

ACT 49

S.B. NO. 2345-82

A Bill for an Act Relating to Family Courts.

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

SECTION 1. Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Involuntary termination.

(1) The family courts may terminate the parental rights in respect to any child as to any legal parent:

- (A) Who has deserted the child without affording means of identification for a period of at least ninety days;
- (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
- (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
- (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
- (E) Whose child has been removed from [his] the parent’s physical

- custody pursuant to legally authorized judicial action under section 571-11(2)(A)[.] or (B) and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
- (F) Who is found by the court to be mentally ill or mentally retarded and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child;
 - (G) Who is found not to be the child's natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption, or who is named as the father on the child's birth certificate:
- (A) Who falls within subparagraphs (A), (B), (C), (D), (E), or (F) of paragraph (1) above;
 - (B) Whose child is sought to be adopted by the child's stepfather and said stepfather has lived with said child and said child's legal mother for a period of at least one year;
 - (C) Who has failed to file a petition for the adoption of said child or whose petition for the adoption of said child has been denied;
 - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to any proceedings under paragraphs (1) and (2) herein, the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. In the event that personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption.

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to said father, the court shall conduct a hearing to determine whether notice must be given.

In the event the court finds that good cause exists why notice cannot or should not be given to the child's father, and that said father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of said father's parental rights and the subsequent adoption of said child without notice to said father."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1982.)