
A BILL FOR AN ACT

RELATING TO CAREGIVING.

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

1 PART I. JOINT LEGISLATIVE

2 COMMITTEE ON FAMILY CAREGIVING

3 SECTION 1. (a) The legislature finds that during the 2007
4 interim, the joint legislative committee on family caregiving
5 continued its work on creating a comprehensive and sustainable,
6 community-based family caregiver support system that includes:
7 (1) a coordinated referral and case management service; (2)
8 centralization of available services; (3) volunteers; (4)
9 education and training; and (5) financial assistance.

10 During the 2007 interim, the joint legislative committee
11 had the benefit of examining localized studies and surveys, some
12 of which contained preliminary results, which provided concrete
13 evidence of the needs of family caregivers. The joint
14 legislative committee on family caregiving also had the benefit
15 of looking at what other states have done and are doing in
16 response to the growing concern regarding eldercare issues.

17 (b) The purpose of this part is to:



1 (1) Extend the work of the joint legislative committee on
2 family caregiving for one year and require the
3 committee to submit a report of its findings and
4 recommendations to the legislature prior to the
5 convening of the 2009 regular session;

6 (2) Change the name of the joint legislative committee on
7 family caregiving to the "joint legislative committee
8 on aging in place"; and

9 (3) Require the aging and disability resource center to
10 provide the joint legislative committee with an update
11 on the physical site for the center in Hawaii county
12 and the "virtual" site in the city and county of
13 Honolulu.

14 SECTION 2. Act 285, Session Laws of Hawaii 2006, as
15 amended by Act 204, Session Laws of Hawaii 2007, is amended by
16 amending section 2 to read as follows:

17 "SECTION 2. (a) There is established a joint legislative
18 committee on [~~family caregiving~~] aging in place. The committee
19 shall be composed of eight members as follows:

20 (1) Four members of the house of representatives,
21 consisting of three members from the majority party
22 and one member from the minority party, who shall be



1 appointed by the speaker of the house of
2 representatives; and

3 (2) Four members of the senate, consisting of three
4 members from the majority party and one member from
5 the minority party, who shall be appointed by the
6 president of the senate.

7 The committee shall select a chairperson from its
8 membership.

9 (b) The joint legislative committee shall develop
10 comprehensive public policy to strengthen support for family
11 caregivers. For purposes of this Act, "family caregiver" means:

12 (1) A person, including a non-relative such as a friend or
13 neighbor, who provides unpaid, informal assistance to
14 a person age sixty and older with physical or
15 cognitive disabilities; and

16 (2) A grandparent who is a caregiver for a grandchild who
17 is age eighteen years or younger, or who is nineteen
18 years of age or older with physical or cognitive
19 limitations.

20 (c) The joint legislative committee shall:

21 (1) Consider providing support in categories including:

22 (A) Coordinated services and policies;



- 1 (B) Training and education;
- 2 (C) Respite services;
- 3 (D) Financial incentives; and
- 4 (E) Balancing work and caregiving; and
- 5 (2) Explore establishing a paid family leave program under
- 6 the state temporary disability insurance law, similar
- 7 to the California Paid Family Leave Program, to
- 8 provide wage replacement benefits to employees who
- 9 take time off from work to care for a seriously ill
- 10 family member.

11 (d) The joint legislative committee may explore issues of
 12 "aging in place" as they relate to family caregiving.

13 (e) The Hawaii aging and disability resource center shall
 14 provide an update to the joint legislative committee of its
 15 development and implementation of the physical site for the
 16 center in the county of Hawaii, and the "virtual" site planned
 17 for the city and county of Honolulu.

18 [~~d~~] (f) The joint legislative committee shall seek input
 19 from the department of health, the department of human services,
 20 the department of taxation, the University of Hawaii, the
 21 executive office on aging, and the elderly, disability,
 22 business, and faith-based communities.



1 [~~e~~] (g) The joint legislative committee shall submit its
2 findings and recommendations to the legislature no later than
3 twenty days prior to the convening of the regular sessions of
4 2007 [~~and~~], 2008[-], and 2009.

