

JAN 21 2010

SENATE RESOLUTION

REQUESTING THE SENATE COMMITTEE ON HUMAN SERVICES 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
31 2007 Regular Session; however, the Task Force had not yet
32 completed its work. Thus, in the 2007 Regular Session, the
33 Senate adopted Senate Resolution No. 10, S.D. 1 (2007),



1 authorizing the Senate Committee on Human Services and Public
2 Housing to convene a working group to further study the
3 recommendations made by the SCR 52 Task Force; and
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5 WHEREAS, the resulting working group made recommendations
6 that resulted in Act 149, Session Laws of Hawaii 2008 (Act 149),
7 which amended section 571-46, Hawaii Revised Statutes, to
8 identify as "custody court evaluators" investigators or
9 professional personnel who are attached to or assisting the
10 family court when an investigation and report concerning the
11 care, welfare, and custody of any minor child of the parties is
12 required; and
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14 WHEREAS, Act 149 also directed the Judiciary to define the
15 requirements to be a court-appointed child custody evaluator,
16 and the standards of practice, ethics, policies, and procedures
17 required in the performance of their duties, and to submit to
18 the Legislature a report of its findings, recommendations, and
19 resources requirements to implement the requirements of Act 149;
20 and
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22 WHEREAS, Act 149 further directed that the Judiciary was to
23 convene and obtain assistance from a child custody advisory task
24 force to make findings and recommendations relating to
25 standards, education, and regulatory oversight and control; and
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27 WHEREAS, in its report to the Legislature, the Judiciary
28 noted that "there is currently not enough of a 'demand' for this
29 particular sub-specialty curriculum or course of study leading
30 to certification or a degree, except as being currently
31 discussed by the Association of Marriage and Family Therapists"
32 and did not make any other specific recommendations, stating
33 that "[a]ny recommendations regarding resource needs would not
34 be useful since there are not enough professionals doing this
35 work"; and
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37 WHEREAS, in 2009, the Legislative Reference Bureau studied
38 custody evaluations in other states and, in particular, seven
39 states (Alaska, California, Georgia, Maine, Massachusetts, North
40 Dakota, and Utah) where, like Hawaii, an investigation and
41 report is requested to assist the family court in making an
42 initial custody determination; and
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1 WHEREAS, while the above mentioned states vary in their
2 specific requirements for appointment, they all require some
3 combination of education, training, experience, knowledge, and
4 skill (either specified in statute or rule, or left to the
5 discretion of the appointing court), and all provide for varying
6 levels of detail in standards of practice and conduct, and
7 procedures for receiving, reviewing, and resolving complaints
8 and grievances; and
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10 WHEREAS, establishing a training curriculum and developing
11 education and continuing training requirements would be the
12 first step in establishing consistent standards of conduct and
13 performance that would be of value to evaluators, their clients,
14 and the courts, and would form the foundation for building a
15 professional core of custody evaluators; and
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17 WHEREAS, interest exists among educational institutions and
18 other organizations in developing and establishing a custody
19 evaluation curriculum and course work; and
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21 WHEREAS, maximum effectiveness in developing and
22 establishing a custody evaluation curriculum and course work
23 necessitates the participation, advice, and guidance of
24 experienced family court personnel and judges and various
25 professionals who are and can provide child custody evaluation
26 reports to assist the court; now, therefore,
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28 BE IT RESOLVED by the Senate of the Twenty-fifth
29 Legislature of the State of Hawaii, Regular Session of 2010,
30 that the Senate Committee on Human Services is requested to
31 convene a working group to further study family court child
32 custody evaluator standards, procedures, and education
33 curriculum, and other requirements to effectively implement the
34 requirements of Act 149; and
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36 BE IT FURTHER RESOLVED that, upon the adoption of this
37 Resolution, the working group is to be referred to as the
38 "Family Court Custody Evaluator Working Group" and shall cease
39 to exist on January 1, 2011; and
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41 BE IT FURTHER RESOLVED that the Family Court Custody
42 Evaluator Working Group shall develop and recommend child
43 custody evaluation standards and procedures and a training



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



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

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OFFERED BY: *Trizanne Chun Oakland*
Carol Johnson

