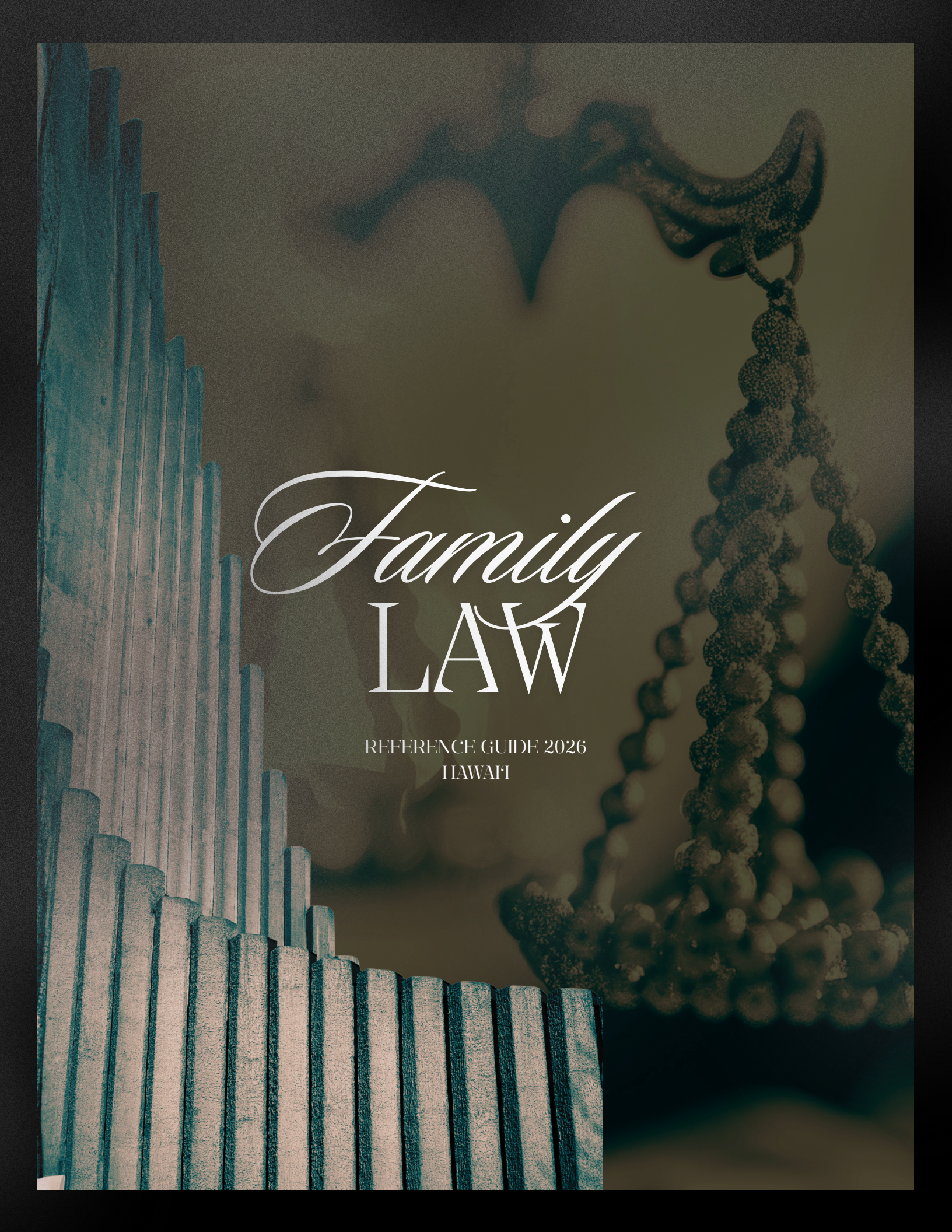




Family LAW

REFERENCE GUIDE 2026
HAWAII

How to Use This Handbook

Begin with the decision the court is being asked to make. Then separate the legal standard, the supporting facts, the requested order, and the procedural steps needed to place the issue before the judge.

THE PLAIN-ENGLISH METHOD

Ask four questions: What do I want the judge to order? What law allows that order? What reliable proof supports the request? Did I file, serve, redact, and present the proof correctly?

Five Step method

	Question	Work product
1. Legal standard	What statute, rule, presumption, or prior order controls?	Authority list and element/factor chart.
2. Facts and proof	What specific facts matter, and who or what proves them?	Timeline, evidence map, witness list, and exhibit index.
3. Requested relief	What exact, workable order would solve the problem?	Proposed schedule, safety conditions, payment term, or proposed order.
4. Procedure	How and when must the request be filed, served, heard, and preserved?	Deadline sheet, service proof, hearing notice, objections, and record citations.
5. Privacy and privilege	What cannot be disclosed freely, even if it seems relevant?	Redactions, confidential forms, privilege log, protective order, or in-camera request.

Fast navigation

Issue	Start with
Filing, service, deadline, or motion problem	Chapters 1-4.
Texts, AppClose messages, records, photos, or witnesses	Chapters 5 and 8.
Counseling communications	Chapters 6 and 7.
Custody, parenting plan, evaluator, or disability question	Chapters 9-13.
Domestic violence, coercive control, TRO, or safety terms	Chapter 11.
Modification, reconsideration, enforcement, stay, or appeal	Chapter 14.
Termination of parental rights	Chapter 15.
Checklists, definitions, and official links	Chapters 17-19.

Table of Contents

FRONT MATTER AND PART I

Chapter locations, page ranges, and quick descriptions.

FRONT MATTER		
	How to Use This Handbook Five-step method and fast navigation	2
PART I pages 7-15		
	Foundations and Procedure	7
1	The Rule System and Case-Type Map Authority layers, case types, and the four checks for procedure, proof, privilege, and privacy.	8 pp. 8-9
2	Starting a Case: Filing, Service, E-Filing, Formatting, and Time Filing and service, JEFS/JIMS, formatting, and deadline calculations.	10 pp. 10-11
3	Motions, Declarations, Hearings, Orders, and Penalty of Perjury Motion packages, usable declarations, signature review, hearings, and precise order drafting.	12 pp. 12-13
4	Discovery, Subpoenas, and Protective Orders Discovery scope, subpoenas, privilege logs, sensitive records, and protective orders.	14 pp. 14-15

Table of Contents

PART II

Chapter locations, page ranges, and quick descriptions.

PART II		pages 16-24
	Evidence, Privilege, and Privacy	16
How information becomes usable proof - and when disclosure must be limited despite relevance.		
5	Evidence Essentials	17
	Relevance, hearsay, authentication, originals, experts, witnesses, and objections.	pp. 17-18
6	Privileges and Confidential Communications	19
	Privilege holders, exceptions, waiver, court-ordered evaluations, and response protocol.	pp. 19-20
7	Privacy, Sealing, Transcripts, and E-Filing	21
	Public access, sealed filings, redaction, transcript access, e-filing, and safety-focused confidentiality.	pp. 21-22
8	Presenting Messages, Records, Photos, and Witnesses	23
	Evidence maps, messages and apps, photographs, records, witnesses, and exhibit assembly.	pp. 23-24

Table of Contents

PART III

Chapter locations, page ranges, and quick descriptions.

PART III		pages 25-36
	Custody, Parenting, and Safety	25
The child-centered statutory framework and the practical tools used to turn facts into workable orders.		
9	Best Interests of the Child	26
	Best-interest factors, statutory guidance, custody dimensions, and child-centered evidence.	pp. 26-28
10	Parenting Plans	29
	Parenting-plan design, sample clauses, exchanges, schedules, and enforceable terms.	pp. 29-30
11	Family Violence, Coercive Control, and Protective Orders	31
	Custody presumptions, coercive control, Chapter 586 relief, documentation, and safety planning.	pp. 31-33
12	Child Custody Evaluators and Guardians ad Litem	34
	Roles, appointments, reports, objections, and focused examination of evaluator evidence.	pp. 34-35
13	Disability Protections in Custody and Visitation	36
	Individualized analysis, accommodations, accessible participation, and reliable evidence.	pp. 36

Table of Contents

PARTS IV AND V

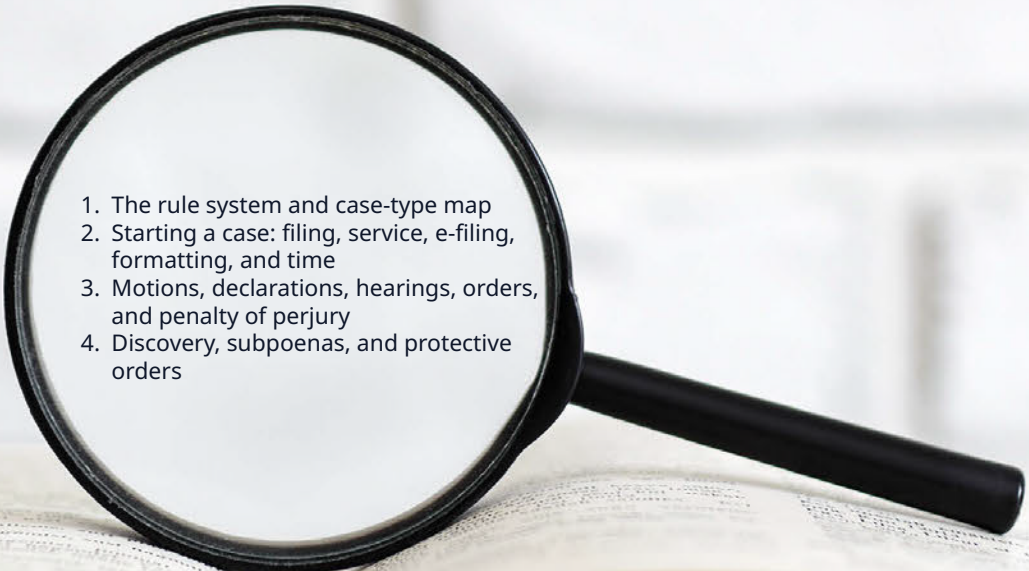
Chapter locations, page ranges, and quick descriptions.

PART IV		pages 37-44
	After Orders and High-Stakes Proceedings	37
14	Modification, Enforcement, Reconsideration, and Appeal Post-order modification, enforcement, reconsideration, stays, and appellate preservation.	38 pp. 38-39
15	Termination of Parental Rights Statutory grounds, procedure, required findings, evidence, and appeal points.	40 pp. 40-42
16	Common Mistakes and Quick-Response Guide Common errors, urgent response guides, and medical-record request or subpoena triage.	43 pp. 43-44
PART V		pages 45-50
	Practice Tools and Authorities	45
17	Master Checklists and Packet Builders Filing, evidence, family-violence, parenting, modification, and appeal checklists.	46 pp. 46-47
18	Glossary in Plain Language Plain-language definitions for family-court rules, evidence, privilege, and procedure.	48 pp. 48
19	Official Sources, Selected Cases, and Update Notes Official Hawai'i sources, selected cases, update notes, links, and publication guidance.	49 pp. 49-50

PART I

Foundations and Procedure

Understanding the functioning of the rule system and the correct presentation of family-court matters to the judge.