5 [~~f~~] (h) The joint legislative committee shall cease to
6 exist on June 30, [~~2008-~~] 2009."

7 **PART II. FINANCIAL ASSISTANCE FOR CAREGIVING**

8 SECTION 3. The cash and counseling program is a national
9 initiative sponsored by the Robert Wood Johnson Foundation; the
10 United States Department of Health and Human Services, Office of
11 the Assistant Secretary for Planning and Evaluation; and the
12 Administration on Aging. Under the program, recipients of
13 medicaid personal care services or home- and community-based
14 services receive a flexible monthly allowance and can decide
15 whom to hire and what services to receive. The program's
16 innovative approach enables participants to direct and manage
17 their personal assistance services according to their own
18 specific needs. Participants can choose a family member or
19 friend, in lieu of an agency worker, to provide the services.
20 They receive counseling and fiscal assistance to help them
21 manage their allowance and responsibilities. The program was



1 first implemented in Arkansas, New Jersey, and Florida, and has
2 since expanded to include other states.

3 During the 2007 interim, the joint legislative committee on
4 family caregiving received information and data related to the
5 family caregivers needs assessment conducted by the executive
6 office on aging, and cash and counseling research conducted by
7 the executive office on aging and the University of Hawaii
8 school of social work. The family caregiver needs assessment
9 indicated that caregivers need more affordable services and
10 financial assistance. The cash and counseling research
11 demonstrated that those states that have cash and counseling
12 programs reported high satisfaction by both caregivers and care
13 recipients and allowed informal caregivers to receive financial
14 recognition for their services.

15 In Hawaii, there are out-of-pocket costs for families to
16 pay for home- and community-based programs that are available
17 for elders and persons with disabilities. The government pays
18 for such services for those who have lower incomes and qualify
19 for medicaid. However, a majority of Hawaii's families are
20 ineligible for public assistance and are having to carry the
21 financial burdens of caregiving. This leaves a gap in services
22 for those elders of modest means. As a result, this group of



1 individuals has the least coverage in terms of home- and
2 community-based services.

3 The work on cash and counseling being conducted by the
4 executive office on aging and the University of Hawaii school of
5 social work will continue until the end of the 2007-2008 fiscal
6 year. The research conducted shows that a cash and counseling
7 program is worth pursuing, and it is essential to continue the
8 work in developing phase two of a cash and counseling project
9 that can be completed by the end of 2008.

10 SECTION 4. The joint legislative committee on aging in
11 place shall design a cash and counseling project for non-
12 medicaid participants to direct and manage their personal
13 assistance services according to their own specific needs, while
14 enabling family caregivers to receive a level of financial
15 recognition and support. In designing a cash and counseling
16 project, the joint legislative committee on aging in place may
17 consider including a respite care component, a case management
18 component, a separate fiscal agent, a personal care component,
19 and allowing the consumer to be the employer of any service
20 provider, whether an agency or family member.



1 The joint legislative committee on aging in place may
2 contract with a qualified consultant to assist in to design a
3 cash and counseling program.

4 A contract executed pursuant to this section and section 5
5 of this Act shall be exempt from chapter 103D, Hawaii Revised
6 Statutes; provided that the joint legislative committee on aging
7 in place shall endeavor to ensure transparency in the letting of
8 the contract.

9 The project shall include an advisory group to assist with
10 the design of the cash and counseling program. In order to
11 ensure that those who have the greatest need and the fewest
12 resources are able to utilize such a program, the advisory group
13 shall examine whether an asset limitation or restriction on
14 consumers shall be implemented in the design of a cash and
15 counseling program.

16 The joint legislative committee on aging in place shall
17 report on the results of developing its efforts to design a cash
18 and counseling project as part of its report to the legislature
19 pursuant to section 2 of this Act.

