

FEB 29 2008

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## SENATE RESOLUTION

ESTABLISHING A TASK FORCE TO DEVELOP LEGISLATION FOR UNIVERSAL  
LAW CARE AND IMPROVED ACCESS TO JUSTICE.

1           WHEREAS, every person in Hawaii deserves access to  
2 affordable, quality legal services and care; and  
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4           WHEREAS, according to a 2007 assessment funded by the  
5 Hawaii Justice Foundation and the Hawaii State Bar Association,  
6 many Hawaii residents face critical legal needs without being  
7 able to obtain an attorney, including protection from domestic  
8 abuse, securing affordable housing, family stability, living in  
9 a safe and secure home, access to healthcare, and income  
10 support; and  
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12           WHEREAS, in Hawaii there is only one legal services  
13 attorney for every 2,291 persons living below 125 percent of the  
14 federal poverty guideline; and  
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16           WHEREAS, since 1997, the number of domestic violence  
17 protective orders filed has risen 62.78 percent from 2,859 to  
18 4,654 in 2006.  
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20           WHEREAS, legal services providers are able to help only one  
21 in three of those who contact them for assistance; and  
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23           WHEREAS, only one in five low and moderate-income Hawaii  
24 residents have their legal needs met; and  
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26           WHEREAS, legal service providers have inadequate resources  
27 to assist the indigent and disadvantaged due to the high cost of  
28 legal services and litigation as well as the high volume of  
29 requests; and  
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31           WHEREAS, unlike emergency room doctors, who are required to  
32 care for persons in medical need regardless of their ability to  
33 pay, lawyers are not required to provide civil legal services to  
34 the indigent and disadvantaged in times of great legal need.  
35



1 WHEREAS, absent the assistance of legal service providers  
2 or pro bono volunteers, the indigent and disadvantaged are  
3 unable to gain adequate access to legal services and litigation;  
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5 WHEREAS, lawyers should ensure that all members of the  
6 public have equal redress to the courts for resolution of their  
7 disputes and access to lawyers when legal services are  
8 necessary; now, therefore,  
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10 BE IT RESOLVED by the Senate of the Twenty-fourth  
11 Legislature of the State of Hawaii, Regular Session of 2008,  
12 that a task force be convened to develop legislation that  
13 provides for universal law care and improved access to justice  
14 by creating new funding sources for legal services to the  
15 indigent and disadvantaged; and  
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17 BE IT FURTHER RESOLVED that the task force be composed of  
18 the following members:  
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- 20 (1) The Attorney General, or the Attorney General's  
21 designee;
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- 23 (2) A representative of the appellate judges of Hawaii, to  
24 be selected by the Chief Justice;
- 25
- 26 (3) A representative of the Hawaii State Bar Association;
- 27
- 28 (4) A representative of the Legal Aid Society of Hawaii;  
29 and
- 30
- 31 (5) A representative of the general public who is not an  
32 attorney, to be appointed by the Governor; and  
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34 BE IT FURTHER RESOLVED that the proposed legislation  
35 include provisions for the split recovery of punitive damages,  
36 providing that upon the entry of a verdict including an award of  
37 punitive damages, the State shall become a judgment creditor as  
38 to the punitive damages portion of the award and the punitive  
39 damages portion of the award shall be allocated as follows:  
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- 41 (1) 75 percent shall be paid to the prevailing party;
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- 43 (2) The attorney for the prevailing party shall be paid  
44 out of the amount allocated to the prevailing party,



1 in the amount agreed upon between the attorney and the  
2 prevailing party, although in no event may more than  
3 13 percent of the amount awarded as punitive damages  
4 be paid to the attorney for the prevailing party; and  
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- 6 (3) 25 percent of the punitive damages awarded shall be  
7 deposited into the indigent legal assistance fund  
8 established under section 607-5.7, Hawaii Revised  
9 Statutes, or a comparable state fund established to  
10 support legal services to the indigent and  
11 disadvantaged; and  
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13 BE IT FURTHER RESOLVED that the proposed legislation  
14 include provisions that require a legal services fee of \$50 be  
15 paid annually by each attorney with an active license to  
16 practice law in the State, and that such provisions further  
17 include that:  
18

- 19 (1) The state licensing authority shall not renew or  
20 reinstate, or shall deny or suspend any license or  
21 application, of any attorney with an active license  
22 who fails to pay the mandatory legal services fee;  
23  
24 (2) Mandatory legal services fees collected shall be  
25 deposited into the indigent legal assistance fund  
26 established under section 607-5.7, Hawaii Revised  
27 Statutes, or a comparable state fund established to  
28 support legal services to the indigent and  
29 disadvantaged; and  
30  
31 (3) The mandatory legal services fee shall be administered  
32 by the Hawaii Supreme Court; and  
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34 BE IT FURTHER RESOLVED that that the Task Force is  
35 requested to submit proposed legislation and a report of its  
36 discussions, and any findings and recommendations, to the  
37 Legislature no later than 20 days prior to the convening of the  
38 Regular Session of 2009; and  
39

40 BE IT FURTHER RESOLVED that certified copies of this  
41 Resolution be transmitted to the Governor, the Senate President,  
42 the Attorney General, the Board of Directors of the Legal Aid  
43 Society of Hawaii, the President of the Hawaii State Bar  
44 Association, and the Chief Justice.



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OFFERED BY:

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