between coparceners and other cotenants;

(6) The right to take the same by eminent domain;

(7) Liability to be recovered by a trustee in bankruptcy under the provisions of law relating to preferences;

(8) Any other rights or liabilities created by law and applicable to the owner of a condominium apartment that is part of a condominium property regime established on registered land and which is not used in a time share plan, except as otherwise expressly provided in this part; or

(9) Any other rights or liabilities created by law and applicable to the deregistered land, except as otherwise expressly provided [in] this part."

SECTION 122. Section 502-84, Hawaii Revised Statutes, is amended to read as follows:

"**§502-84 Powers of attorney, etc.** All articles of marriage settlement, civil union settlement, and powers of attorney for the transfer of real property within the State shall be recorded in the bureau of conveyances, in default of which no such instrument shall be binding to the detriment of third parties or conclusive upon their rights and interests."

SECTION 123. Section 508D-3, Hawaii Revised Statutes, is amended to read as follows:

"**§508D-3 Exemptions.** This chapter shall not apply to the following sales of residential real property:

(1) Sale to a co-owner;

(2) Sale to a spouse, civil union partner, parent, or child of the seller;

(3) Sale by devise, descent, or court order;

(4) Sale by operation of law, including but not limited to any transfer by foreclosure, bankruptcy, or partition, or any transfer to a seller's creditor incident to a deed (or assignment) in lieu of foreclosure, workout, or the settlement or partial settlement of any preexisting obligation of a seller owed a creditor and any later sale of residential real property by such creditor;

(5) Sale by a lessor to a lessee resulting from conversion of leased land to fee simple;

(6) Initial sale of new residential real property pursuant to chapter 484 under a current public offering statement or chapter 484 exemption;

(7) Sales of condominium apartments or units accompanied by delivery of an unexpired developer's public report; or

(8) Sale of time share interests as defined under chapter 514E."

SECTION 124. 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 civil union partner, or by spouses to themselves, or by reciprocal beneficiaries to themselves, or by civil union partners 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:

"Civil union partner" means an adult who is a party to a civil union filed in accordance with chapter A, and has a valid civil union certificate that has not been terminated.

"Reciprocal beneficiary" means an adult who is a party to a registered reciprocal beneficiary relationship in accordance with chapter 572C, and has a valid certificate of reciprocal beneficiary relationship that has not been terminated."

SECTION 125. Section 514A-108, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) This part shall not apply to condominium projects where the developer intends to convey, and does in fact convey, all of the residential apartment units in the project to a spouse, civil union partner, or family members related by blood, descent or adoption."

SECTION 126. Section 514B-99.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This subpart shall not apply to:

(1) A project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 201H, 206, 346, or 356D; provided that the developer of the project may elect to be subject to this subpart through a written notification to the commission;

(2) Condominium projects where the developer conveys all of the residential units in the project to a spouse, civil union partner, or family members related by blood, descent or adoption; and

(3) Condominium projects consisting of two or fewer units."

SECTION 127. Section 516-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If the leasehold is subject to any mortgage, lien, or encumbrance suffered or permitted by the lessee, including, but not limited to, rights arising through divorce, termination, marriage, civil union, or assignment, the purchase of the leased fee by the lessee shall in no manner affect or impair the mortgage, lien, or encumbrance or the security afforded thereby to the holder thereof, and the leasehold shall continue, notwithstanding the purchase of the leased fee by the lessee, for the purpose and to extent necessary to avoid any impairment of such leasehold security, unless the holder of the leasehold mortgage, lien, or encumbrance shall in writing consent to the transfer thereof to the fee as herein provided. Upon the written consent by the holder thereof, each such mortgage, lien, or encumbrance to which the leasehold is subject and to which such consent refers shall be transferred to and shall bind the fee acquired by the lessee, and shall thereafter continue in full force and effect as a mortgage, lien, or encumbrance of the fee acquired by the lessee, in the same order and priority among such mortgages, liens, and encumbrances so transferred to the fee as the same applied to and bound the lessee's immediate, previous leasehold interest."

SECTION 128. Section 516-28, Hawaii Revised Statutes, is amended to read as follows:

"**§516-28 Disposition, generally.** It shall be the policy of the Hawaii housing finance and development corporation to encourage the widespread fee simple ownership of residential lots situated within a development tract. Where necessary or desirable, the corporation may lease the residential lots. Not more than one lot shall be sold in fee simple or leased to a purchaser or lessee. A husband and wife together[,] or partners in a civil union together, unless separated and living apart under a decree of separation or termination issued by a court of competent jurisdiction, shall be entitled to only one lot."

SECTION 129. Section 516-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided under section 516-28, no application to purchase shall be accepted nor shall any sale of any residential houselot within a development tract be made to any person unless the person meets the following requirements:

(1) Is at least eighteen years of age;

(2) Is a bona fide resident of the State and resides on the lot, except in hardship circumstances as determined by the corporation on a case by case basis where such inability to reside on the lot arises out of a temporary job or military transfer, a temporary educational sabbatical or the serious illness of the person; provided further that if either the person or the lessor disagree with the corporation's determination, they shall be entitled to a contested case proceeding under chapter 91 in which both the person and lessor shall be parties;

(3) Has legal title to, or pursuant to an agreement of sale an equitable interest in, a residential structure situated on the leased lot applied for; provided that for the purposes of this section, the vendor under such agreement of sale shall not be eligible to purchase the lot. An agreement of sale means an executory contract for the sale and purchase of real property which binds one party to sell and the other party to buy property which is the subject matter of the transaction;

(4) Has a letter of credit, certificate of deposit, proof of funds, or approved application from any lending institution demonstrating that the person will be able to promptly pay the corporation for the leased fee interest in the lot;

(5) Submits an application in good faith in such form as is acceptable to the corporation;

(6) Executes a contract for purchase of the fee interest in such form as is acceptable to the administration; and

(7) Does not own in fee simple lands suitable for residential purposes for such person within the county and in or reasonably near the place of business of such person or has or have pending before the Hawaii housing finance and development corporation an unrefused application to lease or purchase a lot in a development tract. A person is deemed to own lands herein if the person, the person's spouse[,] or civil union partner, or both the person and the person's spouse or civil union partner (unless separated and living apart under a decree of a court of competent jurisdiction) own lands."

SECTION 130. 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, or civil union partner, 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 131. Section 516-181, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If the leasehold on property acquired from the proceeds of an eligible loan is subject to any mortgage, lien, or encumbrance suffered or permitted by the eligible borrower, including, but not limited to, rights arising through divorce, termination, marriage, civil union, or assignment, the purchase of the leased fee interest in such residential houselot in no manner shall affect or impair the mortgage, lien, or encumbrance or the security afforded thereby to the holder thereof, and the leasehold shall continue, notwithstanding the purchase of the leased fee interest in such residential houselot by the eligible borrower, for the purposes and to the extent necessary to avoid any impairment of leasehold security, unless the holder of the mortgage, lien, or encumbrance on such leasehold and the

corporation in writing shall consent to the transfer thereof to the fee. Upon the written consent by the holder thereof and the corporation, each such mortgage, lien, or encumbrance to which the leasehold is subject and to which such consent refers shall be transferred to and shall bind the fee acquired by the eligible borrower, and thereafter shall continue in full force and effect as a mortgage, lien, or encumbrance of the fee acquired by the eligible borrower, in the same order and priority among such mortgages, liens, and encumbrances so transferred to the fee as the same applied to and bound the eligible borrower's immediate, previous leased fee interest."

SECTION 132. Section 516D-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided in this section, for any sale of a condominium or a cooperative residential leasehold apartment or unit, no later than ten calendar days after the acceptance of the deposit, receipt, offer, and acceptance contract (DROA) or other similar contract, the seller, either directly or through the seller's agent, shall provide to the buyer for the buyer's approval and acceptance one of the following lease documents which provide the major provisions of the lease, such as the length of the lease, lease rent terms, lease rent renegotiation dates, how renegotiated lease rents will be calculated, and surrender clause provisions:

(1) Master lease and any amendments thereto;

(2) Apartment or unit lease and any amendments thereto; or

(3) For initial buyers of condominium apartments or units only, an unexpired preliminary, final or supplemental condominium property regime public report.

A sale for the purposes of this subsection shall not be deemed to include any transfer to a co-owner, or to a spouse, civil union partner, parent, or child of the seller, or to any transfer 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 applicable lease document, the buyer shall have ten calendar days to review, accept or reject the terms of the lease."

SECTION 133. Section 524-1, Hawaii Revised Statutes, is amended by amending the definition of "facility" to read as follows:

""Facility" means a multi-unit residential building, including all operations associated therewith, used for retirement purposes in which living units are leased for a term to last for the lifetime of the lessee and the lessee's surviving spouse[,] or civil union partner, where the living unit is used as a residence by the lessee and the lessee's surviving spouse[,] or civil union partner, and where the living unit reverts back to the lessor upon the death of the lessee and the lessee's surviving spouse[,] or civil union partner."

SECTION 134. Section 525-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For the purposes of this chapter, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of a nonvested property interest or a property interest subject to a power of appointment described in section 525-1(b) or (c), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates. For the purposes of this chapter, a joint power with respect to community property under chapter 510 held by individuals married to each other or partners in a civil union is a power exercisable by one person alone."

SECTION 135. Section 525-4, Hawaii Revised Statutes, is amended to read as follows:

"**§525-4 Exclusions from statutory rule against perpetuities.** Section 525-1 shall not apply to:

(1) A fiduciary's power to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

(2) A discretionary power of a trustee to distribute principal before termination of a trust;

(3) A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

(4) A property interest in or a power of appointment with respect to a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries [~~or~~], or spouses[;], or civil union partners;

(5) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by any other applicable law; or

(6) A trust described in chapter 554G."

SECTION 136. Section 539-1, Hawaii Revised Statutes, is amended by amending the definition of "heirs" to read as follows:

""Heirs" means those persons, including the surviving spouse[,] or civil union partner, who are entitled under the statutes of intestate succession to the property of a decedent."

SECTION 137. Section 551-2, Hawaii Revised Statutes, is amended to read as follows:

"**§551-2 Guardian ad litem; next friend; appointment.** Nothing in this chapter impairs or affects the power of any court to appoint a guardian to defend the interests of any minor or person not in being impleaded in such court, or interested in any matter there pending, or its power to appoint or allow any person as next friend for a minor, to commence, prosecute, or defend any action or proceeding in the minor's behalf; provided that in all proceedings for annulment, divorce, termination, or separation, except in the case of annulment on the ground of nonage, either spouse[,] or civil union partner, although a minor, may sue or be sued in the minor's name without a guardian or next friend."

SECTION 138. Section 553A-1, Hawaii Revised Statutes, is amended by amending the definition of "member of the minor's family" to read as follows:

""Member of the minor's family" means the minor's parent, stepparent, spouse, civil union partner, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption."

SECTION 139. Section 554B-1, Hawaii Revised Statutes, is amended by amending the definition of "member of the beneficiary's family" to read as follows:

""Member of the beneficiary's family" includes a beneficiary's spouse, civil union partner, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption."

SECTION 140. Section 554B-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in transfers for benefit of husband and wife[,] or partners in a civil union, for whom survivorship is presumed, no right of survivorship exists unless the writing creating the custodial trust specifically provides for survivorship. (Or as is required as to community property.)"

SECTION 141. Section 554G-2, Hawaii Revised Statutes, is amended by amending the definition of "former spouse" and "spouse" to read as follows:

""Former spouse" means a person to whom the transferor was married or in a civil union where the marriage or civil union was dissolved or termination before the time of the permitted transfer.

"Spouse" means a person to whom the transferor is married or in a civil union at the time of the permitted transfer."

SECTION 142. Section 557A-104, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) A trustee may not make an adjustment:

(1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a surviving spouse or surviving civil union partner and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;

(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust's assets;

(4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust, unless both income and principal are so set aside; provided that a trustee may transfer income to principal only upon a court order (unless the trustee is holding institutional funds as defined in section [~~517D-3~~] 517E-3 exclusively for the benefit of a community foundation and section [~~517D-4~~] 517E-4 applies);

(5) If possessing or exercising the power to make an adjustment may cause an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not have the power to make an adjustment; or

(7) If the trustee is a beneficiary of the trust."

SECTION 143. Section 557A-413, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the surviving spouse or surviving civil union partner with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under section 557A-104 and distributes to the spouse or civil union partner from principal pursuant to the terms of the trust are insufficient to provide the spouse or civil union partner with the beneficial enjoyment required to obtain the marital deduction, the spouse or civil union partner may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by section 557A-104(a). The trustee may decide which action or combination of actions to take."

SECTION 144. Section 560:1-201, Hawaii Revised Statutes, is amended by amending the definitions of "heirs" and "interested person" as follows:

""Heirs", except as controlled by section 560:2-711, means persons, including the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, and the State, who are entitled under the statutes of intestate succession to the property of a decedent.

"Interested person" includes heirs, devisees, children, spouses [~~or~~], reciprocal beneficiaries, or civil union partners, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding."

SECTION 145. Section 560:2-102, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-102 Share of spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner.** The intestate share of a decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner is:

(1) The entire intestate estate if:

(A) No descendant or parent of the decedent survives the decedent; or

(B) All of the decedent's surviving descendants are also descendants of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, and there is no other descendant of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, who survives the decedent;

(2) The first $200,000, plus three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;

(3) The first $150,000, plus one-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner and the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner has one or more surviving descendants who are not descendants of the decedent; or

(4) The first $100,000, plus one-half of any balance of the intestate estate, if one or more of the decedent's surviving descendants are not descendants of the surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner."

