

ACT 66

H.B. NO. 115

A Bill for an Act Relating to the Uniform Parentage Act.

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

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

**“CHAPTER
UNIFORM PARENTAGE ACT**

Sec. -1 Parent and child relationship defined. As used in this chapter, “parent and child relationship” includes the legal relationship existing between a child and his natural mother, between a child and father whose relationship as parent and child is established under this chapter, or between a child and his adoptive parents, incident to which the law confers or imposes rights, privileges, duties, and obligations.

Sec. -2 Relationship not dependent on marriage. Any parent and child relationship established under this chapter extends to every such child and to every such parent, regardless of the marital status of the parents.

Sec. -3 How parent and child relationship established. The parent and child relationship between a child and:

- (1) The natural mother may be established by proof of her having given birth to the child, or under this chapter;
- (2) The natural father may be established under this chapter; or
- (3) An adoptive parent may be established by proof of adoption.

Sec. -4 Presumption of paternity. (a) A man is presumed to be the natural father of a child if:

- (1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;
 - (2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (A) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within three hundred days after its termination by death, annulment, declaration of invalidity, or divorce; or
 - (B) If the attempted marriage is invalid without a court order, the child is born within three hundred days after the termination of cohabitation;
 - (3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (A) He has acknowledged his paternity of the child in writing filed with the department of health;
 - (B) With his consent, he is named as the child's father on the child's birth certificate; or
 - (C) He is obligated to support the child under a written voluntary promise or by court order;
 - (4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child; or
 - (5) He acknowledges his paternity of the child in a writing filed with the department of health, which shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the department of health. If another man is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted. If the acknowledgment is filed and not disputed by the mother and if another man is not presumed under this section to be the child's father, the department of health shall prepare a new certificate of birth in accordance with section -23.
- (b) A presumption under this section may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

Sec. -5 (Reserved)

Sec. -6 Determination of father and child relationship; who may bring action; when action may be brought; process, warrant, bond, etc. (a) A child, or personal representative of the child, his natural mother, including a mother who is an unmarried woman or a mother who is a married woman who was separated from and was not living with her husband prior to and at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or alleging himself to be the natural father, or his personal representative if the father has died, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship within the following time periods:

- (1) If the child is the subject of an adoption proceeding,
 - (A) Within thirty days after the date of the child's birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or
 - (B) Any time prior to the date of execution by the mother of a valid consent to the child's adoption, or prior to placement of the child with adoptive parents, but in no event later than three years after the child's birth; or
- (2) If the child has not become the subject of an adoption proceeding within three years after the child's birth; provided that any period of time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed.

(b) When an action is brought under this section by a child, or personal representative of the child, or his natural mother, or her personal representative or parent if the mother has died, process shall issue in the form of a summons and an order directed to the alleged or presumed father requiring him to appear and to show cause why the action should not be brought.

If, at any stage of the proceedings, there appears probable cause to believe that the alleged or presumed father will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the court may issue a warrant directed to the sheriff, his deputy, or any police officer within the circuit, requiring the alleged or presumed father to be arrested and brought for pre-trial proceedings before the family court. Upon such pre-trial proceedings, the court may require the alleged or presumed father to enter into bond with good sureties to the State in a sum to be fixed by the court for his appearance and the trial of the proceeding in the family court. If he fails to give the bond required of him, the court may forthwith commit him to the custody of the chief of police of the county, there to remain until he enters into the required bond or otherwise is discharged by due process of law. If the alleged or presumed father fails to appear in any proceeding under this chapter, any bond for his appearance shall be forfeited; but the trial of, or other proceedings in, the action shall, nevertheless, proceed as though he were present; and upon the findings of the court it shall make such orders as it deems proper as though he were in court.

In case of forfeiture of any appearance bond, the money collected upon

the forfeiture shall be applied in payment of the judgment against the father.

(c) Regardless of its terms, an agreement, other than an agreement approved by the court in accordance with section 13(b), between an alleged or presumed father and the mother or child, shall not bar an action under this section.

(d) If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

Sec. -7 Statute of limitations. Except as otherwise provided in section 6(a) with respect to a child relinquished for adoption, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 4 shall not be brought later than three years after the birth of the child, or later than three years after the effective date of this chapter, whichever is later. Sections 6 and 7 shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

Sec. -8 Jurisdiction; venue. (a) Without limiting the jurisdiction of any other court, the family court has jurisdiction of an action brought under this chapter. The action may be joined with an action for divorce, annulment, separate maintenance, or support.

