

親権・監護権に関するハワイ州（米国）法令の調査報告書
条文解説

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HAWAII REVISED STATUTES
ハワイ州法

DIVISION 3. PROPERTY; FAMILY
第3部 財産；家族
TITLE 31 FAMILY
第31編 家族

571. Family Courts

571 章 家庭裁判所（第1～9節）

<p>注）「家庭裁判所」について定めたハワイ州法の第571章において、子の監護権について定められている。</p> <p>とくに本件調査に必要と考える第571-46条（監護権、面会交流を認める基準に関する条文）と、第571-46.1条（共同監護に関する条文）、およびドメスティック・バイオレンスについて定めた第709-906条を中心に記載する。</p>	<p>PART V. PROCEDURE AND DECREE</p> <p>第5節 訴訟手続と判決</p> <p>§571-46 Criteria and procedure in awarding custody and visitation; best interest of the child.</p> <p>571-46 条 監護権及び面会交流を付与する基準と手続き；子の最善の利益</p> <p>(a) In actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court, during the pendency of the action, at the final hearing, or any time during the minority of the child, may make an order for the custody of the minor child as may seem necessary or proper. In awarding the custody, the court shall be guided by the following standards, considerations, and procedures:</p> <p>(a) 離婚、別居、（婚姻の）無効、財産分与、または未成年の子の監護権に関する争いがあるその他の手続きのための訴訟において、裁判所は、訴訟係属中は最終審理において、または、子が未成年の間はいつでも、未成年の子に必要かつ適切な監護に関する命令をすることができる。監護権を付与するにあたり、裁判所は以下の基準、配慮、手続に従い行わなければならない。</p> <p>(1) Custody should be awarded to either parent or to both parents according to the best interests of the child, and the court also may consider frequent, continuing, and meaningful contact of each</p>
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<p>監護権は、父母以外の第三者にも付与されうる。</p>	<p>parent with the child unless the court finds that a parent is unable to act in the best interest of the child;</p> <p>(1) 監護権は、子の最善の利益に従い、親の一方または双方に付与されなければならない。裁判所は、親が子の最善の利益にもとづき行為することができないという事実を認定しない限り、頻繁で、継続的かつ意義のある交流について配慮することができる。</p> <p>(2) Custody may be awarded to persons other than the father or mother whenever the award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall be entitled prima facie to an award of custody;</p> <p>(2) 監護権は、その付与が子の最善の利益にかなう場合には、父または母以外の者に付与されうる。安定かつ健全な家庭において子の事実上の監護権を持ち、適格かつ適切な人物とされるあらゆる者は、監護権を付与される一応の権利を有するものとする。</p> <p>(3) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, the child's wishes as to custody shall be considered and be given due weight by the court;</p> <p>(3) 子が賢明な選択をするために十分な年齢で、かつ能力を有する場合には、監護に関する子の希望は裁判所により考慮されねばならず、相当の比重が置かれなければならない。</p> <p>(4) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare, and custody of any minor child of the parties. When so directed by the court, investigators or professional personnel attached to or assisting the court, hereinafter referred to as child custody evaluators, shall make investigations and reports that shall be made available to all interested parties and counsel before hearing, and the reports may be received in evidence if no objection is made and, if objection is made, may be received in evidence; provided the person or persons responsible for the report are available for cross-examination as to any matter that has been investigated; and provided further that the court shall define, in accordance with section 571-46.4, the requirements to be a court-appointed child custody evaluator, the standards of practice, ethics, policies, and procedures required of court-appointed child custody evaluators in the performance of their duties for all courts, and the powers of the courts over child custody evaluators to effectuate the best interests of a child in a contested custody dispute pursuant to this section. Where there is no child custody evaluator available that meets the requirements and standards, or any child custody evaluator to serve indigent parties, the court may appoint a person otherwise willing and available in accordance with section 571-46.4;</p>
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	<p>(4) 正当な事由があるときは、裁判所は当事者の未成年の子の世話、福祉及び監護に関する調査と報告を求めることができる。裁判所が指示する時は、子の監護評価者として以下の裁判所専属または補助の調査官または専門職員は、調査及び報告をしなければならない。これは利害関係を持つ当事者と弁護士が審理の前に利用できるものである。報告書は、異議のない場合は証拠として受領されることができる。異議のある場合にも証拠として受領されうるが、報告書に責任のある者は、調査されたあらゆる事項に関して反対尋問の際に報告書を利用することができる。そして、裁判所は、第 571-46.4 条に従い、すべての裁判所に対する義務の履行の際に裁判所に任命された子の監護権評価者に要求される実務、倫理、政策、手続きの基準、及び本条に従った監護権の争いのある子の最善の利益を実現するためにこの監護評価者に関する裁判所の権限を定めなければならない。要件と基準に適合する子の監護評価者がいない場合、または貧困な当事者のために子の監護評価者がいない場合には、裁判所は、第 571-46.4 条に従い、意欲あるかつ利用可能な別の者を任命することができる。</p> <p>(5) The court may hear the testimony of any person or expert, produced by any party or upon the court's own motion, whose skill, insight, knowledge, or experience is such that the person's or expert's testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue;</p> <p>(5) 裁判所は、当事者による、又は裁判所自らによる訴えにもとづき、あらゆる者から、もしくは専門家の証言を聞くことができる。その者または専門家の技能、洞察、知識もしくは経験は、彼らの証言を通して、監護権が問題となっている子にとって身体的、心理的、道徳的、及び精神的に最善な状態とは何かについて、正当にかつ合理的に決定することに関係しているからである。</p> <p>(6) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify the modification or change and, wherever practicable, the same person who made the original order shall hear the motion or petition for modification of the prior award;</p> <p>(6) 子の最善の利益のために、修正あるいは変更が求められ、それが正当化される場合、いかなる監護権の付与も修正あるいは変更されなければならない。現実的に可能である場合には、当初の命令をした者が、先の監護権付与の修正のための申請または訴えを審理しなければならない。</p> <p>(7) Reasonable visitation rights shall be awarded to parents, grandparents, siblings, and any person interested in the welfare of the child in the discretion of the court, unless it is shown that rights of visitation are detrimental to the best interests of the child;</p>
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<p>面会交流は、父母や祖父母以外の第三者にも認められる。</p> <p>監護権の問題に関し、ドメスティック・バイオレンスの考慮について規定されている。</p>	<p>(7) 合理的な面会交流権は、面会交流が子の最善の利益を害することが証明されない限り、裁判所の裁量によって、親の双方、祖父母、兄弟姉妹、及び子の福祉に関係のある者に与えられなければならない。</p> <p>(8) The court may appoint a guardian ad litem to represent the interests of the child and may assess the reasonable fees and expenses of the guardian ad litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify;</p> <p>(8) 裁判所は、子の利益を代理するために訴訟のための後見人を選任することができる。裁判所は、状況に応じて、当事者の一方もしくは双方によって支払い可能な全部または一部の訴訟費用として、訴訟のための後見人にかかる相当な報酬と費用を査定することができる。</p> <p>(9) In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that family violence has been committed by a parent raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence. In addition to other factors that a court shall consider in a proceeding in which the custody of a child or visitation by a parent is at issue, and in which the court has made a finding of family violence by a parent:</p> <p>(A) The court shall consider as the primary factor the safety and well-being of the child and of the parent who is the victim of family violence;</p> <p>(B) The court shall consider the perpetrator's history of causing physical harm, bodily injury, or assault or causing reasonable fear of physical harm, bodily injury, or assault to another person; and</p> <p>(C) If a parent is absent or relocates because of an act of family violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation;</p> <p>(9) 子の監護に関する紛争が問題となっているすべての手続きにおいて、裁判所によって、親による家族内暴力があるとする決定があった場合には、家族内暴力の加害者に、単独の監護権、共同の法的監護権もしくは身上監護権を与えることは子に不利益を与え、子の最善の利益にかなわないという反証を許す推定がなされる。裁判所が子の監護または面会交流が問題となっている手続き、及び裁判所が親による家族内暴力を認定する手続きにおいて、裁判所が考慮しなければならない他の要素に加えて、</p>
