



PROPOSED CHANGES TO TITLE 10, HAWAII ADMINISTRATIVE RULES

HAWAIIAN HOMES COMMISSION MEETING

JULY 20-21, 2015, KAPOLEI, O'AHU

HOKULEI LINDSEY, HAWAIIAN HOME LANDS ADMINISTRATIVE RULES OFFICER

ROADMAP

■ Overview:

- Administrative Rules.
- DHHL Process.
- Chapter 91, Hawaii Revised Statutes.

ROADMAP

- Policy and the draft rule changes.
 - “Housekeeping” and updates.
 - Substantive changes.



OVERVIEW

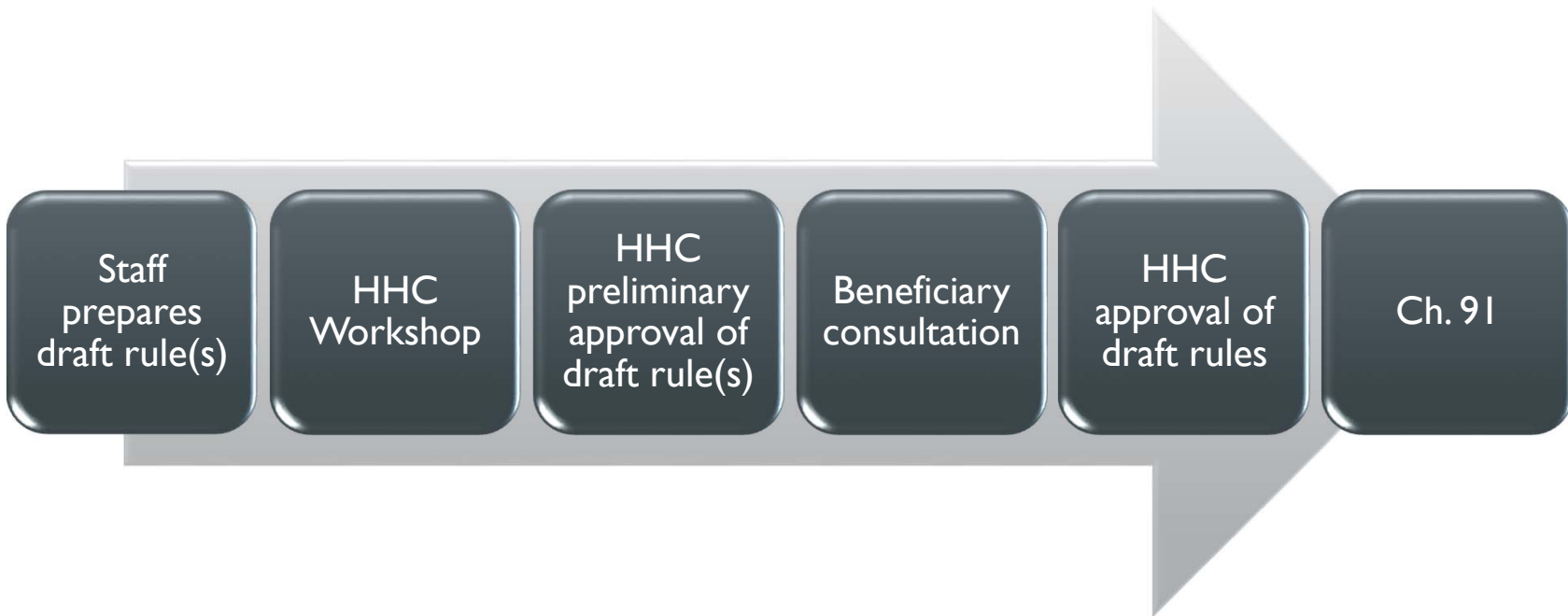
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ADMINISTRATIVE RULES

- “Filling in the details.”
 - Implement legislative acts.
 - Establish operating procedures for state agencies.
- Rulemaking is governed by Ch. 91, HRS.