(b) A person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute, including section 634-35, personal jurisdiction may be acquired by service in accordance with section 634-25.

(c) The action may be brought in the county in which the child, the mother, or the alleged father resides or is found, or in which the child was born or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

Sec. -9 Parties; guardian ad litem for minor presumed or alleged father; county attorney or corporation counsel to represent mother; notice to parents. The child may be made a party to the action and may be represented by his general guardian or a guardian ad litem appointed by the court. The child's mother or father shall not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under section 4, and each man alleged to be the natural father, shall be made parties, or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. If it appears to the satisfaction of the court that a man alleged or presumed to be the father is a minor, the court shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parents or guardian of the minor and may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parents or guardian of any such minor cannot be found, the notice may be served in such manner as the court may direct pursuant to sections 634-21 to 634-24. The court may align the parties. The

county attorney or corporation counsel shall represent the child's mother or her personal representative or parent if the mother has died.

Sec. -10 Pre-trial proceedings. As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship has been brought, an informal hearing shall be held. The public shall be barred from the hearing. A record of the proceeding or any portion thereof shall be kept if any party requests, or the court orders. Rules of evidence need not be observed.

Sec. -11 Blood tests. (a) The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests. The tests shall be performed by an expert qualified as an examiner of blood types, appointed by the court.

(b) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiners of blood types.

(c) In all cases, the court shall determine the number and qualifications of the experts.

Sec. -12 Evidence relating to paternity. Evidence relating to paternity may include:

- (1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;
- (2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;
- (3) Blood test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;
- (4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and
- (5) All other evidence relevant to the issue of paternity of the child.

Sec. -13 Pre-trial recommendations. (a) On the basis of the information produced at the pre-trial hearing, the judge conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement shall be made to the parties, which may include any of the following:

- (1) That the action be dismissed with or without prejudice;
- (2) That the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge conducting the hearing. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the judge conducting

the hearing shall consider the best interest of the child, in the light of the factors enumerated in section -15(e), discounted by the improbability, as it appears to him, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on him; or

(3) That the alleged father voluntarily acknowledged his paternity of the child.

(b) If the parties accept a recommendation made in accordance with subsection (a), judgment shall be entered accordingly.

(c) If a party refuses to accept a recommendation made under subsection (a) and blood tests have not been taken, the court shall require the parties to submit to blood tests, if practicable. Thereafter the judge shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action shall be set for trial.

(d) The guardian ad litem may accept or refuse to accept a recommendation under this section.

(e) The informal hearing may be terminated and the action set for trial if the judge conducting the hearing finds it unlikely that all parties would accept a recommendation he might make under subsection (a) or (c).

Sec. -14 Civil action; jury. (a) An action under this chapter shall be a civil action governed by the Hawaii Rules of Civil Procedure or the Hawaii Family Court Rules. The mother of the child and the alleged father shall be competent to testify and may be compelled to testify, provided that no criminal prosecution, other than a prosecution for perjury, shall afterwards be had against the mother or the alleged father for or on account of any transaction, matter, or thing concerning which she or he may testify or produce evidence, documentary or otherwise. Sections -11 and -12 shall apply in any action brought under this chapter.

(b) Testimony relating to sexual access to the mother by an unidentified man at any time or by an identified man at a time other than the probable time of conception of the child shall be inadmissible in evidence, unless offered by the mother.

(c) In an action against an alleged father, evidence offered by him with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child shall be admissible in evidence only if he has undergone and made available to the court blood tests the results of which do not exclude the possibility of his paternity of the child.

Sec. -15 Judgment or order. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued un-

der section -23.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Upon neglect or refusal to give such security, or upon default of the father or his surety in compliance with the terms of the judgment, the court may order the forfeiture of any such security and the application of the proceeds thereof toward the payment of any sums due under the terms of the judgment and may also sequester the father's personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof, and may cause the father's personal estate, including any salaries, wages, commissions, or other moneys owed to him and the rents and profits of his real estate, to be applied toward the meeting of the terms of the judgment, to the extent that the court, from time to time, deems just and reasonable. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(d) Support judgment or orders ordinarily shall be for periodic payments which may vary in amount. In the best interest of the child, a lump sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court deems just.

