
SENATE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY JOINT OR
SHARED PHYSICAL AND LEGAL CUSTODY PRESUMPTIONS IN FAMILY
LAW AS ENACTED AND APPLIED BY OTHER JURISDICTIONS.

1 WHEREAS, in the 2006 Regular Session, the Legislature
2 adopted Senate Concurrent Resolution No. 52 authorizing the
3 Committees on Human Services of the Senate and House of
4 Representatives to convene interim hearings on the Hawaii Family
5 Court; and

6
7 WHEREAS, the interim hearings were designed as a way to
8 make the Hawaii Family Court more accessible and family
9 friendly; and

10
11 WHEREAS, the interim hearings focused on, among other
12 things, important issues relating to the best interest of the
13 child and custody; and

14
15 WHEREAS, during the course of these interim hearings, a
16 task force was established along with working groups, that
17 submitted their findings and recommendations to the larger task
18 force; and

19
20 WHEREAS, while some of the working groups' recommendations
21 were adopted by the task force and have received legislative
22 attention, due to time constraints, there were other issues the
23 task force was unable to explore fully; and

24
25 WHEREAS, one issue the task force was unable to fully
26 explore is the joint or shared physical and legal custody
27 presumption where, in a divorce proceeding, there is a
28 rebuttable presumption that parents should equally share in the
29 parenting of the child; and

30
31 WHEREAS, being unable to fully explore and discuss joint or
32 shared physical and legal custody presumptions, the task force



1 members are interested in examining how other states address the
2 issue before making a determination as to whether such a
3 presumption would be appropriate in Hawaii; now, therefore,
4

5 BE IT RESOLVED by the Senate of the Twenty-fourth
6 Legislature of the State of Hawaii, Regular Session of 2007, the
7 House of Representatives concurring, that the Legislative
8 Reference Bureau is requested to conduct a study on joint or
9 shared physical and legal custody presumptions in family law as
10 enacted and applied by other jurisdictions; and
11

12 BE IT FURTHER RESOLVED that the Legislature requests that
13 the study include:
14

15 (1) A review and comparison of other states' statutes
16 relating to joint or shared physical and legal custody
17 presumptions;
18

19 (2) A review of studies conducted, if any, on the impact
20 the use of joint or shared physical and legal custody
21 presumptions has on children in both contested and
22 non-contested cases; and
23

24 (3) A review of current Hawaii case law on the use of
25 presumptions and the applicable standards of proof;
26 and
27

28 BE IT FURTHER RESOLVED that the Legislative Reference
29 Bureau is requested to report its findings and recommendations,
30 including any proposed legislation, to the Legislature no later
31 than twenty days prior to the convening of the Regular Session
32 of 2008; and
33

34 BE IT FURTHER RESOLVED that a certified copy of this
35 Concurrent Resolution be transmitted to the Acting Director of
36 the Legislative Reference Bureau.