DHHL PROCESS



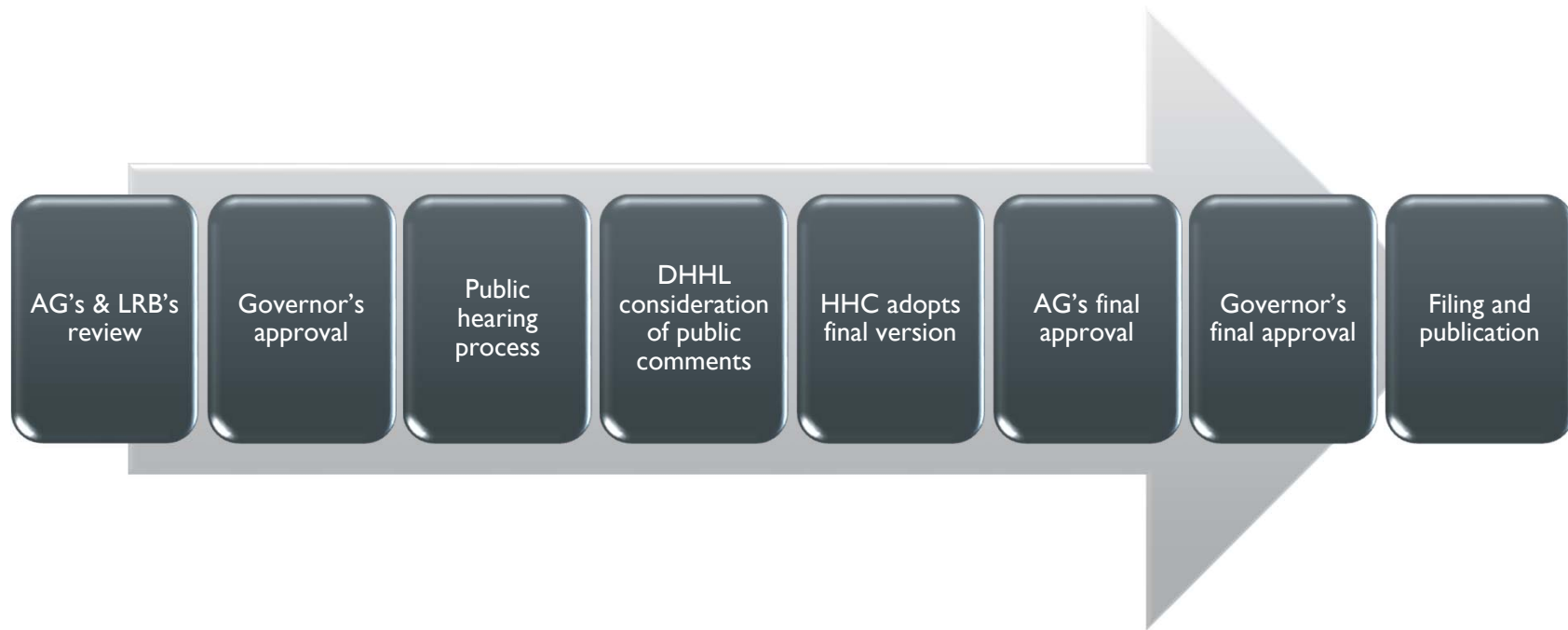
CHAPTER 91, HRS

■ Hawaii Administrative Procedure Act.

- Ensures uniformity and openness in the procedures used by state agencies.

■ Rulemaking:

CH. 91 RULEMAKING PROCESS





POLICY & THE DRAFT RULE CHANGES

HOUSEKEEPING & UPDATES

- Physical addresses and contact information.
- New definitions.
- Rulemaking procedures.

THREE PRIORITY POLICIES

- Genetic testing.
- Agricultural subsistence lots.
- Transfer of homestead leases.

GENETIC TESTING

- Whether results of genetic tests should be accepted as part of the application and verification process for the Hawaiian Homes program.

GENETIC TESTING

- Why?

- *Pang Kee v. Masagatani.*

- Applicant situations:

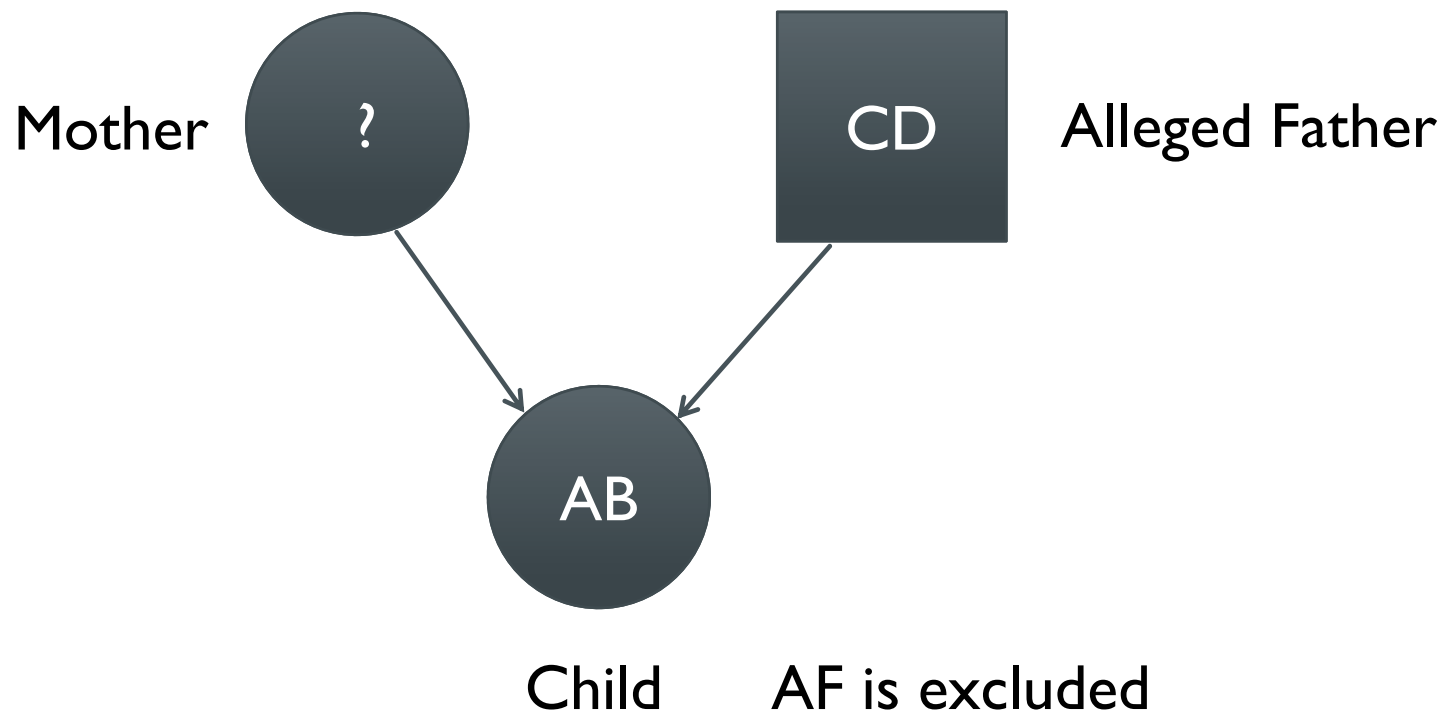
- Adoption, hanai, only one parent listed on birth certificate, alternative reproductive technology.

GENETIC TESTING

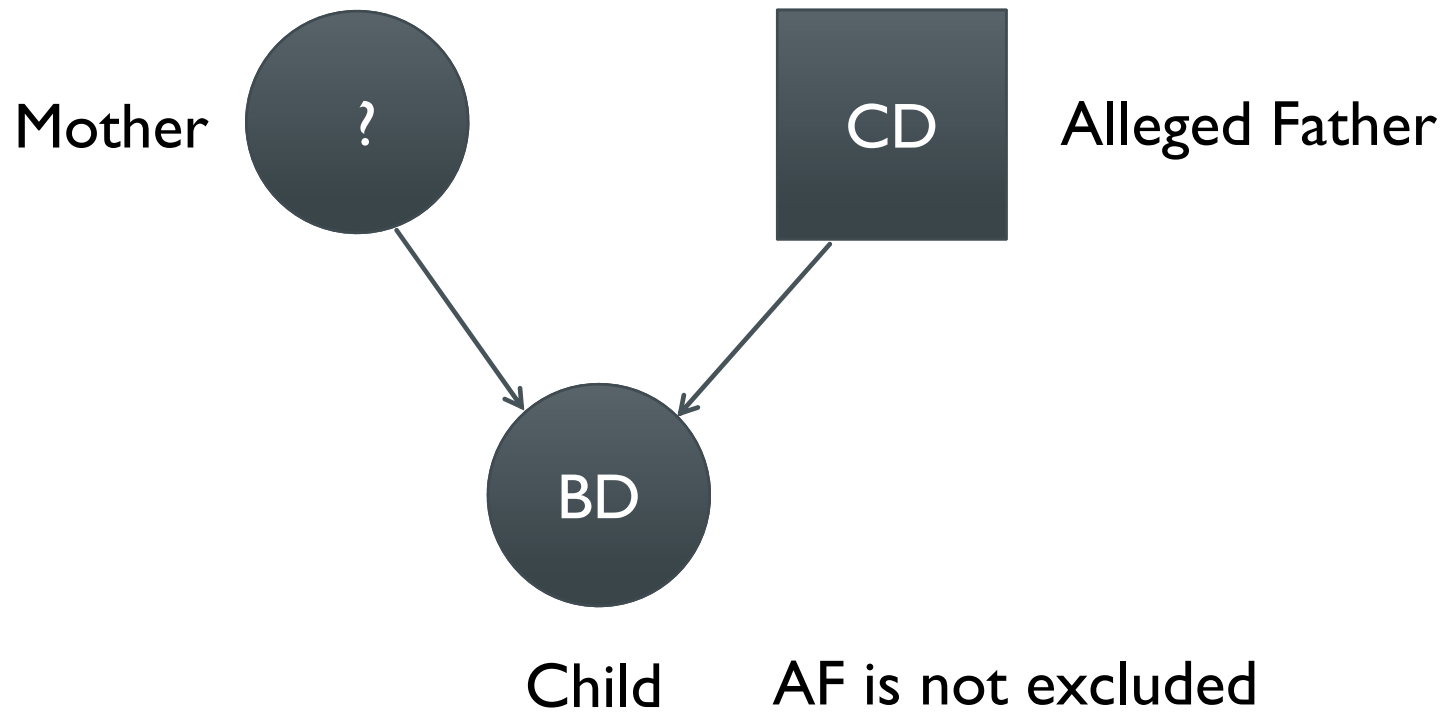
■ Approach:

- Existing approaches.
- Reliable testing and reliable results.
- Protect the parties.
- Ease of implementation.
- Clarify application processing.

GENETIC TESTING - OUTCOMES



GENETIC TESTING - OUTCOMES



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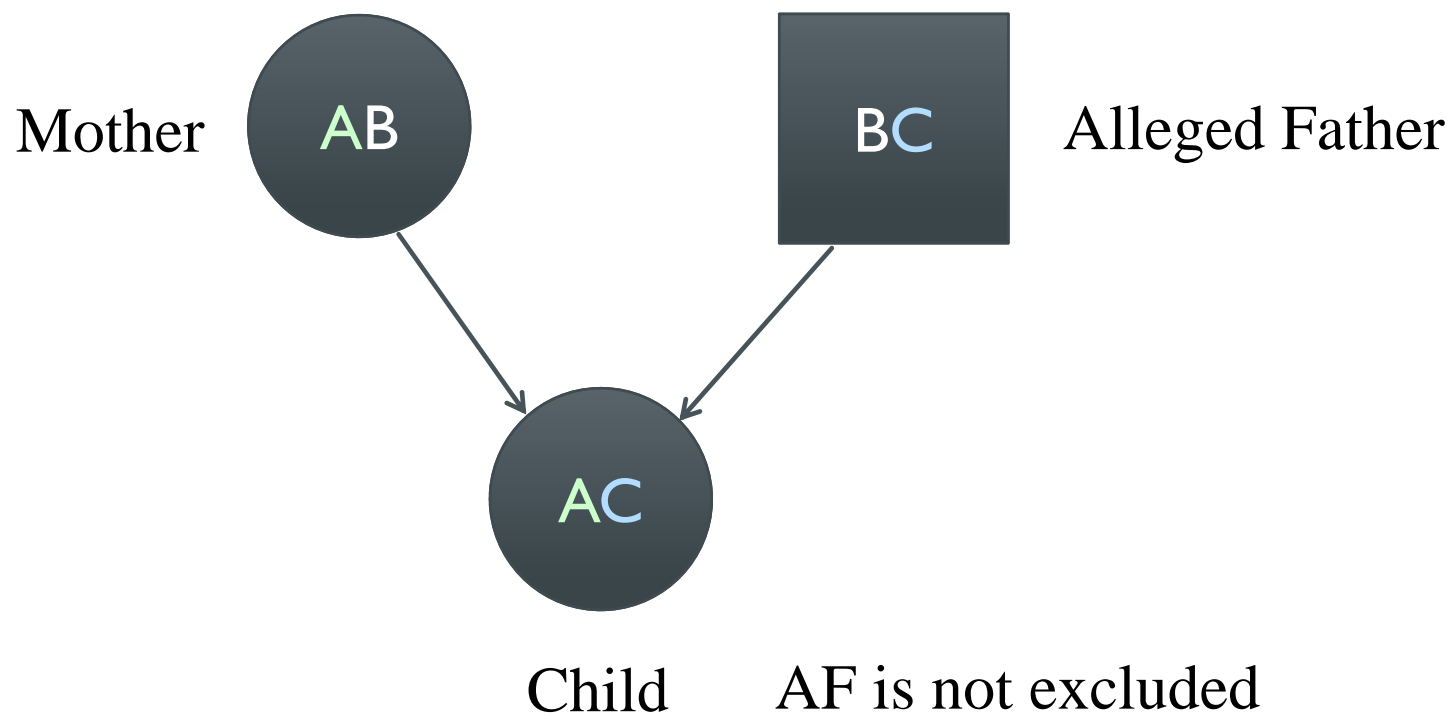
GENETIC TESTING