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	<p>(G) Require a bond from the perpetrator of family violence for the return and safety of the child. In determining the amount of the bond, the court shall consider the financial circumstances of the perpetrator of family violence;</p> <p>(H) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or other family or household member; and</p> <p>(I) Order the address of the child and the victim to be kept confidential;</p> <p>(11) 裁判所は面会交流の命令に関して、以下の命令をすることができる。</p> <p>(A) 安全な環境で、子を受け渡しすることの命令</p> <p>(B) 他の者または機関による監督のもとでの面会交流の命令</p> <p>(C) 家族内暴力の加害者に、裁判所が十分な証拠として認定できるように、面会交流の条件として、暴力防止プログラムまたは他の指定されたカウンセリングに参加し、修了させる命令</p> <p>(D) 家族内暴力の加害者に、面会交流の間及び面会交流の 2 4 時間前から、アルコールまたは他の規制された物の所有と消費を控えさせる命令</p> <p>(E) 家族内暴力の加害者に監督付きの面会交流のために支出した費用を支払わせる命令</p> <p>(F) 宿泊を伴う面会交流の禁止</p> <p>(G) 子の返還と安全のために家族内暴力の加害者に保証金を要求すること。保証金の額の決定において裁判所は家族内暴力の加害者の経済的事情を考慮しなければならない</p> <p>(H) 子、家族内暴力の被害者、他の家族や同じ世帯の人の安全のために必要な他の条件を課すこと</p> <p>(I) 子と被害者の住所を秘匿する命令</p> <p>(12) The court may refer but shall not order an adult who is a victim of family violence to attend, either individually or with the perpetrator of the family violence, counseling relating to the victim's status or behavior as a victim as a condition of receiving custody of a child or as a condition of visitation;</p>
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<p>(14) は、監督付きの面会における面会交流センターの働きについて定めている。</p>	<p>(12) 裁判所は、子の監護権もしくは面会の条件として、被害者の状況もしくは行動に関するカウンセリングに、個別にもしくは家族内暴力の加害者とともに、出席するよう、家族内暴力の被害者に対して言及することはできるが、これを命じてはならない。</p> <p>(13) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation;</p> <p>(13) 裁判所が家族もしくは同世帯の者による面会交流の監督を許可する場合には、面会交流の間に従うべき条件を定めなければならない。</p> <p>(14) A supervised visitation center shall provide a secure setting and specialized procedures for supervised visitation and the transfer of children for visitation and supervision by a person trained in security and the avoidance of family violence;</p> <p>(14) 監督を行う面会交流センターは、監督下での面会交流のために、安全な環境と特別な手続きを提供しなければならない。また、安全と家族内暴力の回避について訓練された者による面会時の子の受け渡し、及び監督を提供しなければならない。</p> <p>(15) The court may include in visitation awarded pursuant to this section visitation by electronic communication provided that the court shall additionally consider the potential for abuse or misuse of the electronic communication, including the equipment used for the communication, by the person seeking visitation or by persons who may be present during the visitation or have access to the communication or equipment; whether the person seeking visitation has previously violated a temporary restraining order or protective order; and whether adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the custodial parent;</p> <p>(15) 裁判所が、追加的に、面会交流を求める者により、または、面会交流に同席することができ、もしくは、コミュニケーションまたは器材にアクセスできる者による、コミュニケーションのために使用する機材を含む電子コミュニケーションの悪用もしくは誤用について配慮することを条件として、本条に従って与えられる面会交流には、電子コミュニケーションによる面会交流を含むことができる。これには、面会交流を求める者が、緊急一時保護命令もしくは保護命令に違反していたかどうか、そして、子の身体の安全と精神的な福祉のため、及び監護親の安全のために適切な取り決めがなされたかどうかによる。</p>
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<p>ここでは、性犯罪の加害者についての監護権、面会における考慮事項について定めている。</p>	<p>(16) The court may set conditions for visitation by electronic communication under paragraph (15), including visitation supervised by another person or occurring in a protected setting.</p> <p>Visitation by electronic communication shall not be used to:</p> <p>(A) Replace or substitute an award of custody or physical visitation except where:</p> <p>(i) Circumstances exist that make a parent seeking visitation unable to participate in physical visitation, including military deployment; or</p> <p>(ii) Physical visitation may subject the child to physical or extreme psychological harm; or</p> <p>(B) Justify or support the relocation of a custodial parent; and</p> <p>(16) 裁判所は、他の者による監督付きの面会交流もしくは保護された環境での面会交流を含め、(15)号のもとでの電子コミュニケーションによる面会交流についての条件を付することができる。電子コミュニケーションによる面会交流は、以下のようにはならない。</p> <p>(A) 監護権もしくは身体的な面会交流と引き換えに、あるいはその代替のものとすること。ただし、以下の場合を除く。</p> <p>(i) 面会交流を求める親が、軍の配備を含め、身体的な面会交流に参加することが不可能な事情がある場合</p> <p>(ii) 子が身体的な面会交流によって、身体的もしくは極度の精神的害悪にさらされる可能性のある場合</p> <p>(B) 監護親の転居を正当化、あるいは支持すること</p> <p>(17) Notwithstanding any provision to the contrary, no natural parent shall be granted custody of or visitation with a child if the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of that offense; provided that:</p> <p>(A) A denial of custody or visitation under this paragraph shall not affect the obligation of the convicted natural parent to support the child;</p> <p>(B) The court may order the convicted natural parent to pay child support;</p>
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	<p>(C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabit and establish a mutual custodial environment for the child; and</p> <p>(D) A custodial natural parent may petition the court to grant the convicted natural parent custody and visitation denied pursuant to this paragraph, and upon such petition the court may grant custody and visitation to the convicted natural parent where it is in the best interest of the child.</p> <p>(17) 別の定めがあるにもかかわらず、実親がすべての州で管轄権のある裁判所において強姦性交もしくは性的暴行で有罪とされ、子がその犯罪の結果を認識している場合には、有罪とされた血縁上の親は、子の監護権又は面会交流権を与えられない。ただし、以下を条件とする。</p> <p>(A) 本項のもとの監護権もしくは面会交流の否定は、有罪とされた血縁上の親の子に対する扶養義務に影響を与えない。</p> <p>(B) 裁判所は、有罪とされた血縁上の親に養育費の支払いを命じることができる。</p> <p>(C) 本項は、有罪とされた日以降に、有罪とされた血縁上の親と監護権を有する血縁上の親が同居し、子のために互いが監護環境を作り出した場合には適用されない。</p> <p>(D) 監護権を有する血縁上の親は、有罪とされた血縁上の親に、本項によって否定された監護権と面会交流を付与するため、裁判所に申立をすることができる。裁判所は、その申立てに従い、子の最善の利益にかなう場合には、有罪とされた血縁上の親に監護権と面会交流権を付与することができる。</p> <p>(b) In determining what constitutes the best interest of the child under this section, the court shall consider, but not be limited to, the following:</p> <p>(1) Any history of sexual or physical abuse of a child by a parent;</p> <p>(2) Any history of neglect or emotional abuse of a child by a parent;</p> <p>(3) The overall quality of the parent-child relationship;</p>
