

JAN 24 2007

SENATE CONCURRENT RESOLUTION

REQUESTING THE COMMITTEES ON HUMAN SERVICES AND THE COMMITTEES
ON JUDICIARY OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
TO RECONVENE THE SCR 52 TASK FORCE TO FURTHER STUDY
RECOMMENDATIONS MADE BY THE SCR 52 TASK FORCE COMMITTEES.

1 WHEREAS, in the 2004 Regular Session, the Senate adopted
2 Senate Resolution No. 40 authorizing the Senate Committee on
3 Human Services to convene interim hearings on the Hawaii Family
4 Court; and

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6 WHEREAS, the interim hearings were designed to explore ways
7 to make the Hawaii Family Court more accessible and family
8 oriented and focused on important issues relating to reduction
9 in caseload, to limit the long-term use of interventions such as
10 temporary restraining orders and protective orders, to ensure
11 greater accountability of court-appointed personnel such as
12 custody evaluators and guardians ad litem, and to examine ways
13 to reduce needless expenditures of time and money in
14 counterproductive litigation relating to child custody
15 determinations; and

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17 WHEREAS, during the course of those interim hearings, four
18 task force groups were formed and submitted their findings and
19 recommendations to the Senate Committee on Human Services; and

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21 WHEREAS, some of the recommendations were adopted and
22 received legislative attention, but there were still other
23 issues that remained unresolved; and

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25 WHEREAS, to continue work on the unresolved issues, in the
26 2006 Regular Session, the Senate and the House of
27 Representatives adopted Senate Concurrent Resolution No. 52,
28 S.D. 1, authorizing the Committees on Human Services of the
29 Senate and the House of Representatives to convene interim
30 hearings on the use of legal interventions available to the



Family Court and to establish one or more task forces to facilitate their work; and

WHEREAS, the SCR 52 Task Force was established for that purpose; and

WHEREAS, during the course of the recent interim hearings, four committees were formed relating to Family Court Models, Family Court Sunshine and Accountability, Temporary Restraining Orders, and the Best Interests of the Child; and

WHEREAS, after hours of hard work and meetings, the four committees submitted their findings and recommendations to the SCR 52 Task Force and the Committees on Human Services of the Senate and the House of Representatives, which adopted many of the recommendations; and

WHEREAS, there are other issues and recommendations that the SCR 52 Task Force needs to study further; and

WHEREAS, the Family Court Models Committee found that:

- (1) A process, known as the Family Court Parenting Plan Model, should exist to assist parents to develop a parenting plan without and prior to family court intervention;
- (2) Child custody matters involving domestic violence should be exempt from the process and should be screened out at any time in the process in addition to the first screening;
- (3) After the initial screening for domestic violence, parents should participate in an expanded version of Kids First that includes:
 - (A) Education about parenting after divorce;
 - (B) Parenting roles within one home and across homes;
 - (C) Optional advanced parenting education;
 - (D) An opportunity for children to provide their activities schedules;



- (E) An introduction to the concept of a parenting plan; and
- (F) An overview of divorce and paternity procedures;
- (4) If the parents are unable to develop a parenting plan after participation in the expanded version of Kids First, the parents should meet with a Trained Parenting Plan Facilitator for a series of facilitations, if necessary, to assist with their development of a parenting plan;
- (5) The Trained Parenting Plan Facilitator should be able to make confidential recommendations for services to either parent at any time in the process;
- (6) The process should be confidential, non-adversarial, without the presence of attorneys, and the parents should have the same Trained Parenting Plan Facilitator throughout the process;
- (7) If after participating in the process the parents still cannot develop a parenting plan, they should proceed to family court with any agreed upon issues standing and for resolution of the outstanding issues; and
- (8) The parents should have the same judge throughout the child custody proceedings; and

WHEREAS, with regard to the Family Court Models Committee, the Task Force needs to further:

- (1) Study the level of children's involvement in the process, including the possibility of expanding services to meet children's needs in regard to the impact of a child custody dispute;
- (2) Research and recommend best practices in the development of a parenting plan; and
- (3) Research and recommend best practices in the training and qualifications of the trained parenting plan



