

ACT 250

H.B. NO. 1852-84

A Bill for an Act Relating to the Uniform Desertion and Nonsupport Act (Modified).

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

SECTION 1. Sections 575-2 to 575-4, Hawaii Revised Statutes, are amended to read as follows:

“§575-2 Prima facie evidence; sequestration of money [belonging to husband or parent] for support of [wife] spouse or children. [The absence for a continuous period of six months or over of a husband from his wife or of any parent from his or her child or children under the age of sixteen years without first making suitable provision for the support and maintenance of the wife or child or children, shall be deemed prima facie evidence of desertion and wilful neglect on the part of the husband or parent. In such case, and where it is known that some person has money belonging to the husband or parent,] The absence of any spouse or parent from the other spouse or child or children under the age of sixteen for a continuous period of three months or more without first making suitable provision for the support or maintenance of such spouse, child, or children shall be prima facie evidence of desertion and wilful neglect. In such case, and where it is known that such spouse or parent has money in the possession of a third party, the complaint, made under section 575-3, shall allege [such] the continuous absence [on the part of the husband or parent] by the spouse or parent and the name of the [person] third party [holding] possessing

the money. The court in which the complaint is filed shall issue an order to the [person] third party [holding] possessing the money to appear before it to show cause why the money shall not be applied to the maintenance and support of the [wife] spouse, [or] the child, or children.

If, after a hearing for that purpose, the court is satisfied that there has been a continuous absence [on the part of the husband or parent] by the spouse or parent [as aforesaid] and a failure [on the part of the husband or parent] by the spouse or parent to make suitable provision for maintenance and support, and that there is money in the [hands] possession of the [person] third party [cited before it] belonging to the [husband or parent,] spouse or parent, it shall make an order upon [such person] the third party to apply the money in [such] the sum or sums in [such] the manner and at [such] the time or times as it may determine for the support and maintenance of the [wife] spouse or the child or children; provided[,] that no [such] order to [so] apply the money shall be made unless a copy of the order to show cause is served upon the [husband or parent] spouse or parent prior to the hearing; provided[,] further[,] that if the [husband or parent] spouse or parent cannot be found, the order to show cause shall be published in [such] a newspaper of general circulation and for [such] the time as shall [by the order of the court] be designated[.] by the order of the court.

§575-3 Complaint. Proceedings under this chapter may be instituted upon complaint made under oath or affirmation by the [wife] spouse, [or] child, or children, or either of them, or by any other person or persons, or organization, against any person guilty of either of the above named offenses.

§575-4 Evidence; marriage, paternity, etc. No other or greater evidence shall be required to prove the marriage of the [husband and wife,] spouses, or that the defendant is the [father or mother] parent of the child or children, than is required to prove such facts in a civil action. In no prosecution under this chapter shall any statute or rule of law prohibiting the disclosure of confidential communications between [husband and wife] spouses apply, and both [husband and wife] spouses shall be competent and compellable witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children; provided that neither shall be compelled to give self-incriminating evidence [incriminating himself or herself]. Proof of the desertion of the [wife,] spouse, child, or children in destitute or necessitous circumstances, or of neglect or refusal to provide for the support and maintenance of the [wife,] spouse, child, or children, shall be prima facie evidence that the desertion, neglect, or refusal is wilful."

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

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

(Approved June 4, 1984.)