
A BILL FOR AN ACT

RELATING TO GENDER-NEUTRAL TERMINOLOGY.

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

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

4 ""Family" means:

5 (1) Each legal parent;

6 (2) [The] Each natural [mother,] parent;

7 ~~[(3) The natural father,]~~

8 ~~[(4)]~~ (3) The adjudicated, presumed, or concerned natural
9 ~~[father]~~ parent as defined under section 578-2;

10 ~~[(5)]~~ (4) Each parent's spouse or former spouses;

11 ~~[(6)]~~ (5) Each sibling or person related by consanguinity
12 or marriage;

13 ~~[(7)]~~ (6) Each person residing in the same dwelling unit;
14 and

15 ~~[(8)]~~ (7) Any other person who, or legal entity that, is a
16 child's legal or physical custodian or guardian, or
17 who is otherwise responsible for the child's care,
18 other than an authorized agency that assumes such a



1 legal status or relationship with the child under
2 chapter 587A."

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

5 "**§571-61 Termination of parental rights; petition.** (a)

6 Relinquishment. The parents or either parent or the surviving
7 parent who desire to relinquish parental rights to any natural
8 or adopted child and thus make the child available for adoption
9 or readoption, may petition the family court of the circuit in
10 which ~~[they or he or she]~~ the parents or parent resides, or of
11 the circuit in which the child resides, or was born, for the
12 entry of a judgment of termination of parental rights. The
13 petition shall be verified and shall be substantially in ~~[such]~~
14 a form as may be prescribed by the judge or senior judge of the
15 family court. The petition may be filed at any time following
16 the ~~[mother's]~~ birthing parent's sixth month of pregnancy;
17 provided that no judgment may be entered upon a petition
18 concerning an unborn child until after the birth of the child
19 and in respect to a legal parent or parents until the petitioner
20 or petitioners have filed in the termination proceeding a
21 written reaffirmation of their desires as expressed in the



1 petition or in respect to a legal parent or parents until the
2 petitioner or petitioners have been given [~~not~~] no less than ten
3 days' notice of a proposal for the entry of judgment and an
4 opportunity to be heard in connection with [~~such~~] the proposal.

5 (b) Involuntary termination.

6 (1) The family courts may terminate the parental rights
7 [~~in~~] with respect to any child as to any legal parent:

8 (A) Who has deserted the child without affording
9 means of identification for a period of at least
10 ninety days;

11 (B) Who has voluntarily surrendered the care and
12 custody of the child to another for a period of
13 at least two years;

14 (C) Who, when the child is in the custody of another,
15 has failed to communicate with the child when
16 able to do so for a period of at least one year;

17 (D) Who, when the child is in the custody of another,
18 has failed to provide for care and support of the
19 child when able to do so for a period of at least
20 one year;



1 (E) Whose child has been removed from the parent's
2 physical custody pursuant to legally authorized
3 judicial action under section 571-11(9), and who
4 is found to be unable to provide now and in the
5 foreseeable future the care necessary for the
6 well-being of the child;

7 (F) Who is found by the court to be mentally ill or
8 intellectually disabled and incapacitated from
9 giving consent to the adoption of or from
10 providing now and in the foreseeable future the
11 care necessary for the well-being of the child;
12 or

13 (G) Who is found not to be the child's natural or
14 adoptive [~~father~~] non-birthing parent.

