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## SENATE CONCURRENT RESOLUTION

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REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY JOINT OR  
SHARED PHYSICAL AND LEGAL CUSTODY PRESUMPTIONS IN FAMILY  
LAW AS ENACTED AND APPLIED BY OTHER JURISDICTIONS.

1 WHEREAS, in the 2006 Regular Session, the Legislature  
2 adopted Senate Concurrent Resolution No. 52 authorizing the  
3 Committees on Human Services of the Senate and House of  
4 Representatives to convene interim hearings on the Hawaii Family  
5 Court; and

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7 WHEREAS, the interim hearings were designed as a way to  
8 make the Hawaii Family Court more accessible and family  
9 friendly; and

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11 WHEREAS, the interim hearings focused on, among other  
12 things, important issues relating to the best interest of the  
13 child and custody; and

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15 WHEREAS, during the course of these interim hearings, a  
16 task force was established along with working groups, that  
17 submitted their findings and recommendations to the larger task  
18 force; and

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20 WHEREAS, while some of the working groups' recommendations  
21 were adopted by the task force and have received legislative  
22 attention, due to time constraints, there were other issues the  
23 task force was unable to explore fully; and

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25 WHEREAS, one issue the task force was unable to fully  
26 explore is the joint or shared physical and legal custody  
27 presumption where, in a divorce proceeding, there is a  
28 rebuttable presumption that parents should equally share in the  
29 parenting of the child; and

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31 WHEREAS, being unable to fully explore and discuss joint or  
32 shared physical and legal custody presumptions, the task force



1 members are interested in examining how other states address the  
2 issue before making a determination as to whether such a  
3 presumption would be appropriate in Hawaii; now, therefore,  
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5 BE IT RESOLVED by the Senate of the Twenty-fourth  
6 Legislature of the State of Hawaii, Regular Session of 2007, the  
7 House of Representatives concurring, that the Legislative  
8 Reference Bureau is requested to conduct a study on joint or  
9 shared physical and legal custody presumptions in family law as  
10 enacted and applied by other jurisdictions; and  
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12 BE IT FURTHER RESOLVED that the Legislature requests that  
13 the study include:  
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- 15 (1) A review and comparison of other states' statutes  
16 relating to joint or shared physical and legal custody  
17 presumptions;  
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- 19 (2) A review of studies conducted, if any, on the impact  
20 the use of joint or shared physical and legal custody  
21 presumptions has on children in both contested and  
22 non-contested cases; and  
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- 24 (3) A review of current Hawaii case law on the use of  
25 presumptions and the applicable standards of proof;  
26 and  
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28 BE IT FURTHER RESOLVED that the Legislative Reference  
29 Bureau is requested to report its findings and recommendations,  
30 including any proposed legislation, to the Legislature no later  
31 than twenty days prior to the convening of the Regular Session  
32 of 2008; and  
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34 BE IT FURTHER RESOLVED that a certified copy of this  
35 Concurrent Resolution be transmitted to the Acting Director of  
36 the Legislative Reference Bureau.

