

ACT 288

H.B. NO. 322

A Bill for an Act Relating to Paternity Statute of Limitations.

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

SECTION 1. Section 584-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

“(a) A child, or personal representative of the child, [his] the child’s natural mother, including a mother who is an unmarried woman or a mother who is a married woman who was separated from and was not living with her husband prior to and at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or alleging himself to be the natural father, or his personal representative if the father has died[,];¹ or the department of social services and housing if it is providing or has provided public assistance for the support or maintenance of the child under chapter 346, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship within the following time periods:

- (1) If the child is the subject of an adoption proceeding,
 - (A) Within thirty days after the date of the child’s birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or
 - (B) Any time prior to the date of execution by the mother of a valid consent to the child’s adoption, or prior to placement of the child with adoptive parents, but in no event later than three years after the child’s birth; or
- (2) If the child has not become the subject of an adoption proceeding within three years after the child’s birth; provided that any period of

time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed.

(b) When an action is brought under this section [by a child, or personal representative of the child, or his natural mother, or her personal representative or parent if the mother has died], process shall issue in the form of a summons and an order directed to the alleged or presumed father, the mother or both, requiring [him] each to appear² show cause why the action should not be brought.

If, at any stage of the proceedings, there appears probable cause to believe that the alleged or presumed father, the mother, or both, will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the court may issue a warrant directed to the sheriff, [his] deputy[,], sheriff, or any police officer within the circuit, requiring the alleged or presumed father, the mother, or both, to be arrested and brought for pre-trial proceedings before the family court. Upon such pre-trial proceedings, the court may require the alleged or presumed father, the mother, or both, to enter into bond with good sureties to the State in a sum to be fixed by the court for [his] each person's appearance and the trial of the proceeding in the family court. If [he fails] the alleged or presumed father, the mother, or both, fail to give the bond required [of him], the court may forthwith commit [him] that person to the custody of the chief of police of the county, there to remain until [he] that person enters into the required bond or otherwise is discharged by due process of law. If the alleged or presumed father, the mother, or both, fail to appear in any proceeding under this chapter, any bond for [his] that person's appearance shall be forfeited; but the trial of, or other proceedings in, the action shall, nevertheless, proceed as though [he] that person were present; and upon the findings of the court it shall make such orders as it deems proper as though [he] that person were in court.

In case of forfeiture of any appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the [father.] parent whose parent-child relationship is established under this chapter."

SECTION 2. Section 584-7, Hawaii Revised Statutes, is amended to read:

"**[§584-7] Statute of limitations.** Except as otherwise provided in section 584-6(a) with respect to a child relinquished for adoption, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 584-4 shall not be brought later than three years after the birth of the child[, or later than three years after the effective date of this chapter, whichever is later.]; provided that an action brought by a child whose paternity has not been determined or an action brought by a personal representative of such a child shall not be barred until three years after the child reaches the age of majority; and provided further that if the child is the subject of an adoption proceeding, then the time limitations set out in section 584-6(a)(1) shall apply. Sections 584-6 and 584-7 shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Notes

1. Underscoring missing.
2. The words "and to" missing.