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<p>いわゆるフレンドリー・ペアレント条項が DV 事案では該当しないことが明記されている。</p>	<p>(4) The history of caregiving or parenting by each parent prior and subsequent to a marital or other type of separation;</p> <p>(5) Each parent's cooperation in developing and implementing a plan to meet the child's ongoing needs, interests, and schedule; provided that this factor shall not be considered in any case where the court has determined that family violence has been committed by a parent;</p> <p>(6) The physical health needs of the child;</p> <p>(7) The emotional needs of the child;</p> <p>(8) The safety needs of the child;</p> <p>(9) The educational needs of the child;</p> <p>(10) The child's need for relationships with siblings;</p> <p>(11) Each parent's actions demonstrating that they allow the child to maintain family connections through family events and activities; provided that this factor shall not be considered in any case where the court has determined that family violence has been committed by a parent;</p> <p>(12) Each parent's actions demonstrating that they separate the child's needs from the parent's needs;</p> <p>(13) Any evidence of past or current drug or alcohol abuse by a parent;</p> <p>(14) The mental health of each parent;</p> <p>(15) The areas and levels of conflict present within the family; and</p> <p>(16) A parent's prior wilful misuse of the protection from abuse process under chapter 586 to gain a tactical advantage in any proceeding involving the custody determination of a minor. Such wilful misuse may be considered only if it is established by clear and convincing evidence, and if it is further found by clear and convincing evidence that in the particular family circumstance the wilful misuse tends to show that, in the future, the parent who engaged in the wilful misuse will not be able to cooperate successfully with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of the best interests of the child. For the purposes of this section, when taken alone,</p>
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	<p>the voluntary dismissal of a petition for protection from abuse shall not be treated as prima facie evidence that a wilful misuse of the protection from abuse process has occurred.</p> <p>(b) 本条のもとで子の最善の利益となるものを決定するにあたり、裁判所は以下のことを考慮しなければならない。ただし、これに限定されるわけではない。</p> <p>(1) 親による子への性的もしくは身体的虐待の経歴</p> <p>(2) 親による子へのネグレクトもしくは情緒的虐待の経歴</p> <p>(3) 親子関係の総合的な質</p> <p>(4) 婚姻もしくは他のタイプの離別の前後における、それぞれの親による世話もしくは養育の経歴</p> <p>(5) 子にとっての継続的な必要性、利益、及びスケジュールに適合する計画を策定しかつ実行する際のそれぞれの親の協力。ただし、この要素は、裁判所により家族内暴力がなされていると判断された場合には、考慮されてはならない</p> <p>(6) 子の身体的健康の必要性</p> <p>(7) 子の情緒的必要性</p> <p>(8) 子の安全の必要性</p> <p>(9) 子の教育の必要性</p> <p>(10) 子の兄弟姉妹との関係のための必要性</p> <p>(11) 子に家族とのイベントや活動を通して家族関係を維持させようとしたことの証拠となるそれぞれの親の行為。ただし、この要素は、裁判所により家族内暴力がなされていると判断された場合には、考慮されてはならない</p> <p>(12) 子の必要性を親の必要性から切り離すよう働きかけるそれぞれの親の行動</p> <p>(13) 親の現在もしくは過去のドラッグもしくはアルコール濫用のあらゆる証拠</p> <p>(14) それぞれの親のメンタルヘルス</p> <p>(15) 家族内で起きている現在の紛争の範囲と程度</p>
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<p>第 571—46.1 条 共同監護</p>	<p>(16) 未成年者の監護権決定を含むあらゆる手続きで戦略的優位性を得るために、一方の親が事前に 586 章の虐待からの保護手続を故意に悪用すること。そのような故意の悪用は、明白かつ確信のある証拠によって立証された場合のみ、考慮される。そして、明白かつ確信のある証拠によって、個々の家族の事情において、将来、故意に悪用した親が、子のための分担責任を他方の親と上手く協力することができないと、故意の悪用を示す傾向にある場合においてのみ、考慮される。裁判所は、子の最善の利益の決定の一部としてこの要素を根拠とした場合にはいつでも、事実の認定を明確に述べなければならない。本条の目的のために、単独で行われた時は、虐待からの保護の申立の自発的な取り下げは、虐待からの保護手続の悪用が起きたとする一応の証拠として扱ってはならない。</p> <p>§571-46.1 Joint custody. (a) Upon the application of either parent, joint custody may be awarded in the discretion of the court. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court shall, upon the request of either party, direct that an investigation be conducted pursuant to the provisions of section 571-46(a)(4).</p> <p>(b) For the purposes of this section, “joint custody” means an order awarding legal custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents, pursuant to a parenting plan developed pursuant to section 571-46.5, in such a way as to assure the child or children of frequent, continuing, and meaningful contact with both parents; provided, however, that such order may award joint legal custody without awarding joint physical custody.</p> <p>(c) Any order for joint custody may be modified or terminated upon the petition of one or both parents or on the court’s own motion if it is shown that the best interests of the child require modification or termination of the order.</p> <p>(d) Any order for the custody of the minor child or children of a marriage entered by a court in this State or any other state may, subject to the jurisdictional requirements set forth in sections 583A-201 to 583A-204, be modified at any time to an order of joint custody in accordance with this section.</p> <p>571-46.1 条 共同監護</p> <p>(a) どちらか一方の親の申立てにより、裁判所はその裁量によって共同監護を付与することができる。共同監護を付与するかどうかを判断する裁判所を補助するために、裁判所は、どちらか一方の親の請求により、571-46 条 (a) (4) の規定に従い、調査の実施を指示しなければならない。</p> <p>(b) 本条の目的のために、「共同監護」とは、未成年の子の法的監護権を双方の親へ付与</p>
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<p>571—46.3 条には、祖父母の面会交流権について定められている。</p>	<p>する命令、及び双方の親と頻繁かつ継続的に意義のある交流を子に保障する方法を用いて、571-46.5 条に従って実行される養育計画に従い、身上監護権が双方の親に分担されなければならないと規定する命令を意味する。しかし、このような命令は共同身上監護権を付与することなしに、共同での法的監護権を与えることもできる。</p> <p>(c) 共同監護権の命令は、子の最善の利益のために、命令の修正または終了が求められることが立証された場合には、両親の一方または双方の申立て、あるいは裁判所の申立てにより修正または終了することができる。</p> <p>(d) 本州またはその他の州の裁判所によって登録された婚姻から生まれた未成年の子のあらゆる監護権の命令は、583A-201 条から 583A-204 条で規定される管轄の要件に従い、本条の定めるところに従っていつでも修正することができる。</p> <p>§571-46.2 Orders relating to custody and visitation cases. In any action involving the custody or visitation of a minor child, the court may order any party and the minor child, as needed, to attend counseling, parenting classes or any other type of educational activity, as the court deems appropriate to meet the best interests of the child.</p> <p>571-46.2 条 監護権と面会交流権に関する命令</p> <p>未成年の子の監護権と面会交流権を含むあらゆる訴訟において、裁判所が子の最善の利益にかなうと判断した場合には、必要に応じて、当事者及び未成年の子に対し、カウンセリング、ペアレンティングのクラスまたはその他の教育活動に参加するように命じることができる。</p> <p>§571-46.3 Grandparents' visitation rights; petition; notice; order. A grandparent or the grandparents of a minor child may file a petition with the court for an order of reasonable visitation rights. The court may award reasonable visitation rights provided that the following criteria are met:</p> <p>(1) This State is the home state of the child at the time of the commencement of the proceeding; and</p> <p>(2) Reasonable visitation rights are in the best interests of the child.</p>