SECTION 146. Section 560:2-103, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-103 Share of heirs other than surviving spouse or reciprocal beneficiary.** Any part of the intestate estate not passing to the decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner under section 560:2-102, or the entire intestate estate if there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, passes in the following order to the individuals designated below who survive the decedent:

(1) To the decedent's descendants by representation;

(2) If there is no surviving descendant, to the decedent's parents equally if both survive, or to the surviving parent; provided, however, if the decedent is a minor, and if it is shown by clear and convincing evidence that any parent has:

(A) Deserted the child without affording means of identification for a period of at least ninety days;

(B) Failed to communicate with the child when able to do so for a period of at least one year when the child is in the custody of another; or

(C) Failed to provide for care and support of the child when able to do so for a period of at least one year when the child is in the custody of another despite a child support order requiring such support;

such parent shall be deemed to have predeceased the decedent;

(3) If there is no surviving descendant or parent entitled to inherit, to the descendants of the decedent's parents or either of them by representation; and

(4) If there is no surviving descendant, parent entitled to take, or descendant of a parent, but the decedent is survived by one or more grandparents or descendants of grandparents, half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other half passes to the decedent's maternal relatives in the same manner; but if there is no surviving grandparent or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the half."

SECTION 147. Section 560:2-114, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) An adopted individual is the child of the child's adopting parent or parents and not of the child's natural parents, except that:

(1) Adoption of a child by the spouse [~~or~~], reciprocal beneficiary, or civil union partner of either natural parent has no effect on:

(A) The relationship between the child and that natural parent; or

(B) The right of the child or a descendant of the child to inherit from or through the other natural parent; and

(2) Adoption of a child during such child's minority by the spouse [~~or~~], reciprocal beneficiary, or civil union partner of a natural parent of the child, by a natural grandparent, aunt, uncle, or sibling of the child or the spouse [~~or~~], reciprocal beneficiary, or civil union

partner of a natural grandparent, aunt, uncle, or sibling of the child has no effect on the relationship between the child and either natural parent, for the limited purpose of interpretation or construction of a disposition in any will, trust, or other lifetime instrument, whether executed before or after the order of adoption, and for the purposes of determining the heirs at law of a natural family member of the child."

SECTION 148. Section 560:2-201, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

""Civil union" is the registered status of two adults in a valid civil union established pursuant to chapter A.

"Civil union partner" means an adult who is a party to a civil union filed in accordance with chapter A, and has a valid civil union certificate that has not been terminated."

SECTION 149. 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, or civil union partner 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, or the civil union partner and the decedent were in a civil union, in accordance with the following schedule:

If the decedent and the spouse were married to each other, or the decedent and the reciprocal beneficiary were in a relationship[~~:~~], or the civil union partner and decedent were in a civil union:	The elective-share percentage is:
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, or civil union partner may elect to take a share smaller than that to which the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner 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, or civil union partner 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, or civil union partner, the surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner'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, or civil union partner 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 150. Section 560:2-203, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-203 Composition of the augmented estate.** Subject to section 560:2-208, the value of the augmented estate, to the extent provided in sections 560:2-204, 560:2-205, 560:2-206, and 560:2-207, consists of the sum of the values of all property, whether real or personal; movable or immovable, tangible or intangible, wherever situated, that constitute the decedent's net probate estate, the decedent's nonprobate transfers to others, the decedent's nonprobate transfers to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, and the surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's property and nonprobate transfers to others."

SECTION 151. Section 560:2-205, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-205 Decedent's nonprobate transfers to others.** The value of the augmented estate includes the value of the decedent's nonprobate transfers to others, not included under section 560:2-204, of any of the following types, in the amount provided respectively for each type of transfer:

(1) Property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death. Probate included under this category consists of:

(A) Property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment. The amount included is the value of the property subject to the power, to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(B) The decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship. The amount included is the value of the decedent's fractional interest, to the extent the fractional interest passed by right of survivorship at the decedent's death to a surviving joint tenant other than the decedent's surviving spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(C) The decedent's ownership interest in property or accounts held in POD, TOD, or co-ownership registration with the right of survivorship. The amount included is the value of the decedent's ownership interest, to the extent the decedent's ownership interest passed at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner. As used herein, "ownership interest" is determined by dividing (i) the sum of all the decedent's deposits to the account, including deposit life insurance proceeds added to the account on account of the decedent's death, less all withdrawals made by or for the benefit of the decedent, by (ii) the sum of all deposits to the account;

(D) Proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before death or if and to the extent the decedent alone and immediately before death held a presently exercisable general power of appointment over the policy or its proceeds. The amount included is the value of the proceeds, to the extent they were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(2) Property transferred in any of the following forms by the decedent during marriage[~~;~~], a reciprocal beneficiary relationship, or civil union:

(A) Any irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property if and to the extent the decedent's right terminated at or continued beyond the decedent's death. The amount included is the value of the fraction of the property to which the decedent's right related, to the extent the fraction of the property passed outside probate to or for the benefit of any person other than the decedent's estate or surviving spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(B) Any transfer in which the decedent created a power over income or property, exercisable by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party, to or for the benefit of the decedent, creditors of the decedent, the decedent's estate, or creditors of the decedent's estate. The amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent the power in either case was exercisable at the decedent's death to or for the benefit of any person other than the decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, or to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner. If the power is a power over both income and property and the preceding sentence produces different amounts, the amount included is the greater amount;

(3) Property that passed during marriage, reciprocal beneficiary relationship, or civil union and during the two-year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the following types:

(A) Any property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under paragraph (1)(A), (B), or (C), or under paragraph (2), if the right, interest, or power had not terminated until the decedent's death. The amount included is the value of the property that would have been included under those paragraphs if the property were valued at the time the right, interest, or power terminated, and is included only to the extent the property passed upon termination to or for the benefit of any person other than the decedent or the decedent's estate, spouse [~~or~~], reciprocal beneficiary, or civil union partner, or surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner. As used in this subparagraph, "termination", with respect to a right or interest in property, occurs when the right or interest terminated by the terms of the governing instrument or the decedent transferred or relinquished the right or interest, and, with respect to a power over property, occurs when the power terminated by exercise, release, lapse, default, or otherwise, but, with respect to a power described in paragraph (1)(A), "termination" occurs when the power terminated by exercise or release, but not otherwise;

(B) Any transfer of or relating to an insurance policy on the life of the decedent if the proceeds would have been included in the augmented estate under paragraph (1)(D) had the transfer not occurred. The amount included is the value of the insurance proceeds to the extent the proceeds were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(C) Any transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner. The amount included is the value of the transferred property to the extent the aggregate transfers to any one donee in either of the two years exceeded $20,000."

SECTION 152. Section 560:2-206, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-206 Decedent's nonprobate transfers to the surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner.** Excluding property passing to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, under the federal social security system, the value of the augmented estate includes the value of the decedent's nonprobate transfers to the decedent's surviving spouse [~~or~~], reciprocal beneficiary, [~~which~~], or civil union partner, that consist of all property that passed outside probate at the decedent's death from the decedent to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner by reason of the decedent's death, including:

(1) The decedent's fractional interest in property held as a joint tenant with the right of survivorship, to the extent that the decedent's fractional interest passed to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner as surviving joint tenant;

(2) The decedent's ownership interest in property or accounts held in co-ownership registration with the right of survivorship, to the extent the decedent's ownership interest passed to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner as surviving co-owner; and

(3) All other property that would have been included in the augmented estate under section 560:2-205(1) or (2) had it passed to or for the benefit of a person other than the decedent's spouse [~~or~~], reciprocal beneficiary, or civil union partner, surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, the decedent, or the decedent's creditors, estate or estate creditors."

SECTION 153. Section 560:2-207, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-207 Surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's property and nonprobate transfers to others.** (a) Included property. Except to the extent included in the augmented estate under section 560:2-204 or 560:2-206, the value of the augmented estate includes the value of:

(1) Property that was owned by the decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner at the decedent's death, including:

(A) The surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's fractional interest in property held in joint tenancy with the right of survivorship;

(B) The surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's ownership interest in property or accounts held in co-ownership registration with the right of survivorship; and

(C) Property that passed to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner by reason of the decedent's death, but not including the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's right to homestead allowance, family allowance, exempt property, or payments under the federal social security system; and

(2) Property that would have been included in the surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's nonprobate transfers to others, other than the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's fractional and ownership

interest included under subsection (a)(1)(A) or (B), had the spouse [~~or~~], reciprocal beneficiary, or civil union partner been the decedent.

(b) Time of valuation. Property included under this section is valued at the decedent's death, taking the fact that the decedent predeceased the spouse [~~or~~], reciprocal beneficiary, or civil union partner, into account, but, for purposes of subsection (a)(1)(A) and (B), the values of the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's fractional and ownership interests are determined immediately before the decedent's death if the decedent was then a joint tenant or a co- owner of the property or accounts. For purposes of subsection (a)(2), proceeds of insurance that would have been included in the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's nonprobate transfers to others under section 560:2-205(1)(D) are not valued as if the spouse [~~or~~], reciprocal beneficiary, or civil union partner were deceased.

(c) Reduction for enforceable claims. The value of property included under this section is reduced by enforceable claims against the surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner."

SECTION 154. 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[~~.~~], or civil union partner.

(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, the surviving spouse, [~~or the~~] reciprocal beneficiary[~~;~~], or civil union partner; or

(B) Was received by either spouse during marriage [~~or~~], either reciprocal beneficiary during a reciprocal beneficiary relationship, or either civil union partner during a civil union, by gift, devise, inheritance or distribution from a trust created and funded by any party other than the decedent, the surviving spouse, [~~or the~~] reciprocal beneficiary[~~;~~], or civil union partner; provided that such property was kept segregated from property includible in the augmented estate."

SECTION 155. 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, or civil union partner 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 subsection, 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:

(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[~~.~~]; or

(C) The civil union partner and the decedent were in a civil union.

(b) If, after the application of subsection (a), the elective-share amount is not fully satisfied or the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner 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 156. Section 560:2-210, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Only original recipients of the decedent's nonprobate transfers to others, and the donees of the recipients of the decedent's nonprobate transfers to others, to the extent the donees have the property or its proceeds, are liable to make a proportional contribution toward satisfaction of the surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's elective-share or supplemental elective-share amount. A person liable to make contribution may choose to give up the proportional part of the decedent's nonprobate transfers to the person or to pay the value of the amount for which he or she is liable."

SECTION 157. Section 560:2-211, Hawaii Revised Statutes, is amended by amending subsections (b), (c), and (d) to read as follows:

"(b) Within nine months after the decedent's death, the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner may petition the court for an extension of time for making an election. If, within nine months after the decedent's death, the spouse [~~or~~], reciprocal beneficiary, or civil union partner gives notice of the petition to all persons interested in the decedent's nonprobate transfers to others, the court for cause shown by the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner may extend the time for election. If the court grants the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's petition for an extension, the decedent's nonprobate transfers to others are not excluded from the augmented estate for the purpose of computing the elective-share and supplemental elective-share amounts, if the spouse [~~or~~], reciprocal beneficiary, or civil union partner makes an election by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within the time allowed by the extension.

(c) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner must give notice of the time and place set for hearing to persons interested in the estate and to the distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share.

(d) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner may withdraw the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's demand for an elective share at any time before entry of a final determination by the court."

SECTION 158. Section 560:2-212, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-212 Right of election personal to surviving spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner; incapacitated surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner.** (a) Surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner must be living at time of election. The right of election may be exercised only by a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner who is living when the petition for the elective share is filed in the court under section 560:2-211(a). If the election is not exercised by the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner personally, it may be exercised on the surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's behalf by the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's conservator, guardian, or agent under the authority of a power of attorney.

(b) Incapacitated surviving spouse [~~or~~], reciprocal beneficiary[~~.~~], or civil union partner. If the election is exercised on behalf of a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner who is an incapacitated person, that portion of the elective-share and supplemental elective-share amounts due from the decedent's probate estate and recipients of the decedent's nonprobate transfers to others under section 560:2-209(b) and (c) must be placed in a custodial trust for the benefit of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner

under chapter 554B, except as modified below. For the purposes of this subsection, an election on behalf of a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner by an agent under a durable power of attorney is presumed to be on behalf of a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner who is an incapacitated person. For purposes of the custodial trust established by this subsection:

(1) The electing guardian, conservator, or agent is the custodial trustee;

(2) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner is the beneficiary; and

(3) The custodial trust is deemed to have been created by the decedent spouse [~~or~~], reciprocal beneficiary, or civil union partner by written transfer that takes effect at the decedent spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's death and that directs the custodial trustee to administer the custodial trust as one created for the benefit of an incapacitated beneficiary.

(c) Custodial trust. For purposes of subsection (b), chapter 554B must be applied as if section 554B-6(b) thereof were repealed and sections 554B-2(e), 554B-9(b), and 554B-17(a) were amended to read as follows:

(1) Neither an incapacitated beneficiary nor anyone acting on behalf of an incapacitated beneficiary has a power to terminate the custodial trust; but if the beneficiary regains capacity, the beneficiary then acquires the power to terminate the custodial trust by delivering to the custodial trustee a writing signed by the beneficiary declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary;

(2) If the beneficiary is incapacitated, the custodial trustee shall expend so much or all of the custodial trust property as the custodial trustee considers advisable for the health, education, maintenance and support of the beneficiary and individuals who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, when, and to the extent that the custodial trustee determines suitable and proper, without court order but with regard to other support, income, and property of the beneficiary and benefits of medical or other forms of assistance from any state or federal government or governmental agency for which the beneficiary must qualify on the basis of need; provided that the custodial trustee shall not make any distributions of the principal of the custodial trust unless the custodial trustee determines, in the trustee's discretion, that the remaining assets of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner cannot or should not be first used instead for the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's benefit. The custodial trustee may make such a determination when, for example, the sole remaining asset of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner is the spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's residence, or similar factors would exist that would make use or liquidation of the surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's own assets inappropriate;

(3) Upon the beneficiary's death, the custodial trustee shall transfer the unexpended custodial trust property in the following order:

(A) Under the residuary clause, if any, of the will of the beneficiary's predeceased spouse [~~or~~], reciprocal beneficiary, or civil union partner against whom the elective share was taken, as if that predeceased spouse [~~or~~], reciprocal beneficiary, or civil union partner died immediately after the beneficiary; or

(B) To that predeceased spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's heirs under section 560:2-711."