20 SECTION 5. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so
22 much thereof as may be necessary for fiscal year 2008-2009 for



1 the joint legislative committee on aging in place, which may
2 contract with a qualified consultant, to design a cash and
3 counseling model, pursuant to section 4 of this Act. The sum
4 appropriated shall be allocated as follows:

5 Senate \$
6 House of representatives \$

7 The sum appropriated shall be expended by the senate and
8 house of representatives to assist the joint legislative
9 committee on aging in place for the purposes of this part.

10 **PART III. KUPUNA CARE**

11 SECTION 6. On July 1, 1999, the executive office on aging
12 launched its statewide long-term care program called kupuna
13 care. Kupuna care was developed in partnership with the county
14 area agencies-on-aging to address the growing numbers of elders
15 with long-term care needs.

16 Services provided by kupuna care are intended to help meet
17 the needs of older adults who cannot live at home without
18 adequate help from family or formal services, and includes
19 services such as adult day care, respite care, assisted
20 transportation, attendant care, case management, chore, home
21 delivered meals, homemaker, transportation, and personal care.



1 Kupuna care was designed to assist, not totally support,
2 Hawaii's older adults to live independently, safely, and
3 healthily for as long as possible. The care may cover United
4 States citizens or legal aliens sixty years or older who are not
5 receiving other comparable government assistance, who need help
6 with activities of daily living (eating, dressing, bathing,
7 toileting, transferring, and mobility) or because they have
8 reduced mental capacity, and who are not residing in an
9 institution.

10 Voluntary contributions to the service provider are
11 welcomed for any service provided and are used to support the
12 cost of care of additional clients. In addition to the services
13 provided to the elderly, kupuna care also offers services for
14 the family caregivers of their elderly clients. As Hawaii's
15 population ages, many more families will be providing higher
16 levels of long-term care to frail and disabled older adults at
17 home. For many family caregivers, their role as family
18 caregiver arises as suddenly as the care recipient's health
19 declines, leaving the family caregivers with an immediate need
20 for services, but little preparation or education regarding who
21 to contact for assistance or what services are available to
22 them. In addition, the family caregivers may not know who is



1 capable or qualified to provide them with the services that they
2 or the care recipients need. Family caregivers themselves need
3 support services, including training, education, and counseling
4 in areas such as caregiving and dealing with end-of-life issues.

5 In addition, there are emotional, physical, and financial
6 costs of being a family caregiver. The younger family
7 caregivers are often in critical need of finding ways to reduce
8 the stress caused by caregiving. Respite has been shown to be
9 beneficial in lowering stress and other negative consequences of
10 caregiving and the *State of Hawaii Caregivers Need Assessment*
11 (2007) shows that respite is something that family caregivers
12 need. Besides the everyday stress that respite can relieve,
13 there are times when a family caregiver may unexpectedly become
14 unable to provide the needed caregiving services due to illness,
15 an accident, or other reasons. At these times, emergency
16 respite care becomes critical.

17 The needs assessment also shows that family caregivers need
18 financial support as they carry the heavy financial burdens of
19 caring for a loved one. In addition, both caregivers and care
20 recipients need financial assistance in making necessary home
21 modifications that will allow the care recipient to age in
22 place.



1 The legislature finds that the kupuna care program can
2 expand its services and incorporate progressive ways of helping
3 to meet the growing needs of Hawaii's older adults and allow
4 these individuals to age in place.

5 In addition to current kupuna care operation and services,
6 the purpose of this part is to:

7 (1) Allow the kupuna care program to:

8 (A) Offer emergency, overnight, and weekend respite
9 services;

10 (B) Provide grants for home modifications that
11 facilitate aging in place pursuant to a care plan
12 as part of a cash and counseling approach; and

13 (C) Provide grants to family caregivers pursuant to a
14 care plan as part of a cash and counseling
15 approach; and

16 (2) Amend the 2008-2009 operating budget of the executive
17 office on aging to increase program funding for kupuna
18 care and ensure that kupuna care continues to maintain
19 the quality of life of Hawaii's older adults and their
20 family caregivers.



