
A BILL FOR AN ACT

RELATING TO CAREGIVING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I. JOINT LEGISLATIVE

COMMITTEE ON FAMILY CAREGIVING

SECTION 1. (a) The legislature finds that during the 2007 interim, the joint legislative committee on family caregiving continued its work on creating a comprehensive and sustainable, community-based family caregiver support system that includes:

- (1) A coordinated referral and case management service;
- (2) Centralization of available services;
- (3) Volunteers;
- (4) Education and training; and
- (5) Financial assistance.

During the 2007 interim, the joint legislative committee on family caregiving had the benefit of examining localized studies and surveys, some of which contained preliminary results, which provided concrete evidence of the needs of family caregivers.

The joint legislative committee on family caregiving also had the benefit of looking at what other states have done and are



1 doing in response to the growing concern regarding eldercare
2 issues.

3 (b) The purpose of this part is to:

4 (1) Extend the work of the joint legislative committee on
5 family caregiving for one year and require the
6 committee to submit a report of its findings and
7 recommendations to the legislature prior to the
8 convening of the 2009 regular session;

9 (2) Change the name of the joint legislative committee on
10 family caregiving to the "joint legislative committee
11 on aging in place"; and

12 (3) Require the aging and disability resource center to
13 provide the joint legislative committee with an update
14 on the physical site for the center in Hawaii county
15 and the "virtual" site in the city and county of
16 Honolulu.

17 SECTION 2. Act 285, Session Laws of Hawaii 2006, as
18 amended by Act 204, Session Laws of Hawaii 2007, is amended by
19 amending section 2 to read as follows:

20 "SECTION 2. (a) There is established a joint legislative
21 committee on [~~family caregiving.~~] aging in place. The committee
22 shall be composed of eight members as follows:



1 (1) Four members of the house of representatives,
2 consisting of three members from the majority party
3 and one member from the minority party, who shall be
4 appointed by the speaker of the house of
5 representatives; and

6 (2) Four members of the senate, consisting of three
7 members from the majority party and one member from
8 the minority party, who shall be appointed by the
9 president of the senate.

10 The committee shall select a chairperson from its
11 membership.

12 (b) The joint legislative committee shall develop
13 comprehensive public policy to strengthen support for family
14 caregivers. For purposes of this Act, "family caregiver" means:

15 (1) A person, including a non-relative such as a friend or
16 neighbor, who provides unpaid, informal assistance to
17 a person age sixty and older with physical or
18 cognitive disabilities; and

19 (2) A grandparent who is a caregiver for a grandchild who
20 is age eighteen years or younger, or who is nineteen
21 years of age or older with physical or cognitive
22 limitations.



- 1 (c) The joint legislative committee shall:
- 2 (1) Consider providing support in categories including:
- 3 (A) Coordinated services and policies;
- 4 (B) Training and education;
- 5 (C) Respite services;
- 6 (D) Financial incentives; and
- 7 (E) Balancing work and caregiving; and
- 8 (2) Explore establishing a paid family leave program under
- 9 the state temporary disability insurance law, similar
- 10 to the California Paid Family Leave Program, to
- 11 provide wage replacement benefits to employees who
- 12 take time off from work to care for a seriously ill
- 13 family member.
- 14 (d) The joint legislative committee may explore issues of
- 15 "aging in place" as they relate to family caregiving.
- 16 (e) The Hawaii aging and disability resource center shall
- 17 provide an update to the joint legislative committee of its
- 18 development and implementation of the physical site for the
- 19 center in the county of Hawaii, and the "virtual" site planned
- 20 for the city and county of Honolulu.
- 21 [~~d~~] (f) The joint legislative committee shall seek input
- 22 from the department of health, the department of human services,



1 the department of taxation, the University of Hawaii, the
2 executive office on aging, and the elderly, disability,
3 business, and faith-based communities.