- 
1. The rule system and case-type map
 2. Starting a case: filing, service, e-filing, formatting, and time
 3. Motions, declarations, hearings, orders, and penalty of perjury
 4. Discovery, subpoenas, and protective orders

1. The Rule System and Case-Type Map

Family court is governed by layers of authority. The first editorial task is to identify which layer answers which question.

PRIMARY AUTHORITIES

Hawai'i Family Court Rules (HFCR), especially Rules 1, 5-7.2, 10, 26, 43, 45, 58-60, 77-81; Hawai'i Rules of Evidence (HRE), including Rule 1101; Hawai'i Court Records Rules (HCRR), especially Rule 9; Hawai'i Revised Statutes governing the case type; Case-specific court orders and notices

The hierarchy in practical terms

Layer	Usually controls	Examples
Statutes	Jurisdiction, legal rights, burdens, presumptions, remedies, and substantive standards.	HRS § 571-46 custody; Chapter 586 protective orders; Chapters 580, 583A, 587A.
Family Court Rules	Pleadings, filing, service, time, motions, discovery, subpoenas, hearings, judgments, and specialized proceedings.	HFCR Rules 5, 6, 10, 26, 45, 59, 60, 77-81.
Rules of Evidence	Relevance, personal knowledge, hearsay, authentication, witnesses, experts, originals and duplicates, privileges, and objections.	HRE Rules 401-403, 602, 701-706, 801-805, 901-902, 1002-1004, 503-505.5.
Court Records Rules	Public access, confidential information, redaction, sealing, and access restrictions.	HCRR Rule 9; HFCR Rules 7.2, 79, and 80.
Electronic filing rules	JEFS/JIMS mechanics, electronic service, notices of filing, and confidential submissions.	Hawai'i Electronic Filing and Service Rules.
Appellate and specialized rules	Appeals and proceedings that do not follow the ordinary civil-family track.	HRAP; child-protective appeal rules; penal procedure; HFCR Part D.
Case-specific orders	The actual hearing date, briefing schedule, exhibit exchange, witness deadline, remote appearance, and interim conduct terms.	Scheduling orders, minute orders, pretrial orders, temporary orders, and protective orders.

PLAIN ENGLISH

The statute says what the judge may decide. The Family Court Rules say how to ask. The Evidence Rules say what proof the judge may rely on. Privacy and privilege rules say what must be protected. The newest order in the case may set the most immediate deadline.

Four separate questions for every document

Question	What to check
Procedure	Was it correctly captioned, formatted, filed, served, and submitted on time?
Proof	Is it relevant, based on personal knowledge, non-hearsay or within an exception, authenticated, and otherwise admissible?
Privilege	Does a legal privilege permit the holder to block disclosure even if the information is relevant?
Privacy and access	Must personal information be redacted, placed on a confidential form, sealed, or submitted in camera?

HRE Rule 1101 generally applies the Evidence Rules to Hawai'i courts and civil proceedings, subject to stated exceptions. Privilege rules apply at all stages of actions, cases, and proceedings, so privilege can matter during discovery, subpoenas, custody investigations, motions, and trial - not only at the final hearing.

Which rule set applies by case type

Case or issue	Primary starting authorities	Special point
Divorce, annulment, separation, separate maintenance	HRS Chapter 580; HFCR Parts A and B; HRE; HCRR; electronic-filing rules.	Property, support, custody, and temporary relief can have different forms and proof.
Custody and visitation	HRS §§ 571-46, 571-46.4, 571-46.5, and 571-46.6; HFCR; HRE.	Best interests, family violence, evaluator evidence, parenting plans, disability, safety conditions, and modification.
Parentage	Current parentage statute and forms; HFCR; HRE.	Confirm the current chapter and forms, especially around statutory transition dates.
Child support	HRS Chapters 576B, 576D, and 576E; guidelines; HFCR; administrative process where applicable.	Financial statements, income proof, service, and agency procedures may control.
Domestic-abuse protective order	HRS Chapter 586; HFCR Rule 65 and general HFCR provisions; HRE.	TRO, prompt hearing, temporary custody or visitation, safety, and confidential information.
Interstate custody	HRS Chapter 583A (UCCJEA); HFCR; registration and enforcement procedures.	Jurisdiction can be decisive before the merits are reached.
Adoption or minor guardianship	HRS Chapters 578 or 560, article V; specialized HFCR provisions.	Specialized sealed case types and procedures.
Child-protective or juvenile matter	HRS Chapter 587A or juvenile statutes; HFCR specialized provisions and appellate rules.	Do not rely on ordinary civil-family procedure alone.
Appeal	Hawaii Rules of Appellate Procedure and statutes governing appealability.	Deadlines, tolling, record designation, transcripts, stays, and review standards require immediate attention.

CONTROLLING ORDER

A general rule may permit one timetable while the judge sets an earlier deadline or a specific filing method. Read every docket entry, notice, minute order, pretrial order, temporary order, and protective order.

2. Starting a Case: Filing, Service, E-Filing, Formatting, and Time

Many family-court problems occur before the merits because the initiating papers were not formally served, a post-decree motion was served only electronically, discovery was filed incorrectly, or time was counted from the wrong event.

PRIMARY AUTHORITIES

HFCR Rules 1, 4-7.2, and 81; Hawai'i Electronic Filing and Service Rules; HCRR Rule 9; Any statute requiring personal service

Starting documents versus later documents

Document stage	Core rule	Practical consequence
Original complaint or petition	Formal service of process under HFCR Rule 4 and the governing statute.	Ordinary later-document service is not a substitute for service of the initiating papers.
Documents after the original pleading	HFCR Rule 5 generally requires service on each party; represented parties are ordinarily served through counsel.	Filing and service are separate acts. Retain the notice of electronic filing or certificate of service.
Post-decree motion raising new issues	After final disposition and expiration of the appeal period, HFCR Rule 5(b) requires personal service like a summons; JEFS/JIMS service is not permitted.	A motion can be filed but still not be properly before the court if personal service is defective.
Discovery requests and responses	HFCR Rule 5(h) generally says they are not automatically filed.	File certificates of service; file the discovery itself only when offered, used as an exhibit, or ordered.

PLAIN ENGLISH

Filing puts the document in the court record. Service gives it to the people legally entitled to receive it. A document may be filed but not properly served, or served but not filed.

Electronic filing coverage

HFCR Rule 1 provides that family-court cases are maintained in the Judiciary Information Management System except specified child-protective and juvenile-offender matters. Documents for JIMS cases are filed through JEFS or JIMS as provided by the electronic-filing rules. Attorneys generally must register and e-file unless exempted; an unrepresented individual may be able to register in the person's own case.

A Notice of Electronic Filing may constitute service on JEFS users. Non-JEFS users require conventional service. Personal service requirements are not satisfied merely because a document was electronically filed.

Formatting and file-stamp space

HFCR Rule 7.1 contains formatting requirements for paper size, orientation, margins, type size, page numbering, signatures, and first-page space for the electronic file stamp and court certification. Exhibits attached to an e-filed document also require stamp space. Use the current rule and the current form for exact dimensions and font requirements.

Calculating time under HFCR Rule 6

- 1 Identify the exact triggering event: entry, filing, service, notice, hearing, or another event stated in the rule, statute, form, or order.
- 2 Exclude the trigger day unless the controlling authority says otherwise.
- 3 Count the prescribed period. The last day ordinarily counts unless it falls on a Saturday, Sunday, or holiday, in which event the period usually runs to the next qualifying day.
- 4 For a period shorter than seven days under the current rule text, exclude intermediate Saturdays, Sundays, and holidays.
- 5 Check the service method. When a period runs after service by mail, Rule 6(e) adds two days; electronic service may be treated differently by the rule creating the period.
- 6 Confirm that the court has power to enlarge the deadline. Certain post-judgment and appellate deadlines cannot be extended under Rule 6.
- 7 Check the assigned judge's schedule, which may require filing before a specific hour or substantially earlier than a general rule baseline.

Deadline worksheet

Item	Write down
Trigger	Exact event and date: entry, filing, service, notice, or hearing.
Source	The rule, statute, order, or form instruction that creates the deadline.
Length	Number of days and whether a specially defined counting method applies.
Exclusions	Weekends, holidays, mail days, and emergency-closure provisions.
Filing time	Electronic deadline or judge-specified earlier time.
Service	Who must receive it, by what method, and when service is complete.
Proof	NEF, certificate of service, return, acknowledgement, or declaration.

JULY 1, 2026 ALERT

Effective July 1, 2026, HFCR Rule 6(a) changes the holiday-definition wording from “As used in this Rule, holiday includes” to “As used in these rules, holiday shall mean” a day designated under HRS § 8-1. Rule 77(c) removes the word “legal” before “holidays.” Use the amended text for deadlines governed by the rule after the effective date.

3. Motions, Declarations, Hearings, Orders, and Penalty of Perjury

A motion succeeds when it connects a legally available remedy to specific, supportable facts and asks for precise terms the court can enter and enforce.

PRIMARY AUTHORITIES

HFCR Rules 10, 43, 58, 58.1, and 78; HRS §§ 571-55, 571-56, and 571-57; HRE Rules 602 and 801-805

Core components of a motion package

Component	What it does	Editorial practice
Written motion	States the grounds and exact order sought.	Ask for precise, workable terms rather than “whatever is fair.”
Legal memorandum	Explains controlling law when a question of law is presented.	Identify the statute or rule and apply it to the material facts.
Notice of hearing	Provides the assigned date, time, location or remote instructions, and judge information.	Use the court-provided information; do not invent a hearing date.
Declaration or affidavit	Supplies facts outside the existing record.	Use numbered paragraphs, dates, names, personal knowledge, and approved signature language.
Financial statements	Support motions for financial or monetary relief when required.	Use current statements and supporting records; redact protected account information.
Written response	Addresses the requested orders and disputed facts.	Admit what is genuinely undisputed and support factual disputes with competent proof.
Proposed order	Shows the exact wording requested when the court permits or requires it.	Make terms specific enough for a parent, school, supervisor, agency, or enforcement officer to understand.

