

MAR 16 2011

SENATE CONCURRENT 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



1 family violence with an ongoing venue for the continued use of
2 coercive control against their former partners under the guise
3 of child custody and visitation concerns; and
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5 WHEREAS, domestic violence is a serious crime in addition
6 to being a serious personal or family problem; and
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8 WHEREAS, section 571-46(a)(9)-(14), Hawaii Revised
9 Statutes, establishes specific criteria for the Family Court to
10 consider in custody or visitation disputes when family violence
11 has occurred; and
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13 WHEREAS, the Legislature is concerned that Family Court
14 judges may not be correctly applying or enforcing section
15 571-46(a)(9)-(14), Hawaii Revised Statutes, to the detriment of
16 domestic violence survivors and their children and ultimately
17 punishing survivors and their children for successfully escaping
18 abusive homes; now, therefore,
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20 BE IT RESOLVED by the Senate of the Twenty-sixth
21 Legislature of the State of Hawaii, Regular Session of 2011, the
22 House of Representatives concurring, that the Office of the
23 Auditor is requested to conduct an audit of a sampling of
24 contested child custody proceedings in which family violence has
25 been alleged to have been committed by a parent and that were
26 heard by the Family Courts during the period from January 1,
27 2004, through December 31, 2010, to assess the application and
28 enforcement of section 571-46(a)(9)-(14), Hawaii Revised
29 Statutes, by the Family Court; and
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31 BE IT FURTHER RESOLVED that the Judiciary is requested to
32 redact the names of all parties, witnesses, attorneys, judges,
33 and other interested persons from all selected custody
34 proceedings to maintain privacy and confidentiality; and
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36 BE IT FURTHER RESOLVED that the Office of the Auditor is
37 requested to submit a report of any findings and recommendations
38 to the Legislature no later than twenty days prior to the
39 convening of the Regular Session of 2012; and
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S.C.R. NO. 137

1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the Chief Justice of the
3 Supreme Court, the Senior Judge of the Family Court, the
4 Administrative Director of the Courts, the Chief Court
5 Administrator of each Circuit, and the State Auditor.
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