1 SECTION 7. The kupuna care program, as administered by the
2 executive office on aging, may, in addition to its current
3 operation and services:

- 4 (1) Offer emergency, overnight, and weekend respite
5 services;
- 6 (2) Provide grants for home modifications that facilitate
7 aging in place pursuant to a care plan as part of a
8 cash and counseling approach; and
- 9 (3) Provide grants to family caregivers pursuant to a care
10 plan as part of a cash and counseling approach.

11 SECTION 8. Act 213, Session Laws of Hawaii 2007, is
12 amended by adding a new section to part III to be appropriately
13 designated and to read as follows:

14 "SECTION . Provided that of the general fund
15 appropriation for the executive office on aging (HTH 904), the
16 sum of \$ or so much thereof as may be necessary for
17 fiscal year 2008-2009 shall be expended by the executive office
18 on aging for the expansion of its kupuna care program."

19 SECTION 9. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2008-2009 to address
22 the kupuna care program waitlist.



1 The sum appropriated shall be expended by the executive
2 office on aging for the purposes of this Act.

3 SECTION 10. Act 213, Session Laws of Hawaii 2007, is
4 amended by amending part II, section 3, item F.26 to read as
5 follows:

6	"26. HTH904 - EXECUTIVE OFFICE ON AGING				
7			3.30*	3.30*	
8	OPERATING	HTH	6,370,552A	[6,119,214A]	<u> A</u>
9			7.45*	7.45*	
10		HTH	7,443,720N	7,443,720N	
11	INVESTMENT CAPITAL	HTH	250,000C		C"
12					

13 **PART IV. GRANDPARENTS RAISING GRANDCHILDREN TASK FORCE**

14 SECTION 11. Act 204, Session Laws of Hawaii 2007 (Act
15 204), expanded the mandate of the joint legislative committee on
16 family caregiving by including grandparents of children aged
17 eighteen years and younger, or nineteen years of age or older
18 with physical or cognitive limitations, in Act 204's definition
19 of family caregiver. The revised definition is now more
20 consistent with the scope of the National Family Caregiver
21 Support Program. Act 204 also required the joint legislative
22 committee to examine the issues facing this population of
23 grandparents raising grandchildren.

24 Since then, numerous government agencies have testified
25 before the joint legislative committee regarding how the



1 agencies identify and address the needs of grandparents raising
2 grandchildren. In addition, the executive office on aging
3 presented the 2007 *Needs Assessment of Grandparents Raising*
4 *Grandchildren in the State of Hawaii*, prepared by the University
5 of Hawaii department of family and consumer science.

6 The needs assessment indicates that, in Hawaii, over
7 fourteen thousand grandparents are the primary caregivers for
8 more than thirty-three thousand grandchildren, and that these
9 numbers are expected to grow. While there is a wide range of
10 service needs within this population, the most often-cited are
11 those that relate to children's programs, financial assistance,
12 respite, and grandparents rights. Many of these services are
13 available, but barriers are preventing grandparents from
14 accessing them. Barriers may include a lack of information
15 regarding the availability of services, a lack of services in a
16 particular county, or legal or financial impediments. For
17 instance, in focus groups, some grandparents expressed a fear of
18 losing their grandchildren. Others identified a need for an
19 advocate or case worker to help guide them to the services and
20 through the various systems.

21 The legislature finds that the needs assessment provides
22 critical demographic information and feedback regarding what



1 programs and services grandparents require to care for their
2 grandchildren. The findings indicate that the population of
3 grandparents raising grandchildren faces particular challenges,
4 different in some ways from the general caregiver population,
5 and should have a focused task force to specifically address
6 those concerns. The legislature further finds that a
7 comprehensive, coordinated effort is needed to identify:

- 8 (1) The services that exist to meet the identified needs;
- 9 (2) Any service deficiencies;
- 10 (3) Barriers that prevent grandparents from accessing
11 services; and
- 12 (4) What can be done to facilitate the provision of
13 services to grandparents raising grandchildren.