SECTION 159. Section 560:2-213, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) The right of election of a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner and the rights of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner to homestead allowance, exempt property, and family allowance, or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement, or waiver signed by the surviving spouse [~~or~~], reciprocal beneficiary[~~-~~], or civil union partner.

(b) A surviving spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's waiver is not enforceable if the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner proves that:

(1) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner did not execute the waiver voluntarily; or

(2) The waiver was unconscionable when it was executed and, before execution of the waiver, the surviving spouse [~~or~~], reciprocal beneficiary[~~:~~], or civil union partner:

(A) Was not provided a fair and reasonable disclosure of the property or financial obligations of the decedent;

(B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the decedent beyond the disclosure provided; and

(C) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the decedent."

2. By amending subsection (d) to read:

"(d) Unless it provides to the contrary, a waiver of "all rights", or equivalent language, in the property or estate of a present or prospective spouse [~~or~~], reciprocal beneficiary, or civil union partner or a complete property settlement entered into after or in anticipation of separation or divorce or termination of a civil union is a waiver of all rights of elective share, homestead allowance, exempt property, and family allowance by each spouse [~~or~~], reciprocal beneficiary, or civil union partner in the property of the other and a renunciation by each of all benefits that would otherwise pass to the spouse [~~or~~], reciprocal beneficiary, or civil union partner from the other by intestate succession or by virtue of any will executed before the waiver or property settlement."

SECTION 160. Section 560:2-214, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Although under section 560:2-205 a payment, item of property, or other benefit is included in the decedent's nonprobate transfers to others, a payor or other third party is not liable for having made a payment or transferred an item of property or other benefit to a beneficiary designated in a governing instrument, or for having taken any other action in good faith reliance on the validity of a governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice from the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner or spouse's [~~or~~], reciprocal beneficiary's, or civil union partner's representative of an intention to file a petition for the elective share or that a petition for the elective share has been filed. A payor or other third party is liable for payments made or other actions taken after the payor or other third party received written notice of an intention to file a petition for the elective share or that a petition for the elective share has been filed."

SECTION 161. Section 560:2-301, Hawaii Revised Statutes, is amended to read as follows:

"§560:2-301 Entitlement of spouse [~~or~~], reciprocal beneficiary[~~:~~], or civil union partner; 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, or if a testator's civil union partner entered into a civil union with the testator, after the testator executed the testator's will, the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner is entitled to receive, as an intestate share, no less than the value of the share of the estate the spouse [~~or~~], reciprocal beneficiary, or civil union partner 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, or entered into a civil union with the surviving civil union partner and who is not a child of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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 testator's:

(A) [~~The testator's marriage~~] Marriage to the surviving spouse; [~~or~~]

(B) [~~The testator's entering~~] Entering into a reciprocal beneficiary relationship with the reciprocal beneficiary; or

(C) Entering into a civil union with the civil union partner;

(2) The will expresses the intention that it is to be effective notwithstanding any subsequent marriage, [~~or~~] reciprocal beneficiary relationship[~~;~~], or civil union partner;

(3) The testator provided for the spouse [~~or~~], reciprocal beneficiary, or civil union partner 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, or civil union partner, 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, or entered into a civil union with the civil union partner, and who is not a child of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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 162. Section 560:2-402, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-402 Homestead allowance.** A decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner is entitled to a homestead allowance of $15,000. If there is no surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to $15,000 divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. Homestead allowance is in addition to any share passing to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner or minor or dependent child by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share."

SECTION 163. Section 560:2-403, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-403 Exempt property.** In addition to the homestead allowance, the decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner is entitled from the estate to a value, not exceeding $10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse or reciprocal beneficiary, the decedent's children are entitled jointly to the same value. If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than $10,000 or if there is not $10,000 worth of exempt property in the estate, the spouse, reciprocal beneficiary, or civil union partner, or children are entitled to other assets of the estate, if any, to the extent necessary to make up the $10,000 value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of homestead allowance and family allowance. These rights are in addition to any benefit or share passing to the surviving spouse, reciprocal beneficiary, or civil union partner, or children by the decedent's will, unless otherwise provided, by intestate succession, or by way of elective share."

SECTION 164. Section 560:2-404, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-404 Family allowance.** (a) In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration, which allowance may not continue for longer than one year if the estate is inadequate to discharge allowed claims. The allowance may be paid as a lump sum or in periodic installments. It is payable to the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, if living, for the use of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner and minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, the allowance may be made partially to the child or the child's guardian or other person having the child's care and custody, and partially to the spouse [~~or~~], reciprocal beneficiary, or civil union partner, as their needs may appear. The family allowance is exempt from and has priority over all claims except the homestead allowance.

(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse, reciprocal beneficiary, civil union partner, or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates the right to allowances not yet paid."

SECTION 165. Section 560:2-405, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-405 Source, determination, and documentation.** (a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, guardians of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. The personal representative may determine the family allowance in a lump sum not exceeding $18,000 or periodic installments not exceeding $1,500 per month for one year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

(b) If the right to an elective share is exercised on behalf of a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner who is an incapacitated person, the personal representative may add any unexpended portions payable under the homestead allowance, exempt property, and family allowance to the trust established under section 560:2-212(b)."

SECTION 166. Section 560:2-603, Hawaii Revised Statutes, is amended by amending the definition of "stepchild" to read as follows:

""Stepchild" means a child of the surviving, deceased, or former spouse or former civil union partner of the testator or of the donor of a power of appointment, and not of the testator or donor."

SECTION 167. Section 560:2-705, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In addition to the requirements of subsection (a), in construing a dispositive provision of a transferor who is not the natural parent, an individual born to the natural parent is not considered the child of that parent unless the individual lived while a minor as a regular member of the household of that natural parent or of that parent's parent, brother, sister, spouse [~~or~~], reciprocal beneficiary, or civil union partner, or surviving spouse [~~or~~], reciprocal beneficiary[~~,~~], or civil union partner."

SECTION 168. Section 560:2-706, Hawaii Revised Statutes, is amended by amending the definition of "stepchild" to read as follows:

""Stepchild" means a child of the decedent's surviving, deceased, or former spouse[~~,~~] or former civil union partner, and not of the decedent."

SECTION 169. 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, or civil union partner is living but is remarried or has terminated the reciprocal beneficiary relationship or civil union at the time the disposition is to take effect in possession or enjoyment, the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, is not an heir of the designated individual."

SECTION 170. Section 560:2-802, Hawaii Revised Statutes, is amended to read as follows:

"**§560:2-802 Effect of divorce, annulment, decree of separation, and termination of reciprocal beneficiary relationship[~~,~~] or civil union.** (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. An individual who has terminated a civil union with the decedent is not deemed a surviving civil union partner unless, by virtue of a subsequent filing of a declaration of civil union pursuant to section A-4, the individual is the civil union partner 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, or civil union partner 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;

(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 572C or otherwise[~~.~~]; or

(5) An individual who does not have a valid certificate of civil union issued pursuant to section A-4, that declares the decedent as the individual's civil union partner or the civil union has been terminated under chapter B or otherwise."

SECTION 171. Section 560:2-803, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Forfeiture of statutory benefits. An individual who feloniously and intentionally kills the decedent forfeits all benefits under this article with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's, reciprocal beneficiary's, civil union partner's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed the killer's intestate share."

SECTION 172. 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[~~;~~], or termination of civil union; 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:

(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[~~.~~]; or

(3) An individual who is a former civil union partner before the termination of the civil union with the individual's former civil union partner.

"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:

(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[~~.~~]; or

(3) An individual who is a former civil union partner, 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 civil union partner then had the capacity to exercise the power.

"Termination" means the dissolution of a reciprocal beneficiary relationship under chapter 572C [~~between two adults.~~] or a civil union under chapter B.

(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 estate made between the divorced individuals before or after the marriage, divorce, annulment, between two former reciprocal beneficiaries before the termination of a reciprocal beneficiary relationship, between two former civil union partners before the termination of a civil union, the divorce or annulment of a marriage or the termination of a reciprocal beneficiary relationship[~~;~~] or civil union:

(1) Revokes any revocable:

(A) Disposition or appointment of property made by a divorced individual [~~or~~], a former reciprocal beneficiary, or a former civil union partner to the individual's former spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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[~~;~~], or civil union partner;

(B) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual's former spouse or an individual's former reciprocal beneficiary or civil union partner or on a relative of the divorced individual's former spouse or an individual's former reciprocal beneficiary[~~;~~] or civil union partner; 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 or an individual's former civil union partner or a relative of the former civil union partner 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, or civil union partners in property held by them at the time of the divorce, 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, or civil union partners 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, or civil union partners 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, or civil union partner and relatives of the former spouse [~~or~~], reciprocal beneficiary, or civil union partner 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, or civil union partner and relatives of the former spouse [~~or~~], reciprocal beneficiary, or civil union partner died immediately before the divorce, annulment, or termination.

(e) Revival if divorce nullified, reciprocal beneficiary relationship re-registered[~~.~~], or civil union refiled. 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 an individual's re-registering a reciprocal beneficiary relationship to the former reciprocal beneficiary.

Provisions revoked solely by this section are revived by an individual's filing of a declaration of civil union with the individual's former civil union partner.

(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, remarriage, termination, or re-registration of a reciprocal beneficiary relationship[~~,~~] or civil union, 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, remarriage, termination, or re-registration of a reciprocal beneficiary relationship[~~.~~] or civil union. 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, remarriage, termination, or re-registration of a reciprocal beneficiary relationship or civil union 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, remarriage, termination, or re-registration of a reciprocal beneficiary relationship[~~,~~] or civil union, 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, former civil union partner, relative of a former spouse [~~or~~], reciprocal beneficiary, civil union partner, or any other person for value and without notice, or who receives from a former spouse, a former reciprocal beneficiary, a former civil union partner, relative of a former spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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, former civil union partner, relative of a former spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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, former civil union partner, relative of the former spouse [~~or~~], reciprocal beneficiary, or civil union partner, 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 173. Section 560:3-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order:

(1) The person with priority as determined by a probated will including a person nominated by a power conferred in a will;

(2) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner of the decedent who is a devisee of the decedent;

(3) Other devisees of the decedent;

(4) The surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner of the decedent;

(5) Other heirs of the decedent; and

(6) Forty-five days after the death of the decedent, any creditor."

SECTION 174. Section 560:3-301, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Applications for informal probate or informal appointment shall be directed to the registrar, and verified by the applicant to be accurate and complete to the best of the applicant's knowledge and belief as to the following information:

(1) Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:

(A) A statement of the interest of the applicant, together with the name, address, and telephone number of the applicant;

(B) The name, and date of death of the decedent, the decedent's age, and the county and state of the decedent's domicile at the time of death, and the names and addresses of the spouse [~~or~~], reciprocal beneficiary, or civil union partner, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;

(C) If the decedent was not domiciled in the State at the time of the decedent's death, a statement showing venue;

(D) A statement identifying and indicating the address of any personal representative of the decedent appointed in this State or elsewhere whose appointment has not been terminated;

(E) A statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this State or elsewhere; and

(F) That the time limit for informal probate or appointment as provided in this article has not expired either because five years or less have passed since the decedent's death, or, if more than five years from death have passed, circumstances as described by section 560:3-108 authorizing tardy probate or appointment have occurred;

(2) An application for informal probate of a will shall state the following in addition to the statements required by paragraph (1):

(A) That the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;

(B) That the applicant, to the best of applicant's knowledge, believes the will to have been validly executed; and

(C) That after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will;

(3) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address, and priority for appointment of the person whose appointment is sought;

(4) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by paragraph (1):

(A) That after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this State under section 560:1-301, or, a statement why any such instrument of which the applicant may be aware is not being probated; and

(B) The priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 560:3-203;

(5) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant;

(6) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 560:3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant."

SECTION 175. Section 560:3-302, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon receipt of an application requesting informal probate of a will filed by a corporate fiduciary, by a parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner of the decedent, or by a descendant of a parent of the decedent, the registrar, upon making the findings required by section 560:3-303, shall issue a written statement of informal probate appointing a personal representative subject to qualification and acceptance, if at least one hundred twenty hours have elapsed since the decedent's death."

SECTION 176. Section 560:3-403, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notice shall be given to the following persons: the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the judicial circuit or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated."

SECTION 177. Section 560:3-703, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, an informally probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning the personal representative's appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, any minor and dependent children and any pretermitted child of the decedent as described elsewhere in this chapter."

SECTION 178. Section 560:3-713, Hawaii Revised Statutes, is amended to read as follows:

"**§560:3-713 Sale, encumbrance, or transaction involving conflict of interest; voidable; exceptions.** Any sale or encumbrance to the personal representative, the personal representative's spouse [~~or~~], reciprocal beneficiary, civil union partner, agent, or attorney, or any corporation or trust in which the personal representative has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless:

(1) The will or a contract entered into by the decedent expressly authorized the transaction; or

(2) The transaction is approved by the court after notice to interested persons."

SECTION 179. Section 560:3-901, Hawaii Revised Statutes, is amended to read as follows:

"**§560:3-901 Successors' rights if no administration.** In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property by homestead allowance, exemption or intestacy may establish title thereto by proof of the decedent's ownership, decedent's death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner, and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption."

SECTION 180. Section 560:3-902, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in subsection (b) and except as may otherwise be provided in connection with the share of the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner who elects to take an elective share, shares of distributees abate, without any preference or priority as between real and personal property, in the following order:

(1) Property not disposed of by the will;

(2) Residuary devises;

(3) General devises;

(4) Specific devises.

