

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO THE FAMILY COURT.

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

1           SECTION 1. The legislature finds that delays in family  
2 court dispositions of appeals could arguably violate both the  
3 state and federal constitutions' due process clauses. These  
4 delays conflict with the family court's mission to provide a  
5 "fair, speedy, economical, and accessible forum for the  
6 resolution of matters involving families and children".

7           The legislature further finds that in recent years, some  
8 cases remained unresolved for up to eight years. For example,  
9 delays between filing the family court order and the supreme  
10 court's decision on appeal have lasted as long as:

- 11           (1) Seven years and eight months in *Cox v. Cox*, 138 Hawaii  
12                 476 (2016);
- 13           (2) Four years and eleven months in *Brutsch v. Brutsch*,  
14                 139 Hawaii 373 (2017); and
- 15           (3) Two years and six months in *Tumaneng v. Tumaneng*, 138  
16                 Hawaii 468 (2016).



1 Delays can result in unacceptable incongruities when the matter  
2 becomes moot while the appeal is pending, such as when a child  
3 reaches the age of majority before the final child custody order  
4 makes its way through the appeal process.

5 Therefore, the purpose of this Act is to expedite  
6 dispositions of appeals from family court decisions by allowing  
7 cases within the jurisdiction of the intermediate appellate  
8 court that involve a family court judgment, order, or decree  
9 affecting the custody of a child or minor to be transferred to  
10 the supreme court.

11 SECTION 2. Section 602-58, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) The supreme court, in a manner and within the time  
14 provided by the rules of court, may grant an application to  
15 transfer any case within the jurisdiction of the intermediate  
16 appellate court to the supreme court upon the grounds that the  
17 case involves:

18 (1) A question of first impression or a novel legal  
19 question; [~~or~~]



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1           (2) Issues upon which there is an inconsistency in the  
2            decisions of the intermediate appellate court or of  
3            the supreme court[-]; or

4           (3) A judgment, order, or decree of a family court that  
5           affects the custody of a child or minor, including  
6           involuntary termination of parental rights pursuant to  
7           section 571-61(b)."

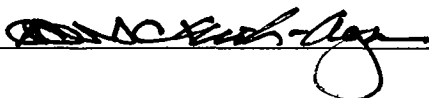
8           SECTION 3. This Act does not affect rights and duties that  
9           matured, penalties that were incurred, and proceedings that were  
10          begun before its effective date.

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

13          SECTION 5. This Act shall take effect on July 1, 2023.

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INTRODUCED BY:

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# S.B. NO. 1071

**Report Title:**

Family Court; Child Custody; Appeals; Transfers; Intermediate Court of Appeals; Supreme Court

**Description:**

Allows cases within the jurisdiction of the Intermediate Court of Appeals that involve a family court judgment, order, or decree affecting the custody of a child or minor to be transferred to the Supreme Court.

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