15 (2) The family courts may terminate the parental rights in
16 respect to any minor of any natural but not legal
17 [~~father~~] non-birthing parent who is an adjudicated,
18 presumed or concerned [~~father~~] non-birthing parent
19 under chapter 578, or who is named as the [~~father~~]
20 non-birthing parent on the child's birth certificate:



- 1 (A) Who falls within paragraph (1)(A), (B), (C), (D),
2 (E), or (F);
- 3 (B) Whose child is sought to be adopted by the
4 child's [~~stepfather~~] birthing parent's spouse and
5 the [~~stepfather~~] birthing parent's spouse has
6 lived with the child and the child's legal
7 [~~mother~~] birthing parent for a period of at least
8 one year;
- 9 (C) Who is only a concerned [~~father~~] non-birthing
10 parent who has failed to file a petition for the
11 adoption of the child or whose petition for the
12 adoption of the child has been denied; or
- 13 (D) Who is found to be an unfit or improper parent or
14 to be financially or otherwise unable to give the
15 child a proper home and education.
- 16 (3) In respect to any proceedings under paragraphs (1) and
17 (2), the authority to terminate parental rights may be
18 exercised by the court only when a verified petition,
19 substantially in the form above prescribed, has been
20 filed by some responsible adult person on behalf of
21 the child in the family court of the circuit in which



1 the parent resides or the child resides or was born
2 and the court has conducted a hearing of the petition.
3 A copy of the petition, together with notice of the
4 time and place of the hearing thereof, shall be
5 personally served at least twenty days [~~prior to~~]
6 before the hearing upon the parent whose rights are
7 sought to be terminated. If personal service cannot
8 be effected within the State, service of the notice
9 may be made as provided in section 634-23 or 634-24.

10 (4) The family courts may terminate the parental rights in
11 respect to any child as to any natural [~~father~~]
12 non-birthing parent who is not the child's legal,
13 adjudicated, presumed or concerned [~~father~~]
14 non-birthing parent under chapter 578.

15 (5) The family courts may terminate the parental rights in
16 respect to any child of any natural parent upon a
17 finding by clear and convincing evidence that the
18 natural parent committed sexual assault of the other
19 natural parent, or an equivalent offense under the
20 laws of another state, territory, possession, or
21 Native American tribe where the offense occurred, and



1 the child was conceived as a result of the sexual
2 assault perpetrated by the parent whose rights are
3 sought to be terminated; provided that:

4 (A) The court shall accept, as conclusive proof of
5 the sexual assault, a guilty plea or conviction
6 of the child's natural parent for the sexual
7 assault, or an equivalent offense under the laws
8 of another state, territory, possession, or
9 Native American tribe where the offense occurred,
10 of the other natural parent;

11 (B) Termination shall mean, when used with respect to
12 parental rights in this paragraph, a complete and
13 final termination of the parent's right to
14 custody of, guardianship of, visitation with,
15 access to, and inheritance from a child;

16 (C) The termination of parental rights shall not
17 affect the obligation of the child's natural
18 parent to support the child;

19 (D) The court may order the child's natural parent to
20 pay child support;



1 (E) It is presumed that termination of parental
2 rights is in the best interest of the child if
3 the child was conceived as a result of the sexual
4 assault;

5 (F) This paragraph shall not apply if subsequent to
6 the date of the sexual assault, the child's
7 natural parent and custodial natural parent
8 cohabitate and establish a mutual custodial
9 environment for the child; and

10 (G) The custodial natural parent may petition the
11 court to reinstate the child's natural parent's
12 parental rights terminated pursuant to this
13 paragraph.

14 [~~Such~~] The authority provided under this section may be
15 exercised under this chapter only when a verified petition,
16 substantially in the form [~~above~~] prescribed[7] above, has been
17 filed by some responsible adult person on behalf of the child in
18 the family court of the circuit in which the parent resides or
19 the child resides or was born, and the court has conducted a
20 hearing of the petition.