Writing declarations that can be used

- State facts, not labels. Describe what was said or done, by whom, when, where, and how the declarant knows.
- Separate first-hand knowledge from information received from someone else. The second category may raise hearsay issues.
- Use short numbered paragraphs so the motion, response, court, and appellate record can cite facts precisely.
- Connect each fact to the requested relief, statutory element, or custody factor. Omit unrelated history and cumulative screenshots.
- Identify each exhibit and explain what it is, how it was created or received, and why the copy is accurate.
- Analyze privilege and privacy before including therapy, medical, child, victim-counselor, or safe-location information.

PLAIN ENGLISH

A declaration should read like careful testimony, not a social-media post: short facts, dates, sources, and exhibits. Words such as “always,” “never,” “narcissist,” “dangerous,” or “alienating” do not prove themselves.

Certification under penalty of perjury

HRS § 571-55 permits testimony, declarations, depositions, certifications, and pleadings that would otherwise require an oath or affirmation to be made under penalty of perjury in the form prescribed by the court. HFCR Rule 10 also permits a dated unsworn declaration subscribed as true under penalty of law using substantially the rule's approved form. Use the current official form or exact approved language.

HRS §§ 571-56 and 571-57 provide consequences for a person who makes a false statement the person does not believe to be true, whether under oath or under authorized penalty-of-perjury certification. The practical safeguard is rigorous factual review before signature and prompt correction if a material error is later discovered.

Review standards before signature

Question	Review step
Who knows this?	Identify the witness with personal knowledge or the record that supplies the fact.
How is it known?	Separate observation, record-based knowledge, estimate, belief, and secondhand information.
What proves it?	Match key dates, payments, messages, incidents, school facts, medical facts, and service facts to exhibits.
Is the wording accurate?	Remove speculation, legal conclusions, unnecessary adjectives, and quotations that do not match the source.
Is the final packet complete?	Have the signer review the assembled PDF after exhibits are attached and redactions are applied.

Hearings, oral testimony, and written orders

HFCR Rule 43 states that trial testimony is ordinarily taken orally in open court unless law or court order permits another method. For motions based on facts outside the record, the court may decide on affidavits or declarations or may direct oral testimony or deposition. Rule 78 permits motion days and allows some matters to be decided without oral hearing when authorized.

A bench ruling may need to be reduced to a filed written order. A private agreement does not become a court order merely because the parties signed it. Under HFCR Rules 58 and 58.1, an approved and filed stipulation or order supplies the enforceable terms.

ORDER DRAFTING

Write the order so a person who was not in the courtroom can follow it. Use exact dates, times, locations, responsibilities, deadlines, exceptions, and consequences. Avoid "reasonable," "as agreed," or "as appropriate" unless the order defines how agreement will be reached.

4. Discovery, Subpoenas, and Protective Orders

Discovery is broader than trial evidence, but it is not limitless. Relevance, privilege, proportionality, burden, confidentiality, and protective orders still matter.

PRIMARY AUTHORITIES

HFCR Rules 26 and 45; HRE privilege rules; HCRR Rule 9 and HFCR Rule 7.2

Common discovery methods

Method	Typical use	Risk to manage
Interrogatories	Written questions answered under oath.	Overbreadth, argumentative wording, and incomplete responses.
Requests for production	Documents, messages, electronically stored information, photos, recordings, and tangible things.	Privilege, privacy, format, metadata, volume, proportionality, and redaction.
Requests for admission	Narrow undisputed facts or document authenticity.	Failure to respond may have serious consequences under the rule.
Depositions	Live sworn testimony from parties, experts, or third parties.	Cost, scheduling, objections, scope, recording, and protective conditions.
Physical or mental examination	A condition placed in controversy and good cause under the governing rule or order.	Purpose, scope, report access, privilege consequences, and follow-up use.
Subpoena	Compels a witness or nonparty to appear or produce identified material.	Proper issuance, service, fees, notice, objections, burden, privilege, and confidentiality.

Scope and proportional limits

HFCR Rule 26 permits discovery of nonprivileged matter relevant to the subject matter of the action, including documents, things, and knowledgeable persons. The court may limit material that is cumulative, duplicative, available from a more convenient source, sought after ample opportunity, or unduly burdensome compared with likely benefit. In civil family proceedings, the court may alter discovery rules for good cause under Rule 81.

Privilege logs and express claims

When otherwise discoverable information is withheld as privileged or protected trial-preparation material, Rule 26 calls for an express claim and a description sufficient to assess the claim without disclosing the protected communication itself. "Everything is confidential" is not a useful privilege description; revealing the substance defeats the purpose.

PLAIN ENGLISH

A subpoena is a command to respond, not automatic permission to reveal privileged records. A provider or privilege holder may still object, seek to quash or narrow the subpoena, request a protective order, or ask for limited in-camera review.

Protective orders

For good cause, Rule 26(c) allows orders preventing discovery, changing its method or timing, limiting topics or attendance, sealing depositions, controlling disclosure of confidential material, or directing sealed or in-camera submission. A moving person ordinarily must certify a good-faith effort to confer unless circumstances or another rule excuse it.

Responding to sensitive-record discovery

- 1** Calendar the response or objection deadline immediately and preserve the request, subpoena, envelope, NEF, and proof of service. **Page 16**
- 2** Identify whose privilege is implicated and who has authority to assert it.
- 3** Separate potentially privileged communications from nonprivileged facts, dates, billing information, observations, and administrative records.
- 4** Make specific objections and comply with unchallenged portions when required; do not ignore the request.
- 5** Consider a privilege log, motion to quash or modify, protective order, narrowed consent, confidentiality order, or in-camera procedure.
- 6** Redact personal information and use the correct sealed or confidential filing method for material submitted to the court.

PART I I

Evidence, Privilege, and Privacy

How information becomes usable proof - and when disclosure must be limited despite relevance.

5. Evidence essentials
6. Privileges and confidential communications
7. Privacy, sealing, transcripts, and e-filing
8. Presenting messages, records, photos, and witnesses

5. Evidence Essentials

A document can be properly filed yet inadmissible, discoverable yet privileged, relevant yet unfairly prejudicial, or authentic yet hearsay. Work through each gate separately.

PRIMARY AUTHORITIES

HRE Rules 401-403, 602, 701-706, 801-805, 901-902, and 1002-1004; HRE Rule 1101; HFCR Rule 43

The admissibility pathway

Gate	Question	Typical foundation or fix
1. Relevance	Does the item make a fact of consequence more or less probable?	Identify the claim, defense, custody factor, credibility issue, or remedy it bears on.
2. Rule 403 balance	Is its value substantially outweighed by unfair prejudice, confusion, delay, or cumulative proof?	Narrow the time period, excerpt what matters, or stipulate to undisputed facts.
3. Personal knowledge	Can a witness explain how the witness knows?	Use the sender, recipient, recorder, custodian, observer, or another qualified witness.
4. Hearsay	Is an out-of-court statement offered for its truth? If so, does an exclusion or exception apply?	Identify the purpose, applicable rule, declarant, records foundation, or certification.
5. Authentication	Is there enough evidence that the item is what the proponent claims?	Testimony, distinctive characteristics, metadata, chain of custody, or self-authentication.
6. Contents and originals	Is an original required, or is a duplicate or secondary proof acceptable?	Provide the native file, a reliable duplicate, or an explanation authorized by the rule.
7. Privilege and privacy	Is disclosure barred or limited despite relevance?	Obtain valid consent or order, narrow the scope, redact, seal, or exclude as required.

PLAIN ENGLISH

Relevant means “connected to an issue.” Admissible means “the judge may legally rely on it.” The second question is harder and has more gates.

Hearsay in common family-court material

Item	Hearsay issue	Other foundation
Message from the opposing party	A party-opponent statement may be treated differently from ordinary hearsay, but the rule and purpose still matter.	Authenticate sender, recipient, date, completeness, and accuracy.
Child statement repeated by a parent	Often raises hearsay and reliability concerns; exceptions are fact-specific and sensitive.	Avoid coaching or repeated interviews; follow court and evaluator protocols.
School, medical, or business record	May fit a records exception if the required foundation or certification is supplied.	Privilege, completeness, custodian proof, and redaction remain separate.
Police report	The report and the statements inside it may create multiple hearsay layers.	An official-record foundation does not automatically admit every embedded statement.
Personal calendar or parenting log	May refresh memory or qualify under a rule, but a litigation-created narrative can be challenged.	Explain when, why, and how entries were made and distinguish observation from accusation.

Authenticating digital evidence

- Preserve the native message, file, export, or account data when possible, not only a cropped screenshot.

- ▣ Show the account or phone identity, participants, date and time, attachments, and enough surrounding conversation for context.
- ▣ Use testimony or a declaration from the person who captured or exported it, stating the device or account and whether it fairly and accurately reflects what appeared.
- ▣ Retain metadata and the original device or file when authorship or alteration may be disputed.
- ▣ Keep annotations separate from the original. Highlighting can be placed on a demonstrative copy while the original remains intact.

Witnesses, experts, and objections

HRE Rule 602 generally requires personal knowledge. Lay opinions are limited by Rule 701; expert testimony is governed by Rules 702-706. In custody matters, HRS § 571-46 also permits relevant testimony from persons or experts whose skill, insight, knowledge, or experience assists the child-welfare determination.

An objection should identify the legal ground when the evidence is offered. If evidence is excluded, a specific offer of proof may be necessary to preserve the issue, unless the evidence is plainly inadmissible or privileged. Appellate preservation is technical and should be handled with counsel when possible.

6. Privileges and Confidential Communications

Privilege is a legal right to block disclosure of protected communications. It is different from ordinary confidentiality, ethical secrecy, privacy, sealing, or relevance.

PRIMARY AUTHORITIES

HRE Rules 503, 504, 504.1, 505, 505.5, 511, and 512; HFCR Rule 26; Any separate professional confidentiality statute

KEY CUSTODY CORRECTION

A custody dispute does not automatically open every therapy communication. Under the custody-related case note to HRE Rule 504.1, the condition-at-issue exception requires more than relevance: the client must rely on the mental or emotional condition as an element of the client's claim or defense.

