

MAR 16 2011

SENATE RESOLUTION

REQUESTING AN AUDIT OF CHILD CUSTODY PROCEEDINGS INVOLVING THE
COMMISSION OF FAMILY VIOLENCE BY A PARENT, TO ASSESS THE
APPLICATION AND ENFORCEMENT 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 another
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 may 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 physical traces of its occurrence; and
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15 WHEREAS, victims of abuse are encouraged to terminate
16 relationships with abusive partners for their own 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 loses
22 control over the victim and may increase abusive behavior in
23 order to regain control; and
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25 WHEREAS, child custody and visitation frequently become
26 disputed issues after a victim successfully escapes an abusive
27 relationship; and
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29 WHEREAS, the litigation of child custody and visitation
30 disputes often provides perpetrators of domestic abuse and
31 family violence with an ongoing venue for the continued use of
32 coercive control against their former partners under the guise
33 of child custody and visitation concerns; and



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2 WHEREAS, domestic violence is a serious crime in addition
3 to being a serious personal or family problem; and
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5 WHEREAS, section 571-46(a)(9)-(14), Hawaii Revised
6 Statutes, establishes specific criteria for the Family Court to
7 consider in custody or visitation disputes when family violence
8 has occurred; and
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10 WHEREAS, the Legislature is concerned that Family Court
11 judges may not be correctly applying or enforcing section
12 571-46(a)(9)-(14), Hawaii Revised Statutes, to the detriment of
13 domestic violence survivors and their children and ultimately
14 punishing survivors and their children for successfully escaping
15 abusive homes; now, therefore,
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17 BE IT RESOLVED by the Senate of the Twenty-sixth
18 Legislature of the State of Hawaii, Regular Session of 2011,
19 that the Office of the Auditor is requested to conduct an audit
20 of a sampling of contested child custody proceedings in which
21 family violence has been alleged to have been committed by a
22 parent and that were heard by the Family Courts during the
23 period from January 1, 2004, through December 31, 2010, to
24 assess the application and enforcement of section 571-46(a)(9)-
25 (14), Hawaii Revised Statutes, by the Family Court; and
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27 BE IT FURTHER RESOLVED that the Judiciary is requested to
28 redact the names of all parties, witnesses, attorneys, judges,
29 and other interested persons from all selected custody
30 proceedings to maintain privacy and confidentiality; and
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32 BE IT FURTHER RESOLVED that the Office of the Auditor is
33 requested to submit a report of any findings and recommendations
34 to the Legislature no later than twenty days prior to the
35 convening of the Regular Session of 2012; and
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1 BE IT FURTHER RESOLVED that certified copies of this
2 Resolution be transmitted to the Chief Justice of the Supreme
3 Court, the Senior Judge of the Family Court, the Administrative
4 Director of the Courts, the Chief Court Administrator of each
5 Circuit, and the State Auditor.

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OFFERED BY: Erzanne Chun Oakland

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