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

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

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



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



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

3 1. By amending subsection (a) to read:

4 "(a) Persons required to consent to adoption. Unless
5 consent is not required or is dispensed with under subsection
6 (c) [~~hereof~~], a petition to adopt a child may be granted only if
7 written consent to the proposed adoption has been executed by:

- 8 (1) The [~~mother~~] birthing parent of the child;
- 9 (2) A legal [~~father~~] non-birthing parent [~~as~~] to whom the
10 child is a legitimate child;
- 11 (3) An adjudicated [~~father~~] non-birthing parent whose
12 relationship to the child has been determined by a
13 court;
- 14 (4) A presumed [~~father~~] non-birthing parent under [~~section~~
15 ~~578-2(d),~~] subsection (d);
- 16 (5) A concerned natural [~~father~~] non-birthing parent who
17 is not the legal, adjudicated, or presumed [~~father~~]
18 non-birthing parent but who has demonstrated a
19 reasonable degree of interest, concern, or
20 responsibility as to the welfare of a child, either:



1 (A) During the first thirty days after [~~such~~] the
2 child's birth; [~~or~~]

3 (B) [~~Prior to~~] Before the execution of a valid
4 consent by the [~~mother~~] birthing parent of the
5 child; or

6 (C) [~~Prior to~~] Before the placement of the child with
7 adoptive parents;
8 whichever period of time is greater;

9 (6) Any person or agency having legal custody of the child
10 or legally empowered to consent;

11 (7) The court having jurisdiction of the custody of the
12 child, if the legal guardian or legal custodian of the
13 person of the child is not empowered to consent to
14 adoption; and

15 (8) The child to be adopted if the child is more than ten
16 years of age, unless the court, in the best interest
17 of the child, dispenses with the child's consent."

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

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

21 (1) Persons as to whom consent is not required:



- 1 (A) A parent who has deserted a child without
2 affording means of identification for a period of
3 ninety days;
- 4 (B) A parent who has voluntarily surrendered the care
5 and custody of the child to another for a period
6 of two years;
- 7 (C) A parent of the child in the custody of another,
8 if the parent for a period of at least one year
9 has failed to communicate with the child when
10 able to do so;
- 11 (D) A parent of a child in the custody of another, if
12 the parent for a period of at least one year has
13 failed to provide for the care and support of the
14 child when able to do so;
- 15 (E) A natural [~~father~~] non-birthing parent who was
16 not married to the child's [~~mother~~] birthing
17 parent at the time of the child's conception or
18 birth and who does not fall within the provisions
19 of subsection (a) (3), (4), or (5);
- 20 (F) A parent whose parental rights have been
21 judicially terminated under the provisions of



1 sections 571-61 to 571-63, or under the
2 provisions of any other state or other law by a
3 court or other agency having jurisdiction to take
4 the action;

5 (G) A parent who is judicially declared mentally ill
6 or intellectually disabled and [~~who is~~] found by
7 the court to be incapacitated from giving consent
8 to the adoption of the child;

9 (H) Any legal guardian or legal custodian of the
10 child sought to be adopted, other than a parent,
11 who has failed to respond in writing to a request
12 for consent for a period of sixty days or who,
13 after examination of the person's written reasons
14 for withholding consent, is found by the court to
15 be withholding the person's consent unreasonably;

16 (I) A parent of a child who has been in the custody
17 of a petitioner under this chapter for a period
18 of at least one year and who entered the United
19 States of America as a consequence of
20 extraordinary circumstances in the child's
21 country of origin, by reason of which



1 extraordinary circumstances the existence,
2 identity, or whereabouts of the child's parents
3 is not reasonably ascertainable or there is no
4 reasonable means of obtaining suitable evidence
5 of the child's identity or availability for
6 adoption;

7 (J) Any parent of the individual to be adopted, if
8 the individual is an adult eligible for adoption
9 under subsection (b); and

10 (K) A parent whose parental and custodial duties and
11 rights have been divested by an award of
12 permanent custody pursuant to section 587A-33;

13 (2) Persons whose consent may be dispensed with by order
14 of the court. The court may dispense with the consent
15 of a parent who comes within subsection (a)(3), (4),
16 or (5) [~~herein~~], upon finding that:

17 (A) The petitioner is the [~~stepfather of the child~~
18 child's birthing parent's spouse and the child
19 has lived with the child's legal [~~mother~~
20 birthing parent and the petitioning [~~stepfather~~]



