

## ACT 234

H.B. NO. 362

A Bill for an Act Relating to Spouses.

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

SECTION 1. The common law upon which early American jurisprudence is based considered the husband and wife to be one legal unity. The practical effect of this notion was to deprive married women of valuable personal rights, such as the right to own property, to enter into contracts, and to bring legal actions. Changes in American social order gradually brought about the abolition of the theory that husbands and wives formed one legal unit, and laws were enacted giving women the right to own property and to bring legal actions by themselves. However, the latter right was limited by prohibiting actions by one spouse against the other on the belief that allowing such suits would destroy marital harmony. This prohibition was called the interspousal tort immunity rule.

Today, most states have either abolished or limited the interspousal tort immunity rule, in recognition of the fact that in many cases in which one spouse would wish to sue the other, such as in instances of domestic violence, marital harmony has already reached a crashing discord. In those cases, the interspousal tort immunity rule merely serves as a bar to legitimate claims for compensation for injuries.

Additionally, the interspousal tort immunity rule adversely affects spouses by denying them the right to sue in a situation in which both spouses want the suit to be brought. For instance, if a spouse causes an accident in which another person is injured, the victim can sue the offending spouse and receive compensation for medical, psychological, and other necessary expenses from the spouse's insurance company. If, however, a spouse causes an accident in which the other spouse is injured, the interspousal tort immunity rule prohibits an action so that the injured spouse cannot be compensated from the insurance policy and thus is denied a benefit available to any other injured party.

However, removal of the interspousal tort immunity rule could adversely impact other matters such as insurance collusion, estate and trust, interspousal evidentiary privileges, and negligence actions. Because of this, the legislature finds that there is a need to study the broader implications of repealing the interspousal tort immunity law.

The purpose of this Act is to appropriate funds to be expended by the judiciary to investigate the effects of repealing the interspousal tort immunity law on other areas of law.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1991-1992, for a study of the effects of repealing the interspousal tort immunity law in Hawaii. The judiciary shall report its findings and recommendations to the legislature at least twenty calendar days prior to the convening of the regular session of 1992.

**SECTION 3.** The sum appropriated shall be expended by the judiciary for the purposes of this Act.

**SECTION 4.** This Act shall take effect on July 1, 1991.

(Approved June 12, 1991.)