Privilege comparison

Privilege	Protected core	Who may claim	Important limits
Lawyer-client - HRE 503	Confidential communications made to facilitate professional legal services.	Client, authorized representatives, and lawyer on the client's behalf.	Crime or fraud; prevention of serious harm; lawyer-client disputes; joint-client issues; waiver.
Physician-patient - HRE 504	Confidential diagnosis or treatment communications about physical, mental, emotional, or substance conditions.	Patient, guardian or conservator, personal representative, and physician on the patient's behalf.	Hospitalization, court-ordered examination for its purpose, condition relied on as claim or defense, provider-duty dispute, and specified crime or tort exceptions.
Psychologist-client - HRE 504.1	Confidential diagnosis or treatment communications concerning mental or emotional conditions, including substance issues.	Client, guardian or conservator, personal representative, and psychologist on the client's behalf.	Similar principal exceptions to Rule 504; ordinary custody relevance alone is not enough for the condition-at-issue exception.
Victim-counselor - HRE 505.5	Confidential counseling or treatment communications concerning effects of sexual assault, domestic or dating violence, stalking, sexual harassment, or child abuse or neglect; safe-house identifying information.	Victim, guardian or conservator, personal representative, and counselor on the victim's behalf.	Specific rule exceptions, mandatory reporting and child-abuse proceedings, court examination, condition at issue, provider-duty disputes, and other enumerated circumstances.
Spousal - HRE 505	Confidential private marital communications in civil cases; separate testimonial privilege in criminal proceedings.	Either spouse for confidential marital communications; testifying spouse for criminal testimonial privilege.	Communication must be private and intended confidentially; specified crimes against spouse, child, or household and other exceptions.
Clergy or separate professional privilege	Communications that fit the specific statutory rule.	Depends on the privilege.	Job title alone does not determine the privilege; separate statutes may apply to licensed professionals.

Questions that determine privilege

Was the communication confidential?

A third person may defeat confidentiality unless the person was reasonably necessary for transmission, treatment, or the protected relationship as defined by the rule. Forwarding a privileged email, posting it, or voluntarily describing its substance can create waiver. HRE Rule 511 addresses waiver by voluntary disclosure, while Rule 512 treats compelled or unauthorized disclosure separately.

Who holds the privilege?

The patient, client, victim, or other protected person generally holds the privilege - not the opposing party and not the provider for the provider's personal benefit. Guardians, conservators, personal representatives, and providers may assert it on the holder's behalf under the particular rule. When a child is involved, authority and conflicts require case-specific analysis.

Does a court-ordered evaluation remain private?

Rules 504, 504.1, and 505.5 provide a purpose-limited exception for communications made in a court-ordered examination, unless the court orders otherwise. That does not create unlimited use for unrelated purposes. Court-ordered professional evaluations and custody reports are also listed as sealed upon filing under HFCR Rule 7.2.

Can relevance override privilege?

Ordinary relevance does not by itself defeat privilege. The condition-at-issue exceptions generally require the holder to rely on the condition as an element of a claim or defense. Waiver, rule-specific exceptions, court-ordered-exam limits, and constitutional questions can change the analysis, but they should not be assumed.

Privilege response protocol ▢

Do not disclose first and argue later. Voluntary disclosure can create waiver issues.

- ▢ Identify the exact rule or statute and the privilege holder.
- ▢ Describe the protected category without revealing the communication itself.
- ▢ Assert the privilege promptly in discovery, subpoena response, or hearing and use a privilege log when required.
- ▢ Request narrowing, a protective order, sealing, or in-camera review only when legally appropriate.
- ▢ Segregate nonprivileged material and comply with unchallenged portions of a request or order.
- ▢ Obtain legal advice before signing broad therapy or medical releases or affirmatively relying on a condition as an element of a claim or defense.

7. Privacy, Sealing, Transcripts, and E-Filing

Sensitive material is not automatically sealed. The filer must use the correct confidential form, redaction, sealed category, protective order, or in-camera procedure.

PRIMARY AUTHORITIES

HCRR Rule 9; HFCR Rules 7.2, 79, and 80; Hawai'i Electronic Filing and Service Rules

HCRR Rule 9 and personal information

The Hawai'i Judiciary places responsibility on parties and attorneys to protect personal information in accessible documents. Protected categories include Social Security numbers, dates of birth, names of minor children, financial account numbers, medical and health records, and social-service reports. Official guidance uses a Confidential Information Form and abbreviated identifiers where required, such as initials, birth year, or last four digits.

Documents and cases sealed upon filing

Common sealed document categories under HFCR Rule 7.2	Common sealed case types
Divorce or matrimonial action information; income-withholding notice or order; parentage action information; Confidential Information Sheet or Form A and child attachment; birth, marriage, and death certificates; DNA results; court-ordered professional evaluations; custody investigation or evaluation reports; GAL reports; Kokua Kanawai reports.	Involuntary hospitalization or medication; assisted community treatment; adoption; guardianship of a minor.

SEALED IS NOT PRIVILEGED

Sealing controls who may inspect a filed court record. Privilege controls whether protected communications may be disclosed at all. A document can be sealed yet discoverable or admissible, or unsealed yet still subject to a privilege objection.

Confidential records, transcripts, audio, and video

HFCR Rule 79 requires a written request for information in a confidential record and a reason for the request unless another statute or rule provides otherwise. Under Rule 80, a nonparty or non-attorney of record requesting a transcript of a closed proceeding must state the reason and obtain approval. Transcripts and audio or video recordings of confidential proceedings generally require written approval unless law authorizes access; fees or deposits may apply.

Privacy workflow before filing

Determine whether the entire document or case is automatically sealed under HFCR Rule 7.2 or another law.

Remove personal information from the accessible version and place required data on the approved confidential form.

Use initials or abbreviated identifiers exactly as the current rule and form direct.

Review every exhibit, screenshot, header, metadata field, attachment, QR code, and file name.

Redact account numbers, birth dates, minor names, addresses, health information, and social-service information as required.

When ordinary redaction would impair the evidence, seek a sealing, protective, or in-camera procedure before filing.

Do not assume an e-filing document category automatically cures private information visible on the face of the page.

SAFETY

Never place a protected person's location, safe-house information, or confidential address in an accessible filing. For an immediate threat, contact 911 or appropriate emergency services and use safety-focused legal resources.

8. Presenting Messages, Records, Photos, and Witnesses

The strongest evidence file is not the largest. It is the clearest, most reliable set of proof tied to facts the court must decide.

PRIMARY AUTHORITIES

HRE Rules 401-403, 602, 801-805, 901-902, and 1002-1004; HFCR Rules 43 and 45; The scheduling or pretrial order

Build an evidence map

Requested finding or order	Fact to prove	Best source	Foundation check
Protected exchange	A prior exchange created a concrete safety risk.	First-hand witness, complete message thread, incident or court record.	Relevance, authentication, hearsay layers, redaction, family-violence statute.
School decision	The proposed plan better meets the child's educational needs.	School records, qualified educator, parenting history, transport evidence.	Records foundation, lay versus expert opinion, privacy, best-interest factor 9.
Schedule modification	The existing schedule no longer serves the child's current needs.	Calendars, work and school schedules, transport records, witnesses.	Personal knowledge, completeness, current best-interest analysis.

Texts, email, and parenting apps

Export the complete relevant conversation when possible and preserve attachments and timestamps.

Include enough surrounding context to avoid a misleading excerpt while excluding unrelated private material.

Use a participant or capture/export witness to identify accounts, device, date, process, and accuracy.

Preserve native data and the original device or account when authorship or alteration may be disputed.

Identify whether the statement is offered for its truth, effect on the recipient, notice, state of mind, or another purpose.

Redact phone numbers, addresses, minor identifiers, health information, and unrelated third-party content as required.

Photographs, video, and audio

Retain the original file and document who created it, when, where, with what device, and what it fairly depicts.

Keep metadata and avoid edits or recompression that create authenticity disputes.

Use still images or time-stamped excerpts only as supplements; preserve the full recording.

Confirm that the recording was lawfully obtained and does not violate a protective order, privacy law, or safety restriction.

Test the courtroom playback format and follow the judge's exhibit and technology instructions.

Records by type

Record	Questions before use
Medical or therapy	Who holds privilege? Is there consent, waiver, exception, or order? What portion is actually relevant? What must be redacted or sealed?
School	Who authenticates? Do education privacy restrictions or orders apply? Does the record contain hearsay within hearsay?
Child-welfare or social-service	Is access restricted or sealed? What statute controls? Can the author be called or cross-examined?
Police or court	Is it a certified official record? Are embedded statements separately admissible? Does an order prove only its entry or also underlying facts?
Business or financial	Can a custodian or certification establish regular recordkeeping? Are account identifiers redacted? Is the requested date range proportional?

Witness preparation and exhibit assembly

Choose witnesses with first-hand knowledge of a material fact, not people who merely agree with a party's opinion.

Disclose witnesses by the scheduling or pretrial deadline and subpoena them early enough for valid service, fees, objections, and travel.

Prepare a short outline covering identity, basis of knowledge, relevant events, exhibits, and anticipated objections.

Do not coach a child, rehearse false testimony, or tell any witness what outcome to give. Preparation should improve clarity, not alter facts.

Create an exhibit index; use consistent labels and page numbers; exchange on time; retain complete originals; make the copy legible; redact; and test media.

At the hearing, identify the exhibit, establish foundation, ask that it be admitted, respond to objections, and use only the admitted version.

LESS CAN BE STRONGER

Hundreds of repetitive messages can bury the few communications that prove notice, a threat, an agreement, noncompliance, or a safety concern. Select the clearest proof for each disputed fact and preserve the complete source separately.

PART I I I

Custody, Parenting, and Safety

The child-centered statutory framework and the practical tools used to turn it into workable orders.

- 9. Best interests of the child
- 10. Parenting plans
- 11. Family violence, coercive control, and protective orders
- 12. Child custody evaluators and guardians ad litem
- 13. Disability protections

9. Best Interests of the Child

HRS § 571-46 makes the child's best interests the central standard. The strongest presentation connects facts to the child's actual safety, stability, health, education, development, and relationships.

PRIMARY AUTHORITIES

HRS § 571-46; Turoff v. Turoff, 56 Haw. 51 (1974); Fujikane v. Fujikane, 61 Haw. 352 (1979); Waldecker v. O'Scanlon, 137 Hawai'i 460 (2016)

Core custody powers and procedures

Topic	Rule in practical terms
Custody award	Custody may be awarded to either or both parents according to the child's best interests. Nonparent custody is possible when the statutory standard is met.
Child's preference	When a child has sufficient age and capacity to reason and form an intelligent preference, the court considers and gives due weight to the child's wishes.
Investigation or evaluation	For good cause, the court may require an investigation and report. Reports must be made available before hearing; the responsible person must be available for cross-examination when an objection is made under the statute.
Experts and other witnesses	The court may hear a relevant person or expert whose skill, insight, knowledge, or experience assists the child-welfare determination.
Modification	A custody award may be changed whenever the child's best interests require or justify it; current best interests cannot be replaced by an automatic future custody switch.
Guardian ad litem	The court may appoint a GAL to represent the child's interests and allocate fees, but the judge retains the decision.
Visitation	The court has discretion to award reasonable visitation unless detrimental to the child's best interests, subject to family-violence and safety provisions.