1 birthing parent's spouse for a period of at least
2 one year;

3 (B) The [~~father~~] non-birthing parent is a concerned
4 [~~father~~] non-birthing parent as provided by
5 subsection (a) (5) [~~herein,~~] and has not filed a
6 petition to adopt the child, or the petition to
7 adopt the child filed by the [~~father~~] non-
8 birthing parent has been denied; or

9 (C) The [~~father~~] non-birthing parent is an
10 adjudicated, presumed, or concerned [~~father~~] non-
11 birthing parent as provided by [~~subsections~~]
12 subsection (a) (3), (4), or (5) [~~herein,~~] and is
13 not a fit and proper person or is not financially
14 or otherwise able to give the child a proper home
15 and education.

16 (d) Presumption of [~~paternity.~~] biological parentage. A
17 [~~man~~] person is presumed to be the natural [~~father~~] non-birthing
18 parent of a child if:

19 (1) [~~He~~] The person and the child's [~~natural mother~~]
20 birthing parent are or have been married to each other
21 and the child is born during the marriage, or within



1 three hundred days after the marriage is terminated by
2 death, annulment, declaration of invalidity, or
3 divorce, or after a decree of separation is entered by
4 a court;

5 (2) Before the child's birth, [~~he~~] the person and the
6 child's [~~natural mother~~] birthing parent have
7 attempted to marry each other by a marriage solemnized
8 in apparent compliance with law, although the
9 attempted marriage is or could be declared invalid,
10 and[+] if the attempted marriage:

11 (A) [~~If the attempted marriage could~~] Could be
12 declared invalid only by a court, the child is
13 born during the attempted marriage, or within
14 three hundred days after its termination by
15 death, annulment, declaration of invalidity, or
16 divorce; or

17 (B) [~~If the attempted marriage is~~] Is invalid without
18 a court order, the child is born within three
19 hundred days after the termination of
20 cohabitation;



- 1 (3) After the child's birth, [~~he~~] the person and the
2 child's [~~natural mother~~] birthing parent have married,
3 or attempted to marry, each other by a marriage
4 solemnized in apparent compliance with law, although
5 the attempted marriage is or could be declared
6 invalid; and
- 7 (A) [~~He~~] The person has acknowledged [~~his paternity~~]
8 the person's biological parentage of the child in
9 writing filed with the department of health;
- 10 (B) With [~~his~~] the person's consent [~~he~~], the person
11 is named as the child's [~~father~~] non-birthing
12 parent on the child's birth certificate; or
- 13 (C) [~~He~~] The person is obligated to support the child
14 under a written voluntary promise or by court
15 order;
- 16 (4) While the child is under the age of majority, [~~he~~] the
17 person receives the child into [~~his~~] the person's home
18 and openly holds out the child as [~~his~~] the person's
19 natural child; or
- 20 (5) [~~He~~] The person acknowledges [~~his paternity~~] the
21 person's biological parentage of the child in writing



1 filed with the department of health, which shall
2 promptly inform the [~~mother~~] birthing parent of the
3 filing of the acknowledgment, and [~~she~~] the birthing
4 parent does not dispute the acknowledgment within a
5 reasonable time after being informed thereof, in a
6 writing filed with the department of health. If
7 another [~~man~~] person is presumed under this section to
8 be the child's [~~father,~~] non-birthing parent,
9 acknowledgment may be effected only with the written
10 consent of the presumed [~~father~~] non-birthing parent
11 or after the presumption has been rebutted. If the
12 acknowledgment is filed and not disputed by the
13 [~~mother~~] birthing parent and if another [~~man~~] person
14 is not presumed under this section to be the child's
15 [~~father,~~] non-birthing parent, the department of
16 health shall prepare a new certificate of birth in
17 accordance with chapter 338.