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<p>監護権評価者に関する条文。2013年の改正により、専門職の者が家裁に登録される仕組みに変更された。</p>	<p>No hearing for an order of reasonable visitation rights under this section shall be had unless each of the living parents and the child’s custodians shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof.</p> <p>An order made pursuant to this section shall be enforceable by the court, and the court may issue other orders to carry out these enforcement powers if in the best interests of the child.</p> <p>571-46.3 条 祖父母の面会交流権；申立て；通知；命令</p> <p>未成年の子の祖父母の一方または双方は、合理的な面会交流権の命令のために裁判所へ申立てを行うことができる。裁判所は次の基準を満たす場合には、合理的な面会交流権を与えることができる。</p> <p>(1) 訴訟手続きが始まる時に本州が本拠州であること。</p> <p>(2) 合理的な面会交流の権利が子の最善の利益にかなうこと。</p> <p>本条の合理的な面会交流権の審理は、生存する親のどちらか一方及び監護権者が、現実のまたは擬制されるものであるかにかかわらず、申立の主張及び審理の時間と場所の義務的通知をしなければ、行うことができない。</p> <p>本条に従って作成された命令は裁判所によって執行される。子の最善の利益にかなう場合には、裁判所はこれらの強制執行を実行するために他の命令を出すことができる。</p> <p>§571-46.4 Child custody evaluators; qualification; registry; complaints. (a) A person may be appointed as a child custody evaluator for purposes of section 571-46 if the person is actively licensed as a:</p> <p>(1) Physician under chapter 453 and is a board certified psychiatrist or has completed a residency in psychiatry;</p> <p>(2) Psychologist under chapter 465;</p> <p>(3) Marriage and family therapist under chapter 451J; or</p> <p>(4) Clinical social worker under section 467E-7(3).</p> <p>(b) A person may be appointed as a child custody evaluator in the absence of a license under subsection (a) if:</p> <p>(1) The individual has obtained education and training that meet nationally recognized competencies and standards of practice in child custody evaluation; provided that there are no</p>
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	<p>child custody evaluators enumerated under subsection (a) who are willing and available, within a reasonable period of time, to perform child custody evaluations; or</p> <p>(2) The parties stipulate to a person who does not qualify as a child custody evaluator under subsection (a) and the court approves that person as a fact-finding investigator to the court.</p> <p>(c) The judiciary shall maintain on its website a publicly accessible registry of child custody evaluators who are qualified pursuant to this section. Professionals who are willing and available to perform child custody evaluations shall be responsible for providing the judiciary with relevant information, including contact information, evidence of qualifications, and fees.</p> <p>(d) The judiciary shall establish a referral process to allow parties to file a complaint with the judiciary regarding a court-appointed child custody evaluator. Upon notification by a party of the party's intent to file a complaint against a child custody evaluator appointed under subsection (a), the judiciary may refer the complainant to the appropriate licensing authority. The judiciary shall submit to the legislature an annual report regarding the number of complaints against court-appointed child custody evaluators that are processed through the referral process.</p> <p>(e) A complaint against a court-appointed child custody evaluator not qualified under subsection (a) may be resolved through civil litigation.</p> <p>571-46.4 条 子の監護の評価者、資格、訴状</p> <p>(a) 次の有効なライセンスを持つ者は、571-46 条の目的のために子の監護の評価者を任命することができる。</p> <p>(1) 453 章の医師で精神科医として認定された者または精神医学の研修を終えた者</p> <p>(2) 465 章の心理学者</p> <p>(3) 451 章の婚姻と家族のセラピスト</p> <p>(4) 467E-7 (3) 条の臨床を行うソーシャルワーカー</p> <p>(b) 以下の場合には、(a) 項のもとでのライセンスがない場合でも子の監護の評価者として任命されることができる。</p> <p>(1) 子の監護の評価において国家的に認定された能力と基準を満たす教育とトレーニングを終えた者。ただし、合理的期間内に、子の監護の評価をする意思がありかつ使用することができる (a) 項の子の監護評価者がいない場合に限る。</p> <p>(2) (a) 項の子の監護権の評価者の資格がない者で、裁判所が、裁判所への実態調査への調査者として承認した者のうち、当事者が決めた者。</p>
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<p>離婚に伴い、未成年の子の詳細な養育計画が双方により提案され検討される。</p> <p>(そのために使用可能な、家裁で用意されるフォームについては末尾添付の資料参照のこと)</p>	<p>(c) 裁判所は、本条に従い資格を持つ子の監護権評価者の登録をウェブサイトで公的にアクセスできるようにしなければならない。子の監護の評価を行う意思があり利用することができる専門家は、裁判所に提供された連絡先情報、資格の証明書、料金を含む関連情報に責任を負わなければならない。</p> <p>(d) 裁判所は、裁判所が任命した子の監護権評価者に関する裁判所への苦情申立てを当事者が行えるように照会手続きを定めなければならない。(a)項のもとで任命された子の監護の評価者に対する苦情申立てを行う意思を持つ当事者による通知に従い、裁判所はライセンスを与えた機関に照会をすることができる。裁判所は、照会手続を行なった裁判所が任命した子の監護権評価者に対する苦情申立てに関する年間レポートを、立法府に提出しなければならない。</p> <p>(e) (a)項のもとで資格を有しない裁判所が任命した子の監護権評価者に対する申立は、民事裁判を通して解決される。</p> <p>§571-46.5 Parenting plans. (a) For every action that includes a contested custody of children, both parties or both parents shall develop either a mutually agreed-upon general parenting plan or separate individually-desired parenting plan, and file the plan at the outset of the action.</p> <p>(b) A parenting plan may include a general outline relating to parental responsibilities and parenting time. A general parenting plan may also allow the parents to develop a more detailed agreement on an informal basis.</p> <p>(c) A detailed parenting plan may include, but is not limited to, provisions relating to:</p> <p>(1) Residential schedule;</p> <p>(2) Holiday, birthday, and vacation planning;</p> <p>(3) Parental decision-making and responsibility;</p> <p>(4) Breastfeeding, if applicable;</p> <p>(5) Information sharing and access;</p> <p>(6) Relocation of parents;</p> <p>(7) Telephone access and other means of communication;</p>
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	<p>(8) Right of first refusal procedures;</p> <p>(9) Transportation; and</p> <p>(10) Methods for changing or enforcing the parenting plan and for resolving disputes.</p> <p>(d) If the parties cannot agree on a parenting plan, the court may:</p> <p>(1) Order the parties to participate in alternative dispute resolution and in counseling with a person with professional experience in child custody or parenting issues, or with other appropriate education, unless there is a finding of family violence; and</p> <p>(2) Develop and file a detailed parenting plan when requested by either of the parties or parents.</p> <p>(e) The court or the parties may revise and amend the parenting plan from time to time.</p> <p>571-46.5 条 養育計画</p> <p>(a) 係争中の子の監護権を含む全ての訴訟のために、当事者双方または双方の親は相互の合意に基づく一般的養育計画、または、別個にそれぞれが望む養育計画を作成し、訴訟開始時に養育計画を提出しなければならない。</p> <p>(b) 養育計画は親の責任と養育時間に関する一般的概要を含むことができる。一般的養育計画では、双方の親は、非公式な方法で詳細な合意を結ぶことができる。</p> <p>(c) 詳細な養育計画は以下に係する規定を含むがこれに限定されるわけではない。</p> <p>(1) 居住のスケジュール</p> <p>(2) 休日、誕生日、休暇の計画</p> <p>(3) 親の決定権と責任</p> <p>(4) 該当する場合には、母乳育児について</p> <p>(5) 情報の共有とアクセス</p> <p>(6) 親の転居</p> <p>(7) 電話による交流と他のコミュニケーション手段</p> <p>(8) 優先選択権の手続き</p> <p>(9) 移動手段</p> <p>(10) 養育計画の変更と執行の方法及び紛争解決方法</p> <p>(d) 当事者が養育計画に合意できない場合には、裁判所は次のことができる。</p> <p>(1) 家族内暴力の事実がない場合に限り、当事者に裁判外紛争解決手続きに参加し、そして、子の監護または親の問題に関する専門的経験を持つ者との、もしくは適切な教育を受けた者とのカウンセリングに参加することを命じることができる。</p> <p>(2) 当事者の一方または親の一方の求めがあった場合、詳細な養育計画を作成し、提出さ</p>
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	<p>せることができる。</p> <p>(e) 裁判所又は当事者は、適宜、養育計画を改定及び修正することができる。</p>
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577. Children