For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will."

SECTION 181. Section 560:3-906, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Unless a contrary intention is indicated by the will, the distributable assets of a decedent's estate shall be distributed in kind to the extent possible through application of the following provisions:

(1) A specific devisee is entitled to distribution of the thing devised to that person, and a spouse, reciprocal beneficiary, civil union partner, or child who has selected particular assets of an estate as provided in section 560:2-402 shall receive the items selected;

(2) Any homestead or family allowance or devise of a stated sum of money may be satisfied in kind provided:

(A) The person entitled to the payment has not demanded payment in cash;

(B) The property distributed in kind is valued at fair market value as of the date of its distribution; and

(C) No residuary devisee has requested that the asset in question remain a part of the residue of the estate;

(3) For the purpose of valuation under paragraph (2) securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities traded on the business day prior to distribution, or if there was no sale on that day, at the median between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For assets which do not have readily ascertainable values, a valuation as of a date not more than thirty days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised;

(4) The residuary estate shall be distributed in any equitable manner."

SECTION 182. Section 560:3-915, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) If the heir or devisee is under disability other than minority, the personal representative is authorized to distribute to:

(1) An attorney in fact who has authority under a power of attorney to receive property for that person; or

(2) The spouse [~~or~~], reciprocal beneficiary, or civil union partner, parent, or other close relative with whom the person under disability resides if the distribution is of amounts not exceeding $10,000 a year, or property not exceeding $10,000 in value, unless the court authorizes a larger amount or greater value.

Persons receiving money or property for the disabled person are obligated to apply the money or property to the support of that person, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the support of the disabled person. Excess sums must be preserved for future support of the disabled person. The personal representative is not responsible for the proper application of money or property distributed pursuant to this subsection."

SECTION 183. Section 560:3-916, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) (1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax;

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal;

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or the decedent's estate inures to the proportionate benefit of all persons liable to apportionment;

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax;

(5) To the extent that property passing to or in trust for a surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner or any charitable, public or similar purpose is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b), and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1986, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses."

SECTION 184. Section 560:3-1212, Hawaii Revised Statutes, is amended to read as follows:

"**§560:3-1212 Estates of persons leaving no known relatives.** Every coroner or medical examiner who is called to investigate the death of any person leaving no known spouse [~~or~~], reciprocal beneficiary, or civil union partner, issue, parent, grandparent, or issue of grandparents over the age of majority in the State, shall take immediate charge of the decedent's personal effects and if in the discretion of the coroner the value of such personal effects is in excess of $2,500, forthwith deliver them to the clerk of the court of the judicial circuit in which such decedent died.

If after ten days no person appears, competent to initiate appropriate probate proceedings, the clerk shall administer the estate pursuant to the

provisions of this part; provided that if the decedent's estate is of a value exceeding $100,000, the clerk shall notify the judge of the circuit having charge of the probate calendar, and shall petition for the appointment of a personal representative of such estate other than the clerk. In the meantime the clerk may take such steps as may be appropriate to preserve and conserve the real and personal property of the decedent. All expenses in connection with the taking possession, care, and conservation of the property and with such proceedings shall be proper charges against the estate of the decedent. The corporation counsel or county attorney of each county shall advise, assist, and represent as far as necessary any of such officers in the performance of any act or the institution or prosecution of any proceeding required by this section. If the decedent's estate is of a value not exceeding $2,500 and the decedent has no known relatives or whose relatives have failed to indicate any means of disposition of the estate, then the coroner or medical examiner having custody of the property shall dispose of the property in an appropriate manner, which may be any one of the following or a combination thereof:

(1) Where the estate consists only of money and is not in excess of $2,500 and expenditures have been made in connection with such death, to reimburse the appropriate city and/or county office that made the disbursement to defray said expenses;

(2) Where the estate consists of cash or personal belongings of monetary value, or both, not exceeding $2,500, to liquidate the personal belongings and apply the proceeds, together with the cash, if the total does not exceed $2,500, in accordance with paragraph (1);

(3) Where the assets in the estate are of no monetary value (unsalable) and in the best judgment and discretion of the coroner or medical examiner can be used by some charitable institution, to donate the assets to whatever charitable institution is willing and able to pick up the assets in question;

(4) Where the assets have no value whatsoever or are in such condition that, in the best judgment and discretion of the coroner or medical examiner, a charitable institution cannot use the properties, or will not receive the properties, to destroy the same in any manner the coroner or medical examiner sees fit; and

(5) If under paragraphs (1) and (2), there are assets remaining, then the coroner or medical examiner shall forthwith forward the same to the state director of finance for disposition as provided in chapter 523A."

SECTION 185. Section 560:5-102, Hawaii Revised Statutes, is amended by amending the definition of "guardian" to read as follows:

""Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent, spouse, reciprocal beneficiary, civil union partner, or by the court. The term includes a limited, emergency, and temporary substitute guardian but not a guardian ad litem."

SECTION 186. Section 560:5-105, Hawaii Revised Statutes, is amended to read as follows:

"**§560:5-105 Delegation of power by parent or guardian.** A parent or guardian of a minor or incapacitated person, by a power of attorney, may delegate to another person for a period not exceeding one year, which time limit shall be expressly stated in the document, any power regarding the care, custody, or property of the minor or ward, except the power to consent to marriage, civil union, or adoption."

SECTION 187. Section 560:5-110, Hawaii Revised Statutes, is amended to read as follows:

"**§560:5-110 Letters of office.** Upon the guardian's filing of an acceptance of office, the court shall issue appropriate letters of guardianship. Upon the conservator's filing of an acceptance of office and any required bond, the court shall issue appropriate letters of conservatorship. Letters of guardianship shall indicate whether the guardian was appointed by the court, a parent, or the spouse [~~or~~], reciprocal beneficiary[~~,~~] or civil union partner. Any limitation on the powers of a guardian or conservator or of the assets subject to a conservatorship shall be endorsed on the guardian's or conservator's letters."

SECTION 188. Section 560:5-112, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The appointment of a guardian or conservator terminates upon the death, resignation, or removal of the guardian or conservator or upon termination of the guardianship or conservatorship. A resignation of a guardian or conservator is effective when approved by the applicable court. An appointment by a parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner, as guardian under an informally probated will terminates if the will is later denied probate in a formal proceeding. Termination of the appointment of a guardian or conservator does not affect the liability of either for previous acts or the obligation to account for money and other assets of the ward or protected person."

SECTION 189. Section 560:5-301, Hawaii Revised Statutes, is amended to read as follows:

"**§560:5-301 Appointment and status of guardian.** A person becomes a guardian of an incapacitated person by an appointment by a parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner or upon appointment by the court. The guardianship continues until terminated, without regard to the location of the guardian or ward."

SECTION 190. Section 560:5-302, Hawaii Revised Statutes, is amended by amending subsections (b), (c) and (d) to read as follows:

"(b) An individual, by will or other signed writing, may appoint a guardian for the individual's spouse [~~or~~], reciprocal beneficiary, or civil union partner who the appointing spouse [~~or~~], reciprocal beneficiary, or civil union partner believes is an incapacitated person, specify desired limitations on the powers to be given to the guardian, and revoke or amend the appointment before confirmation by the court.

(c) The incapacitated person, the person having care or custody of the incapacitated person, if other than the appointing parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner, or the adult nearest in kinship to the incapacitated person, may file a written objection to an appointment, unless the court has confirmed the appointment under subsection (d). The filing of the written objection terminates the appointment. An objection may be withdrawn and, if withdrawn, is of no effect. The objection shall not preclude judicial appointment of the person selected by the parent, spouse, [~~or~~] reciprocal beneficiary[~~,~~], or civil union partner. Notice of the objection shall be given to the guardian and any other person entitled to notice of the acceptance of the appointment. The court may treat the filing of an objection as a petition for the appointment of an emergency guardian under section 560:5-312 or for the appointment of a limited or unlimited guardian under section 560:5-304 and proceed accordingly.

(d) Before the appointment becomes effective, that court may confirm the appointing parent's, spouse's, [~~or~~] reciprocal beneficiary's, or civil union partner's selection of a guardian and terminate the rights of others to object upon:

(1) Petition of the appointing parent, spouse, [~~or~~] reciprocal beneficiary[~~;~~], or civil union partner;

(2) A finding that the appointing parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner will likely become unable to care for the incapacitated person within two years; and

(3) Notice as provided in this section."

SECTION 191. Section 560:5-303, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) The appointment of a guardian under section 560:5-302 becomes effective upon:

(1) The death of the appointing parent, spouse, [~~or~~] reciprocal beneficiary[~~;~~], or civil union partner;

(2) The adjudication of incapacity of the appointing parent, spouse, [~~or~~] reciprocal beneficiary[~~;~~], or civil union partner; or

(3) A written determination by a physician who has examined the appointing parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner that the appointing parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner is no longer able to care for the incapacitated person,

whichever first occurs.

(b) Unless a person having priority under section 560:5-310 has filed an acceptance of appointment, a guardian appointed under section 560:5-302 becomes eligible to act upon the filing of an acceptance of appointment, which shall be filed within thirty days after the guardian's appointment becomes effective. The guardian shall:

(1) File the notice of acceptance of appointment and a copy of the will with the court of the circuit in which the will was or could be probated or, in the case of another appointing instrument, file the acceptance of appointment and the appointing instrument with the court in the circuit in which the incapacitated person resides or is present; and

(2) Give written notice of the acceptance of appointment to the appointing parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner if living, the incapacitated person, a person having care or custody of the incapacitated person other than the appointing parent, spouse, [~~or~~] reciprocal beneficiary, or civil union partner, and the adult nearest in kinship."

2. By amending subsection (e) to read:

"(e) Unless the appointment was previously confirmed by the court, within thirty days after filing the notice and the appointing instrument, a guardian appointed under section 560:5-302 shall file a petition in the court for confirmation of the appointment. The petition shall include the information required under section 560:5-304 and detail the special circumstances of the appointment by a parent, spouse, [~~or~~] reciprocal beneficiary[~~.~~], or civil union partner. Notice of the filing shall be given in the manner provided in section 560:5-309."

SECTION 192. Section 560:5-304, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The petition shall set forth the petitioner's name, residence, current address if different, relationship to the respondent, and interest in the appointment and, to the extent known, state or contain the following with respect to the respondent and the relief requested:

(1) The respondent's name, age, principal residence, current street address, and, if different, the address of the dwelling in which it is proposed that the respondent will reside if the appointment is made;

(2) The name and address of the respondent's:

(A) Spouse [~~or~~], reciprocal beneficiary, or civil union partner, or if the respondent has none, an adult with whom the respondent has resided for more than six months before the filing of the petition; and

(B) Adult children or, if the respondent has none, the respondent's parents and adult siblings, or if the respondent has none, at least one of the adults nearest in kinship to the respondent who can be found;

(3) The name and address of any person responsible for care or custody of the respondent;

(4) The name and address of any legal representative of the respondent;

(5) The name and address of any person nominated as guardian by the respondent;

(6) The name and address of any agent appointed by the respondent under any medical directive, mental health care directive, or health care power of attorney, or, if none, any designated surrogate under section 327E-5(f);

(7) The name and address of any proposed guardian and the reason why the proposed guardian should be selected;

(8) The reason why guardianship is necessary, including a brief description of the nature and extent of the respondent's alleged incapacity;

(9) If an unlimited guardianship is requested, the reason why limited guardianship is inappropriate and, if a limited guardianship is requested, the powers to be granted to the limited guardian; and

(10) A general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts."

SECTION 193. Section 560:5-310, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Subject to subsection (c), the court in appointing a guardian shall consider persons otherwise qualified in the following order of priority:

(1) A guardian, other than a temporary or emergency guardian, currently acting for the respondent in this State or elsewhere;

(2) A person nominated as guardian by the respondent, including the respondent's most recent nomination made in a durable power of attorney, if at the time of the nomination the respondent had sufficient capacity to express a preference;

(3) An agent appointed by the respondent under any medical directive or health care power of attorney or, if none, any designated surrogate under section 327E-5(f);

(4) The spouse [~~or~~], reciprocal beneficiary, or civil union partner of the respondent or a person nominated by will or other signed writing of a deceased spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(5) An adult child of the respondent;

(6) A parent of the respondent, or an individual nominated by will or other signed writing of a parent; and

(7) An adult with whom the respondent has resided for more than six months before the filing of the petition."

SECTION 194. Section 560:5-315, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise limited by the court, a guardian may:

(1) Apply for and receive money payable to the ward or the ward's guardian or custodian for the support of the ward under the terms of any statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;

(2) If otherwise consistent with the terms of any order by a court of competent jurisdiction relating to custody of the ward, take custody of the ward and establish the ward's place of custodial dwelling; provided that a guardian may only establish or move the ward's place of dwelling outside this State upon express authorization of the court;

(3) If a conservator for the estate of the ward has not been appointed with existing authority, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the ward or to pay money for the benefit of the ward;

(4) Consent to medical or other care, treatment, or service for the ward;

(5) Consent to the marriage [~~or~~], civil union, divorce, or termination of the ward; and

(6) If reasonable under all of the circumstances, delegate to the ward certain responsibilities for decisions affecting the ward's well being."

