

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 unit. As a result, married women were deprived of valuable personal rights, such as the right to own property, to enter into contracts, and to bring legal actions. Social changes resulted in the demise of the theory that husbands and wives formed one legal unit, and laws were enacted giving wives the right to own property and to maintain separate legal actions. However, actions by one spouse against the other were still prohibited, based upon 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, recognizing that marital harmony no longer exists in many cases in which a person would wish to sue a spouse, as in instances of domestic violence. Thus, the interspousal tort immunity rule serves as a bar to a legitimate claim for compensation where injuries are inflicted upon one spouse by the other.

Additionally, the interspousal tort immunity rule denies a married person the right to bring an action against his or her spouse even when such a suit is desired by both spouses. An accident victim may sue to receive compensation for medical, psychological, and other expenses from the insurance company of the person at fault. If, however, the victim is the spouse of the person who caused the accident, the interspousal tort immunity rule prohibits the injured spouse from suing for compensation, although any other injured party possesses the right to bring suit.

It is the purpose of this Act to remove the prohibition against tort suits between spouses, to more fairly and equitably protect married persons.

SECTION 2. Section 572-28, Hawaii Revised Statutes, is amended to read as follows:

“§572-28 Suits by and against. A married person may sue and be sued in the same manner as if the person were sole[; but this]. This section shall [not] be construed to authorize tort suits between spouses.”

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 Statutory material to be repealed is bracketed.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

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

(Approved April 26, 1993.)