PLAIN ENGLISH

The judge is not choosing a winning parent. The judge is choosing the arrangement that best serves the child. Every accusation, exhibit, and requested term should be translated into a concrete effect on the child.

The sixteen statutory best-interest factors

#	Factor	Evidence focus
1	Sexual or physical abuse of a child by a parent	Orders, credible testimony, medical or agency evidence, admissions, safety plan; privilege and hearsay still apply.
2	Neglect or emotional abuse of a child by a parent	Specific acts, child impact, witnesses or records, pattern, seriousness, and recency.
3	Overall quality of the parent-child relationship	Attachment, caregiving interactions, communication, support, age-appropriate boundaries.
4	History of caregiving or parenting before and after separation	Appointments, school involvement, transport, meals, bedtime, homework, activities, special needs.
5	Cooperation in developing and implementing a plan	Concrete planning and follow-through; not considered after a finding that a parent committed family violence.
6	Child's physical health needs	Treatment plans, appointments, medication, insurance, accommodations, provider coordination.
7	Child's emotional needs	Stability, attachment, transitions, stressors, counseling recommendations without unnecessary privileged detail.
8	Child's safety needs	Supervision, violence, threats, weapons, substance issues, unsafe persons or places, emergency planning.
9	Child's educational needs	Attendance, school continuity, services, homework support, transportation, school communication.
10	Child's relationships with siblings	Placement, schedules, bonds, half- and step-sibling relationships, transportation.
11	Actions allowing family connections through events and activities	Family relationships and cultural or family participation; not considered after a family-violence finding.
12	Actions separating the child's needs from the parent's needs	Avoiding adult-conflict exposure, child-focused communication, and developmentally appropriate boundaries.
13	Past or current drug or alcohol abuse by a parent	Reliable records, testing, treatment, compliance, behavior, and impact on parenting or safety.
14	Mental health of each parent	Functional impact on parenting and safety, not diagnosis alone; privilege remains a separate issue.
15	Areas and levels of family conflict	Frequency, intensity, child exposure, communication methods, and conflict-reduction measures.
16	Prior willful misuse of the Chapter 586 protection process for tactical advantage	Clear and convincing evidence, additional future-cooperation finding, and express findings; dismissal alone is not prima facie misuse.

MENTAL HEALTH IS A FACTOR - NOT AN AUTOMATIC WAIVER

The court may consider a parent's mental health, but HRE Rule 504.1 still protects psychologist-client communications. Functional conduct, nonprivileged observations, and a properly limited court-ordered evaluation may supply evidence without opening an entire therapy file.

Child-centered evidence

Theme	What the court is usually trying to learn	Useful proof
Stability	Are routines, housing, schedules, school, and transport predictable?	Calendars, attendance, transport plans, caregiver testimony.
Safety	Is the child protected from violence, unsafe supervision, substances, intimidation, or adult conflict?	Orders, police or medical records, photos, credible witnesses, safety plans.
Emotional bonds	Who responds to the child's emotional needs and has a history of hands-on care?	Caregiving history, neutral witnesses, ordinary-care records, evaluator evidence.
Decision-making	Can parents share information, follow orders, and support safe relationships?	Messages, co-parenting app records, school and provider coordination, compliance history.
Educational continuity	Does the plan support attendance, services, homework, and feasible transport?	School records, IEP or 504 information, tutoring or service records, travel map.
Developmental fit	Is the schedule appropriate for age, temperament, special needs, and activities?	Pediatric, school, therapy, and activity evidence; age-appropriate plan.

Practice priorities

Prepare a concise caregiving timeline showing who handled school, health care, meals, bedtime, activities, and transportation.

Connect every requested custody or visitation term to a concrete child need: safety, stability, school, health, development, or relationships.

Use neutral collateral witnesses and records to verify patterns rather than isolated incidents.

Avoid inflammatory labels unless supported by admissible evidence and material to the child's welfare.

For child-preference issues, show why the preference is thoughtful, consistent, age-appropriate, and free from pressure or coaching.

10. Parenting Plans

A parenting plan converts custody principles into an operating manual. The best plans anticipate predictable friction and supply a clear process before conflict occurs.

PRIMARY AUTHORITIES

HRS § 571-46.5; HRS § 571-46(a)(1) and (a)(6); Current Hawai'i Judiciary parenting-plan forms

In contested custody actions, HRS § 571-46.5 requires the parents or parties to develop and file either a mutually agreed general parenting plan or separate proposed plans at the outset. A detailed plan may address residential schedules, holidays, decisions, breastfeeding, information sharing, relocation, communication, right of first refusal, transportation, amendment, enforcement, and dispute resolution.

PLAIN ENGLISH

A parenting plan is not a promise to “cooperate.” It is a written set of instructions for ordinary weeks, holidays, school, health care, travel, communication, exchanges, emergencies, and disagreements.

Essential components

Topic	Terms to address
Physical custody schedule	Regular week; exact exchange times; start and end points; school-day and non-school-day contingencies.
Legal decision-making	Joint or sole decisions; tie-break process; response deadlines for education, health care, religion, activities, and travel.
Exchange procedures	Location; transportation; car seats; late policy; third-party pickup; protected-exchange or safety terms.
Communication	Approved method; response windows; emergency versus non-emergency rules; child contact during the other parent's time; no-harassment terms.
Holidays and vacation	Odd or even year rotation; school breaks; birthdays; Mother's and Father's Day; notice; passports; itinerary; make-up time.
Education and activities	School choice; records access; homework; transportation; costs; attendance; equipment; participation.
Health and counseling	Routine and emergency care; insurance cards; medication exchange; provider access; appointments; consent issues.
Dispute resolution	Written notice; meet-and-confer; mediation when safe; deadlines; emergency exceptions; when court filing is allowed.

Drafting rules

Be concrete. Avoid “reasonable visitation” unless the plan defines how it will be scheduled and enforced.

Plan transportation realistically. Assign who drives, where exchanges occur, and what happens if a parent is late or unavailable.

Define communication boundaries: method, response time, emergencies, respectful tone, records access, and child contact.

Build in a change process: notice, swap requests, cancellation, make-up time, and emergency or safety exceptions.

Fit the plan to the child's age, school demands, activities, health needs, developmental needs, and sibling relationships.

Sample clause concepts - adapt and verify

Topic	Concept
Late exchange	If a parent is more than a defined number of minutes late without notice, the waiting parent may leave and the late parent must request make-up time in writing.
Non-emergency communication	Parents use the designated app; responses are due within a stated period unless the issue concerns urgent health or safety.
Travel	A parent traveling off-island provides itinerary, lodging, flight information, emergency contact, and return date by a defined deadline.
School information	Both parents may access school portals and records unless an order says otherwise; time-sensitive notices are forwarded within a defined period.
Dispute step	Before filing a non-emergency motion, the requesting parent gives written notice identifying the issue and proposed solution, followed by a good-faith meet-and-confer when safe.

DRAFTING TEST

Read the plan as if you were a teacher, visitation supervisor, police officer, mediator, or judge who was not present when it was written. Can that person tell exactly what happens next?

11. Family Violence, Coercive Control, and Protective Orders

Hawai'i law addresses safety through both the custody statute and Chapter 586. The standards overlap but are not identical: a custody finding triggers a presumption and safety-first analysis, while Chapter 586 supplies TRO and protective-order remedies.

PRIMARY AUTHORITIES

HRS § 571-46(a)(9)-(17); HRS Chapter 586, especially §§ 586-1, 586-3, 586-4, 586-5, and 586-5.5; *Rezentes v. Rezentes*, 88 Haw. 200 (App. 1998); *Bencomo v. Bencomo*, 112 Hawai'i 511 (App. 2006)

Family violence in custody

When the court determines that a parent committed family violence, HRS § 571-46 creates a rebuttable presumption that placing the child in sole custody, joint legal custody, or joint physical custody with the perpetrator is detrimental and not in the child's best interests. The child's safety and the victim parent's safety become the primary factor. The court also considers the history of physical harm or reasonable fear and may not count an absence or relocation caused by violence against the victim parent.

PLAIN ENGLISH

A rebuttable presumption is a starting rule that controls unless enough evidence overcomes it. The burden is not met by pretending the violence is irrelevant; the response must address safety, accountability, and a workable protective structure.

Authorized safety conditions for visitation

Safety tool	What it can address
Protected exchange	Transfer of the child in a controlled or monitored setting.
Supervised visitation	Supervision by a person or agency; conditions must be stated when a family or household member supervises.
Intervention or counseling	Completion of a perpetrator-intervention program or designated counseling as a condition.
Alcohol or controlled-substance restriction	No possession or consumption during visitation and for twenty-four hours before it.
No overnight visits	Restriction where needed for physical safety or psychological well-being.
Bond	Financial security for safe return of the child, considering the person's financial circumstances.
Confidential address	Protection of the child's and victim's location.
Other necessary conditions	Any condition needed for the child, victim, or other family or household member's safety.

Evidence and documentation

Evidence	Best practice
Police reports	Obtain the complete report when available; note dates, locations, officer observations, supplements, and embedded hearsay.
Protective-order records	Include petitions, orders, service, violations, continuances, modifications, and dismissal context.
Medical or counseling records	Use only relevant material; analyze privilege; corroborate injuries, symptoms, treatment, or child impact; redact unrelated details.
Photographs or video	Preserve originals and metadata; index who created the item, when, where, and what it depicts.
Witness testimony	Use first-hand observations and separate what was seen or heard from conclusions and character attacks.
Electronic communications	Preserve full relevant threads and timestamps; avoid selective excerpts; authenticate the source.
Exchange or visitation records	Track late arrivals, threats, boundary violations, third parties, and compliance with protected-exchange terms.

Responding to the presumption

A parent responding to a family-violence finding should address safety directly. Relevant evidence may include sustained time without new conduct or violations, accountability, treatment or intervention completion when appropriate, strict order compliance, insight into child impact, and a specific safe-contact plan. The court may still require supervision, protected exchanges, communication boundaries, no overnight contact, or other safeguards.

Coercive control under Chapter 586

Chapter 586 defines coercive control as a pattern of threatening, humiliating, or intimidating actions used to harm, punish, or frighten an individual and designed to take away liberty or independence. Statutory examples include isolation, financial control, monitoring activities or communications, frequent degradation, threats to harm a person or child or relative, threats to publish information or report to authorities, property damage, and forcing criminal activity or child abuse. Domestic abuse also includes extreme psychological abuse, physical harm or threatened imminent harm, and malicious property damage between qualifying family or household members.

EVIDENCE STILL MATTERS

The label “coercive control” is not a substitute for proof. Organize specific acts, dates or periods, messages, witnesses, financial or location evidence, and the effect on safety, parenting, or the child.