(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

- (1) The needs of the child;
- (2) The standard of living and circumstances of the parents;
- (3) The relative financial means of the parents;
- (4) The earning ability of the parents;
- (5) The need and capacity of the child for education, including higher education;
- (6) The age of the child;
- (7) The financial resources and the earning ability of the child;
- (8) The responsibility of the parents for the support of others; and
- (9) The value of services contributed by the custodial parent.

Sec. -16 Costs. The court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pre-trial proceedings, including blood tests, to be paid by the parties in proportions and at times determined by the court. The court may order the proportion of any indigent party to be paid by the State, or such person as the court shall direct.

Sec. -17 Enforcement of judgment or order. (a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish

the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Wilful failure to obey the judgment or order of the court shall be a civil contempt of the court. All remedies for the enforcement of judgments shall apply to this chapter.

Sec. -18 Modification of judgment or order. The court shall have continuing jurisdiction to modify or revoke a judgment or order:

(1) For future education and support; and

(2) With respect to matters listed in section -15(c) and (d) and section -17(b), except that a court entering a judgment or order for the payment of a lump sum or the purchase of an annuity under section -15(d) may specify that the judgment or order may not be modified or revoked.

Sec. -19 Right to counsel; free transcript on appeal. (a) At the pre-trial hearing and in further proceedings, any party may be represented by counsel. The court may appoint counsel for a party who is financially unable to obtain counsel.

(b) If a party is financially unable to pay the cost of a transcript, the court may furnish on request a transcript for purposes of appeal.

Sec. -20 Hearings and records; confidentiality. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this chapter shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the department of health or elsewhere, shall be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

Sec. -21 Action to declare mother and child relationship. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this chapter applicable to the father and child relationship shall apply.

Sec. -22 Promise to render support. (a) Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship, shall not require consideration and shall be enforceable according to its terms.

(b) In the best interest of the child or the mother, the court may, and upon request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

Sec. -23 Birth records. (a) Upon order of a court of this State or upon request of a court of another state, or following acknowledgment as provided in section -4(a) (5), the department of health shall prepare a new certificate of birth consistent with the findings of the court or in cases of acknowledg-

ment under section -4(a) (5), consistent with the acknowledgment, and shall substitute the new certificate for the original certificate of birth.

(b) The fact that the father and child relationship was declared or acknowledged after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown.

(c) The evidence upon which the new certificate was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

Sec. -24 Custodial proceedings. (a) If a mother relinquishes or proposes to relinquish for adoption a child who has:

- (1) A presumed father under section -4(a);
- (2) A father whose relationship to the child has been determined by a court; or
- (3) A father as to whom the child is a legitimate child under prior law of this State or under the law of another jurisdiction;

the father shall be given notice of the adoption proceeding and have the rights provided under chapter 578, unless the father's relationship to the child has been previously terminated or determined by a court not to exist.

(b) If a mother relinquishes or proposes to relinquish for adoption a child who does not have:

- (1) A presumed father under section -4(a);
- (2) A father whose relationship to the child has been determined by a court; or
- (3) A father as to whom the child is a legitimate child under prior law of this State or under the law of another jurisdiction;

or if a child otherwise becomes the subject of an adoption proceeding, the court shall determine whether the natural father has exercised parental duties, obligations, and concern for the child in accordance with subsection (c); provided that if the proposed adoptive parent is the spouse of the child's mother, no notice is required to be given to a father who does not fall within the provisions of subsection (a).

(c) In order to determine the extent of the natural father's exercise of parental duties, obligations, and concern for the child, the court shall cause inquiry to be made of the mother and any other appropriate person. The inquiry shall include the following:

- (1) Whether the mother was married at the time of conception of the child or at any time thereafter;
- (2) Whether, at the time of conception or birth of the child thereafter, the mother was cohabiting with a man whom she alleges to be or who represents or believes himself to be the child's father;
- (3) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy or in connection with the birth of the child.

(d) If, after the inquiry, the court is satisfied that the natural father has exercised parental duties, obligations, and concern for the child, he shall be given notice of the proceeding in accordance with subsection (f). If he fails to

appear or, if appearing, fails to claim custodial rights, his parental rights with reference to the child shall be terminated. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

(e) If, after the inquiry, the court is satisfied that the natural father has failed to exercise parental duties, obligations, and concern for the child the court shall enter an order terminating the natural father's parental rights with reference to the child. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this subsection, the order shall not be questioned by any person, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter.

