

JAN 28 2015

A BILL FOR AN ACT

RELATING TO PROPERTY DIVISION.

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

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to part V be appropriately designated and to read as follows:

"§571- Divorce; division of property; military retirement benefits; disability-related waiver. In making a disposition of property pursuant to section 510-9 or 580-47, or any other provision of law relating to the dissolution of marriage, a court shall not:

(1) Consider any federal disability benefits awarded to a veteran for service-connected disabilities pursuant to title 38 United States Code chapter 11;

(2) Indemnify the veteran's spouse or former spouse for any prejudgment or postjudgment waiver or reduction in military retirement or retainer pay related to receipt of the disability benefits; or

(3) Award any other income or property of the veteran to the veteran's spouse or former spouse for any



1 prejudgment or postjudgment waiver or reduction in
2 military retirement or retainer pay related to receipt
3 of the disability benefits."

4 SECTION 2. Section 510-9, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§510-9 Divorce; division of property.** In the event of
7 the dissolution of marriage by decree of any court of competent
8 jurisdiction, and subject to section 571- , community property
9 shall be divided between the parties by the court granting the
10 decree, in such proportions as the court, from the facts in the
11 case, deems just and equitable, and such division shall be
12 subject to revision on appeal in all respects including the
13 exercise of discretion by the court below."

14 SECTION 3. 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 as
21 shall appear just and equitable (1) compelling the parties or



1 either of them to provide for the support, maintenance, and
2 education of the children of the parties; (2) compelling either
3 party to provide for the support and maintenance of the other
4 party; (3) subject to section 571- , 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 whether or not the petition is made
3 before or after the child has attained the age of majority. In
4 those cases where child support payments are to continue due to
5 the adult child's pursuance of education, the agency, three
6 months prior to the adult child's nineteenth birthday, shall
7 send notice by regular mail to the adult child and the custodial
8 parent that prospective child support will be suspended unless
9 proof is provided by the custodial parent or adult child to the
10 child support enforcement agency, prior to the child's
11 nineteenth birthday, that the child is presently enrolled as a
12 full-time student in school or has been accepted into and plans
13 to attend as a full-time student for the next semester a post-
14 high school university, college, or vocational school. If the
15 custodial parent or adult child fails to do so, prospective
16 child support payments may be automatically suspended by the
17 child support enforcement agency, hearings officer, or court
18 upon the child reaching the age of nineteen years. In addition,
19 if applicable, the agency, hearings officer, or court may issue
20 an order terminating existing assignments against the
21 responsible parent's income and income assignment orders.



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

4 (1) Financial resources of the parties;

5 (2) Ability of the party seeking support and maintenance
6 to meet his or her needs independently;

7 (3) Duration of the marriage;

8 (4) Standard of living established during the marriage;

9 (5) Age of the parties;

10 (6) Physical and emotional condition of the parties;

11 (7) Usual occupation of the parties during the marriage;

12 (8) Vocational skills and employability of the party
13 seeking support and maintenance;

14 (9) Needs of the parties;

15 (10) Custodial and child support responsibilities;

16 (11) Ability of the party from whom support and maintenance
17 is sought to meet his or her own needs while meeting
18 the needs of the party seeking support and
19 maintenance;

20 (12) Other factors which measure the financial condition in
21 which the parties will be left as the result of the



1 action under which the determination of maintenance is
2 made; and

3 (13) Probable duration of the need of the party seeking
4 support and maintenance.

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



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 1161

Report Title:

Divorce; Division of Property; Military Disability Benefits

Description:

Prohibits courts from considering federal disability benefits awarded to a military veteran when making a disposition of property pursuant to a divorce decree.

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