Chapter 586 process at a glance

Stage	Key feature
Petition	A qualifying person or agency files a written court-form petition under penalty of perjury with specific facts supporting past abuse, probable imminent abuse, or other statutory grounds.
Ex parte TRO	A judge may issue temporary relief without advance notice when the statutory probable-cause standard is met.
Prompt hearing	The court sets a show-cause hearing under the statute; service, continuances, and remote participation have specific rules.
Protective order	After hearing relevant evidence, the court may continue protection and add relief, including temporary custody or visitation and intervention services.
Extension or modification	The order may be extended or modified through the statutory application and hearing process.

Protective-order findings and later custody cases

When divorce or custody is already pending, a Chapter 586 petition may be filed in the same proceeding to the extent practicable. A later custody or divorce order may supersede all or part of a TRO in the custody judge's discretion. TRO findings do not bind another family-court proceeding, so the later court may consider the alleged facts anew. Prior violence is not irrelevant; the custody statute requires the history to be considered.

Best-interest factor 16 addresses prior willful misuse of the Chapter 586 process for tactical advantage. It requires clear and convincing evidence, an additional finding concerning future cooperation, and express findings. A voluntary dismissal alone is not *prima facie* misuse.

IMMEDIATE SAFETY

Do not delay emergency help while preparing legal papers. For immediate danger, contact 911 or appropriate emergency services. Do not disclose a protected person's location or confidential address in an accessible document.

12. Child Custody Evaluators and Guardians ad Litem

Evaluators and GALs can strongly affect a contested case, but they do not replace the judge. Organized, accurate, child-focused participation is more effective than volume or hostility.

PRIMARY AUTHORITIES

HRS § 571-46(a)(4) and (a)(8); HRS § 571-46.4; HFCR Rule 17(c); Bencomo v. Bencomo, 112 Hawai'i 511 (App. 2006)

Evaluator qualifications and training

A person appointed as a child custody evaluator generally must be actively licensed as a marriage and family therapist, psychiatrist or qualified physician, psychologist, or clinical social worker, unless a statutory exception applies. Beginning July 1, 2024, covered evaluators must complete at least five hours of training on domestic-violence dynamics once every three years and submit proof as required. The current statute also provides for a public registry and complaint referral process. The July 1, 2026 version changes a clinical-social-worker cross-reference while retaining the listed category.

The evaluation process

Stage	Practical approach
Initial contact	Confirm the court-ordered scope, deadlines, fees, communication rules, referral questions, and submission format.
Document submission	Provide a concise indexed packet: timeline, priority records, relevance explanation, and no duplicate or inflammatory material.
Parent interview	Answer directly, stay child-focused, acknowledge limits, and describe routines, safety planning, and caregiving with examples.
Home visit	Show a safe, age-appropriate environment, sleeping space, supplies, homework area, and realistic daily routines rather than staged perfection.
Child interview	Do not coach. Explain the process neutrally and support the child without pressuring an outcome.
Follow-up	Respond promptly and professionally; correct factual errors with documents rather than personal attacks.

What evaluators commonly assess

Positive indicators	Red flags
Child-focused answers with specific caregiving examples and willingness to support safe relationships.	Coaching or scripting the child; pressuring the child to choose; using the child as a messenger.
Safe, age-appropriate home and realistic supervision plan.	Unsafe or chaotic conditions, unclear caregiving, or poor supervision.
Respectful communication and ability to comply with court and evaluator instructions.	Disparagement, hostility, or refusal to comply with evaluator requests or court orders.
Realistic proposals aligned with school, activities, transport, and developmental stage.	Rigid or impractical schedules that ignore logistics or school stability.
Accountability and insight about past concerns.	Minimizing proven conduct, blaming the child, or refusing reasonable safety structures.

Reports, objections, and cross-examination

Obtain the report by the court-ordered deadline and compare it with source records, interview notes, and referral questions.

Separate objective factual errors from omissions, methodology concerns, interpretation disagreements, and recommendation disagreements.

Support corrections with admissible source documents and neutral witnesses rather than argument alone.

Meet objection and witness deadlines and preserve the statutory opportunity to cross-examine the person responsible for the report when applicable.

Use focused questions about qualifications, sources, assumptions, omitted information, methods, domestic-violence analysis, and best-interest factors.

Remember that the report is evidence for the court to weigh. The judge retains final decision-making and may not delegate custody to an evaluator or GAL.

PLAIN ENGLISH

An evaluator recommends; a GAL advocates for an assigned interest; the judge decides. A report can be challenged, but the challenge should be organized around facts, methods, and statutory factors - not personal attacks.

13. Disability Protections in Custody and Visitation

A disability alone cannot justify denying or restricting custody or visitation. The analysis must focus on actual parenting function, supports, accommodations, and a proven connection between the disability and an alleged parenting deficiency.

PRIMARY AUTHORITIES

HRS § 571-46.6; HRS § 571-46(a)(1)

IMPORTANT CORRECTION

HRS § 571-46.6 requires proof of a clear nexus between disability and an alleged parental deficiency, but it does not use the phrase “clear and convincing evidence.” Do not import a heightened burden unless another controlling authority applies.

Required analysis

Topic	Practical meaning
Nexus	The party relying on disability must identify specific ways it affects the parent’s ability to meet the child’s needs.
Written findings	If custody or visitation is denied or restricted based on disability, the court must make specific written findings explaining the effect on parenting capacity.
Accommodations	The analysis should consider tools, services, support persons, adaptive equipment, transportation assistance, and parenting strategies.
Function, not diagnosis	Evidence should address actual caregiving tasks rather than the existence of a medical label.
Child-centered connection	Any alleged limitation must be tied to the child’s safety, stability, health, education, or emotional well-being.

Effective evidence and advocacy

Document successful caregiving through routines, school attendance, health-care follow-through, meals, bedtime, activities, and neutral witnesses.

Explain the accommodations, devices, transportation, support people, or services already used and how they work in practice.

Challenge stereotype-based claims and require evidence of an actual parenting deficit.

Use an appropriate expert, rehabilitation specialist, occupational therapist, treating provider, or disability advocate when functional capacity is misunderstood.

Address transportation, medication, emergencies, fatigue, episodic symptoms, and backup care with concrete plans.

Request reasonable accommodations early for court participation or parenting-plan compliance.

Functional-capacity chart

Caregiving task	How the parent performs it	Support or accommodation	Corroborating proof
Example: school transportation	Uses a scheduled accessible transport service and backup family driver.	Transportation account and backup contact.	Attendance record, service statement, witness testimony.
Example: medication management	Uses labeled organizer, phone alarms, and provider portal.	Adaptive reminder system.	Refill history, provider records, collateral witness.

PART IV



After Orders and High-Stakes Proceedings

What happens after a ruling - and how to organize the most consequential family-court remedies.

- 14. Modification, enforcement, reconsideration, and appeal
- 15. Termination of parental rights
- 16. Common mistakes and quick-response guide

14. Modification, Enforcement, Reconsideration, and Appeal

After a ruling, identify the exact filed order, entry date, service method, current obligations, and available procedural path. Modification, reconsideration, Rule 60 relief, enforcement, stay, and appeal have different standards and deadlines.

PRIMARY AUTHORITIES

HRS § 571-46(a)(6); HRS § 571-54; HFCR Rules 59, 60, and 69; Hawai'i Rules of Appellate Procedure

Common post-ruling paths

Path	Purpose	Critical caution
Clarification or correction	Address ambiguity or clerical mistake.	An informal letter is not a substitute for an authorized motion.
Reconsideration or alter/amend	Ask the same court to reconsider or amend under HFCR Rule 59(e).	Rule 59 generally states a 10-day filing period; verify tolling and case-specific statutory paths immediately.
New trial	Seek a new trial for good cause under Rule 59.	The rule states a short filing period and specific declaration timing.
Relief from judgment or order	Rule 60 addresses clerical mistakes and enumerated grounds for relief.	Some grounds have one-year limits; Rule 60 is not a substitute for appeal.
Enforcement or contempt	Compel compliance with an existing order or collect support.	Prove the exact order, notice, noncompliance, and remedy; follow post-decree personal-service rules.
Modification	Change custody, visitation, support, or another modifiable term under the governing statute.	Custody remains a current best-interest inquiry; other subjects have their own standards.
Appeal	Seek higher-court review of an appealable order or judgment.	Appealability, notice deadline, tolling, record, transcripts, stays, and standards of review are specialized.

PLAIN ENGLISH

Modification asks for a different order because the child or circumstances now require it. Reconsideration asks the same judge to correct an error. Appeal asks a higher court to review the record. They are not interchangeable.

Custody modification

HRS § 571-46 states that custody may be modified whenever the child's best interests require or justify change. The statute's case notes explain that no separate material-change prerequisite must be met before the court considers current best interests. An automatic future custody change cannot replace an express best-interest determination at the time of change.

Common issue	Evidence focus
Relocation	Distance, time-sharing, ties to community, educational continuity, travel feasibility, and plan for maintaining relationships.
Safety concern	New or continuing violence, substances, criminal activity, unsafe persons, threats, or failure to protect.
Parental capacity	Serious illness, incarceration, crisis, work change, or another circumstance affecting daily care.
Child's evolving needs	Development, health care, special education, counseling recommendations, school issues, or age-appropriate preference.
Persistent noncompliance	Repeated violations, time-sharing interference, information withholding, communication failure, or undermining a safe relationship.

Common issue	Evidence focus
Practical impossibility	A schedule that no longer works because of school, transportation, activities, or changed employment.

HRS § 571-54 and appeal practice points

An interested party aggrieved by a family-court order or decree may have a statutory appeal route, subject to appealability and appellate rules.

When an order affects custody of a child or minor, the statute directs early appellate consideration, but a pending appeal does not automatically suspend the order.

A family court or appellate court may enter appropriate temporary custody orders while an appeal is pending.

For certain proceedings based on specified subsections of HRS § 571-11, § 571-54 provides a 20-day reconsideration-of-facts route. Verify whether that special path applies; do not assume it applies to every custody case.

Protect child identity and follow appellate record-caption requirements where applicable.

Order transcripts promptly, preserve objections and offers of proof, and obtain written findings and conclusions when needed for review.

DEADLINE CAUTION

Do not wait for a reconsideration ruling or a transcript before checking the notice-of-appeal deadline. Often a general civil appeal period is thirty days, but exceptions, finality rules, and tolling motions can change the calculation.

After-order checklist

Obtain the filed order and compare it line by line with the oral ruling or stipulation.

Record the entry date, service date and method, compliance dates, review date, and consultation deadline for reconsideration or appeal.

