

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO CHILD SUPPORT.

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

1           SECTION 1. Section 580-47, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) Upon granting a divorce, or thereafter if, in  
4 addition to the powers granted in subsections (c) and (d),  
5 jurisdiction of those matters is reserved under the decree by  
6 agreement of both parties or by order of court after finding  
7 that good cause exists, the court may make any further orders as  
8 shall appear just and equitable (1) compelling the parties or  
9 either of them to provide for the support, maintenance, and  
10 education of the children of the parties; (2) compelling either  
11 party to provide for the support and maintenance of the other  
12 party; (3) finally dividing and distributing the estate of the  
13 parties, real, personal, or mixed, whether community, joint, or  
14 separate; and (4) allocating, as between the parties, the  
15 responsibility for the payment of the debts of the parties  
16 whether community, joint, or separate, and the attorney's fees,  
17 costs, and expenses incurred by each party by reason of the



1 divorce. In making these further orders, the court shall take  
2 into consideration: the respective merits of the parties, the  
3 relative abilities of the parties, the condition in which each  
4 party will be left by the divorce, the burdens imposed upon  
5 either party for the benefit of the children of the parties, the  
6 concealment of or failure to disclose income or an asset, or  
7 violation of a restraining order issued under section 580-10(a)  
8 or (b), if any, by either party, and all other circumstances of  
9 the case. In establishing the amounts of child support, the  
10 court shall use the guidelines established under section 576D-7.  
11 If an adult child no longer resides full-time with the custodial  
12 parent and support is ordered to provide for the financial  
13 support of the child, both parents shall be required to pay  
14 child support and the guidelines established under section  
15 576D-7 shall be used to determine each parent's portion of the  
16 financial support obligation. Provision may be made for the  
17 support, maintenance, and education of an adult or minor child  
18 and for the support, maintenance, and education of an  
19 incompetent adult child [~~whether or not~~] if the petition is made  
20 before [~~or after~~] the child has attained the age of majority[~~-~~];  
21 provided that in cases of hardship shown by clear and convincing



1 evidence a petition may be made for support for an adult child  
2 until the adult child turns twenty-one years old. In those  
3 cases where child support payments are to continue due to the  
4 adult child's pursuance of education, the agency, three months  
5 prior to the adult child's nineteenth birthday, shall send  
6 notice by regular mail to the adult child and the custodial  
7 parent that prospective child support will be suspended unless  
8 proof is provided by the custodial parent or adult child to the  
9 child support enforcement agency, prior to the child's  
10 nineteenth birthday, that the child is presently enrolled as a  
11 full-time student in school or has been accepted into and plans  
12 to attend as a full-time student for the next semester a post-  
13 high school university, college, or vocational school. If the  
14 custodial parent or adult child fails to do so, prospective  
15 child support payments [~~may~~] shall be automatically suspended by  
16 the child support enforcement agency, hearings officer, or court  
17 upon the child reaching the age of nineteen years[-] unless good  
18 cause is shown. In addition, if applicable, the agency,  
19 hearings officer, or court may issue an order terminating  
20 existing assignments against the responsible parent's income and  
21 income assignment orders. Any child support payment made for



1 the benefit of an adult child over the age of nineteen due to  
2 the adult child's pursuance of education, provided the adult  
3 child is not incompetent, shall be paid directly to the adult  
4 child. Child support for an adult child, provided the adult  
5 child has not been deemed incompetent, shall be terminated if  
6 the adult child is not presently enrolled as a full-time student  
7 in a post-high school university, college, post-secondary, or  
8 vocational school with no plans to attend as a full-time student  
9 for the next immediate semester. An adult child shall supply to  
10 the payor of child support proof of the adult child's full-time  
11 enrollment within fourteen days of receipt of a written request  
12 by the payor of the child support. If the adult child fails to  
13 provide the required proof of enrollment, a court shall  
14 terminate child support unless good cause is shown. A payor of  
15 child support may have access to the adult child's current  
16 enrollment records at any post-secondary educational  
17 establishment so long as the payor continues to pay child  
18 support for the adult child.

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



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



1 (13) Probable duration of the need of the party seeking  
2 support and maintenance.

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

18 SECTION 2. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Mike Holland*  
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**Report Title:**

Child Support; Adult Child; Post-high School Education

**Description:**

Requires both parents to pay child support if financial support for a child is ordered by the court and the child no longer resides full-time with the custodial parent. Requires a petition for child support be made prior to the child reaching the age of majority unless there is clear and convincing evidence of hardship. Mandates the suspension of child support payments for an adult child when the child turns nineteen if the custodial parent or adult child fails to provide proof the child is enrolled as a full-time student in school or has been accepted into and plans to attend as a full-time student for the upcoming semester. Establishes that child support payments for an adult child who is pursuing education must be paid directly to the adult child. Determines child support for an adult child pursuing education shall end if the adult child is not enrolled full-time or does not plan to attend full-time the upcoming semester or if the adult child fails to provide the payor with proof of full-time enrollment within fourteen days of the payor's request. Grants payors of child support access to the adult child's enrollment records at post-secondary educational establishments.

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