

JAN 21 2010

SENATE CONCURRENT RESOLUTION

REQUESTING THE COMMITTEES ON HUMAN SERVICES OF THE SENATE AND HOUSE OF REPRESENTATIVES TO CONVENE A WORKING GROUP TO FURTHER STUDY FAMILY COURT CUSTODY EVALUATOR STANDARDS, INCLUDING A MINIMUM CURRICULUM, PROCEDURES AND REQUIREMENTS FOR APPOINTMENT, AND OTHER RECOMMENDATIONS.

1 WHEREAS, in the 2004 Regular Session, the Senate adopted
2 Senate Resolution No. 40 (2004), authorizing the Senate
3 Committee on Human Services to convene interim hearings on the
4 Hawaii Family 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, limiting the long-term use of interventions such as
10 temporary restraining orders and protective orders, ensuring
11 greater accountability of court-appointed personnel such as
12 custody evaluators and guardians ad litem, and examining ways to
13 reduce needless expenditures of time and money in
14 counterproductive litigation relating to child custody
15 determinations; and

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17 WHEREAS, some of the recommendations resulting from the
18 interim hearings were adopted and received legislative attention
19 during the 2005 Regular Session, but there were still other
20 issues that remained unresolved. Thus, in the 2006 Regular
21 Session, the Senate and the House of Representatives adopted
22 Senate Concurrent Resolution No. 52, S.D. 1 (2006), authorizing
23 the Committees on Human Services of the Senate and the House of
24 Representatives to convene interim hearings on the use of legal
25 interventions available to the Family Court and to establish one
26 or more task forces (collectively, the SCR 52 Task Force) to
27 facilitate their work; and

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29 WHEREAS, the SCR 52 Task Force's work resulted in the
30 adoption of some of the Task Force's recommendations during the



1 2007 Regular Session; however, the Task Force had not yet
2 completed its work. Thus, in the 2007 Regular Session, the
3 Senate adopted Senate Resolution No. 10, S.D. 1 (2007),
4 authorizing the Senate Committee on Human Services and Public
5 Housing to convene a working group to further study the
6 recommendations made by the SCR 52 Task Force; and
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8 WHEREAS, the resulting working group made recommendations
9 that resulted in Act 149, Session Laws of Hawaii 2008 (Act 149),
10 which amended section 571-46, Hawaii Revised Statutes, to
11 identify as "custody court evaluators" investigators or
12 professional personnel who are attached to or assisting the
13 family court when an investigation and report concerning the
14 care, welfare, and custody of any minor child of the parties is
15 required; and
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17 WHEREAS, Act 149 also directed the Judiciary to define the
18 requirements to be a court-appointed child custody evaluator,
19 and the standards of practice, ethics, policies, and procedures
20 required in the performance of their duties, and to submit to
21 the Legislature a report of its findings, recommendations, and
22 resources requirements to implement the requirements of Act 149;
23 and
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25 WHEREAS, Act 149 further directed that the Judiciary was to
26 convene and obtain assistance from a child custody advisory task
27 force to make findings and recommendations relating to
28 standards, education, and regulatory oversight and control; and
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30 WHEREAS, in its report to the Legislature, the Judiciary
31 noted that "there is currently not enough of a 'demand' for this
32 particular sub-specialty curriculum or course of study leading
33 to certification or a degree, except as being currently
34 discussed by the Association of Marriage and Family Therapists"
35 and did not make any other specific recommendations, stating
36 that "[a]ny recommendations regarding resource needs would not
37 be useful since there are not enough professionals doing this
38 work"; and
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40 WHEREAS, in 2009, the Legislative Reference Bureau studied
41 custody evaluations in other states and, in particular, seven
42 states (Alaska, California, Georgia, Maine, Massachusetts, North
43 Dakota, and Utah) where, like Hawaii, an investigation and



1 report is requested to assist the family court in making an
2 initial custody determination; and

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4 WHEREAS, while the above mentioned states vary in their
5 specific requirements for appointment, they all require some
6 combination of education, training, experience, knowledge, and
7 skill (either specified in statute or rule, or left to the
8 discretion of the appointing court), and all provide for varying
9 levels of detail in standards of practice and conduct, and
10 procedures for receiving, reviewing, and resolving complaints
11 and grievances; and

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13 WHEREAS, establishing a training curriculum and developing
14 education and continuing training requirements would be the
15 first step in establishing consistent standards of conduct and
16 performance that would be of value to evaluators, their clients,
17 and the courts, and would form the foundation for building a
18 professional core of custody evaluators; and

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20 WHEREAS, interest exists among educational institutions and
21 other organizations in developing and establishing a custody
22 evaluation curriculum and course work; and