Identify whether a stay or temporary order is needed. Disagreement does not itself suspend the order.

Use formal enforcement, correction, modification, or appellate procedure instead of self-help retaliation.

Send required notices to schools, providers, supervisors, or agencies without disclosing unnecessary private information.

15. Termination of Parental Rights

Termination is a high-consequence statutory remedy. Organize the case by jurisdiction and verified pleading, statutory ground and evidence, notice and hearing procedure, and the findings and judgment required to protect the child and facilitate adoption.

PRIMARY AUTHORITIES

HRS §§ 571-61, 571-62, and 571-63; HRS §§ 571-54 to 571-57; HFCR Rule 17(c); Any adoption, service, and local form requirements

HIGH-STAKES WARNING

Termination is not ordinary custody modification. It permanently affects fundamental legal relationships and requires exact statutory pleading, service, evidence, findings, and appellate analysis. Qualified legal counsel is strongly recommended.

The four-layer framework

Layer	Question
1. Jurisdiction and petition	Is the petition verified, filed in an authorized circuit, and based on the correct statutory subsection?
2. Ground and proof	What exact voluntary or involuntary ground applies, and what evidence proves every element?
3. Notice, hearing, and investigation	Was service timely and valid? Were DHS notice, investigation, report, child-placing organization, and GAL issues handled?
4. Findings and judgment	Do the written findings track the statute, protect the child's best interests, and facilitate legal adoption?

Voluntary relinquishment under HRS § 571-61(a)

Topic	Practical requirement
Who may petition	The parents, either parent, or surviving parent seeking to relinquish rights to a natural or adopted child for adoption or readoption.
Where to file	The circuit where the parent or parents reside, the child resides, or the child was born.
Form	A verified petition substantially in the form prescribed by the family court judge or senior judge.
Pregnancy timing	A petition may be filed after the birthing parent's sixth month of pregnancy, but judgment concerning an unborn child cannot be entered before birth and the required reaffirmation or notice and opportunity to be heard.

Involuntary termination ground map

Ground	Practical element
Desertion	A legal parent deserted the child without affording means of identification for at least ninety days.
Voluntary surrender	A legal parent voluntarily surrendered care and custody to another for at least two years.
Failure to communicate	While the child was in another's custody, the parent failed to communicate when able for at least one year.
Failure to provide care or support	While the child was in another's custody, the parent failed to provide care and support when able for at least one year.
Removal and care incapacity	The child was removed through legally authorized judicial action under HRS § 571-11(9), and the parent cannot provide now or in the foreseeable future the care necessary for the child's well-being.
Mental illness or intellectual disability plus statutory incapacity	The court finds incapacity to consent to adoption or to provide now and in the foreseeable future necessary care. Diagnosis alone is not the statutory element.
Not the natural or adoptive non-birthing parent	The court finds the person does not hold the described biological or adoptive status.
Natural but not legal non-birthing parent	Special statutory categories and grounds apply to adjudicated, presumed, concerned, or birth-certificate-listed persons and certain stepparent-adoption situations.
Sexual-assault conception	Clear and convincing evidence that the natural parent committed sexual assault of the other natural parent and the child was conceived as a result; a guilty plea or conviction is conclusive proof of the assault.

Procedure and notice under HRS § 571-61

For covered involuntary proceedings, a responsible adult files a verified petition on the child's behalf in an authorized circuit, followed by a hearing. The petition and hearing notice must be personally served on the parent whose rights are sought to be terminated at least twenty days before the hearing. When personal service cannot be made in Hawai'i, the referenced service statutes and court orders must be followed.

When the birthing parent states by affidavit that the non-birthing parent's identity or whereabouts are unknown or not ascertainable, or that other good cause exists, the court decides whether notice is required. The statute includes a process under which termination and later adoption may proceed without notice if good cause is established and the person has not demonstrated a reasonable degree of interest, concern, or responsibility.

Sexual-assault-conception provision

The statute uses clear and convincing evidence for the sexual-assault and conception finding; a guilty plea or conviction is conclusive proof of the assault.

The provision describes complete and final termination of rights to custody, guardianship, visitation, access, and inheritance from the child.

The child-support obligation survives, and the court may order support.

Termination is presumed to be in the child's best interests when conception resulted from the assault.

A statutory exception applies after later cohabitation and creation of a mutual custodial environment; the custodial natural parent may petition to reinstate rights terminated under the paragraph.

DRAFTING NUANCE

HRS § 571-63 generally says termination under §§ 571-61 to 571-63 does not end mutual inheritance rights or parental legal duties and liabilities until adoption. The sexual-assault provision contains special inheritance and support language. Proposed judgments must track the exact current subsection.

Hearing, DHS notice, investigation, and GAL - HRS § 571-62

Topic	Requirement or practical point
Duplicate filing and DHS notice	Every § 571-61 petition is filed in duplicate; the clerk forwards a copy of the petition and hearing notice to the Director of Human Services.
DHS participation	The Director may appear and be heard for the petitioner, child or minor, or State and has a right of appeal; the Attorney General may represent DHS interests.
Child-placing organization	Upon a qualifying request, an approved child-placing organization may appear with or in place of DHS.
Continuance for objective investigation	When a qualifying person requests investigation, no judgment may be entered before thirty days from the request or the earlier filing of the report.
Report	DHS prepares or procures a report in the circumstances stated by statute; the court may extend time for good cause; the report becomes part of the record and is considered.
Guardian ad litem	The court may appoint a GAL for the child or minor or for a minor parent when necessary.

Required findings and judgment - HRS § 571-63

Requirement	Drafting point
Statutory facts proved	The judgment must find that the facts bring the child within §§ 571-61 to 571-63 and were proved by the evidence.
Best interests and adoption	It must find termination necessary for the protection and preservation of the child's best interests and that it will facilitate legal adoption.
Available terms	The court may terminate one or both parents' rights, transfer care and custody, appoint a guardian, and authorize consent to adoption.
Inheritance and legal duties	Generally continue until legal adoption, subject to specific statutory language.
Finality and appeal	The judgment becomes final and binding on entry and filing, subject to appeal, when required procedures are followed.
One-year review	If the child has not been adopted or placed in a prospective adoptive home after one year, the statute provides for review on motion by specified persons or entities.
Sealing	After final adoption or final disposition, the clerk seals the records; inspection requires court order.

Termination case-file structure

Tab	Contents
1. Pleadings	Verified petition, jurisdiction facts, statutory ground, child facts, adoption objective, and certification language.
2. Service and notice	Personal-service proof, twenty-day timing chart, out-of-state service, unknown-parent affidavit and hearing record, and DHS notice.
3. Evidence	Ground-specific records, communication and support history, removal orders, capacity evidence, conviction or plea, and child-impact proof.
4. Investigation	DHS or child-placing report, continuance request, objective investigation, GAL appointment and scope.
5. Proposed findings and judgment	Statutory findings, custody transfer, guardian and adoption-consent authority, support and inheritance language, sealing, and appellate notice as appropriate.

16. Common Mistakes and Quick-Response Guide

Recurring errors arise when procedure, proof, privilege, privacy, and substantive law are treated as the same question. The correction is to separate them.

PRIMARY AUTHORITIES

HFCR, HRE, HCRR, and the case-specific order

Common myths and corrections

Myth or mistake	Correction
"It is relevant, so the judge must admit it."	Relevance is only the first gate. Hearsay, authentication, privilege, Rule 403, original-document rules, and court orders still apply.
"Custody is disputed, so all therapy records are open."	The Rule 504.1 condition-at-issue exception requires more than relevance; the client must rely on the condition as an element.
"A subpoena overrides confidentiality."	A subpoena may be objected to or limited and does not by itself extinguish privilege.
"Filing means the other side was served."	Filing and service are separate. Certain post-decree motions require personal service.
"Discovery belongs in the court file."	Discovery requests and responses are generally not filed automatically; certificates of service are filed.
"A TRO ruling automatically decides custody."	TRO findings do not bind a later custody proceeding; the facts may be considered anew.
"A dismissed protection petition proves tactical misuse."	Dismissal alone is not prima facie misuse; factor 16 requires clear and convincing evidence and specific findings.
"The evaluator decides custody."	The judge decides. The evaluator's report may be admitted, objected to, and tested through cross-examination.
"Everything in a police or medical record is automatically admissible."	Records can contain privilege and multiple hearsay layers; foundation and exceptions must be established.
"An oral ruling changed the order immediately."	Read the exact ruling and docket. Entry, the written order, service, stay, and enforcement rules may matter.

A request seeks therapy or medical records

- 1 Preserve the request or subpoena and calculate the response deadline and service method.
- 2 Identify the provider, applicable privilege, and privilege holder.
- 3 Analyze court-ordered-exam limits, condition-at-issue, waiver, hospitalization, and other exceptions separately.
- 4 Respond formally through objections, privilege log, motion to quash or protect, narrowing, sealing, or in-camera procedure as applicable. Do not ignore it.

An evaluator report contains errors

- 1 Create separate columns for objective factual error, omitted material, methodology concern, interpretation disagreement, and recommendation disagreement.
- 2 Collect admissible source proof rather than argument alone.
- 3 Meet objection and witness deadlines and preserve cross-examination rights where applicable.
- 4 Explain why the correction changes a statutory factor or requested order.

You want to submit a message

- 1 Define the material fact and whether the statement is offered for its truth or another purpose.
- 2 Preserve context, timestamps, participants, attachments, and native data.
- 3 Prepare a participant or capture/export witness to establish authenticity and accuracy.
- 4 Redact unrelated personal information and use sealed or confidential procedures when required.

A protective order and custody order overlap

- 1 Read both filed orders and identify exact terms, dates, courts, and any superseding language.
- 2 Follow the existing orders until clarified, modified, stayed, or superseded. Do not improvise.
- 3 Use the authorized motion or Chapter 586 procedure in the correct forum.
- 4 Preserve safety through protected communication, exchanges, and confidential-address procedures; use emergency services for immediate danger.

PART V

Practice Tools and Authorities

Consolidated checklists, definitions, selected case guidance, and official sources.

- 17. Master checklists and packet builders
- 18. Glossary in plain language
- 19. Official sources and update notes

17. Master Checklists and Packet Builders

These tools consolidate the action items from the preceding chapters. Add every requirement from the assigned judge's orders, current circuit forms, and local instructions.