SECTION 195. Section 560:5-403, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The petition under subsection (a) shall set forth the petitioner's name, residence, current address if different, relationship to the respondent, and interest in the appointment or other protective order, and, to the extent known, state or contain the following with respect to the respondent and the relief requested:

(1) The respondent's name, age, principal residence, current street address, and, if different, the address of the dwelling where it is proposed that the respondent will reside if the appointment is made;

(2) If the petition alleges impairment in the respondent's ability to receive and evaluate information or alleges another physical, mental, or health impairment, a brief description of the nature and extent of the respondent's alleged impairment;

(3) If the petition alleges that the respondent is missing, detained, or unable to return to the United States, a statement of the relevant circumstances, including the time and nature of the disappearance or

detention and a description of any search or inquiry concerning the respondent's whereabouts;

(4) The name and address of the respondent's:

(A) Spouse [~~or~~], reciprocal beneficiary, or civil union partner or, if the respondent has none, an adult with whom the respondent has resided for more than six months before the filing of the petition; and

(B) Adult children or, if the respondent has none, the respondent's parents and adult siblings or, if the respondent has none, at least one of the adults nearest in kinship to the respondent who can be found with reasonable efforts;

(5) The name and address of the person responsible for care or custody of the respondent;

(6) The name and address of any legal representative of the respondent;

(7) A general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts;

(8) The reason why a conservatorship or other protective order is in the best interest of the respondent; and

(9) A proposed itemized budget of income and expenditures."

SECTION 196. Section 560:5-411, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) After notice to interested persons and upon express authorization of the court, a conservator may:

(1) Make gifts, except as otherwise provided in section 560:5-427(b);

(2) Convey, release, or disclaim contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entireties;

(3) Exercise or release a power of appointment;

(4) Create a revocable or irrevocable trust of property of the estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the protected person;

(5) Exercise rights to elect options and change beneficiaries under retirement plans, insurance policies and annuities, or surrender the policies and annuities for their cash value;

(6) Exercise any right to an elective share in the estate of the protected person's deceased spouse [~~or~~], reciprocal beneficiary, or civil union partner and to renounce or disclaim any interest by testate or intestate succession or by transfer inter vivos; and

(7) Make, amend, or revoke the protected person's will."

SECTION 197. Section 560:5-413, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided in subsection (d), the court, in appointing a conservator, shall consider persons otherwise qualified in the following order of priority:

(1) A conservator, guardian of the estate, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the protected person resides;

(2) A person nominated as conservator by the respondent, including the respondent's most recent nomination made in a durable power of attorney, if the respondent has attained fourteen years of age and at the time of the nomination had sufficient capacity to express a preference;

(3) An agent appointed by the respondent to manage the respondent's property under a durable power of attorney;

(4) The spouse [~~or~~], reciprocal beneficiary, or civil union partner of the respondent;

(5) An adult child of the respondent;

(6) A parent of the respondent; and

(7) An adult with whom the respondent has resided for more than six months before the filing of the petition."

SECTION 198. Section 560:5-423, Hawaii Revised Statutes, is amended to read as follows:

"**§560:5-423 Sale, encumbrance, or other transaction involving conflict of interest.** Any transaction involving the conservatorship estate that is affected by a substantial conflict between the conservator's fiduciary and personal interests is voidable unless the transaction is expressly authorized by the court after notice to interested persons. A transaction affected by a substantial conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator, the spouse [~~or~~], reciprocal beneficiary, or civil union partner, descendant, agent, or lawyer of a conservator, or a corporation or other enterprise in which the conservator has a substantial beneficial interest."

SECTION 199. Section 560:5-601, Hawaii Revised Statutes, is amended by amending the definition of "interested person" to read as follows:

""Interested person" means an interested, responsible adult, including but not limited to a public official, the legal guardian, spouse [~~or~~], reciprocal beneficiary, or civil union partner, parent, legal counsel, adult child, or next of kin of a person allegedly mentally ill, mentally deficient, or as otherwise provided in this chapter."

SECTION 200. Section 560:6-107, Hawaii Revised Statutes, is amended to read as follows:

"**§560:6-107 Rights against multiple-party accounts.** A transfer to a survivor of a multiple-party account can be set aside, to the extent described below, in the event the assets in the hands of the personal representative of the deceased party are insufficient to pay taxes, expenses of administration, and homestead and family allowances under sections 560:2-402 and 560:2-404. A surviving party, payable-on-death payee, or beneficiary who receives payment from a multiple-party account after the death of a deceased party may, on application of the personal representative of the deceased party's estate, the surviving spouse [~~or~~], reciprocal beneficiary, or civil union partner of the deceased party, or one acting for a dependent or minor child of the deceased party, be required to account to said personal representative for the deceased party's net contribution to the account to the extent necessary to discharge the insufficiency described above. No proceeding to assert this right shall be commenced later than two years following the death of the deceased party. Sums recovered hereunder shall be administered as part of the decedent's estate. This section shall not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof, or make it liable to the estate of a deceased party unless before payment either the institution has been served with process in a proceeding by the personal representative or the institution has actual knowledge that making payment will jeopardize the payment of the taxes, expenses and allowances above mentioned."

SECTION 201. Section 571-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in sections 603-21.5 and 604-8, the court shall have exclusive original jurisdiction:

(1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-903.5, 709-904, 709-905, 709-906, or 302A-1135, whether or not included in other provisions of this paragraph or paragraph (2);

(2) To try any adult charged with:

(A) Deserting, abandoning, or failing to provide support for any person in violation of law;

(B) An offense, other than a felony, against the person of the defendant's husband or wife[;], or civil union partner;

(C) Any violation of an order issued pursuant to chapter 586; or

(D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2), the court, in its discretion, may waive its jurisdiction over the offense charged;

(3) In all proceedings under chapter 580, and in all proceedings under chapter 584;

(4) In proceedings under chapter 575, the Uniform Desertion and Nonsupport Act, and under chapter 576B, the Uniform Interstate Family Support Act;

(5) For commitment of an adult alleged to be mentally defective or mentally ill;

(6) In all proceedings for support between parent and child [~~or~~], between husband and wife[~~;~~], or between partners in a civil union;

(7) In all proceedings for pre-trial detention or waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-13 or 571-22;

(8) In all proceedings under chapter 586, Domestic Abuse Protective Orders; and

(9) For the protection of vulnerable adults under chapter 346, part X.

In any case within paragraph (3), (4), or (6), the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter 576E."

SECTION 202. Section 571-46.1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Any order for the custody of the minor child or children of a marriage or civil union entered by a court in this State or any other state may, subject to the jurisdictional requirements set forth in sections 583A-201 to 583A-204, be modified at any time to an order of joint custody in accordance with this section."

SECTION 203. Section 575-2, Hawaii Revised Statutes, is amended to read as follows:

"**§575-2 Prima facie evidence; sequestration of money for support of spouse, civil union partner, or children.** The absence of any spouse or parent from the other spouse or child or children under the age of sixteen, or civil union partner for a continuous period of three months or more without first making suitable provision for the support and maintenance of [~~such~~] the spouse, civil union partner, child, or children shall be prima facie evidence of desertion and wilful neglect. In such case, and where it is known that [~~such~~] the spouse, civil union partner, or parent has money in the possession of a third party, the complaint, made under section 575-3, shall allege the continuous absence by the spouse, civil union partner, or parent and the name of the third party possessing the money. The court in which the complaint is filed shall issue an order to the third party possessing the money to appear before it to show cause why the money shall not be applied to the maintenance and support of the spouse, civil union partner, [~~the~~] child, or children.

If, after a hearing for that purpose, the court is satisfied that there has been a continuous absence by the spouse, civil union partner, or parent and a failure by the spouse, civil union partner, or parent to make suitable provision for maintenance and support, and that there is money in the possession of the third party belonging to the spouse, civil union partner, or parent, it shall make an order upon the third party to apply the money in the sum or sums in the manner and at the time or times as it may determine for the support and maintenance of the spouse, civil union partner, or the child or children; provided that no order to apply the money shall be made unless a copy of the order to show cause is served upon the spouse, civil union partner, or parent prior to the hearing; provided further that if the spouse or parent cannot be found, the order to show cause shall be published in a newspaper of general circulation and for the time as shall be designated by the order of the court."

SECTION 204. Section 575-3, Hawaii Revised Statutes, is amended to read as follows:

"**§575-3 Complaint.** Proceedings under this chapter may be instituted upon complaint made under oath or affirmation by the spouse, civil union partner, child, or children, or [~~either~~] any of them, by the child support enforcement agency, or by any other person or persons, or organization, against any person guilty of either of the above named offenses."

SECTION 205. Section 575-4, Hawaii Revised Statutes, is amended to read as follows:

"**§575-4 Evidence; marriage, civil union, paternity, etc.** No other or greater evidence shall be required to prove the marriage of the spouses, civil union of the partners, or that the defendant is the parent of the child or children, than is required to prove such facts in a civil action. In no prosecution under this chapter shall any statute or rule of law prohibiting the disclosure of confidential communications between spouses or civil union partners apply, and both spouses or civil union partners shall be competent and compellable witnesses to testify against each other to any and all relevant matters, including the fact of [~~such~~] the marriage or civil union and the parentage of [~~such~~] the child or children; provided that neither shall be compelled to give self-incriminating evidence. Proof of the desertion of the spouse, civil union partner, child, or children in destitute or necessitous circumstances, or of neglect or refusal to provide for the support and maintenance of the spouse, civil union partner, child, or children, shall be prima facie evidence that the desertion, neglect, or refusal is wilful."

SECTION 206. Section 578-1, Hawaii Revised Statutes, is amended to read as follows:

"**§578-1 Who may adopt; jurisdiction; venue.** Any proper adult person, not married[~~,~~] or not in a civil union, or any person married or in a civil union to the legal father or mother of a minor child, or a husband and wife jointly, or partners in a civil union 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 form and shall include such information and exhibits as may be prescribed by the family court."

SECTION 207. Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and the adult's spouse[~~,~~] or civil union partner, if the adult is married[~~,~~] or in a civil union."

SECTION 208. Section 578-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No decree of adoption shall be entered unless a hearing has been held at which the petitioner or petitioners, and any legal parent married or in a civil union to a petitioner, and any subject of the adoption whose consent is required, have personally appeared before the court, unless expressly excused by the court. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the court may enter a decree of adoption if it is satisfied (1) that the individual is adoptable under sections 578-1 and 578-2, (2) that the individual is physically, mentally, and otherwise suitable for adoption by the petitioners, (3) that the petitioners are fit and proper persons and financially able to give the individual a proper home and education, if the individual is a child, and (4) that the adoption will be for the best interests of the individual, which decree shall take effect upon such date as may be fixed therein by the court, such date to be not earlier than the date of the filing of the petition and not later than six months after the date of the entry of the decree."

SECTION 209. Section 578-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The records in adoption proceedings, after the petition is filed and prior to 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 or in a civil union to the legal father or mother 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."

SECTION 210. Section 578-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

"(d) Except as provided in subsection (e), all legal duties and rights between the individual and the individual's former legal parent or parents shall cease from the time of the adoption; provided that if the individual is adopted by a person married or in a civil union to a legal parent of the individual, the full reciprocal rights and duties which theretofore existed between the legal parent and the individual, and the rights of inheritance as between the individual and the legal parent and the legal relatives of the parent, as provided in chapter 560, shall continue, notwithstanding the adoption, subject only to the rights acquired by and the duties imposed upon the adoptive parents by reason of the adoption."

2. By amending subsection (e) to read:

"(e) Notwithstanding subsections (b) and (d), if an individual is adopted before that individual attains the age of majority and:

(1) The individual is adopted by a spouse or civil union partner of a natural parent of the individual; or

(2) The individual is adopted by a natural grandparent, aunt, uncle, or sibling of the individual or the spouse or civil union partner of a natural grandparent, aunt, uncle, or sibling;

then for the purposes of interpretation or construction of a disposition in any will, trust, or other lifetime instrument, whether executed before or after the order of adoption, and for purposes of determining heirs at law, the rights of the adopted individual and the individual's descendants with respect to the individual's natural family shall not be affected by the adoption, and they shall be included in any determination of heirs or members of any class, unless specifically excluded by name or class."

SECTION 211. Section 583A-310, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) A privilege against disclosure of communications between spouses or civil union partners and a defense of immunity based on the relationship of husband and wife or partners in a civil union or parent and child may not be invoked in a proceeding under this part."

SECTION 212. Section 584-2, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]§584-2[~~]~~] **Relationship not dependent on marriage**[~~,~~] **or civil union.** Any parent and child relationship established under this chapter extends to every such child and to every such parent, regardless of the marital or civil union status of the parents."

SECTION 213. Section 586-1, Hawaii Revised Statutes, is amended by amending the definition of "family or household member" to read as follows:

""Family or household member" means spouses [~~or~~], reciprocal beneficiaries, or civil union partners, former spouses [~~or~~], former reciprocal beneficiaries, or former civil union partners, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship."

SECTION 214. 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, unless the child has been legally adopted; the concerned birth father as provided in section 578-2(a)(5), unless the child has been legally adopted; each parent's spouse [~~or~~] , civil union partner, former spouse[~~;~~], or former civil union partner; 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 215. Section 606-5, Hawaii Revised Statutes, is amended to read as follows:

"**§606-5 Free copies of certain decrees to veterans.** The clerk of any state court shall provide to any veteran of the armed forces of the United States, the veteran's spouse[~~,~~] or civil union partner, any member of the immediate family of a veteran, or the next of kin of a deceased veteran, free copies of decrees of divorce or adoption, when such copies are required for use in connection with a claim based on service in the armed forces of the United States."

SECTION 216. Section 622-57, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) For the purposes of this section:

"Deceased person's next of kin" means a person with the following relationship to the deceased person:

(1) The spouse [~~or~~], reciprocal beneficiary[~~;~~], or civil union partner;

(2) An adult child;

(3) Either parent;

(4) An adult sibling;

(5) A grandparent; and

(6) A guardian at the time of death.

"Personal representative" shall have the meaning provided in section 560:1-201."

SECTION 217. Section 626-1, Hawaii Revised Statutes, is amended by amending rule 505 to read as follows:

"**Rule 505 Spousal privilege.** (a) Criminal proceedings. In a criminal proceeding, the spouse of the accused has a privilege not to testify against the accused. This privilege may be claimed only by the spouse who is called to testify.

(b) Confidential marital communications; all proceedings.

(1) Definition. A "confidential marital communication" is a private communication between spouses that is not intended for disclosure to any other person.