577 章 子ども

<p>577 章には、子に関する一般規定が定められている。577 条—1 には、成年年齢についての定めがあり、577 条—3 には、父母には、未成年の子に対する権限が平等に与えられていること、また未成年の子の不法行為に対する親の責任について述べられている。</p>	<p>§577-1 Age of majority. All persons residing in the State, who have attained the age of eighteen years, shall be regarded as of legal age and their period of minority to have ceased.</p> <p>577 条—1 18 歳の年齢に達した本州に居住するすべての者は、法定年齢とみなされ、未成年の期間が終了する。</p> <p>§577-3 Natural guardian; liability for torts of child. The father and mother of an unmarried minor child are jointly the natural guardians of the child's person and property. They shall have equal powers and duties with respect to the child and neither shall have any right superior to that of the other concerning the child's custody or control or any other matter affecting the child; provided that if either parent dies or abandons the family or is incapable for any reason to act as guardian, the guardianship devolves upon the other parent, and that when the parents live apart, the court may award the guardianship to either of them, having special regard to the interests of the child. The father and mother of unmarried minor children shall jointly and severally be liable in damages for tortious acts committed by their children, and shall be jointly and severally entitled to prosecute and defend all actions in which the children or their individual property may be concerned.</p> <p>577-3 条 自然後見人；子の不法行為に対する責任</p> <p>婚姻をしていない未成年の子の父及び母は、子の人及び財産の共同自然後見人である。彼らは子に対して平等の権限と義務を持つ。子の監護もしくは監督に関する、または、子に影響を与えるその他のことに関して、どちらも他方を優先する権利を持たない。親の一方が死亡するもしくは家族を遺棄する、または、何かしらの理由で後見人として行動することができない場合、その後見は他方の親のもとでなされる。そして、親の双方が別居して生活を異にする場合、裁判所は、子の最善の利益を特に考慮しながら、いずれかの親に後見を付与することができる。婚姻をしていない未成年の子の父及び母は、彼らの子が行なった不法行為に対する損害賠償の責任を共同かつ各自が負うものとし、子もしくは子の特有財産に関係するすべての訴訟において、訴訟の提起と弁護の権限は、共同かつ個別に与えられる。</p>
<p>577—7 条には、親</p>	<p>§ 577-7 Parents' control and duties.</p>

<p>の監督と義務について定められる。</p> <p>※（b）項は、財産管理権に関する規定であるため省略。</p>	<p>(a) Parents or, in case they are both deceased, guardians, legally appointed, shall have control over the conduct and education of their minor children. They shall have the right, at all times, to recover the physical custody of their children by habeas corpus. All parents and guardians shall provide, to the best of their abilities, for the discipline, support, and education of their children.</p> <p>577-7 条 親の監督と義務</p> <p>(a) 父母又は、父母双方が死亡した場合には法的に選任された後見人は、未成年子の行動と教育について監督しなければならない。彼らは常に、人身保護法による子に関する身上監護権を回復させる権利を有するものとする。全ての父母及び後見人は、彼らの能力の及ぶ限り、子のしつけ、扶養、及び教育を提供しなければならない。</p>
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DIVISION 5. CRIMES AND CRIMINAL PROCEEDINGS