(f) Notice of the proceeding shall be given to any person who is entitled under the provisions of this chapter to receive notice in the manner appropriate under chapter 578. Proof of giving the notice shall be filed with the court before the petition is heard.

Sec. -25 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. -26 Short title. This chapter may be cited as the "Uniform Parentage Act."

SECTION 2. Chapter 338, Hawaii Revised Statutes, is amended in the following respects:

(1) Section 338-1 is amended to read as follows:

"**Sec. 338-1 Definitions of terms.** As used in this part, unless the context otherwise indicates:

- (1) "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, and data incidental thereto.
- (2) "Live birth" is the complete expulsion or extraction from its mother of a product of conception that did, after complete expulsion or extraction from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscle, whether or not the umbilical cord was cut or the placenta attached.
- (3) "Fetal death" is death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, that did not, after complete separation from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscle.
- (4) "Dead body" means lifeless human body, or such parts of the human body, or the bones thereof, from the state of which it reasonably

may be concluded that death recently occurred.

- (5) "Person in charge of the disposition of the body" means any person who places, or causes to be placed, a stillborn child, or dead body, or ashes, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes thereof.
- (6) "Physician" means a person legally authorized to practice medicine, osteopathy, or the science of naturopathy in the State.
- (7) "Legitimation" is the process by which a child born out of wedlock assumes the legal status and the rights, privileges, duties, and obligations of a child who is born in wedlock. Legitimation occurs:
 - (A) When the natural parents marry each other;
 - (B) When the unmarried natural father voluntarily acknowledges his child born out of wedlock through an affidavit of each parent where they identify the child as theirs and the other parent as the mother or father;
 - (C) When the parent and child relationship is established under chapter ; or
 - (D) When a child born out of wedlock is adopted."

(2) Section 338-12 is amended to read as follows:

"Sec. 338-12 Evidentiary character of certificates. Certificates filed within thirty days after the time prescribed therefor shall be prima facie evidence of the facts therein stated. Data pertaining to the father of a child is prima facie evidence only if the alleged father is the husband of the mother or if the alleged father is the acknowledged father of the child; or if the father and child relationship has been established under chapter ; if not, the data pertaining to the father of the child are not evidence in any proceeding adverse to the interest of the alleged father, or of his heirs, next kin, devisees, or other successors in interest, if the paternity is controverted."

(3) Section 338-17.7 is amended to read as follows:

"Sec. 338-17.7 Establishment of new certificates of birth, when. (a) The director of health shall establish a new birth certificate for a person born in this State upon receipt of a certified copy of a court determination of paternity together with a request from the natural mother or person having legal custody of the child that such new certificate be prepared. The surname of the child shall be that of the mother unless the decree or request provided otherwise.

(b) A new certificate of birth shall be prepared by the director of health for a child or children legitimated as provided in section 338-21.

(c) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has examined the person and has found the sex item on the person's birth certificate was entered incorrectly.

(d) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has performed an operation on the person and that by reason of the operation the sex designation on such person's birth record should be changed. The director of health may make a further investigation or require any further in-

formation he deems necessary.

(e) When a new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate shall be sealed and filed. Such sealed document shall be opened only by an order of the director of health or a court of record."

(4) Section 338-21 is amended by amending subsection (a) to read as follows:

"(a) All children born out of wedlock, irrespective of the marriage of either parent to another, become legitimate (1) on the marriage of the parents with each other, (2) on the voluntary, written acknowledgment of paternity by the father and mother, or (3) on establishment of the parent and child relationship under chapter _____, and are entitled to the same rights as those born in wedlock and shall take either their father's name or their mother's name as a family name, as so stipulated by their parents. If legitimation is accomplished before the original certificate of birth is filed with the department of health, the original certificate of birth shall contain the name so stipulated. The child or children of the parents thereof may petition the department of health to issue a new certificate of birth in the new name of the legitimated child, and the department shall issue the new certificate of birth upon being satisfied that the child or children has or have been legitimated."

SECTION 3. Section 574-2, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 574-2 Legitimate children.** All children born in wedlock shall have their father's name as a family name. They shall, besides, have a given name. All children legitimated, as provided in section 338-21, shall have either their father's name or their mother's name as a family name. They shall, besides, have a given name."

SECTION 4. Chapter 579, Hawaii Revised Statutes, is repealed.

SECTION 5. 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 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 7. This Act shall take effect on January 1, 1976.

(Approved May 10, 1975.)

*Edited accordingly.