
HOUSE CONCURRENT RESOLUTION

REQUESTING AN AUDIT OF CHILD CUSTODY PROCEEDINGS INVOLVING THE
COMMISSION OF FAMILY VIOLENCE BY A PARENT, TO ASSESS THE
USE AND APPLICATION OF SECTION 571-46, HAWAII REVISED
STATUTES.

1 WHEREAS, domestic violence is recognized as a pattern of
2 behaviors used by one person to coercively control the other
3 person in a relationship; and
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5 WHEREAS, domestic violence may take the form of
6 psychological, physical, or sexual abuse, and can happen once or
7 periodically to victims of any age, gender, race, culture,
8 religion, education level, employment status, or marital status;
9 and
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11 WHEREAS, the primary, most damaging, and long-term form of
12 domestic violence is psychological abuse, which rarely leaves
13 any traces of evidence of its occurrence; and
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15 WHEREAS, victims of abuse are encouraged to terminate
16 relationships with abusive partners, for their safety and the
17 safety of their children, and to avert further and future harm;
18 and
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20 WHEREAS, the termination of an abusive relationship may
21 increase a perpetrator's lethality, because the perpetrator
22 loses control over the victim; and
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24 WHEREAS, the termination of an abusive relationship does
25 not necessarily end a perpetrator's use of violence and abuse of
26 a former partner; and
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28 WHEREAS, child custody and visitation frequently become
29 disputed issues after a victim successfully escapes the abusive
30 relationship; and
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1 WHEREAS, the litigation of child custody and visitation
 2 disputes often provides perpetrators with an ongoing venue for
 3 the continued use of coercive control against their former
 4 partners, under the guise of child custody and visitation
 5 concerns; and

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 7 WHEREAS, domestic violence is a crime, and not a personal
 8 or family problem; and

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 10 WHEREAS, section 571-46(a)(9)-(14), Hawaii Revised
 11 Statutes, addresses the problems of family violence in child
 12 custody disputes; and

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 14 WHEREAS, it has come to the attention of the Legislature
 15 that Family Court judges may not be correctly applying, using,
 16 or enforcing Section 571-46(a)(9)-(14), Hawaii Revised Statutes,
 17 to the detriment of domestic violence survivors and their
 18 children, and ultimately punishes survivors and their children
 19 for successfully escaping abusive homes; now, therefore,

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 21 BE IT RESOLVED by the House of Representatives of the
 22 Twenty-fifth Legislature of the State of Hawaii, Regular Session
 23 of 2010, the Senate concurring, that the Auditor is requested to
 24 conduct an audit of all child custody proceedings where family
 25 violence has been alleged to have been committed by a parent,
 26 that were heard by the Family Courts from January 1, 2004,
 27 through December 31, 2009, to assess the use and application of
 28 section 571-46(a)(9)-(14), Hawaii Revised Statutes; and

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 30 BE IT FURTHER RESOLVED that the Auditor is requested to
 31 submit a report any findings and recommendations, to the
 32 Legislature no later than twenty days prior to the convening of
 33 the Regular Session of 2011; and

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 35 BE IT FURTHER RESOLVED that certified copies of this
 36 Concurrent Resolution be transmitted to the Chief Justice of the
 37 Supreme Court, the Chief Court Administrator of each Circuit,
 38 and the State Auditor.

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OFFERED BY: John M. Pajaro