(2) Either party to a confidential marital communication has a privilege to refuse to disclose and to prevent any other person from disclosing that communication.

(c) Exceptions. There is no privilege under this rule (1) in proceedings in which one spouse is charged with a crime against the person or property of (A) the other, (B) a child of either, (C) a third person residing in the household of either, or (D) a third person committed in the course of committing a crime against any of these, or (2) as to matters occurring prior to the marriage.

(d) For purposes of this section, the term "spouse" shall include a partner in a civil union."

SECTION 218. Section 626-1, Hawaii Revised Statutes, is amended by amending rule 803, subsection (b), to read as follows:

"(b) Other exceptions.

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition or immediately thereafter.

(2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Reserved.

(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made in the course of a regularly conducted activity, at or near the time of the acts, events, conditions, opinions, or diagnoses, as shown by the testimony of the custodian or other qualified witness, or by certification that complies with rule 902(11) or a statute permitting certification, unless the sources of information or other circumstances indicate lack of trustworthiness.

(7) Absence of entry in records kept in accordance with the provisions of paragraph (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil proceedings and against the government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records of vital statistics. Records or data compilations, in any form, of births, fetal deaths, deaths, [~~or~~] marriages, or civil union if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations. Statements of births, marriages, civil unions, divorces, terminations, deaths, legitimacy, ancestry, relationship by blood [~~or~~], marriage, or civil union, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, civil union, baptismal, and similar certificates. Statements of fact contained in a certificate that the maker performed a marriage, civil union, or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records. Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless the circumstances indicate lack of trustworthiness.

(16) Statements in ancient documents. Statements in a document in existence twenty years or more the authenticity of which is established.

(17) Market reports, commercial publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation concerning personal or family history. Reputation among members of the person's family by blood, adoption, [~~or~~] marriage, or civil union, or among the person's associates, or in the community, concerning a person's birth, adoption, marriage, civil union, divorce, termination, death, legitimacy, relationship by blood, adoption, [~~or~~] marriage, or civil union, ancestry, or other similar fact of the person's personal or family history.

(20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.

(21) Reputation as to character. In proving character or a trait of character under rules 404 and 405, reputation of a person's character among the person's associates or in the community.

(22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family or general history, or boundaries. Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

(24) Other exceptions. A statement not specifically covered by any of the exceptions in this paragraph (b) but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (B) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant."

SECTION 219. Section 626-1, Hawaii Revised Statutes, is amended by amending rule 804, subsection (b) to read as follows:

"(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, at the instance of or against a party with an opportunity to develop the testimony by direct, cross, or redirect examination, with motive and interest similar to those of the party against whom now offered;

(2) Statement under belief of impending death. A statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be the declarant's impending death;

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless the declarant believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement;

(4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, civil union, divorce, termination, legitimacy, relationship by blood, adoption, [~~or~~] marriage, or civil union, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, [~~or~~] marriage, or civil union or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared;

(5) Statement of recent perception. A statement, not in response to the instigation of a person engaged in investigating, litigating, or settling a claim, which narrates, describes, or explains an event or condition recently perceived by the declarant, made in good faith, not in contemplation of pending or anticipated litigation in which the declarant was interested, and while the declarant's recollection was clear;

(6) Statement by child. A statement made by a child when under the age of sixteen, describing any act of sexual contact, sexual penetration, or physical violence performed with or against the child by another, if the court determines that the time, content, and circumstances of the statement provide strong assurances of trustworthiness with regard to appropriate factors that include but are not limited to: (A) age and mental condition of the declarant; (B) spontaneity and absence of suggestion; (C) appropriateness of the language and terminology of the statement, given the child's age; (D) lack of motive to fabricate; (E) time interval between the event and the statement, and the reasons therefor; and (F) whether or not the statement was recorded, and the time, circumstances, and method of the recording. If admitted, the statement may be read or, in the event of a recorded statement, broadcast into evidence but may not itself be received as an exhibit unless offered by an adverse party;

(7) Forfeiture by wrongdoing. A statement offered against a party that has procured the unavailability of the declarant as a witness;

(8) Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (B) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, the proponent's intention to offer the statement and the particulars of it, including the name and address of the declarant."

SECTION 220. Section 651-91, Hawaii Revised Statutes, is amended to read as follows:

"**§651-91 Definitions.** As used in this subpart:

[~~(1)~~] "Head of a family" includes within its meaning:

(A) A man and woman when married, except as provided in section 651-93[~~.~~]; or partners in a civil union, except as provided in section 651- .

(B) Every individual who is residing on the real property and who has under [~~his or her~~] the individual's care or maintenance, either:

(i) [~~His or her~~] The individual's minor child, [~~or~~] minor grandchild, or the minor child of [~~his or her~~] the individual's deceased wife [~~or~~], husband[~~;~~], or civil union partner;

(ii) A minor brother or sister, or the minor child of a deceased brother or sister;

(iii) A father, mother, grandfather, or grandmother;

(iv) The father, mother, grandfather, or grandmother of a deceased husband or wife;

(v) An unmarried brother, sister, or any other of the relatives mentioned in this subparagraph, who have attained the age of majority.

(C) Head of household as defined in section 2(b) of the Internal Revenue Code of 1954, as amended.

[~~(2)~~] "Long-term lease" means a lease for twenty years or more.

[~~(3)~~] "Owner" means an individual who has an interest in real property.

[~~(4)~~] "Person" means any individual under sixty-five years of age other than the head of a family.

[~~(5)~~] "Real property" consists of the dwelling house in which the owner resides and one parcel of land not to exceed one acre, upon which it is situated together with other buildings thereon. This parcel may be in fee simple or any other interest in real property which vests the immediate right of possession, even though such right of possession is not exclusive, and includes land held under long-term lease, ownership rights in a condominium or stock cooperative unit."

SECTION 221. Section 651C-1, Hawaii Revised Statutes, is amended by amending the definition of "relative" to read as follows:

""Relative" means an individual related within the third degree as determined by the common law, a spouse, civil union partner, or an individual related to a spouse or civil union partner within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree."

SECTION 222. 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, or civil union partners, 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 223. Section 663-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(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 of society, companionship, comfort, consortium, or protection;

(2) Loss of marital care, attention, advice, or counsel;

(3) Loss of care, attention, advice, or counsel of a reciprocal beneficiary as defined in chapter 572C;

(4) Loss of filial care or attention; or

(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, civil union partner, 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."

SECTION 224. Section 663E-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) One or more of the following persons may bring an action to recover for damages caused by an individual's use of an illegal drug:

(1) A parent, legal guardian, child, spouse, civil union partner, or sibling of the individual drug user;

(2) An individual who was exposed to an illegal drug in utero;

(3) An employer of the individual drug user;

(4) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user; or

(5) A person injured as a result of the intentional, knowing, reckless, or negligent actions of an individual drug user."

SECTION 225. Section 676-1, Hawaii Revised Statutes, is amended by amending the definition of "dependents" to read as follows:

""Dependents" include a payee's spouse or civil union partner and minor children and all other persons for whom the payee is legally obligated to provide support, including alimony."

SECTION 226. Section 702-231, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) It is not a defense that a person acted on the command of his or her spouse[,] or civil union partner, unless he or she acted under such coercion as would establish a defense under this section."

SECTION 227. Section 706-606.3, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person who has committed intra-family sexual assault may be considered for the expedited sentencing program in accordance with this section. As used in this section, "intra-family" sexual assault means any criminal offense of felony sexual assault under section 707-730, 707-731, or 707-732, or incest, as defined in section 707-741, in which the victim of the offense is related to the defendant by consanguinity [~~or~~], marriage, or civil union, or resides in the same dwelling unit as the defendant, and the victim was, at the time of the sexual assault, under the age of eighteen."

SECTION 228. 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, or civil union partner, 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 229. 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, or civil union partner, 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 230. Section 707-734, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of indecent exposure if[,] the person intentionally exposes the person's genitals to a person to whom the person is not married or not in a civil union under circumstances in which the actor's conduct is likely to cause affront."

SECTION 231. Section 707-741, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of incest if the person commits an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage or civil union is prohibited."

SECTION 232. 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, or civil union partner, 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, or civil union partner were living together at the time of the conduct."

SECTION 233. 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, or civil union partner, 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, or civil union partner were living together at the time of the conduct."

SECTION 234. Section 709-903, Hawaii Revised Statutes, is amended to read as follows:

"**§709-903 Persistent nonsupport.** (1) A person commits the offense of persistent nonsupport if the person knowingly and persistently fails to provide support [~~which~~] that the person can provide and [~~which~~] that the person knows the person is legally obliged to provide to a spouse, civil union partner, child, or other dependent.

(2) "Support" includes but is not limited to food, shelter, clothing, education, and other necessary care as determined by law.

(3) Persistent nonsupport is a misdemeanor."

SECTION 235. 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, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, "family or household member" means spouses [~~or~~], reciprocal beneficiaries, or civil union partners, former spouses [~~or~~], reciprocal beneficiaries, or civil union partners, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit."

SECTION 236. 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, civil union partner, children, and any legal guardian of the homicide victim."

SECTION 237. Section 803-46, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) No order entered under this section shall authorize or approve the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, and in no event for longer than thirty days. The thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsections (a) and (b) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the designated judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this part, and shall terminate upon attainment of the authorized objective, or in any event in thirty days. If the intercepted communication is in a code or a foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after the interception.

An interception may be conducted in whole or in part by investigative or law enforcement officer(s), or by an individual operating under a contract with the State or a county, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(1) The interception shall be conducted in such a way as to minimize the resulting invasion of privacy including but not limited to the following methods of minimization:

(A) Conversations that appear unlikely to result in incriminating conversations relating to the offense for which the order is issued shall be subject to intermittent monitoring; and

(B) Privileged conversations, including those between a person and the person's spouse, civil union partner, attorney, physician, or clergy, shall not be intercepted unless both parties to the conversation are named or described in the application and order.

(2) In determining whether incriminating statements are likely to occur during a conversation the following factors should be considered:

(A) The parties to the conversation;

(B) The particular offense being investigated;

(C) The subject matter of the conversation;

(D) The subject matter of previous conversations between the same parties and whether any incriminating statements occurred; and

(E) The hour and day of conversation."

SECTION 238. Section 846-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If, after registration, the name of any registrant is legally changed by marriage, civil union, divorce, termination, adoption, legitimation, order of the lieutenant governor, or other legal means, or if there is a change in the registrant's citizenship, the registrant or other person in charge of the registrant (in the case of a minor or incompetent person), within thirty days after the change of name or citizenship, shall report the change and present the registrant's certificate of identification to the department of the attorney general. The department, upon being satisfied as to the change and receiving payment of the fee, shall cancel the certificate and issue a new certificate bearing the new name or citizenship of the registrant, making appropriate notation of the facts upon the records of the department."

SECTION 239. 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 240. In codifying the new chapters added by sections 2 and 3 of this Act, the revisor of statutes shall substitute appropriate chapter numbers for the letters used in designating the new chapters in this Act.

SECTION 241. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 242. This Act shall take effect on July 1, 2011, provided that:

(1) The amendment made to section 235-7, Hawaii Revised Statutes, by section 41 of this Act shall not be repealed when section 235-7, Hawaii Revised Statutes, is reenacted on January 1, 2013, pursuant to section 3 of Act 166, Session Laws of Hawaii 2007;

(2) The amendment made to section 235-51, Hawaii Revised Statutes, by section 44 of this Act shall not be repealed when section 235-51, Hawaii Revised Statutes, is reenacted on December 31, 2015, pursuant to section 6(3) of Act 60, Session Laws of Hawaii 2009; and

(3) Sections 36 through 53 of this Act shall apply to taxable years beginning after December 31, 2010.

INTRODUCED BY: Scott K. Saiki
Chris Lee
Hermina M. Morita

Representative Keith-Agaran rose to speak in support of the measure, stating:

"Mr. Speaker, I do want to insert some comments into the record, and I just want to speak briefly in support. I think we should focus on what we're doing here today and that's we're approving a particular bill. And this bill makes no change to Hawaii's marriage law. Our marriage law will continue to be reserved to one man and one woman. The proposed bill makes no change to Hawaii's marriage statute as adopted by this Legislature and as mandated and given the authority by the elections in 1998.

"What's before us today is extending comparable dignity and the financial and other benefits that State government grants to Hawaii residents in committed relationships who love and care for one another.

"So whether or not same-sex relationships are consistent with our personal religious beliefs, I think we all live in communities where they exist, and a basic tenet of our social contract is that government should apply our laws in a way that impacts all our residents in similar circumstances equally.

"So I personally have no quarrel with people who differ on legally recognizing same-sex relationships due to deeply held religious beliefs, but for myself Mr. Speaker, I have enough faith and sober humility to understand that the success or failure in my own marriage depend more on the work and love I pour into that committed relationship than whether or not we as a government, we as a House, and we as a community exclude or welcome other Hawaii citizens from entering into commitments like civil unions that are entitled to the same respect as my own marriage. So I urge a vote in favor of the bill."

Representative Keith-Agaran's written remarks are as follows:

"Thank you, Mr. Speaker.

"As I mentioned in my oral remarks, SB 232, S.D. 1, H.D. 1 moves us – as a government, and as a community – towards affording some recognition of committed relations between same sex couples. This bill concerns the rights of all individuals to choose their partners, whether of

the same or opposite sex, and to have specific rights granted under Hawaii law.

"What we do today makes sense for us out of fairness, but also because it serves the greater good of our community and the social good of Hawaii. Government confers benefits on committed relationships like marriage and – if this bill is enacted into law – on civil unions as a means of strengthening our community. As a community, we have a keen interest in encouraging and preserving committed relationships as a basic expectation for adult life. The "ties that bind" us in our families are important to the fabric of our society.