18 (e) Notice of hearing; minor parent; consent authorizing
19 selection of adoptive parents. No hearing of a petition for
20 adoption shall be had unless each of the living parents of the
21 child who falls within the provisions of subsection (a) and who



1 has not consented to the proposed adoption, but who is alleged
2 to ~~[come]~~ fall within the provisions of ~~[subsection]~~ subsections
3 (c) (1) (A), (B), (C) and (D) or (c) (2) ~~[of this section]~~, and any
4 ~~[man]~~ person whose name appears as ~~[father]~~ non-birthing parent
5 on the child's birth certificate, shall have had due notice,
6 actual or constructive, of the allegations of the petition and
7 of the time and place of the hearing thereof. ~~[Such]~~ The notice
8 need not be given to any parent whose parental rights have been
9 legally terminated as hereinabove provided or whose consent has
10 been filed with the court.

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

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



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

3 1. By amending subsection (b) to read:

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

19 2. By amending subsection (g) to read:

20 "(g) The completed forms and, if applicable, the
21 previously sealed copy of the [~~natural mother's~~] birthing



1 parent's medical records shall be forwarded to the department of
2 health. The department shall extract from the medical records
3 pertinent information relating to inheritable diseases and
4 genetic disorders and shall retain this information in an
5 abstract. The completed forms and the abstract, if available,
6 shall be included in the department's adoption records."

7 3. By amending subsection (i) to read:

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

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

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



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

18 (b) Upon the entry of the decree, or upon the later
19 effective date of the decree, or upon the dismissal or
20 discontinuance or other final disposition of the petition, the
21 clerk of the court shall seal all records in the proceedings;



1 provided that upon the written request of the petitioner or
2 petitioners, the court may waive the requirement that the
3 records be sealed. The seal shall not be broken and the records
4 shall not be inspected by any person, including the parties to
5 the proceedings, except:

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

8 (2) After the adopted individual attains the age of
9 eighteen and upon submission to the family court of a
10 written request for inspection by the adopted
11 individual or [~~the~~] adoptive parents;

12 (3) After the adopted individual attains the age of
13 eighteen and upon submission to the family court of a
14 written request for inspection by the natural parents;

15 (4) Upon request by the adopted individual or [~~the~~]
16 adoptive parents for information contained in the
17 records concerning ethnic background and necessary
18 medical information; or

19 (5) Upon request by a natural parent for a copy of the
20 original birth certificate.



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

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

6 "§580-21 **Grounds for annulment.** The family court, by a
7 decree of nullity, may declare void the marriage contract for
8 any of the following causes, existing at the time of the
9 marriage:

- 10 (1) That the parties stood in relation to each other of
11 ancestor and descendant of any degree whatsoever,
12 [~~brother and sister~~] siblings of the half as well as
13 the whole blood, [~~uncle and niece, aunt and nephew,~~] a
14 person and the child of the person's biological
15 sibling, whether the relationship is the result of the
16 issue of parents married or not married to each other;
- 17 (2) That the parties, or either of them, had not attained
18 the legal age of marriage;
- 19 (3) That [~~the husband~~] one of the parties had an
20 undivorced [~~wife~~] spouse living[, ~~or the wife had an~~
21 ~~undivoreed husband living~~];



1 (4) That one of the parties lacked the mental capacity to
2 consent to the marriage;

3 (5) That consent to the marriage of the party applying for
4 annulment was obtained by force, duress, or fraud, and
5 there has been no subsequent cohabitation; and

6 (6) That one of the parties was a sufferer of or afflicted
7 with any loathsome disease and the fact was concealed
8 from, and unknown to, the party applying for
9 annulment."

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

12 "§580-22 **Nonage.** An action to annul a marriage on the
13 ground that one of the parties was under legal age, may be
14 brought by the parent or guardian entitled to the custody of the
15 minor, or by any person admitted by the court to prosecute as
16 the friend of the minor. In no case shall the marriage be
17 annulled on the application of a party who was of legal age at
18 the time it was contracted; nor when it appears that the
19 parties, after they attained the legal age, had for any time
20 freely cohabited as [~~man and wife.~~] a married couple."



