

JAN 24 2018

# A BILL FOR AN ACT

RELATING TO DIVORCE.

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

SECTION 1. Chapter 580, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§580- Military retirement benefits; disability related waiver. In making a disposition of property pursuant to section 580-47, the court shall not do any of the following:

(1) Consider any federal disability benefits awarded to a veteran for service-connected disabilities pursuant to title 10 United States Code section 1413a or 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 retired 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 prejudgment or postjudgment waiver or reduction in



1           military retired or retainer pay related to receipt of  
2           the disability benefits."

3           SECTION 2. Section 580-47, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) Upon granting a divorce, or thereafter if, in  
6 addition to the powers granted in subsections (c) and (d),  
7 jurisdiction of those matters is reserved under the decree by  
8 agreement of both parties or by order of court after finding  
9 that good cause exists, the court may make any further orders as  
10 shall appear just and equitable (1) compelling the parties or  
11 either of them to provide for the support, maintenance, and  
12 education of the children of the parties; (2) compelling either  
13 party to provide for the support and maintenance of the other  
14 party; (3) finally dividing and distributing the estate of the  
15 parties, real, personal, or mixed, whether community, joint, or  
16 separate[+], subject to section 580-     ; and (4) allocating, as  
17 between the parties, the responsibility for the payment of the  
18 debts of the parties whether community, joint, or separate, and  
19 the attorney's fees, costs, and expenses incurred by each party  
20 by reason of the divorce. In making these further orders, the  
21 court shall take into consideration: the respective merits of



1 the parties, the relative abilities of the parties, the  
2 condition in which each party will be left by the divorce, the  
3 burdens imposed upon either party for the benefit of the  
4 children of the parties, the concealment of or failure to  
5 disclose income or an asset, or violation of a restraining order  
6 issued under section 580-10(a) or (b), if any, by either party,  
7 and all other circumstances of the case. In establishing the  
8 amounts of child support, the court shall use the guidelines  
9 established under section 576D-7. Provision may be made for the  
10 support, maintenance, and education of an adult or minor child  
11 and for the support, maintenance, and education of an  
12 incompetent adult child whether or not the petition is made  
13 before or after the child has attained the age of majority. In  
14 those cases where child support payments are to continue due to  
15 the adult child's pursuance of education, the agency, three  
16 months prior to the adult child's nineteenth birthday, shall  
17 send notice by regular mail to the adult child and the custodial  
18 parent that prospective child support will be suspended unless  
19 proof is provided by the custodial parent or adult child to the  
20 child support enforcement agency, prior to the child's  
21 nineteenth birthday, that the child is presently enrolled as a



1 full-time student in school or has been accepted into and plans  
2 to attend as a full-time student for the next semester a post-  
3 high school university, college, or vocational school. If the  
4 custodial parent or adult child fails to do so, prospective  
5 child support payments may be automatically suspended by the  
6 child support enforcement agency, hearings officer, or court  
7 upon the child reaching the age of nineteen years. In addition,  
8 if applicable, the agency, hearings officer, or court may issue  
9 an order terminating existing assignments against the  
10 responsible parent's income and income assignment orders.

11 In addition to any other relevant factors considered, the  
12 court, in ordering spousal support and maintenance, shall  
13 consider the following factors:

- 14 (1) Financial resources of the parties;
- 15 (2) Ability of the party seeking support and maintenance  
16 to meet his or her needs independently;
- 17 (3) Duration of the marriage;
- 18 (4) Standard of living established during the marriage;
- 19 (5) Age of the parties;
- 20 (6) Physical and emotional condition of the parties;
- 21 (7) Usual occupation of the parties during the marriage;



(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 his or her own needs while meeting the needs of the party seeking support and maintenance;

(12) Other factors which 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.

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 which will be required for the party seeking support and maintenance to secure adequate training, education, skills, or



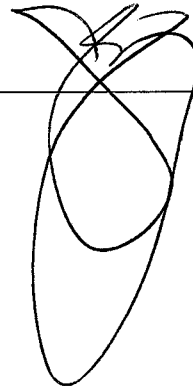
1 other qualifications necessary to qualify for appropriate  
2 employment, whether intended to qualify the party for a new  
3 occupation, update or expand existing qualification, or  
4 otherwise enable or enhance the employability of the party, the  
5 court shall order support and maintenance for a period  
6 sufficient to allow completion of the training, education,  
7 skills, or other activity, and shall allow, in addition,  
8 sufficient time for the party to secure appropriate employment."

9 SECTION 3. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

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

15  
INTRODUCED BY: \_\_\_\_\_

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long vertical stroke, positioned over the horizontal line following the text "INTRODUCED BY:".

# S.B. NO. 2962

**Report Title:**

Divorce; Division of Property; Military Disability Benefits

**Description:**

Disallows a court, when dividing property upon the dissolution of a marriage, from considering military disability benefits or from indemnifying or awarding the veteran's spouse for waivers or reductions in military pay related to disability benefits.

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