13 CORE 'CODIS' MARKERS – MOTHER NOT TESTED

EXAMPLE

COMBINED PATERNITY INDEX	1,676
PROBABILITY OF PATERNITY	99.94%
PROBABILITY OF EXCLUSION	99.94%

GENETIC TESTING - OUTCOMES



GENETIC TESTING

13 CORE 'CODIS' MARKERS – MOTHER IS TESTED

EXAMPLE

COMBINED PATERNITY INDEX	>>10,000
PROBABILITY OF PATERNITY	>>99.99%
PROBABILITY OF EXCLUSION	>>99.99%

GENETIC TESTING

MOTHERLESS TESTING

	Father	Child	Inferred markers
Marker 1	8, 12	8, 12	8 or 12
Marker 2	12, 14	12, 13	12
Marker 3	26, 27	25, 27	27
Marker 4	14, 18	9, 18	18
Marker 5	9, 14	6, 14	14
Marker 6	16, 17	17, 18	17
Marker 7	22, 23	21, 22	22
Marker 8	9, 11	9, 10	9
Marker 9	10, 11	10, 12	10
ITEM NO. B-1 Marker 10	14, 15	15, 16	15

Father is not excluded

	Mother	Father	Child	Obligate markers	Excluded
Marker 1	7, 8	8, 12	8, 12	12	
Marker 2	12, 19	12, 14	12, 13	13	X
Marker 3	23, 27	26, 27	25, 27	25	X
Marker 4	11, 18	14, 18	9, 18	9	X
Marker 5	6, 12	9, 14	6, 14	14	
Marker 6	17, 19	16, 17	17, 18	18	X
Marker 7	16, 21	22, 23	21, 22	22	
Marker 8	9, 13	9, 11	9, 10	10	X
Marker 9	10, 11	10, 11	10, 12	12	X
Marker 10	14, 16	14, 15	15, 16	15	

Father is excluded

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GENETIC TESTING

UNDERSTANDING LIKELIHOOD RATIOS

COMBINED LH RATIO	SUPPORT OF HYPOTHESIS
< 0.40	EVIDENCE DOES NOT SUPPORT HYPOTHESIS
0.40 - 1.6	NEUTRAL
1.6 - 10	LIMITED SUPPORT
10 – 100	MODERATE SUPPORT
100 – 1,000	STRONG SUPPORT
>1,000	VERY STRONG SUPPORT

GENETIC TESTING

- Degree of certainty:

- “...a power of exclusion of greater than ninety-nine point zero per cent (99.0%) and a minimum combined paternity or maternity index of five hundred to one.”

GENETIC TESTING

- Key aspects of the draft rule:
 - Definition of “genetic tests.”
 - Timing: when in the application process.
 - Define the conditions/circumstances under which testing becomes an option.
 - Degree of certainty of the results.

AGRICULTURAL SUBSISTENCE LOTS

- How can the department better respond to beneficiaries' increasing interest in leases that promote a rural lifestyle?

AGRICULTURAL SUBSISTENCE LOTS

■ Why?

- Hawaiian Homes Agricultural Task Force and Beneficiaries Survey.
- DHHL General Plan and Island Plans.
- Maximize use of agricultural lease and minimize non-compliance.

AGRICULTURAL SUBSISTENCE LOTS

■ Approach:

- Respond to beneficiary interest in rural/subsistence lifestyle.
- Integrate vision of the Hawaiian Homes Agricultural Task Force.
- Address urban and rural housing demand.

AGRICULTURAL SUBSISTENCE LOTS

- Key aspects of the draft rule:
 - Differentiates between agricultural awards of 1.0 acres or less and awards of greater acreage.
 - Requires lessee reside on a lot of 1.0 acres or less.
 - Maintains existing rules for awards of greater than 1.0 acres.

TRANSFER OF HOMESTEAD LEASES

- Whether the department should engage in greater due diligence before presenting lease transfer requests to the Hawaiian Homes Commission.

TRANSFER OF HOMESTEAD LEASES

■ Why?

- Beneficiary concerns.

 - Information from beneficiary focus groups.

- Significant number of requests to transfer.

TRANSFER OF HOMESTEAD LEASES

- Approach:
 - Data.
 - How do other native trusts address transfers and sales of leases by its beneficiaries.
 - Balance and fairness in the spirit of the trust.

TRANSFER OF HOMESTEAD LEASES

- Key aspects of the draft rule:
 - Vacant or undeveloped lots and undivided interests can only be transferred by gift or succession.
 - Transferee must be a qualified family member or a beneficiary on the waiting list.
 - Maximum sales price for developed lots set at the appraised value of improvements.