"As I have noted in the past, former U.S. Solicitor General and prominent conservative lawyer Ted Olson explained in a *Newsweek* article:

> Conservatives and liberals alike need to come together on principles that surely unite us. Certainly, we can agree on the value of strong families, lasting domestic relationships, and communities populated by persons with recognized and sanctioned bonds to one another. Confining some of our neighbors and friends who share these same values to an outlaw or second-class status undermines their sense of belonging and weakens their ties with the rest of us and what should be our common aspirations. Even those whose religious convictions preclude endorsement of what they may perceive as an unacceptable "lifestyle" should recognize that disapproval should not warrant stigmatization and unequal treatment.
>
> When we refuse to accord this status to gays and lesbians, we discourage them from forming the same relationships we encourage for others. And we are also telling them, those who love them, and society as a whole that their relationships are less worthy, less legitimate, less permanent, and less valued. We demean their relationships and we demean them as individuals. I cannot imagine how we benefit as a society by doing so.

"Mr. Speaker, as I expressed previously in prior Sessions on another civil unions measure, I still find myself agreeing generally with Solicitor Olson. My support for this bill is based on the basic American value that all citizens are entitled to be treated equal and on the fundamental fairness that should be expected in our community. It's never wise to ignore the diversity of families and relationships that already exist in our Hawaii, or the hardships that arise without establishing a framework that a civil union statute will bring. This bill acknowledges that equal treatment and equal rights must extend to all familial relationships, and recognizes the changes that have taken place in many homes in our State.

"We all swore an oath to uphold the Hawaii State Constitution which enshrines and echoes the words of our country's Founding Fathers: that all Hawaii residents are created equal and entitled to certain "inalienable rights": "the enjoyment of life, liberty and the pursuit of happiness." Haw. Const. Art. I, Sec. 2. Further, our Constitution also requires: "Equality of rights under the law shall not be denied or abridged by the State on account of sex. The legislature shall have the power to enforce, by appropriate legislation, the provisions of this section." Haw. Const. Art. I, Sec. 3.

"As others in the debate over civil unions have also observed, for all the hand-wringing and rhetoric about the importance of preserving "traditional marriage," any instability in Hawaii and American marriages pre-date recognition of civil unions. If we want to talk about protecting marriage, we need to work on issues that strain our committed relationships -- an economy that requires both partners and parents to work and often to work two or more jobs, a culture that values narcissism and acquisition and living beyond our means and the means of our islands to support that lifestyle, and an assumption that we need to and can blame others for the problems we face in our own lives.

"As I wrote at the end of last Session on the Third Reading of H.B. No. 444, HD1, SD 1, preventing same gender legal relationships has little to do with determining or influencing whether a person's heterosexual marriage is succeeding or not. Again, I personally have no quarrel with people who differ on legally recognizing same sex relationships due to deeply held religious beliefs. But I believe that the heart of the gospel message that I learned in my family and in my Church remains love: love of god, love of my family, and love of all my neighbors, all in light of an undeserved Grace. The late William Sloane Coffin asserted:

> It is not Scripture that creates hostility to homosexuality, but rather hostility to homosexuals that prompts some Christians to recite a few sentences from Paul and retain passages from an otherwise discarded Old Testament law code. In abolishing slavery and in ordaining women we've gone beyond biblical literalism. It's time we did the same with gays and lesbians. The problem is not how to reconcile homosexuality with scriptural passages that condemn it, but rather how to reconcile the rejection and punishment of homosexuals with the love of Christ. It can't be done. So instead of harping on what's "natural," let's talk of what's "normal," what operates according to the norm. For Christians the norm is Christ's love. If people can show the tenderness and constancy in caring that honors Christ's love, what matters their sexual orientation? Shouldn't a relationship be judged by its inner worth rather than by its outer appearance?

"William Sloane Coffin, Credo: 39 (2004). Further, "[t]he assertion that gays threaten to destroy heterosexual marriage is an assertion only, not an argument. If anyone destroys marriage, it's married people, not gays." W.S. Coffin, Credo, p. 41.

"As I suggested last Session, marriage benefits our society precisely because any civil benefits conferred by government on couples are conditioned upon solemn mutual promises by spouses to meet very specific responsibilities to each other. Marriage is a sacrifice of our individualism and our personal selfishness – in my religious tradition, we believe that marriage unites two people as one. I certainly believe that it remains good public policy for people to be in relationships to love, honor and respect each other, and where there are socially enforced and legally supported rights and obligations.

"So I remain compelled to vote in favor of letting people make a legal commitment to the person they love. I know that the success of my own marriage will continue to depend on the love I pour into it more than whether we as a Legislature, we as a House, or we as a community vote to exclude or welcome other citizens from entering into a similar kind of union.

"I urge a vote in favor of the bill."

Representative Souki rose to speak in opposition to the measure, stating:

"Yes, Mr. Speaker. I speak against the measure. I did not intend to speak, but because this is such a serious matter I feel compelled to do it. I am not a religious person, but I do go to services and I believe in traditional marriage between a man and a woman. I've been married to my wife for 48 years, and I've been surrounded by families who are similar circumstances, and they're not too happy with this bill what's going on. It's basically shaking the institution whether you like it or not. The institution of marriage as we have known it is being challenged, and it will never be the same after this. Believe me.

"In looking at the language from the civil unions, and I don't have a problem with it. I voted for every bill that provided more freedom and equality for people of all sexes, religion, and etc. with no discrimination. I never had a problem. But the language that they have for the bonding of civil union is almost exactly the same as the language for marriage. It makes no distinction in that. And if you read the bill, and if you read the marriage bonding bill, it's the same thing.

"So in effect, its marriage. And so be it. But we cannot pretend that it's not marriage. It is. Take a look at the language of both. And for those and now that as we go on to this new era of civil unions and possibly beyond, I will adjust myself to live within this environment. And I have no problem with people of different opinions of mind. I will adjust as I have throughout the rest of my life, but in this bill I do know that it's going to affect marriage as an institution. Thank you, very much."

Representative C. Lee rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. In 1968, the year after interracial marriage was legalized, just 20% of the American public approved of such relationships. I don't know how the elected leaders who opposed interracial marriage at the time, or civil rights for that matter, or women's suffrage, can look at their grandchildren in the eyes today and say, that opposing these cornerstones of freedom and equality was the right thing to do.

"We're elected by doing what is popular, but we will be remembered one day for doing what is right. And unfortunately for us, history shows that what is popular and what is right are rarely one and the same.

"Like so many others, I wasn't old enough to vote on this issue in 1998. But fortunately, it seems a generational change has brought a majority of residents in Hawaii to support the individual freedoms protected by this bill and today, that makes our job here just a little bit easier.

"Our generation is not afraid of those who are different than us, nor those we may not understand. I do, one day, look forward to getting married knowing that my marriage will only be as strong as my commitment to it, and no one else can diminish it.

"We all have family, friends, and neighbors who are gay. They have always lived in our society and they will continue to live here whether we pass this bill or not. They will continue to have relationships whether we pass this bill or not, and they will continue to raise children whether we pass this bill or not. But we have an obligation to pass this bill and see that everyone is treated equally and fairly under the laws of this great State where it is self-evident that each of us is created equal, endowed by our creator with the unalienable right to pursue life, liberty, and happiness. And I know of no one who can be happy, none of us, when kept apart from the one they love.

"We cannot in Hawaii speak about diversity and let it divide us. We cannot in our community speak about tolerance, yet remain intolerant. We cannot in this Chamber speak about equality and turn our backs to it. Mr. Speaker, one day I will look my grandchildren in the eye, and I look forward to telling them that I did the right thing. I vote yes."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise in strong support of SB No. 232, SD 1, HD 1. I'll be very brief. I rise in honor of all those who stand steadfast against those who will assail us merely for wanting our share of justice and equality that is promised in our Constitution.

"And I rise and stand for the generations before me who have fought, whether loudly and proudly, or quietly and strategically, but nonetheless relentlessly for their rights regardless of categorization, labels, or insults because what we truly want, and what truly matters, is that when we promote justice and when we promote safeguards for the rights of one, we protect and enhance the rights of all.

"I rise and literally stand on the foundation of support built by those around me and behind me, that serve not only to lift me higher, but allows me to stand prouder and pump up the volume of my voice.

"And I rise to thank all my colleagues who regardless of the differences of the past, some made more recently apparent in recent times, some from differences long ago, that are willing to stand up regardless of the stones and arrows that sometimes are slung our way. And from the very core of my being, from the inner most reaches of my soul, I truly thank you.

"I did want to address a couple of the arguments. One is that this is somehow affecting the institution of marriage and this is about same-sex marriage. I will refer them specifically to the bill and if they read it closely, even though people say they have, they probably haven't. On page 2, when we talk about eligibility to enter into a civil union, it says that a person shall be eligible to enter into a civil union. A person. That's all we're doing by this bill. We're not categorizing. We're not saying it's defined by gender. We're not saying it's defined by who you are, what you look like, what you're sexual orientation is. It's all about being a person. It's all about being treated equally, and it's all about being treated like everybody else.

"In conclusion, and I just wanted to actually reiterate what the Representative from Waimanalo said. It's been a long pursuit of happiness promised by the Declaration of Independence, because we seek not just to have it written in words, but to have it realized and effectuated in our daily lives. That, that long pursuit and chase come to an end, at least for today, and let us have that day when we can mark on our calendar that overdue respite that has tired many for generations. Let today be the day where we all have that day of being created equally. And let today be that day where we move ever closer to having justice for all. Thank you, very much."

Representative Takumi rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Takumi's written remarks are as follows:

"Mr. Speaker, when I was first elected to office in 1992, little did I know that as a result of the Hawaii Supreme Court ruling on the Baehr v. Lewin case, I would soon be embroiled in a contentious social issue.

"Here we are 19 years later and whether it's called same-sex marriage, domestic partnerships, civil unions or reciprocal beneficiaries, it still continues to divide our community, our families and, indeed, our Legislature.

"We've all gotten the e-mails, letters and phone calls. For or against, eloquent or crude, tolerant or bigoted, compassionate or insensitive, they reflect the best and worst in all of us.

"There are no easy answers. But I believe that there is a just answer.

"And that is the bill before us.

"All of us who are privileged to serve in this Chamber are here for one reason and one reason only: to make a difference. Now, we may disagree on how we go about resolving problems confronting our communities, but we all share the common value of wanting to make a difference in the lives of the people of Hawaii.

"Today, we can make a difference.

"There are those who say that voting in support of this measure will have a political cost for some of us. This may very well prove true.

"But, Mr. Speaker, this is a small price to pay compared to the thousands of people out there who are denied the very same rights, benefits and obligations that most of us enjoy and are entitled to simply because of our sexual orientation. This is not right.

"Today, we can make it right.

"Finally, there are those who say that we shouldn't do anything given all the pressing issues that must be dealt with and that this doesn't quite rise to the level of taking action.

"But rise it does, Mr. Speaker. Rise it does. And today, at long last, so must we."

Representative M. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, in strong support. And may the record reflect the words of the Majority Leader as my own, and also permission to enter written comments. Thank you," and the Chair "so ordered."

Representative M. Oshiro's written remarks are as follows:

"Mr. Speaker, I rise in support of Senate Bill No. 232, Senate Draft 1, House Draft 1, Relating to Civil Unions.

"This bill would recognize and establish the status of civil unions in Hawaii, and it would entitle persons who enter into a civil union to the same rights, benefits, protections, and responsibilities under law as are granted to those who contract, obtain a license, and are solemnized under Hawaii's marriage law.

"I strongly support the intent and purpose of the bill; however, I would like to express a reservation I have with the language found in the Senate Draft 1, House Draft 1.

"On page 2, §-3 prohibits civil unions between persons who are related to one another. However, Hawaii's Reciprocal Beneficiaries Law, Chapter 572C, Hawaii Revised Statutes, permits related persons to enter into a reciprocal beneficiary relationship. This law provides some of the benefits of marriage to couples -- including related persons such as a mother and son, father and daughter, or brother and sister -- to support these relationships. The 1997 Legislature recognized that Hawaii's families typically provide lifelong care and companionship to aging parents and siblings and that this practice deserved the support and protection of State laws. Under Senate Bill No. 232, Senate Draft 1, House Draft 1, persons who are related and are in a reciprocal beneficiary relationship would be prohibited from entering into a civil union relationship. This fact seems to be inconsistent with the principle of equal protection and equal treatment under law that this bill seeks. I have recently and repeatedly voiced my objections to both public and private audiences, and during the 2010 Session, I cast my "aye vote with reservations" on House Bill 444, House Draft 1, Senate Draft 1, to no avail. In fact, I incorporate my previous remarks found on page 939 of the House Journal, Regular Session of 2010, Session Day 60, April 29, 2010, to this discussion. But, as imperfect this measure may be, I will not allow the perfect to be the enemy of the good.

"For, despite this concern, I support this bill for multiple reasons.

"First, as your Finance Chairman, I offer that the financial impact of civil unions on our state will be minimal. In May 2010, the University of Hawaii Economic Research Organization published an analysis of the financial impact of civil unions entitled "The Impact of Civil Unions on Hawaii's Economy and Government." To summarize their work, implementing civil unions in Hawaii will have minimal administrative costs and will provide a minimal boost both in taxes and in visitor arrivals. Similarly, in June 2010, UCLA School of Law's Williams Institute published a study that stated that if civil unions are passed, then over four years, Hawaii will see a revenue boost of between $22 and $49.8 million dollars. Therefore, from a financial standpoint, there is no reason to oppose civil unions.

"The states that have previously implemented civil unions have reported a seamless and smooth transition; there is no reason to expect that Hawaii will face any unique issues from this implementation.

"Second, the question of civil unions has most often been spoken of in terms of one word: equality. The Declaration of Independence, the founding document of our country, states the words that remain at our nation's core of values:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these rights are Life, Liberty, and the pursuit of Happiness.

"Our nation was founded on these truths. Today, we are taking a step towards that equality that our founding fathers dreamed of for us. We are affirming that all of us, no matter our sexual orientation, are created equal, and are endowed with those same rights -- including the right to the pursuit of happiness.