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24 WHEREAS, maximum effectiveness in developing and
25 establishing a custody evaluation curriculum and course work
26 necessitates the participation, advice, and guidance of
27 experienced family court personnel and judges and various
28 professionals who are and can provide child custody evaluation
29 reports to assist the court; now, therefore,

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31 BE IT RESOLVED by the Senate of the Twenty-fifth
32 Legislature of the State of Hawaii, Regular Session of 2010, the
33 House of Representatives concurring, that the Committees on
34 Human Services of the Senate and the House of Representatives
35 are requested to convene a working group to further study family
36 court child custody evaluator standards, procedures, and
37 education curriculum, and other requirements to effectively
38 implement the requirements of Act 149; and

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40 BE IT FURTHER RESOLVED that, upon the adoption of this
41 Concurrent Resolution, the working group is to be referred to as
42 the "Family Court Custody Evaluator Working Group" and shall
43 cease to exist on January 1, 2011; and



1 BE IT FURTHER RESOLVED that the Family Court Custody
2 Evaluator Working Group shall develop and recommend child
3 custody evaluation standards and procedures and a training
4 curriculum and course work, and shall submit proposed
5 legislation, if needed, to implement these recommendations; and
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7 BE IT FURTHER RESOLVED that the Family Court Custody
8 Evaluator Working Group include one representative of the
9 Department of Human Services (Child Welfare Division);
10 Department of Health; Department of the Attorney General;
11 University of Hawaii (School of Social Work, Department of
12 Psychiatry, and Department of Psychology); Hawaii Psychological
13 Association; Hawaii Psychiatric Medical Association; Hawaii
14 Association of Marriage and Family Therapists; Family Law
15 Section of the Hawaii State Bar Association; Child Law Section
16 of the Hawaii State Bar Association; Honolulu Family Court
17 Professionals: National Association of Social Workers-Hawaii
18 Chapter; Hawaii Nurses Association; Legal Aid Society of Hawaii;
19 Volunteer Legal Services Hawaii; Hawaii State Coalition Against
20 Domestic Violence; Domestic Violence Action Center; Mediation
21 Center of the Pacific; EPIC Ohana Conferencing, Hawaii Chapter;
22 the Children's Rights Council; the Hawaii Coalition for Dads;
23 Family Justice Alliance; VOICES; other education institutions
24 with child and family expertise; and other organizations deemed
25 appropriate by the Judiciary; and
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27 BE IT FURTHER RESOLVED that the University of Hawaii Social
28 Services Public Policy Center assist the Family Court Custody
29 Evaluator Working Group with the facilitation of the Group's
30 efforts; and
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32 BE IT FURTHER RESOLVED that the Family Court Custody
33 Evaluator Working Group include in its discussions participation
34 from persons who represent the neighbor islands; and
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36 BE IT FURTHER RESOLVED that the Family Court Custody
37 Evaluator Working Group submit the report of its findings and
38 recommendations, including any proposed legislation to the
39 Legislature, no later than twenty days prior to the convening of
40 the Regular Session of 2011; and
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42 BE IT FURTHER RESOLVED that certified copies of this
43 Concurrent Resolution be transmitted to the President of the
44 Senate; Speaker of the House of Representatives; Chair of the



1 Senate Committee on Human Services; Chair of the Senate
2 Committee on Judiciary and Government Operations; Chair of the
3 House Committee on Human Services; Chair of the House Committee
4 on the Judiciary; Chief Justice of the Hawaii Supreme Court;
5 Director of Human Services; Director of Health; Attorney
6 General; Dean of the University of Hawaii School of Social Work;
7 Dean of the John A. Burns School of Medicine; Chair of the
8 Department of Psychiatry of the John A. Burns School of
9 Medicine; Dean of the University of Hawaii College of Social
10 Sciences; Chair of the University of Hawaii Department of
11 Psychology; Director of the College of Social Services, Public
12 Policy Center; President of the Hawaii Psychological
13 Association; President of the Hawaii Psychiatric Medical
14 Association; President of the Board of Directors of the Hawaii
15 Association of Marriage and Family Therapists; Chair of the
16 Family Law Section, Chair of the Child Law Section, and
17 President of the Hawaii State Bar Association; President of the
18 Honolulu Family Court Professionals; Executive Director of the
19 National Association of Social Workers-Hawaii Chapter; Executive
20 Director of the Hawaii Nurses Association; President of the
21 Legal Aid Society of Hawaii; Executive Director of Volunteer
22 Legal Services Hawaii; Executive Director of the Hawaii State
23 Coalition Against Domestic Violence; Executive Director of the
24 Domestic Violence Action Center; President of the Board of
25 Directors of the Mediation Center of the Pacific; Director of
26 EPIC Ohana Conferencing; President of Children's Rights Council
27 of Hawaii; President of the Hawaii Coalition for Dads; President
28 of the Family Justice Alliance; and Executive Director of
29 VOICES.

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OFFERED BY:

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