第 5 部 犯罪と刑事手続

TITLE 37. HAWAII PENAL CODE

第 37 編 ハワイ州 刑法

<p>※ドメスティック・バイオレンスについては、刑法の部に規定される。</p> <p>709—906 条 家族もしくは同世帯の者への虐待； 刑罰</p>	<p>709. Offenses Against the Family and Against Incompetents</p> <p>709 条 家族と無能力者に対する犯行</p> <p>§ 709-906 Abuse of family or household members; penalty. (1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.</p> <p>For the purposes of this section:</p> <p>“Business day” means any calendar day, except Saturday, Sunday, or any state holiday.</p> <p>709-906 条 家族もしくは同世帯の者への虐待；刑罰</p> <p>(1) 単独でもしくは共謀して、家族もしくは同世帯の者へ身体的虐待を加えること、または(4)項のもとで警察官の合法的な命令に従うことを拒絶することは違法となる。警察は、家族もしくは同世帯の者への虐待を捜査する際に、要請があれば、虐待された者を病院または安全なシェルターへ移送することができる。</p> <p>本条の目的のために</p>
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<p>※「互恵的受益者」 とは、互いに財産上の利益がある親密な関係の者、ドメスティック・パートナーなどを指す。</p>	<p>「平日」とは、土曜日、日曜日、もしくは全ての州の休日を除く暦日を意味する。</p> <p>“Family or household member”:</p> <p>(a) Means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit; and</p> <p>「家族または同世帯の者」とは以下を意味する。</p> <p>(a) 配偶者もしくは互恵的受益者、以前の配偶者もしくは互恵的受益者、586-1 条で定義されている交際している関係の者、共通の子を持つ者、親、子、血縁関係にある者、及び、同居もしくは以前同居していた者を意味する。</p> <p>(b) Does not include those who are, or were, adult roommates or cohabitants only by virtue of an economic or contractual affiliation.</p> <p>(b) 経済的または契約的な関係による成人のルームメイトもしくは同居人は含まれない。</p> <p>(2) Any police officer, with or without a warrant, may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof.</p> <p>(2) 警察官は、ある者が、家族または同世帯の者に対して身体的な虐待をしている、もしくは身体的な虐待をされていた、及び、逮捕された者がそれにより有罪となると信じるにつき合理的な根拠がある場合には、令状とともにもしくは令状なしでその者を逮捕することができる。</p> <p>(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.</p> <p>(3) 警察官は、ある者が、家族または同世帯の者に対して身体的な虐待をしている、もしくは身体的な虐待をされていたと信じるにつき合理的な根拠を持つ場合は、書式のレポートを準備しなければならない。</p> <p>(4) Any police officer, with or without a warrant, shall take the following course of action, regardless of whether the physical abuse or harm occurred in the officer’s presence:</p>
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	<p>(4)警察官は、警察官の面前で起きた身体的虐待もしくは危害であるかどうかに関わらず、令状とともにもしくは令状なしで、次の行動をとることができる</p> <p>(a) The police officer shall make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;</p> <p>(a)警察官は、警察官が身体的虐待もしくは危害が加えられたと確信を持つ家族もしくは同世帯の者、及び目撃者がいる場合には、その目撃者に対し適切な取り調べをしなければならない。</p> <p>(b) If the person who the police officer reasonably believes to have inflicted the abuse is eighteen years of age or older, the police officer lawfully shall order the person to leave the premises for a period of separation, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects. The period of separation shall commence when the order is issued and shall expire at 6:00 p.m. on the second business day following the day the order was issued; provided that the day the order is issued shall not be included in the computation of the two business days;</p> <p>(b) 警察官が虐待の加害者であると合理的に信じる者が18歳以上の場合には、警察官は退去期間として、その者に住居から立ち去るように合法的に命じなければならない。その者は、その間、家族または同世帯の者と電話もしくは直接会い、コンタクトを取ることとはできない。ただし、これは、その者が必要とする個人の所有物をまとめるために、警察官の警護とともに建物に立ち入ることは許されることを条件とする。退去の期間は命令が発せられた時に開始され、命令が発せられた日以降の平日第2日目の午後6時に終了しなければならない。ただし、これは、平日2日間の算定において、命令が発せられた日は含まれない。</p> <p>(c) If the person who the police officer reasonably believes to have inflicted the abuse is under the age of eighteen, the police officer may order the person to leave the premises for a period of separation, during which time the person shall not initiate any contact with the family or household member by telephone or in person; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects. The period of separation shall commence when the order is issued and shall expire at 6:00 p.m. on the second business day following the day the order was issued; provided that the day the order</p>
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	<p>is issued shall not be included in the computation of the two business days. The order of separation may be amended at any time by a judge of the family court. In determining whether to order a person under the age of eighteen to leave the premises, the police officer may consider the following factors:</p> <p>(c) 警察官が虐待を加えていると合理的に信じる者が18歳未満の場合には、警察官は退去期間として、その者に住居から立ち去るように命じることができる。その者は、その間、家族または同世帯の者と電話もしくは直接会い、コンタクトを取ることはできない。ただし、これは、その者が必要とする個人の所有物をまとめるために警察官の警護とともに建物に立ち入ることは許されることを条件とする。退去の期間は命令が発せられた時に開始され、命令が発せられた日以降の平日第2日目の午後6時に終了しなければならない。ただし、これは、平日2日間の算定において、命令が発せられた日は含まれない。退去の命令は家庭裁判所の判決によっていつでも修正することができる。18歳未満の者にこの命令をするかどうかの決定において、警察官は次の要素を考慮することができる。</p> <p>(i) Age of the person;</p> <p>(i) その者の年齢</p> <p>(ii) Relationship between the person and the family or household member upon whom the police officer reasonably believes the abuse has been inflicted; and</p> <p>(ii) その者と、虐待が加えられていると警察官が合理的に信じる家族もしくは同世帯の者との関係性</p> <p>(iii) Ability and willingness of the parent, guardian, or other authorized adult to maintain custody and control over the person;</p> <p>(iii) その者への監護と監督を継続するため、親、後見人、もしくは権限のある他の者の受け入れ態勢と意思</p> <p>(d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;</p> <p>(d) 上記の退去の命令を受けた者は、警告の日、時間、場所が告げられ、警告違反の罰則</p>
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	<p>について言及された書面による警告書が与えられなければならない。警告書のコピーは、警察官によって保持され、全ての訴訟において提出される報告書面に添付されなければならない。警告書の三枚目のコピーは、虐待を受けた者に与えられなければならない。</p> <p>(e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and</p> <p>(e) 退去を命じられた者が住居から去る命令に従うことを拒絶する、もしくは、退去命令を受けた期間の終了前に住居に戻る場合、または、そのように命令を受けた者が虐待された者とあらゆるコンタクトを取る場合には、その者は、家族もしくは同世帯の者へのさらなる身体的虐待もしくは危害を防ぐために逮捕されねばならない。</p> <p>(f) The police officer shall seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section.</p> <p>(f) 警察官は、本条の定める犯行において、火器と弾薬が使用されるもしくは使用される恐れがあると信じるにつき合理的な根拠がある場合においては、全ての火器と弾薬を押収しなければならない。</p> <p>(5) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors and the person shall be sentenced as follows:</p> <p>(5) 家族もしくは同世帯の者への虐待、及び、(4)項のもとでの警察官の合法的な命令に従うことを拒絶することは軽罪となる。そして、その者は以下のように刑を言い渡されなければならない。</p> <p>(a) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and</p> <p>(a) 初犯の場合、48時間の最低刑に服さなければならない。</p> <p>(b) For a second offense that occurs within one year of the first conviction, the person shall be termed a “repeat offender” and serve a minimum jail sentence of thirty days.</p>
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	<p>Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.</p> <p>(b) 最初の有罪決定から 1 年以内に起きた再犯の場合、その者は累犯者とされなければならない。30 日の最低刑に服さなければならない。被告の有罪判決と刑の言い渡しにおいて、裁判所は、課せられた強制的最低刑に服するために被告がすぐに拘禁されるとの命令をしなければならない。ただし、これは、804 章に従って上訴が継続している時に、被告人は保釈が認められることを条件とする。裁判所は、特別な事情がある場合には、刑を課すことを停止することができる。</p> <p>(6) Whenever a court sentences a person pursuant to subsection (5), it also shall require that the offender undergo any available domestic violence intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (5)(a) and (b), upon the condition that the defendant remain arrest-free and conviction-free or complete court-ordered intervention.</p> <p>(6) 裁判所が (5) 項に従い刑を言い渡す時はいつでも、被告人は、裁判所によって命じられる利用可能なドメスティック・バイオレンス加害者更生プログラムを受けるよう求められなければならない。しかしながら、(5) (a) 及び (5) (b) 項のもとの強制的刑の場合を除き、被告人は逮捕からの自由、及び、有罪決定からの自由を保持したままであり、もしくは裁判所が命じた更生プログラムを終えたことを条件として、裁判所は拘置刑の一部を一時停止することができる。</p> <p>(7) For a third or any subsequent offense that occurs within two years of a second or subsequent conviction, the offense shall be a class C felony.</p> <p>(7) 第二級もしくはそれ以上の有罪決定から 2 年以内に起きた第三級の、もしくはそれ以上の犯罪は、クラス C の重罪にしなければならない。</p> <p>(8) Where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck, abuse of a family or household member is a class C felony.</p> <p>(8) 身体的な虐待が、故意にもしくは悪意で、喉もしくは首に圧力を加えることによって、家族もしくは同世帯の者の通常の呼吸もしくは血液の循環を妨げることになった場合には、家族または同世帯の者への虐待はクラス C の重罪となる。</p>
