

JAN 25 2006

A BILL FOR AN ACT

RELATING TO THE JUDICIARY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In the 2004 legislative session, the Senate
2 adopted Senate Resolution 40, which authorized the Senate
3 Committee on Human Services to convene interim hearings on the
4 Hawaii family court. Specifically, the hearings were designed
5 to explore ways to make the Hawaii family court more accessible
6 and family oriented. These interim hearings focused on important
7 issues relating to reduction in caseload, limiting the long-term
8 use of interventions such as temporary restraining orders and
9 protective orders, ensuring greater accountability of
10 court-appointed personnel such as custody evaluators and
11 guardians ad litem, and examining ways to reduce the needless
12 expenditures of time and money in counterproductive litigation
13 relating to child custody determinations.

14 During the course of these interim hearings, four task
15 force groups were formed on four important issues relating to
16 joint custody, temporary restraining orders and protective
17 orders, standards for guardians ad litem and other service
18 providers, and alternative dispute resolution. After countless



1 hours of hard work and meetings, these four task force groups
2 submitted findings and recommendations to the senate committee
3 on human services that adopted the findings and recommendations
4 of the task force groups.

5 The resulting SR40 Task Force findings and recommendations
6 initiated many useful discussions and supported legislation
7 designed to make Family Court processes and procedures more
8 effective and family-friendly. This bill creates a Family Law
9 Advisory Committee, which will assist the judiciary and
10 legislature in continuing to improve family court, by requiring
11 this Family Law Advisory Committee to make findings and
12 recommendations to the board of family court judges and supreme
13 court, for further submission as a recurring annual report to
14 the legislature. This bill makes the family law advisory
15 committee and board of family law judges open to the public for
16 their participation, and subject to existing sunshine laws, to
17 include notice of meetings. The intent of this bill is to
18 create an ongoing process within the judiciary by which
19 judiciary personnel, family law professionals, related service
20 providers and the public can participate in and provide
21 feedback, about family court and family law matters, which will



1 be considered, evaluated and consolidated into findings,
2 proposals and recommendations to the judiciary and legislature.

3 SECTION 2. Section 92-6, Hawaii Revised Statutes, is
4 amended by amending subpart (a) to read as follows:

5 "(a) This part shall not apply:

6 (1) To the judicial [~~branch.~~] branch; except that this
7 part shall apply to the non-adjudicatory boards or
8 functions of the judicial branch as provided in
9 section 571-5.

10 (2) To adjudicatory functions exercised by a board and
11 governed by sections 91-8 and 91-9, or authorized by
12 other sections of the Hawaii Revised Statutes. In the
13 application of this subsection, boards exercising
14 adjudicatory functions include, but are not limited
15 to, the following:

16 (A) Hawaii labor relations board, chapters 89 and
17 377;

18 (B) Labor and industrial relations appeals board,
19 chapter 371;

20 (C) Hawaii paroling authority, chapter 353;

21 (D) Civil service commission, chapter 26;



- 1 (E) Board of trustees, employees' retirement system
- 2 of the State of Hawaii, chapter 88;
- 3 (F) Crime victim compensation commission, chapter
- 4 351; and
- 5 (G) State ethics commission, chapter 84."

6 SECTION 3. Section 571-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§571-5 Board of family court [~~judges-~~] judges; family law**

9 **advisory committee.** (a) A board of family court judges, which
10 shall consist of all the State's family court judges and
11 district family judges is hereby created. The board shall
12 annually elect from among its members a chairperson who shall
13 preside at meetings of the board. The chairperson shall have no
14 other authority not specifically authorized under this chapter,
15 or any applicable rule of the supreme court, or specifically
16 delegated by a majority of the board. The board shall meet at
17 stated times to be fixed by it but not less often than once
18 every six months, and on call of the chairperson.

19 The board shall discuss and shall attempt to achieve
20 agreement upon general policies for the conduct of the family
21 courts and forms for use in such courts. The board shall
22 recommend, for adoption by the supreme court, rules of court



1 governing procedure and practices in such courts. The board
2 may, within the limitations of the facilities available to the
3 family courts of the State, seek the consolidation of the
4 statistical and other data on the work and services of such
5 courts and research studies that may be made of the problems of
6 families and children dealt with by such courts to the end that
7 the treatment of children and families subject to the
8 jurisdiction of such courts shall achieve the highest possible
9 degree of uniformity throughout the State and to the further end
10 that knowledge of treatment, methods and therapeutic practices
11 be shared among such courts. The board may also formulate
12 recommendations for remedial legislation. All actions by the
13 board shall be subject to the regulatory supervision of the
14 chief justice of the supreme court.