1 facilitator, including training on the issues facing
2 both the petitioner and the respondent; and
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4 WHEREAS, with regard to the Family Court Sunshine and
5 Accountability Committee, the Task Force needs to further study:
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- 7 (1) The education, training, and experience standards for
8 family court evaluators;
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10 (2) Court-appointed custody evaluator models found in
11 other jurisdictions, such as California, to determine
12 if any model explored would be appropriate for
13 implementation in the Hawaii family courts; and
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15 (3) Any other outstanding recommendations regarding family
16 court custody evaluators; and
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18 WHEREAS, the Temporary Restraining Orders Committee found
19 that:
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- 21 (1) Temporary restraining orders should address the issue
22 of minors in greater detail, to wit:
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24 (A) A temporary restraining order should provide
25 notice to the petitioner and respondent that at
26 the first Order to Show Cause hearing, the court
27 will have authority to enter a temporary ninety
28 day emergency order regarding any child-in-common
29 that addresses relevant issues of child support,
30 housing, health insurance, transportation, and
31 visitation by the non-custodial parent; and
32
33 (B) The temporary ninety day emergency order should
34 not be used as evidence in subsequent legal
35 proceedings;
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37 (2) The Ex Parte Petition for a Temporary Restraining
38 Order for Protection should request a narrative of the
39 "threats of abuse to the child," explain that "threats
40 of abuse" include the acts of abuse described in
41 chapter 586, Hawaii Revised Statutes, and list those
42 examples of abuse;
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(3) The Ex Parte Petition for a Temporary Restraining Order for Protection form should also be modified to request:

(A) Information on the parties' legal relationship to the child;

(B) Whether there has been agency contact and if so, it should be specified; and

(C) Whether there are any other known legal actions regarding the child or the parties; and

(4) There is a need to provide better information to the Family Court Judge; and

WHEREAS, with regard to the Temporary Restraining Orders Committee, the Task Force needs to further study the issues identified by the Temporary Restraining Orders Committee; and

WHEREAS, with regard to the Best Interests of the Child Committee, the Task Force needs to further study the recommendations regarding a Children's Bill of Rights; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007, the House of Representatives concurring, that the Committees with subject matter jurisdiction over Human Services and the Judiciary of the Senate and the House of Representatives are requested to reconvene the SCR 52 Task Force to further study the outstanding recommendations of the four committees that were formed relating to Family Court Models, Family Court Sunshine and Accountability, Temporary Restraining Orders, and the Best Interests of the Child, and any other related issues; and

BE IT FURTHER RESOLVED that, upon the adoption of this Concurrent Resolution, the SCR 52 Task Force be referred to as the Family Court Legal Interventions Task Force and cease to exist on January 1, 2009; and

BE IT FURTHER RESOLVED that the task force include one representative of the Department of Human Services; the Department of Health; the Hawaii Association of Marriage and

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1 Family Therapists; the Family Law Section of the Hawaii State
2 Bar Association; the National Association of Social Workers,
3 Hawaii Chapter; the Children's Rights Council; the Hawaii
4 Coalition for Dads; Legal Aid Society of Hawaii; Volunteer Legal
5 Services Hawaii; the Hawaii State Coalition Against Domestic
6 Violence; the Domestic Violence Clearinghouse and Legal Hotline;
7 the Mediation Center of the Pacific; EPIC Ohana Conferencing;
8 and the Hawaii Psychological Association; and
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10 BE IT FURTHER RESOLVED that the task force submit an
11 interim report, including any proposed legislation, no later
12 than twenty days prior to the convening of the Regular Session
13 of 2008, and submit a final report, including any proposed
14 legislation, no later than twenty days prior to the convening of
15 the Regular Session of 2009; and
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17 BE IT FURTHER RESOLVED that certified copies of this
18 Concurrent Resolution be transmitted to the President of the
19 Senate, the Speaker of the House of Representatives, the Chair
20 of the Senate Committee on Human Services and Public Housing,
21 the Chair of the House Human Services and Housing Committee, the
22 Chair of the Senate Committee on Judiciary and Labor, the Chair
23 of the House Judiciary Committee, the Director of Human
24 Services, the Director of Health, President of the Board of
25 Directors of the Hawaii Association of Marriage and Family
26 Therapists, Chair of the Family Law Section, President of the
27 Hawaii State Bar Association, Executive Director of the Hawaii
28 Chapter of the National Association of Social Workers, President
29 of the Children's Rights Council of Hawaii, President of the
30 Hawaii Coalition for Dads, President of the Legal Aid Society of
31 Hawaii, Executive Director of Volunteer Legal Services Hawaii,
32 Executive Director of the Hawaii State Coalition Against
33 Domestic Violence, Executive Director of the Domestic Violence
34 Clearinghouse and Legal Hotline, President of the Board of
35 Directors of the Mediation Center of the Pacific, Director of
36 EPIC Ohana Conferencing, President of Hawaii Psychological
37 Association, and the Chief Justice of the Hawaii Supreme Court.
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OFFERED BY:

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