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	<p>(9) Where physical abuse occurs in the presence of a minor, as defined in section 706-606.4, and the minor is a family or household member less than fourteen years of age, abuse of a family or household member is a class C felony.</p> <p>(9) 706-606.4 条に定義される身体的虐待が未成年者の面前で行われ、かつ、その未成年者が 14 歳未満の家族もしくは同世帯の者である場合には、家族もしくは同世帯の者への虐待はクラス C の重罪となる。</p> <p>(10) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.</p> <p>(10) 本条に従って、ある者を逮捕した警察官は民事もしくは刑事的責任を問われない。ただし、これは、警察官が、合理的な確信のもとで善意に行動し、かつ、逮捕に影響する不合理な強制が働いていないことを条件とする。</p> <p>(11) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith or may file a criminal complaint through the prosecuting attorney of the applicable county.</p> <p>(11) 他者によって身体的に虐待もしくは危害を受けた家族または同世帯の者は、管轄の行政区の検察官の援助を受け、家庭裁判所に刑事召喚状もしくは逮捕令状の発行を速やかに申立てることができる。または、他者によって身体的に虐待もしくは危害を受けた家族または同世帯の者は、管轄の行政区の検察官を通して刑事告訴をすることができる。</p> <p>(12) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.</p> <p>(12) 被告人は拘留されなければならない、裁判前の最初の機会に移送されなければならない。裁判所は、保釈を条件として、申立を棄却し、もしくは拘留を継続することができる。申立が棄却されない場合は、審理が開始されなければならない。</p> <p>(13) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.</p>
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	<p>(13) 本条は、家族もしくは同世帯の者への虐待に対する訴追に代わり、本法の他の条文のもとでの訴追を行う妨げとなるよう運用されてはならない。</p> <p>(14) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.</p> <p>(14) 刑事召喚状もしくは逮捕令状の準備において、本条のもとでの被害者を援助することは管轄行政区の検察官の責務とされなければならない。</p> <p>(15) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.</p> <p>(15) 本条は、身体的な虐待もしくは危害を加えられた家族もしくは同世帯の者が、法もしくはエクイティ上の他の救済を求めることを妨げてはならない。</p> <p>(16) When a person is ordered by the court to undergo any domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court.</p> <p>(16) ある者が、裁判所によって、ドメスティック・バイオレンスの加害者更生プログラムを受けるよう命じられた時、その者は、裁判所の命令に従うことを示す適切な証拠を提示しなければならない。裁判所は、ある者が命じられたドメスティック・バイオレンスの加害者更生プログラムを終了したかどうかを判断するために、その者が出廷を要求された日に次の審理を命じなければならない。裁判所職員が、その者が裁判所に命じられたプログラムを終えたと確証を持つ場合には、裁判所は、次の審理と出廷を撤回することができる。</p>
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STATE OF HAWAII FAMILY COURT FIRST CIRCUIT	PROPOSED PARENTING PLAN	CASE NUMBER FC-____ No.____																																			
<input type="checkbox"/> CHILD SUPPORT ENFORCEMENT AGENCY, STATE OF HAWAII, (Name: First, Middle, Last) <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <div style="text-align: center;">PLAINTIFF(S)/PETITIONER(S),</div> <div style="text-align: center;">vs.</div> (Name: First, Middle, Last) <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant (Name: First, Middle, Last) <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> and CHILD SUPPORT ENFORCEMENT AGENCY, STATE OF HAWAII, <div style="text-align: center;">DEFENDANT(S)/RESPONDENT(S)</div>		This document was prepared by: <input type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent <input type="checkbox"/> Caretaker/Other* <input type="checkbox"/> Attorney for: <input type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent Name _____ Address _____ City, State, Zip Code _____ Telephone Number _____ *Relationship of Caretaker/Other to the child(ren): _____																																			
I will be relocating to _____ on or about _____. [If you are relocating, file one plan for before relocation and another plan for after relocation.] <input type="checkbox"/> This plan is before relocation <input type="checkbox"/> This plan is for after relocation.																																					
1. Child(ren): <input type="checkbox"/> See attached sheet for additional children. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 35%;">Full Name</th> <th style="width: 15%;">Birth Date</th> <th style="width: 15%;">Gender</th> <th style="width: 20%;">School/Grade</th> <th style="width: 15%;">Is Child Protective Services Involved?</th> </tr> </thead> <tbody> <tr> <td>Child 1 _____</td> <td>_____</td> <td><input type="checkbox"/> M <input type="checkbox"/> F</td> <td>_____</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>Child 2 _____</td> <td>_____</td> <td><input type="checkbox"/> M <input type="checkbox"/> F</td> <td>_____</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>Child 3 _____</td> <td>_____</td> <td><input type="checkbox"/> M <input type="checkbox"/> F</td> <td>_____</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>Child 4 _____</td> <td>_____</td> <td><input type="checkbox"/> M <input type="checkbox"/> F</td> <td>_____</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>Child 5 _____</td> <td>_____</td> <td><input type="checkbox"/> M <input type="checkbox"/> F</td> <td>_____</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> <tr> <td>Child 6 _____</td> <td>_____</td> <td><input type="checkbox"/> M <input type="checkbox"/> F</td> <td>_____</td> <td><input type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </tbody> </table>			Full Name	Birth Date	Gender	School/Grade	Is Child Protective Services Involved?	Child 1 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Child 2 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Child 3 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Child 4 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Child 5 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	Child 6 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
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Child 6 _____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No																																	
2. Legal Custody should be awarded to (person(s) making the major decisions, such as, school enrollment, medical, driver's license): <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Jointly to both Plaintiff and Defendant <input type="checkbox"/> Caretaker																																					
3. Physical Custody should be awarded to (the child(ren) will primarily live with this person): <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Jointly to both Plaintiff and Defendant <input type="checkbox"/> Caretaker <i>(State Parenting Time Below*)</i>																																					
* Joint custody with the child(ren) will be shared between Plaintiff and Defendant as follows (even if you are suggesting joint custody, you can also use the checklists in Sections 5 and 6): _____ _____ _____		FOR COURT USE ONLY																																			