"Same-sex couples who seek civil unions are pursuing happiness, pursuing lifetime commitments that are recognized by the government which seeks to protect and represent all of its citizens. They are simply seeking access to the stability and validation which opposite-sex couples have the legal right to solely by virtue of their sexual orientation. Same-sex couples want that which we want -- a validated, monogamous relationship between two persons based upon mutual respect, understanding, devotion, and unconditional love.

"For these aforementioned reasons, I stand in support of this measure, and, with wholehearted endorsement of the constitutional principles of equal protection embedded therein, cast my singular vote. I do so with the knowledge that my decision this day will be judged by those here and those to come. I do so mindful of grace and love and with great "fear and trembling" of my own humanity and shortcomings.

"Thank you, Mr. Speaker, for this opportunity to add these written comments."

Representative Mizuno rose to speak in opposition to the measure, stating:

"Mr. Speaker, I rise in opposition to this measure. I want to first recognize the architect of this measure. This person is the genesis of this bill. It's our Majority Leader. Complete respect. I'm honored to be here, notwithstanding my vote of no.

"I want to share with the Members a quote. 'The arc of history is long, and once in a while you get to bend it correctly, and today we bent it in the right direction towards justice.' This was our Majority Leader on April 30, 2010. Some of us who had voted no on a civil unions measure have been called bigots and haters. Mr. Speaker, myself as well as many others who may vote no on this measure, we're not bigots or haters. We too have family and friends who would be considered or recognize in a GLBT segment of our community. They're our people too, Mr. Speaker. We have no hate or disdain for our people, for the people of Hawaii.

"My no vote represents my steadfast commitment and understanding of our God. I believe I'm stating in His word, and I mean no disrespect to any other religion or faith-based organization.

"Finally, Mr. Speaker, after this measure becomes law, I respectfully ask that our churches, our church members, and our members of the GLBT work together, united for the betterment of our community, for the betterment of our communities and our State. I ask that we end all the rhetoric and display restraint and love to everyone. Thank you, Mr. Speaker."

Representative Brower rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. In support. Mr. Speaker, in many ways I believe marriage should be between a man and a woman, but at the same time government must recognize a relationship between two consenting adults. And contrary to what many legislators believe, I am not gay, but I have a lot of gay friends. I may live in the gayest district. I mean, not gay yet.

"So just in closing, Mr. Speaker, I'm supporting this. While I do have some issues with the legislation, I'm in favor of it because I believe that the legislators must show that government is fair, and legislators must emulate what they believe government should be. Not only his or her personal belief."

Representative M. Lee rose in support of the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative M. Lee's written remarks are as follows:

"Mr. Speaker, I rise in support of SB 232 HD1, establishing Civil Unions in the State of Hawaii.

"We have heard from several Members who spoke eloquently on the significance of this day. I vote yes for many of the reasons expressed by my colleagues, but also simply because I believe that supporting stable and loving relationships in our community is the right thing to do. Our community will be stronger for this decision.

"There has been much emotion surrounding the passage of the measure, and I sincerely respect the opinion of those in opposition. However, I note the atmosphere during today's passage to be considerably more

conciliatory than in the past. I hope this is a sign that all sides are learning to be more tolerant of our differences.

"Attitudes are changing. Many religious groups support civil unions, and in the 14 years I have been in the Legislature, I have never received as many thank you letters after a vote.

"My four grown children are very proud of my vote, and this makes me feel I raised them to be thinking persons of character. I watched a PBS special called, *Anyone and Everyone,* which told of the anguish of parents who upon being told their child was gay, painfully learned the lessons of acceptance, becoming strong supporters of their children.

"One of the mothers, a strong Mormon stated: "If I make any decision, I am going to make it on the side of love."

"I agree."

Representative Ching rose in opposition to the measure and asked that her written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Ching's written remarks are as follows:

"Throughout the 1990s, our community engaged in an emotional, decade-long debate over the legalization of same-sex marriage. The Legislature, for its part, had amended HRS§572-1 to clarify that marriage *"shall be only between a man and a woman[.]"* The Legislature also passed a Reciprocal Beneficiary law where it expressly found 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."*

"Ultimately, the decision was put to the public in the form of a constitutional amendment. On November 3, 1998, the people of Hawai'i overwhelmingly made their voice clear on this matter and decided that "the Legislature shall have the power to reserve marriage to opposite-sex couples." Hi. Const. 1-23.

"In July of 1997, the Legislature enacted the Reciprocal Beneficiaries law (Act 383) providing reciprocal beneficiaries with hospital visitation, insurance benefits and property and inheritance rights. This bill is unnecessary.

"When a controversial law such as SB 232 comes to this Body we must look to the people of Hawaii for guidance and take into account what they have to say. To find out what the people of Hawaii have to say on SB 232 we need not look any further than their vote in 1998 on this very same issue, where an overwhelming 70 percent of Hawaii's voters voted in favor of traditional marriage."

Representative B. Oshiro rose in support of the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative B. Oshiro's written remarks are as follows:

"Mr. Speaker -- I rise in strong support of SB 232, SD, HD 1.

"What a difference a year makes after the roller coaster ride that carried this issue from exhilarating highs to stomach churning drops. We now stand on the precipice of another peak.

"In Greek mythology, Sisyphus was condemned to repeat forever, the same meaningless task of pushing a boulder up a mountain, only to see it roll down again.

"The myth can easily be distinguished by the fact that the passage of the bill before us is not "meaningless." Punishing at times -- yes and even torment having to enduring theocratic proselytizing and dogma. But hardly, "meaningless."

"For the struggle and fight has help to galvanize and bolster those in the battle to see done what we believe is right, is just, is fair.

"And, it is my hope that we need not live through such heartbreaking and gut-wrenching endeavors again. That instead, we shall not be subjugated to re-living the task for pushing this enormous rock up the hill, of trying to re-invent, re-introduce, repeat over and over again, merely to see it roll back down. Because when it fails, there is no shattering or booming crash as the rock falls back down. Instead, there are merely quiet tears of sadness, gossamer breaths that break, that disintegrate before our very eyes, dissipating like ribbons of smoke.

"But I hope that today, instead, we shall see the rock finally break that tipping point, overcome that pinpoint zenith that has long alluded us and see the rock go over the edge to the other side. What awaits us all after that point -- be it another hill, another struggle and another battle remains to be seen.

"The French philosopher Albert Camus analogized Sisyphus and the absurd-ism of human existence. He imagines that truly tragic moment, when the hero finally becomes consciously aware of his wretched condition. And once Sisyphus acknowledges the futility of his task and the certainty of his fate, he is free to realize the absurdity of his situation and reach a state where "one must imagine Sisyphus happy."

"But for all of us who have long awaited this day, happiness does not come from the recognition of absurdism and futility. Happiness comes by embracing the struggle that is part of the human condition. Happiness comes from that single step, large or small, taken in the advancement of true liberty and equality.

"It has been a long pursuit of happiness promised by the declaration of Independence because we seek not just to have it written in words, but to have it realized and effectuated in our daily lives.

"Let that long pursuit and chase come to an end, at least for today.

"Let us have that day where we can mark in our calendar the overdue respite that has tired many for generations. Let today be a day where we all have that day of being created equally.

"And let today be that day where we move ever closer to having justice for all."

Representative Awana rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Ward rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Riviere rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

Representative Fontaine rose in opposition to the measure and asked that his written remarks be inserted in the Journal, and the Chair "so ordered."

Representative Fontaine's written remarks are as follows:

"Marriage is a union between a man and a woman. SB232 SD1 HD1 grants the "same rights, benefits, protections, and responsibilities under law . . . pursuant to chapter 572 [marriage]." It is my view that SB232 SD1 HD1, which grants civil unions, is simply same sex marriage by another name.

"The LGBT community has stated that their future goal is to obtain same sex marriage. The passage of civil unions legislation is simply one step in the direction towards same sex marriage.

"As a society, it is important to also ask: How will the children be affected by civil unions? Is this the direction that we want to go as a society? The legalization of civil unions will clearly be an assault on the traditional family. The family model will no longer be father, mother, and children.

"Finally, this new civil unions legislation is not limited to homosexual couples; it is open to heterosexual couples as well. Heterosexual couples

that choose civil unions instead of marriage are in danger of taking marriage less seriously. Civil unions for heterosexual couples are simply *Marriage Lite*."

Representative Johanson rose and asked that the Clerk record a no vote for him, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and S.B. No. 232, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CIVIL UNIONS," passed Third Reading by a vote of 31 ayes to 19 noes, with Representatives Aquino, Awana, Chang, Ching, Choy, Cullen, Fontaine, Har, Johanson, Manahan, Mizuno, Pine, Riviere, Souki, Takai, Tokioka, Tsuji, Ward and Yamane voting no, and with Representative Cabanilla being excused.

At 1:39 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 232, SD 1, HD 1

INTRODUCTION OF RESOLUTIONS

By unanimous consent, the following resolutions (H.R. Nos. 38 and 39) and concurrent resolutions (H.C.R. Nos. 44 through 46) were referred to Printing and further action was deferred:

H.R. No. 38, entitled: "HOUSE RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE UNITED STATES CONGRESS TO PROVIDE ADDITIONAL FEDERAL AID TO THE STATE OF HAWAII FOR THE PROVISION OF VARIOUS STATE SERVICES TO MIGRANTS FROM THE COMPACT OF FREE ASSOCIATION NATIONS; DEEM MIGRANTS ELIGIBLE TO RECEIVE FEDERALLY FUNDED FINANCIAL AND MEDICAL ASSISTANCE; AND PROVIDE DIALYSIS AND CHEMOTHERAPY CENTERS IN MICRONESIA AND ALL AREAS WITHIN THE COMPACT OF FREE ASSOCIATION NATIONS," was jointly offered by Representatives Cabanilla and Mizuno.

H.R. No. 39, entitled: "HOUSE RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A FEASIBILITY STUDY RELATING TO SAFETY IMPROVEMENTS ON ROOSEVELT BRIDGE," was offered by Representative Yamane.

H.C.R. No. 44, entitled: "HOUSE CONCURRENT RESOLUTION STRONGLY URGING THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE UNITED STATES CONGRESS TO PROVIDE ADDITIONAL FEDERAL AID TO THE STATE OF HAWAII FOR THE PROVISION OF VARIOUS STATE SERVICES TO MIGRANTS FROM THE COMPACT OF FREE ASSOCIATION NATIONS; DEEM MIGRANTS ELIGIBLE TO RECEIVE FEDERALLY FUNDED FINANCIAL AND MEDICAL ASSISTANCE; AND PROVIDE DIALYSIS AND CHEMOTHERAPY CENTERS IN MICRONESIA AND ALL AREAS WITHIN THE COMPACT OF FREE ASSOCIATION NATIONS," was jointly offered by Representatives Cabanilla and Mizuno.

H.C.R. No. 45, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A FEASIBILITY STUDY RELATING TO SAFETY IMPROVEMENTS ON ROOSEVELT BRIDGE," was offered by Representative Yamane.

H.C.R. No. 46, entitled: "HOUSE CONCURRENT RESOLUTION URGING THE STATE OF HAWAII TO ADOPT POLICIES THAT REDUCE THE HARM CAUSED BY THE SALE AND DISPLAY OF TOBACCO," was jointly offered by Representatives Yamane and Morikawa.

ANNOUNCEMENTS

Representative Ching: "Thank you, Mr. Speaker. I just did want to remind folks that, in support of diversified ag, it is chocolate month. And Waialua Estate will be having their tours of the cacao orchard from 9:30 to 11:00 tomorrow, as well as Kahala Mall in front of Whole Foods. They will be having all sorts of exhibits and it's proceeded by a Facebook contest. They will be at Kahala Mall from noon to 4:00. And Windward Mall is having a special 'get a free chocolate recipe,' sustainable agricultural crops, education and farmer's market. Good opportunity for people to invest in Hawaii and get their loved ones some Valentine's Day gifts. Thank you."

Representative Ward: "Mr. Speaker, I have a birthday announcement. This weekend is Abe Lincoln's birthday. Thank you."

Speaker Say: "Members of the House, for those who are on the Finance Committee, your 1:30 hearing will convene at 1:45."

COMMITTEE ASSIGNMENTS

The following measures were referred to committee by the Speaker:

H.R. Nos.	Referred to:
34	Committee on Education, then to the Committee on Finance
35	Committee on Energy & Environmental Protection, then to the Committee on Consumer Protection & Commerce
36	Committee on Water, Land, & Ocean Resources
37	Committee on Transportation
38	Committee on Human Services, then to the Committee on Finance
39	Committee on Transportation, then to the Committee on Finance

H.C.R. Nos.	Referred to:
39	Committee on Education, then to the Committee on Finance
40	Committee on Energy & Environmental Protection, then to the Committee on Consumer Protection & Commerce
41	Committee on Education, then to the Committee on Legislative Management, then to the Committee on Finance
42	Committee on Water, Land, & Ocean Resources
43	Committee on Transportation
44	Committee on Human Services, then to the Committee on Finance
45	Committee on Transportation, then to the Committee on Finance
46	Committee on Human Services, then to the Committee on Finance

S.B. Nos.	Referred to:
101, SD1	Committee on Hawaiian Affairs, then to the Committee on Health, then to the Committee on Consumer Protection & Commerce
244	Committee on Higher Education, then to the Committee on Finance
1171	Committee on Education, then to the Committee on Finance

COMMITTEE REASSIGNMENTS

The following measures were re-referred to committee by the Speaker:

H.B. Nos.	Re-referred to:
575	Committee on Finance
667	Committee on Economic Revitalization & Business, then to the Committee on Finance
1200	Committee on Judiciary
1267	Committee on Finance
1483	Committee on Hawaiian Affairs, then to the Committee on Finance

ADJOURNMENT

At 1:40 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon Monday, February 14, 2011. (Representatives Cabanilla, Morikawa and M. Oshiro were excused.)