

A Bill for an Act Relating to Spousal Liabilities.

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

SECTION 1. Chapter 573, Hawaii Revised Statutes, is amended in the following ways:

1. By amending section 573-6 to read as follows:

“Sec. 573-6 Not liable for spousal debts. A married person is not liable for the debts of a spouse; nor is a married person’s property liable to be taken on execution or other process against that person’s spouse.

2. By amending section 573-7 to read as follows:

“Sec. 573-7 Spousal liabilities. Both spouses of a marriage, whether married in this State or in some other jurisdiction, and residing in this, shall be bound to maintain, provide for, and support one another during marriage, and shall be liable for all debts contracted by one another for necessities for themselves, one another, or their family during marriage; provided that when a support or maintenance obligation, however designated, is imposed upon a spouse under chapter 580 or any other law, the amount of such obligation shall be determined by the appropriate court on the basis of factors enumerated in section 580-47(a).”

SECTION 2. Section 580-47, Hawaii Revised Statutes, is amended in the following ways:

1. By amending subsection (a) to read:

“(a) Upon granting a divorce, the court may make such further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the par-

ties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney's fees, costs, and expenses incurred by each party by reason of the divorce. In making such further orders, the Court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. Provision may be made for the support, maintenance and education of an adult or minor child and for the support, maintenance and education of an incompetent adult child whether or not the application is made before or after the child has attained the age of majority.

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

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;
- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (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; and
- (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.
- (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 other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure ap-

propriate employment.”

2. By amending subsection (d) to read as follows:

“(d) Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party or upon a showing of other good cause, the moving party may, in the discretion of the court, and upon adequate notice to the other party, be granted a hearing. The fact that the moving party is in default or arrears in the performance of any act or payment of any sums theretofore ordered to be done or paid by him or her shall not necessarily constitute a bar to the granting of the hearing. The court, upon such hearing, for good cause shown may amend or revise any order and shall consider all proper circumstances in determining the amount of the allowance, if any, which shall thereafter be ordered.

3. By amending subsection (e) to read as follows:

“(e) Attorney’s fees and costs. The court hearing any motion for orders either revising an order for the custody, support, maintenance, and education of the children of the parties, or an order for the support and maintenance of one party by the other, or a motion for an order to enforce any such order or any order made under subsection (a) of this section, may make such orders requiring either party to pay or contribute to the payment of the attorney’s fees, costs, and expenses of the other party relating to such motion and hearing as shall appear just and equitable after consideration of the respective merits of the parties, the relative abilities of the parties, the economic condition of each party at the time of the hearing, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case.”

SECTION 3. Section 580-74, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 580-74 Support of spouse and children.** Upon decreeing a separation, the court may make such further decree for the support or maintenance of either spouse and for the support, maintenance, and education of minor children, by either spouse, or out of the property of either spouse, as may appear just and proper; provided that the court shall apply the considerations required by section 580-47(a) in formulation of any support decree in any action under this part; and provided further that the court may amend or revise any such decree in the same manner and under the same circumstances as provided for by section 580-47(d).”

SECTION 4. 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 5. This Act shall take effect July 1, 1978.

(Approved May 16, 1978.)

*Edited accordingly.