PRIMARY AUTHORITIES

The governing rule, statute, order, and official form for the specific case

Before filing any document

- ✓ Correct court, circuit, case number, party names, caption, and document title.
- ✓ Correct procedural vehicle: petition, motion, response, objection, notice, stipulation, proposed order, or appeal document.
- ✓ Exact relief requested and legal authority identified.
- ✓ Triggering deadline and service method confirmed from the rule, statute, order, and form.
- ✓ Facts supported by personal-knowledge declarations, admissible records, or witnesses.
- ✓ Hearsay, authentication, completeness, and original-document issues reviewed for each exhibit.
- ✓ Privilege holder, waiver, exceptions, and need for protective handling analyzed before disclosure.
- ✓ Personal information redacted or placed on confidential forms; sealed or in-camera method confirmed.
- ✓ Formatting, file-stamp space, page numbers, signature, certification, and contact information comply with current rules.
- ✓ Filing and service completed; NEF, certificate, return, or other proof retained.

Before a motion hearing or trial

- ✓ Read every scheduling, pretrial, minute, temporary, and protective order.
- ✓ Prepare a one-page list of exact requested orders and the supporting authority.
- ✓ Build an evidence map linking each material fact to a witness or exhibit and likely objection.
- ✓ Exchange and file exhibits and witness lists by the specific deadline.
- ✓ Confirm witness attendance, subpoena service, fees, remote link, interpreter, and technology.
- ✓ Prepare foundation questions for documents, messages, photos, records, and recordings.
- ✓ Prepare concise responses to relevance, hearsay, authentication, privilege, and privacy objections.
- ✓ Bring the current order, pleadings, exhibit index, chronology, parenting plan, and proposed order if required.
- ✓ Plan how to protect minor information, health records, addresses, and safe-location information in open court.
- ✓ Obtain the filed order after the hearing and calendar every next step.

Best-interests evidence packet

- ✓ Current custody order and order history.
- ✓ Caregiving timeline covering school, health, meals, activities, bedtime, and transport.
- ✓ School records, attendance, grades, IEP or 504 information, and communications.
- ✓ Relevant medical, dental, therapy, medication, and accommodation records with privilege review.

- ✓ Neutral witness list with a short description of first-hand observations.
- ✓ Proposed custody and visitation schedule with a child-centered explanation.

Family-violence evidence packet

- ✓ Incident chronology with date, location, child presence or impact, and witnesses.
- ✓ Police, medical, counseling, and protective-order records, with privilege and hearsay review.
- ✓ Original photos, messages, call logs, app records, and exchange documentation.
- ✓ Safety plan and exact requested terms for custody, exchanges, communication, location confidentiality, and substances.
- ✓ Specific supervised-visitation proposal: supervisor, place, day, time, cancellation, fees, transport, and emergency procedure.

Parenting-plan packet

- ✓ Regular schedule with exact exchange times, locations, and transportation duties.
- ✓ Holiday, school break, birthday, vacation, travel, and passport terms.
- ✓ Late, cancellation, swap, make-up-time, and emergency procedures.
- ✓ Education, health care, activities, records access, medication, and decision-making terms.
- ✓ Communication method, response time, child contact, no-harassment terms, and dispute-resolution steps.

Modification, reconsideration, and appeal packet

- ✓ Current order, docket entry, entry date, and service date and method.
- ✓ Deadline chart for HFCR Rule 59, Rule 60, HRAP, HRS § 571-54 if applicable, and the case-specific order.
- ✓ Side-by-side chart: current term, problem, proposed term, evidence, and child impact.
- ✓ Record citations: exhibit, transcript page, finding, conclusion, and ruling.
- ✓ Stay or temporary-custody request if the order remains enforceable during review.
- ✓ Proposed findings or order for the requested relief.

Termination

- ✓ Exact HRS § 571-61 ground and element chart.
- ✓ Verified petition using current court-approved certification language.
- ✓ Venue and jurisdiction facts: authorized parent residence, child residence, or birthplace.
- ✓ Service plan and proof, including twenty-day hearing calculation and alternative service if authorized.
- ✓ DHS duplicate-petition and hearing-notice process under HRS § 571-62.
- ✓ Investigation, report, child-placing organization, and GAL issues identified.
- ✓ Proposed HRS § 571-63 findings and judgment, including adoption, custody transfer, support, inheritance, sealing, and appeal issues.

18. Glossary in Plain Language

These definitions are orientation tools, not substitutes for the exact rule or statute.

PRIMARY AUTHORITIES

HFCR, HRE, HCRR, and relevant statutes

Term	Plain-language meaning
Affidavit	A written sworn statement, usually notarized.
Authentication	Proof sufficient to support that an item is what the offering party says it is.
Best interests	The child-focused legal standard governing custody and visitation under HRS § 571-46.
Certificate of service	A filed statement showing when and how a document was served.
Coercive control	A statutory pattern of threatening, humiliating, or intimidating actions designed to take away another person's liberty or independence.
Declaration	A dated written statement signed under penalty of law in the form permitted by rule.
Discovery	Pre-hearing methods for obtaining information, documents, admissions, examinations, and testimony.
Ex parte	A request considered without advance notice to the other side when law permits, often temporary and followed by hearing.
Foundation	Preliminary proof that makes evidence usable, such as personal knowledge, authenticity, or regular recordkeeping.
Guardian ad litem (GAL)	A person appointed to represent or investigate a protected person's interests; the judge retains decision-making.
Hearsay	An out-of-court statement offered to prove the truth of what it asserts, subject to definitions, exclusions, and exceptions.
In camera	Material submitted for the judge's private review rather than ordinary open disclosure.
JEFS / JIMS	Hawai'i Judiciary electronic filing and case-management systems referenced by the court rules.
Motion	A request for a court order in an existing case.
NEF	Notice of Electronic Filing, which may also show electronic service on JEFS users.
Privilege	A legal right to refuse and prevent disclosure of protected communications.
Protective order - discovery	An order limiting or conditioning discovery to prevent undue burden, oppression, embarrassment, or disclosure.
Protective order - Chapter 586	An order intended to prevent domestic abuse or its recurrence after the statutory process.
Rebuttable presumption	A legal starting rule that controls unless sufficient evidence overcomes it.
Redaction	Removal or masking of protected information from the version others can access.
Sealed	Filed in a record category not open to ordinary public inspection, subject to the governing rule or order.
Subpoena	A court-issued command to appear, testify, or produce identified material.
TRO	Temporary restraining order, often issued ex parte and followed by a prompt hearing.
Waiver	Loss or limitation of a right, including privilege, through legally sufficient voluntary disclosure or conduct.

19. Official Sources, Selected Cases, and Update Notes

Use official sources for authoritative language. The links below are the starting points used to organize this edition.

PRIMARY AUTHORITIES

Official Hawai'i Judiciary and Legislature sources

Selected case guidance

Case	Practical point
Turoff v. Turoff , 56 Haw. 51, 527 P.2d 1275 (1974)	Neither parent has a preferred status; child welfare is paramount.
Fujikane v. Fujikane , 61 Haw. 352, 604 P.2d 43 (1979)	Best interests are the critical custody question, and family court has broad discretion.
Rezentes v. Rezentes , 88 Haw. 200, 965 P.2d 133 (App. 1998)	Addresses the family-violence presumption and rebuttal under earlier statutory language.
Bencomo v. Bencomo , 112 Hawai'i 511, 147 P.3d 67 (App. 2006)	The court cannot delegate custody decisions to a GAL; supervised-visitation terms should be reasonably specific.
Hollaway v. Hollaway , 133 Hawai'i 415, 329 P.3d 320 (App. 2014)	A parental impasse over an important child decision can require court resolution based on best interests.
Waldecker v. O'Scanlon , 137 Hawai'i 460, 375 P.3d 239 (2016)	Custody changes require current best-interest scrutiny; an automatic future change is insufficient.

Official source directory

Hawai'i Judiciary - Rules of Court

https://www.courts.state.hi.us/legal_references/rules/rulesofcourt

Current court-rule index, effective dates, and amendment orders.

Hawai'i Family Court Rules

https://www.courts.state.hi.us/wp-content/uploads/2024/09/hfcr_ada.htm

Official accessible rule text.

Order amending HFCR Rules 6 and 77

https://www.courts.state.hi.us/wp-content/uploads/2026/05/2026_hfcr6_77am_ada-.pdf

Filed May 21, 2026; effective July 1, 2026.

Hawai'i Rules of Evidence - HRS Chapter 626

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-.htm

Official current evidence-rule chapter.

HRE Rule 1101

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-0001-1101.htm

Applicability of evidence and privilege rules.

HRE Rule 503

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-0001-0503.htm

Lawyer-client privilege.

HRE Rule 504

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-0001-0504.htm

Physician-patient privilege.

HRE Rule 504.1

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-0001-0504_0001.htm

Psychologist-client privilege and case notes.

HRE Rule 505

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-0001-0505.htm

Spousal privileges.

HRE Rule 505.5

https://data.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0676/HRS0626/HRS_0626-0001-0505_0005.htm

Victim-counselor privilege.

HRS § 571-46

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/HRS_0571-0046.htm

Custody, visitation, family violence, and best-interest factors.

HRS § 571-46.4

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/HRS_0571-0046_0004.htm

Child custody evaluator qualifications, training, registry, and complaints.

HRS § 571-46.5

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/HRS_0571-0046_0005.htm

Parenting plans.

HRS § 571-46.6

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/HRS_0571-0046_0006.htm

Disability protections in custody and visitation.

HRS § 571-54

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/HRS_0571-0054.htm

Family-court appeals and specified reconsideration procedures.

HRS §§ 571-55 to 571-57

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/

Penalty-of-perjury certification, false statements, and penalties.

HRS §§ 571-61 to 571-63

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0571/HRS_0571-0061.htm

Termination of parental rights, hearing and report, findings and judgment.

HRS Chapter 586

https://data.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0586/

Domestic abuse, coercive control, TROs, and protective orders.

Hawai'i Judiciary - Protecting Personal Information

<https://www.courts.state.hi.us/parties-responsibility-to-protect-personal-information>

Official HCRR Rule 9 guidance and confidential-information forms.

Hawai'i Electronic Filing and Service Rules

https://www.courts.state.hi.us/wp-content/uploads/2024/09/hefsr_ada.htm

Electronic filing, service, and notices.

Hawai'i Judiciary - Family Court Forms

<https://www.courts.state.hi.us/self-help/courts/forms>

Current circuit and case-type forms and self-help materials.

Publication and update note

This is an independently prepared educational handbook and is not an official publication of the Hawai'i Judiciary, Hawai'i Legislature, any court, agency, lawyer, evaluator, or victim-services program. It paraphrases and reorganizes rules and statutes rather than reproducing them. In case of any discrepancy, the official text and the filed court order control.

FINAL REMINDER

The most important document in a live case may be the newest order or notice. Read the docket, preserve deadlines, protect privileged and personal information, and seek qualified legal advice for contested custody, domestic violence, subpoenas, expert evidence, termination, and appeals.