

ACT 131

H.B. NO. 284

A Bill for an Act Relating to Vital Statistics.

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

SECTION 1. Section 338-1, Hawaii Revised Statutes, is amended by deleting the definition of “legitimation”:

[““Legitimation” is the process by which a child born out of wedlock assumes the legal status and the rights, privileges, duties, and obligations of a child who is born in wedlock.”]

SECTION 2. Section 338-17.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of health shall establish, in the following circumstances, a new certificate of birth for a person born in this State who already has a birth certificate filed with the department and who is referred to below as the “birth registrant”:

- (1) Upon receipt of [documents showing that the birth registrant has been legitimated pursuant to section 338-21, together with] an affidavit of paternity, a court order establishing paternity, or a certificate of marriage establishing the marriage of the natural parents to each other, together with a request from the birth registrant, or the birth registrant’s parent or other person having legal custody of the birth registrant, that a new birth certificate be prepared because previously recorded information has been altered pursuant to law;
- (2) Upon receipt of a certified copy of a final order, judgment, or decree of a court of competent jurisdiction that determined the nonexistence of a parent and child relationship between a person identified as a parent on the birth certificate on file and the birth registrant;
- (3) Upon receipt of a certified copy of a final adoption decree, or of an abstract of the decree, pursuant to sections 338-20 and 578-14;
- (4) Upon receipt of an affidavit of a physician that the physician has examined the birth registrant and has determined the following:
 - (A) The birth registrant’s sex designation was entered incorrectly on the birth registrant’s birth certificate; or
 - (B) The birth registrant has had a sex change operation and the sex designation on the birth registrant’s birth certificate is no longer correct; provided that the director of health may further investigate and require additional information that the director deems necessary; or
- (5) Upon request of a law enforcement agency certifying that a new birth certificate showing different information would provide for the safety of the birth registrant[. Notwithstanding subsection (b), in such instance.]; provided that the new birth certificate shall contain [such] information [as] requested by the law enforcement agency, shall be assigned a new number and filed accordingly, and shall not substitute for the birth registrant’s original birth certificate, which shall remain in place.”

SECTION 3. Section 338-21, Hawaii Revised Statutes, is amended to read as follows:

“§338-21 [Legitimation.] Children born to parents not married to each other. (a) All children born [out of wedlock,] to parents not married to each other, irrespective of the marriage of either natural parent to another, [become legitimate] (1) on the marriage of the natural parents with each other, (2) on the voluntary, written acknowledgements of paternity under oath signed by the natural father and the natural 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] to parents married to each other and shall take the name so stipulated by their parents or, if the parents do not agree on the name, shall take the name specified by a court of competent jurisdiction to be the name that is in the best interests of the child. [If legitimation is accomplished before the original certificate of birth is filed with the department of health, the] 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 original certificate of birth, and not a duplicate of the original certificate that has been amended, altered, or modified, in the new

name of the [legitimated] child, and the department shall issue the new original certificate of birth [upon being satisfied that the child or children has or have been legitimated]. As used in this section "name" includes the first name, middle name, or last name.

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

(c) If[, after a child is legitimated pursuant to subsection (a)(2) or (a)(3) of this section,] the child's natural parents marry each other and desire to change the child's name, the child's name may be changed and a new original certificate of birth prepared [as if a legitimation pursuant to subsection (a)(1) had just occurred].

(d) Nothing in this section shall be construed to limit the power of the courts to order the department [of health] to prepare new certificates of birth under section 584-23.'

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 1994.

(Approved May 21, 1993.)