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

3 "§580-23 Former [~~husband or wife~~] spouse living. A
4 marriage may be declared null on the ground that one of the
5 parties has an undivorced [~~husband or wife~~] spouse living, on
6 the application of either of the parties during the lifetime of
7 the other, or on the application of the former [~~husband or~~
8 ~~wife.~~] spouse."

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

11 "§580-24 Allowance for spouse and family. Every person
12 who is deceived into contracting an illegal marriage with a [~~man~~
13 ~~or woman~~] person having another spouse living, under the belief
14 that [~~he or she~~] the person was unmarried, may be entitled to a
15 just allowance for the support of the deceived spouse and family
16 out of the property of the deceiving spouse, which the deceived
17 spouse may obtain at any time after action commenced upon
18 application to the family court having jurisdiction. In
19 addition to the allowance, the court may also compel the
20 defendant to advance reasonable amounts for the compensation of



1 witnesses and other reasonable expenses of trial to be incurred
2 by the plaintiff."

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

5 "§580-26 Lack of mental capacity. The marriage of a
6 person who lacked the mental capacity to consent to the marriage
7 may be annulled on the application of either party, or on the
8 application of a guardian of the party who lacked [such]
9 capacity; [~~but in such case,~~] provided that no sentence of
10 nullity shall be pronounced if it appears that the parties
11 freely cohabited as [~~husband and wife~~] a married couple after
12 the party who lacked [such] mental capacity attained the mental
13 capacity necessary to consent to marriage."

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

16 "(a) Upon granting a divorce, or thereafter if, in
17 addition to the powers granted in subsections (c) and (d),
18 jurisdiction of those matters is reserved under the decree by
19 agreement of both parties or by order of court after finding
20 that good cause exists, the court may make any further orders
21 [~~as shall~~] that appear just and equitable (1) compelling the



1 parties or either of them to provide for the support,
2 maintenance, and education of the children of the parties; (2)
3 compelling either party to provide for the support and
4 maintenance of the other party; (3) finally dividing and
5 distributing the estate of the parties, real, personal, or
6 mixed, whether community, joint, or separate; and (4)
7 allocating, as between the parties, the responsibility for the
8 payment of the debts of the parties whether community, joint, or
9 separate, and the attorney's fees, costs, and expenses incurred
10 by each party by reason of the divorce. In making these further
11 orders, the court shall take into consideration: the respective
12 merits of the parties, the relative abilities of the parties,
13 the condition in which each party will be left by the divorce,
14 the burdens imposed upon either party for the benefit of the
15 children of the parties, the concealment of or failure to
16 disclose income or an asset, or violation of a restraining order
17 issued under section 580-10(a) or (b), if any, by either party,
18 and all other circumstances of the case. In establishing the
19 amounts of child support, the court shall use the guidelines
20 established under section 576D-7. Provision may be made for the
21 support, maintenance, and education of an adult or minor child



1 and for the support, maintenance, and education of an
2 incompetent adult child regardless of whether [~~or not~~] the
3 petition is made before or after the child has attained the age
4 of majority. In those cases where child support payments are to
5 continue due to the adult child's pursuance of education, the
6 agency, three months [~~prior to~~] before the adult child's
7 nineteenth birthday, shall send notice by regular mail to the
8 adult child and the custodial parent that prospective child
9 support will be suspended unless proof is provided by the
10 custodial parent or adult child to the child support enforcement
11 agency, [~~prior to~~] before the child's nineteenth birthday, that
12 the child is presently enrolled as a full-time student in school
13 or has been accepted into and plans to attend as a full-time
14 student for the next semester a post-high school university,
15 college, or vocational school. If the custodial parent or adult
16 child fails to do so, prospective child support payments may be
17 automatically suspended by the child support enforcement agency,
18 hearings officer, or court upon the child reaching the age of
19 nineteen years. In addition, if applicable, the agency,
20 hearings officer, or court may issue an order terminating



1 existing assignments against the responsible parent's income and
2 income assignment orders.

