

## ACT 153

H.B. NO. 2175-80

A Bill for an Act Relating to Names.

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

SECTION 1. Section 574-2, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 574-2 Legitimate children.** The registrar of births shall register any child born in wedlock as having the child’s father’s name as its family name, and shall also register a given name for the child. The registrar shall register any child legitimated, as provided in section 338-21, as having either the child’s father’s name or its mother’s name as a family name, and shall also register a given name for the child.”

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

**“Sec. 574-3 Illegitimate children.** The registrar of births shall register any illegitimate child as having the child’s mother’s name as a family name, and shall also register a given name for the child.”

SECTION 3. Section 574-4, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 574-4 Report of name of newborn child.** The father or mother of any child shall report the name or names conferred upon the child to the registrar of births for the district in which the child was born, within three months after the birth of the child. The name of the child shall be registered as required in section 574-2 or 574-3 and the name of the child conferred upon it by its parents, if different from its registered name, shall also be registered.”

SECTION 4. Section 574-5, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 574-5 How changed.** It shall not be lawful to change any name adopted or conferred under this chapter, except (1) upon an order of the lieutenant governor which order shall be founded upon a petition executed by the person desirous of changing his or her name, or, in case of a minor, by the parents or by such parent who has custody of the minor, with the consent of the non-custodial parent, or by the guardian of the person of the minor, which petition shall be accompanied by the payment of filing costs in the amount of \$5, and shall be published once in a newspaper of general circulation in the State in such order mentioned, and the petitioner shall deposit in the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the order, the affidavit to show that the order has been published as provided herein, and to have attached thereto a clipping showing the order as published, or (2) by any court or judge of competent jurisdiction, embodying in a decree of adoption a provision for change of name of the person adopted, or embodying in a decree of divorce a provision that either party may upon the divorce resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage, or (3) upon legitimation pursuant to section 338-21.

The change of name provided for herein by order of the lieutenant governor shall be effective upon the date of the signing of the order.

In all cases of change of name, except as otherwise provided, the order or decree shall be recorded in the bureau of conveyances and reported to the registrar of births.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed.”

SECTION 5. Section 338-21, Hawaii Revised Statutes, is amended to read:

**“Sec. 338-21 Legitimation.** (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 584, and are entitled to the same rights as those born in wedlock and shall take the surname so stipulated by their parents or, if the parents do not agree on the surname, shall take the surname of the father. 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 or 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.

(b) The evidence upon which the new certificate is made, and the original certificate, shall be sealed and filed and may be opened only upon order of a court of record.”

SECTION 6. Section 338-20, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 338-20 Adoption.** (a) In case of the adoption of any person born in the State, the department of health, upon receipt of a properly certified copy of the adoption decree, or certified abstract thereof on a form approved by the department, shall prepare a supplementary certificate in the name of the adopted person, as fixed or changed by the decree, and seal and file the original certificate of birth with the certified copy attached thereto.

(b) The registrar of births shall show on the supplemental birth certificate the names of parents as stated in the adoption decree pursuant to section 578-14.

(c) Any certified copy of final decree of adoption, or abstract thereof, of persons born in the State, rendered by courts of other states and territories subject to the jurisdiction of the United States, or courts of a foreign country, shall be considered properly certified when attested by the clerk of the court in which it was rendered with the seal of the court annexed, if there be a seal, together with a certificate of the presiding judge, chancellor, or magistrate that the attestation is in due form.

(d) If no original certificate of birth shall be on file with the department, the department may require such evidence as it deems necessary to establish the facts of birth before preparing a supplementary certificate in the new name of the adopted person; provided, that no such certificate shall be filed unless it shall be satisfactorily established that the adopted person was born in the State.

(e) Such sealed documents may be opened by the department only by an order of a court of record. Upon receipt of a certified copy of a court order setting aside a decree of adoption, the department shall restore the original certificate to its original place in the files.”

SECTION 7. Section 578-14, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 578-14 Record of adoption.** A certified copy of the decree of adoption, or a certified abstract thereof on a form approved by the department of health shall, after such decree has become effective, be sent to the department. The department shall cause to be made a new record of the birth in the name of the individual, as fixed or changed by the decree, with the names of the adoptive parents, and, upon request of both adoptive parents, or the sole adoptive parent if there is only one, that the name or names of either or both of the natural parents appear on the certificate with the name of a natural parent who consents to be named on the certificate, and shall then cause to be sealed and filed the original birth certificate of the individual with the decree or the abstract thereof, and such sealed package shall be opened only by order of a court of record. If the birth of the individual occurred outside of the State, and a record of such birth exists, the certified copy of the decree or the abstract thereof, shall be transmitted by the department of health to the birth registration authorities of the place of the individual’s birth with a request that such authorities take appropriate action with respect to the record of the individual’s birth. If the birth of the individual occurred outside of the State, or if the birth of an individual born in the State has not been registered with the department of health, or if other good cause exists, the clerk of the court shall, upon request, and with the approval of the family court, upon the finding of the court that such action is for the best interests of the individual involved, furnish to the adoptive parents, or to the individual, or to any proper person acting in their behalf, a certified copy or abstract of the decree of adoption, or a certificate of

## **ACT 153**

adoption in such form as is approved by the court. If the parental rights of a parent or the parents of a minor child have been judicially terminated under chapter 571 prior to the entry of the decree, a certified copy of the decree shall be filed in the termination proceeding.”

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 9. This Act shall take effect upon its approval.

(Approved May 28, 1980.)

---

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.