In accordance with the Americans with Disabilities Act, as amended, and other applicable state and federal laws, if you require accommodation for a disability, please contact the ADA Coordinator at the First Circuit Family Court office by telephone at 954-8200, fax 954-8308, or via email at adarequest@courts.hawaii.gov at least ten (10) working days prior to your hearing or appointment date.

Please call the Family Court Service Center at 954-8290 if you have any questions about forms or procedures.

4. Special Concerns: (i.e., breast-feeding infant, special needs of child(ren) or disability of either parent:

5. Visitation Schedule: ☐ Plaintiff ☐ Defendant (check one) shall have visitation, which shall commence on _____ (fill in date), as follows:

☐ Reasonable visitation as agreed to by the parties.

☐ Every other weekend ☐ Every weekend from _____ (day of week) at _____ ☐ a.m. ☐ p.m.
to _____ (day of week) at _____ ☐ a.m. ☐ p.m.

☐ Midweek dinner visits on _____ (days of week) from _____ p.m. to _____ p.m.
(Note: For Friday and Monday holidays, the child(ren) will stay with the parent who has the child(ren) for that weekend.)

Summer Vacation:

☐ Should be split as agreed to by Plaintiff and Defendant.

☐ Plaintiff and Defendant shall each have one-half of the summer vacation with alternate weekends to the other parent. The child(ren) should be returned to the custodial parent at least one (1) week prior to the start of school.

☐ Other: _____

Christmas and New Year Vacation:

☐ Should be split as agreed to by Plaintiff and Defendant.

☐ Plaintiff and Defendant shall each have one-half of the Christmas/New Year vacation.

☐ Other: _____

Intersession Vacations (Spring Break and Fall Break):

☐ Each intersession break should be split as agreed to by Plaintiff and Defendant.

☐ Each intersession break should be alternated yearly between Plaintiff and Defendant.

☐ Plaintiff and Defendant shall have each have one-half of each intersession break.

☐ Other: _____

Child(ren)'s Birthday(s):

☐ The child(ren)'s birthday(s) should be celebrated as agreed to by Plaintiff and Defendant.

☐ A child's birthday will be spent with the parent who has the child on that day.

☐ [] Plaintiff [] Defendant should have the child(ren) on the child(ren)'s birthday on even-numbered years.

The other parent should have the child(ren) on the child(ren)'s birthday on odd-numbered years.

☐ Plaintiff and Defendant will share the child(ren) for at least half the day on the child(ren)'s birthday.

☐ Other: _____

Extensive Visitation (if applicable) should be as follows: _____

Out-of-State Visitation (if applicable) should be as follows: _____

6. Detailed Holiday Schedule: Some cases work better if more details are listed. Use this as a checklist. You do not have to fill in everything. Anything that is left blank means that the child will spend the day with the parent who has the child on that day. (Note: For Friday and Monday holidays, the child(ren) will stay with the parent who has the child(ren) for that weekend.)

Check "P" for Plaintiff and "D" for Defendant. An example is shaded in gray below.

Holiday	Time (Put a.m. or p.m.)	Every Year	Even Years	Odd Years
Example Holiday	9 a.m. to 7 p.m.	<input type="checkbox"/> P <input type="checkbox"/> D	<input checked="" type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
New Year's Eve		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
New Year's Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Martin Luther King, Jr. Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
President's Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Prince Kuhio Day (March 26 th)		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Good Friday		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Memorial Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
King Kamehameha Day (June 11 th)		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Independence Day (July 4 th)		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Statehood Day (Admissions Day)		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Labor Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Halloween (October 31 st)		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Veterans' Day (November 11 th)		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Thanksgiving Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Christmas Eve		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Christmas Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Mother's Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Father's Day		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Plaintiff's Birthday		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Defendant's Birthday		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Other:		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D
Other:		<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D	<input type="checkbox"/> P <input type="checkbox"/> D

7. Childcare:

These are the arrangements for childcare when I am at work (if you have agreed to joint custody, also state the arrangements of the other parent: _____)

8. Parents covering each other:

- ☐ If we cannot care for the child(ren) during a time assigned to us, we will ask the other parent to take care of the child(ren) before we ask anybody else.
- ☐ It will be up to each parent who they ask for help during their assigned times.

9. Transportation:

- ☐ The parents will agree to who can transport the child(ren).
☐ Only the following people can help the parents with transportation: _____

10. Communication and Information Sharing:

- ☐ The parent without the child(ren) can call the child(ren): *(check only one)* ☐ At reasonable hours OR
☐ Everyday from _____ ☐ a.m. ☐ p.m. to _____ ☐ a.m. ☐ p.m.
☐ E-Mail at this email address: _____ ☐ Other: _____
☐ Parents will share information with each other ☐ Parents must get information from the source (e.g., Dr., school).

11. Supervised Visitation/No visitation: ☐ Plaintiff ☐ Defendant

- ☐ Will have supervised visitation with the child(ren)
☐ at PACT Visitation Center ☐ under the supervision of _____
☐ Will have no visitation.
(State the reason(s) why supervised or suspended visitation is necessary): _____

12. Modifications to the visitation schedule:

- ☐ Any additional visitation or changes to the visitation schedule can be agreed upon by the parents/caretaker with at least 24-hour notice.
☐ If the non-custodial parent fails to arrive at the appointed time, then the custodial parent/caretaker will wait for _____ minutes before considering the visitation cancelled.
☐ Other: _____

☐ No modifications allowed except by a court order.

13. Mediation and Solving Disagreements:

- ☐ The parties should mediate any unresolved issues or future disagreements at:
☐ The Mediation Center of the Pacific ☐ Other: _____
☐ Mediation is inappropriate because: ☐ Domestic Violence/TRO ☐ _____
☐ Before going to court, the parents will ask the following person to help them solve disagreements

(name, relationship, address, phone number)

14. Counseling: List present counselors for:

Plaintiff: _____ Defendant: _____
Child(ren): _____

Under penalty of perjury, I/we declare that this plan is proposed in good faith and is in the best interest of the child(ren) listed in Section 1.

Signature of Plaintiff's Attorney _____ Date _____

Signature of Defendant's Attorney _____ Date _____

Print Name of Plaintiff's Attorney _____

Print Name of Defendant's Attorney _____

Plaintiff's Signature _____ Date _____

Defendant's Signature _____ Date _____