14 The purpose of this part is to establish a task force to
15 focus specifically on the needs and issues of grandparents
16 raising grandchildren.

17 SECTION 12. (a) There is established a grandparents
18 raising grandchildren task force to focus on the needs and
19 issues of grandparents raising grandchildren. The task force
20 shall consist of a representative of:

- 21 (1) The University of Hawaii, center on aging research and
22 education, to serve as co-chair;



- 1 (2) The University of Hawaii, college of tropical
2 agriculture and human resources, to serve as co-chair;
- 3 (3) The department of education;
- 4 (4) The department of human services;
- 5 (5) The department of health, executive office on aging;
- 6 (6) The department of public safety;
- 7 (7) The judiciary;
- 8 (8) The department of the attorney general, child support
9 enforcement agency;
- 10 (9) Each area office on aging;
- 11 (10) The policy advisory board for elder affairs;
- 12 (11) Na Tutu Coalition;
- 13 (12) Queen Lili'uokalani Children's Center;
- 14 (13) Legal Aid Society of Hawaii;
- 15 (14) Volunteer Legal Services Hawaii;
- 16 (15) Partners in Development; and
- 17 (16) An individual who is a grandparent.
- 18 (b) In assessing the needs and issues of grandparents
19 raising grandchildren, the task force shall, among other things:
- 20 (1) Review the 2007 *Needs Assessment of Grandparents*
21 *Raising Grandchildren in the State of Hawaii*, prepared



- 1 by the University of Hawaii, department of family and
2 consumer science;
- 3 (2) Review the most recent *Four Year State Plan on Aging*
4 submitted to the United States Administration on Aging
5 by the executive office on aging and the area agencies
6 on aging;
- 7 (3) Review the testimony of the various agencies submitted
8 to the joint legislative committee on family
9 caregiving at its hearing on August 16, 2007,
10 regarding issues facing grandparents raising
11 grandchildren;
- 12 (4) Review laws relating to issues of grandparents raising
13 grandchildren, including:
- 14 (A) Section 302A-482, Hawaii Revised Statutes,
15 regarding the affidavit for caregiver consent,
16 which permits a caregiver, under certain
17 circumstances, to enroll a minor in school and
18 consent to participation in curricular and
19 co-curricular activities;
- 20 (B) Chapters 571, Hawaii Revised Statutes, regarding
21 child custody and support; and



- 1 (C) Chapter 587, Hawaii Revised Statutes, regarding
2 child protective services;
- 3 (5) The memorandum prepared by the department of education
4 to guide school personnel when enrolling students who
5 reside with caregivers;
- 6 (6) Review the supports and services offered to caregivers
7 by the department of education through its
8 comprehensive student support system;
- 9 (7) Investigate whether a need arises when a minor
10 residing, formally or informally, with a grandparent
11 requires consent for medical service, including when a
12 student needs consent for programs and services under
13 the federal Individuals with Disabilities Act or
14 Section 504 of the Rehabilitation Act of 1973;
- 15 (8) Investigate the issues that arise when a minor
16 residing formally or informally with a grandparent is
17 returned to the custody of a parent;
- 18 (9) Investigate any housing issues that may arise when a
19 grandparent is raising a grandchild, particularly when
20 the grandparent resides in senior housing, and
21 identify any state or federal laws or rules that would



- 1 render a grandparent cohabiting with a grandchild
2 ineligible for housing under a particular scheme;
- 3 (10) Review how each area office on aging allocates the
4 federal funds it receives under the National Family
5 Caregiver Support Program for grandparent programs;
- 6 (11) Identify the agencies that collect data relating to
7 grandparents raising grandchildren and whether the
8 data can be more comprehensive, uniform, and readily
9 available or exchanged; and
- 10 (12) Identify legal needs and whether these needs are being
11 adequately addressed.
- 12 (c) The task force on grandparents raising grandchildren
13 shall submit an interim report to the legislature and the joint
14 legislative committee on aging in place no later than twenty
15 days prior to the convening of the 2009 regular session and a
16 final report to the legislature and the joint legislative
17 committee on aging in place no later than twenty days prior to
18 June 30, 2009. The final report shall include, to the greatest
19 extent possible:
- 20 (1) A list of the services that exist in each county to
21 meet grandparents' identified needs;
- 22 (2) A discussion of service deficiencies in each county;