15 (b) There is established within the judiciary, for
16 administrative purposes, a family law advisory committee. The
17 supreme court shall appoint members to this committee, which
18 shall serve in an advisory capacity only. This committee shall
19 give continuing consideration to all aspects of the
20 administration of justice in the family courts of the State, and
21 may assist the senior family court judge and the directors of



1 family court in carrying out their duties and responsibilities,
2 as considered appropriate by the committee.

3 The committee shall meet at stated times to be fixed by it,
4 but not less often than nine times every twelve months, and also
5 may meet on the call of the chairperson. The committee shall:

6 (1) Gather input and information regarding family court or
7 family law issues or complaints;

8 (2) Review or audit state family court or law policies,
9 procedures, and programs;

10 (3) Review legislation relating to family law issues;

11 (4) Conduct studies, evaluations or surveys related to
12 family law issues;

13 (5) Evaluate the policies, procedures, and programs of
14 other state or country family courts or laws;

15 (6) Examine any other aspects of the family court or
16 family law, including substantive, procedural, and
17 administrative matters considered relevant;

18 (7) Identify family court or family law issues that need
19 to be addressed in the future; and

20 (8) Make findings, proposals and recommendations.

21 The committee shall submit biennial findings, proposals,
22 and recommendations to the board of family court judges and the

1 supreme court on a biennial basis and whenever requested by the
2 committee or court. The committee may propose changes in the
3 family laws and related provisions, as the committee considers
4 appropriate; provided that these recommendations shall be made
5 to the chief justice of the supreme court and any other
6 organization or committee whose affairs pertain to family law
7 and its practice.

8 The chief justice of the supreme court shall notify all
9 members of the time and place of the first meeting. The members
10 of the committee shall select a chairperson, vice-chair, and
11 secretary-treasurer from its membership for a term of one year.
12 The supreme court shall appoint, from time to time, no more than
13 fifteen members for four-year terms. The members of the
14 committee shall fairly represent family court customer needs,
15 and focus on serving families and children in the family courts.
16 Members may serve two consecutive four-year terms, but may be
17 re-appointed after a break in service. Members of this
18 committee shall include:

- 19 (1) Knowledgeable laypersons;
20 (2) Persons who are or were parties in family court
21 actions, including self-represented individuals and
22 individuals who were represented by counsel;



- 1 (3) Judges;
2 (4) Attorneys;
3 (5) Court service providers; and
4 (6) Family law professionals or experts.

5 At all times, there shall be a minimum of four active layperson
6 members who are or were parties in family court cases, who are
7 not otherwise affiliated with or employed by the family court,
8 the judiciary, or the Hawaii State Bar Association. Committee
9 members of this committee shall be reimbursed for expenses,
10 including travel expenses necessary to the performance of their
11 duties.

12 (c) Pursuant to section 92-6, both the board of family
13 court judges and the family law advisory committee shall be
14 subject to the requirements of chapter 92, as non-adjudicatory
15 boards of the judicial branch.

16 (d) The judicial council may supervise the board of family
17 court judges and the family law advisory committee, with
18 staffing assistance from the judiciary as assigned by the chief
19 justice or administrative director.

20 (e) The chief justice of the supreme court shall submit a
21 report to the legislature no later than October 15 of each
22 calendar year that describes the activities, complaints,



1 proposals, findings, and recommendations reviewed or developed
 2 by the board and committee during the preceding year, and shall
 3 include as appendices the biennial reports required in
 4 subsection (b). The chief justice's annual report shall address
 5 upcoming judiciary budget requests or proposals related to the
 6 work of the board and committee.

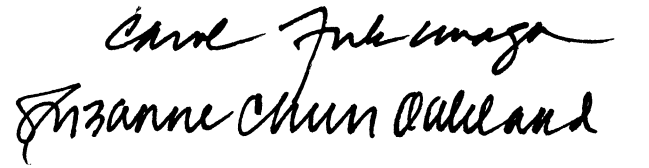
7 SECTION 4. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 


 Chun


 Suzanne Chun Oakland



Report Title:

Family Law Advisory Committee; Board of Family Law Judges;
Sunshine and Reports

Description:

Creates a family law advisory committee to assist the board of family law judges and supreme court; provides that both are subject to sunshine laws. Defines related required annual report.