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

- 6 (1) Financial resources of the parties;
- 7 (2) Ability of the party seeking support and maintenance
8 to meet [~~his or her~~] the party's needs independently;
- 9 (3) Duration of the marriage;
- 10 (4) Standard of living established during the marriage;
- 11 (5) Age of the parties;
- 12 (6) Physical and emotional condition of the parties;
- 13 (7) Usual occupation of the parties during the marriage;
- 14 (8) Vocational skills and employability of the party
15 seeking support and maintenance;
- 16 (9) Needs of the parties;
- 17 (10) Custodial and child support responsibilities;
- 18 (11) Ability of the party from whom support and maintenance
19 is sought to meet [~~his or her~~] the party's own needs
20 while meeting the needs of the party seeking support
21 and maintenance;



1 (12) Other factors [~~which~~] that measure the financial
2 condition in which the parties will be left as the
3 result of the action under which the determination of
4 maintenance is made; and

5 (13) Probable duration of the need of the party seeking
6 support and maintenance.

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



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

3 "(b) Following the entry of a decree of divorce in any
4 matrimonial action in which the final division of the property
5 of the parties to [~~such~~] the action is reserved for further
6 hearings, decisions, and orders, notwithstanding the provisions
7 of section 560:2-802, or any other provisions of the law to the
8 contrary, each party to [~~such~~] the action shall continue to have
9 all of the rights to and interests in the property of the other
10 party to [~~such~~] the action as provided by [~~chapter~~] chapters 533
11 and [~~chapter~~] 560, or as otherwise provided by law, to the same
12 extent [~~he or she~~] the party would have had [~~such~~] the rights or
13 interests if the decree of divorce had not been entered, until
14 the entry of a decree or order finally dividing the property of
15 the parties to [~~such~~] the matrimonial action, or as provided in
16 subsection (d) [~~of this section~~].

17 (c) When a party to a matrimonial action has remarried
18 following the entry of a decree of divorce, in which the final
19 division of the property of the parties is reserved for further
20 hearings, decisions, and orders, but [~~prior to~~] before the entry
21 of a decree or order finally dividing the property owned by the



1 parties to that action, notwithstanding the provisions of
2 [~~chapter~~] chapters 533 and [~~chapter~~] 560, the spouse of [~~such~~]
3 the remarried party shall have none of the rights or interests
4 in the former spouse's real property or personal estate as
5 provided in [~~chapter~~] chapters 533 and [~~chapter~~] 560, or as
6 otherwise provided by law, until [~~such~~] the time as a decree or
7 order finally dividing the property owned by the parties or
8 either of them as of the effective date of the entry of the
9 decree of divorce dissolving [~~his or her~~] the party's prior
10 marriage shall be entered. Upon the entry of a decree or order
11 finally dividing the property of the parties to a matrimonial
12 action in which a decree of divorce has been entered, the spouse
13 of a party to [~~such~~] the action who has remarried shall have all
14 of the rights of a spouse as provided by [~~chapter~~] chapters 533
15 and [~~chapter~~] 560, or as otherwise provided by law, in and to
16 the property of the former spouse vested in [~~such~~] the spouse by
17 [~~such~~] the decree or order finally dividing the property of the
18 parties or either of them, as of the effective date of the entry
19 of the decree of dissolution of the prior marriage."



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

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

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

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

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

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



Report Title:

Gender-Neutral Terminology; Statutory Interpretation; Parents;
Spouses

Description:

Replaces gender-specific terminology used in certain parental
and marital matters with gender-neutral terminology. Takes
effect 1/1/2024. (CD1)

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