- 1 (3) A discussion of identifiable barriers that prevent
2 grandparents from accessing services;
- 3 (4) A summary of the task force's work and any findings
4 regarding the task force's responsibilities as
5 detailed in section 11(b) of this Act; and
- 6 (5) Recommendations, including any proposed legislation.
- 7 (d) The task force shall cease to exist on June 30, 2009.

8 **PART V. RESPITE CARE**

9 SECTION 13. The joint legislative committee on family
10 caregiving has been diligent in its role to strengthen support
11 to family caregivers through respite care. The legislative
12 reference bureau conducted a study pursuant to House Concurrent
13 Resolution No. 187, Session Laws of Hawaii 2007, regarding how
14 other states address the issue of respite care. The report
15 indicated that respite has been beneficial in ameliorating
16 stress and other negative consequences of caregiving.

17 Additionally, a comprehensive family caregiver needs assessment
18 conducted pursuant to Act 204, Session Laws of Hawaii 2007,
19 indicated that respite care is one of the top choices of
20 assistance that caregivers feel would be helpful.

21 Respite care can relieve the everyday stress of providing
22 round-the-clock care. However, there are times when emergency



1 respite care becomes critical when a family caregiver is
2 unexpectedly unable to provide care because of illness, an
3 accident, or other reasons.

4 The legislature finds that more needs to be done to
5 determine the full inventory of respite care providers and the
6 specific types of respite care provided in the State. The types
7 of respite care can include planned respite care, short term
8 respite, or emergency respite care. Additionally, although
9 respite services may be available, caregivers are not always
10 aware that such services are offered, or may not know where to
11 go to seek assistance.

12 The purpose of this part is to appropriate funds to the
13 executive office on aging to continue its respite inventory
14 project pursuant to H.C.R. No. 187 (2007), in collaboration with
15 the University of Hawaii school of social work.

16 SECTION 14. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2008-2009 in
19 order for the executive office on aging, in collaboration with
20 the University of Hawaii school of social work, to:

- 21 (1) Continue to conduct an inventory of respite services
22 in Hawaii;



- 1 (2) Establish a definition of "respite care";
- 2 (3) Establish more detailed descriptions of each of the
- 3 various types of respite services provided in the
- 4 State; and
- 5 (4) Review the legislative reference bureau's 2007 report
- 6 on respite policies in other states to identify the
- 7 most promising approaches for Hawaii to support
- 8 expanding respite services, including how much support
- 9 is financed, what types of respite are provided and to
- 10 whom, and who performs the respite services.

11 The sum appropriated shall be expended by the department of
12 health, executive office on aging, for the purposes of this
13 part.

14 SECTION 15. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 16. This Act shall take effect on June 30, 2008;
17 provided that sections 5, 8, 9, 10, and 14 shall take effect on
18 July 1, 2008.



Report Title:

Joint Legislative Committee on Family Caregiving; Kupuna Care; Grandparents Raising Grandchildren Task Force; Respite Care; Appropriations

Description:

Extends the joint legislative committee on family caregiving; changes the committee's name to the joint legislative committee on aging in place; expands the committee's mandate to include aging in place issues related to family caregiving; requires the aging and disability resource center to report to the committee; requires the joint legislative committee to develop a model for a cash and counseling project; appropriates funds to the joint legislative committee; allows kupuna care to include overnight, weekend, and emergency respite, as well as provide grants to caregivers and for home modification; appropriates funds to the kupuna care program; establishes a task force to focus on the needs and issues of grandparents raising grandchildren; appropriates funds to the executive office on aging to continue its respite inventory project in collaboration with the University of Hawaii. (SD1)