4 [~~(e)~~] (g) The joint legislative committee shall submit its
5 findings and recommendations to the legislature no later than
6 twenty days prior to the convening of the regular sessions of
7 2007 [~~and~~], 2008 [~~-~~], and 2009.

8 [~~(f)~~] (h) The joint legislative committee shall cease to
9 exist on June 30, [~~2008-~~] 2009."

10 **PART II. FINANCIAL ASSISTANCE FOR CAREGIVING**

11 SECTION 3. The cash and counseling program is a national
12 initiative sponsored by the Robert Wood Johnson Foundation; the
13 United States Department of Health and Human Services, Office of
14 the Assistant Secretary for Planning and Evaluation; and the
15 Administration on Aging. Under the program, recipients of
16 medicaid personal care services or home- and community-based
17 services receive a flexible monthly allowance and can decide
18 whom to hire and what services to receive. The program's
19 innovative approach enables participants to direct and manage
20 their personal assistance services according to their own
21 specific needs. Participants can choose a family member or
22 friend, in lieu of an agency worker, to provide the services.



1 They receive counseling and fiscal assistance to help them
2 manage their allowance and responsibilities. The program was
3 first implemented in Arkansas, New Jersey, and Florida, and has
4 since expanded to include other states.

5 During the 2007 interim, the joint legislative committee on
6 family caregiving received information and data related to the
7 family caregivers needs assessment conducted by the executive
8 office on aging, and cash and counseling research conducted by
9 the executive office on aging and the University of Hawaii
10 school of social work. The family caregiver needs assessment
11 indicated that caregivers need more affordable services and
12 financial assistance. The cash and counseling research
13 demonstrated that those states that have cash and counseling
14 programs reported high satisfaction by both caregivers and care
15 recipients and allowed informal caregivers to receive financial
16 recognition for their services.

17 In Hawaii, there are out-of-pocket costs for families to
18 pay for home- and community-based programs that are available
19 for elders and persons with disabilities. The government pays
20 for services for those who have lower incomes and qualify for
21 medicaid. However, a majority of Hawaii's families are
22 ineligible for public assistance and have to carry the financial



1 burdens of caregiving. This leaves a gap in services for those
2 elders of modest means. As a result, this group of individuals
3 has the least coverage in terms of home- and community-based
4 services.

5 The work on cash and counseling being conducted by the
6 executive office on aging and the University of Hawaii school of
7 social work will continue until the end of the 2007-2008 fiscal
8 year. The research conducted to date shows that a cash and
9 counseling program is worth pursuing, and it is essential to
10 continue the work in developing phase two of a cash and
11 counseling project, which can be completed by the end of 2008.

12 SECTION 4. The joint legislative committee on aging in
13 place shall design a cash and counseling project for non-
14 medicaid participants to direct and manage their personal
15 assistance services according to their own specific needs, while
16 enabling family caregivers to receive a level of financial
17 recognition and support. In designing a cash and counseling
18 project, the joint legislative committee on aging in place may
19 consider including a respite care component, a case management
20 component, a separate fiscal agent, a personal care component,
21 and allowing the consumer to be the employer of any service
22 provider, whether an agency or family member.



1 The joint legislative committee on aging in place may
2 contract with a qualified consultant to assist in designing a
3 cash and counseling program.

4 A contract executed pursuant to this section and section 5
5 of this Act shall be exempt from chapter 103D, Hawaii Revised
6 Statutes; provided that the joint legislative committee on aging
7 in place shall endeavor to ensure transparency in the letting of
8 the contract.

9 The project shall include an advisory group to assist with
10 the design of the cash and counseling program. In order to
11 ensure that those who have the greatest need and the fewest
12 resources are able to utilize the program, the advisory group
13 shall examine whether an asset limitation or restriction on
14 consumers shall be implemented in the design of a cash and
15 counseling program.

16 The joint legislative committee on aging in place shall
17 report on the results of its efforts to design a cash and
18 counseling project as part of its report to the legislature
19 pursuant to section 2 of this Act.

20 SECTION 5. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so
22 much thereof as may be necessary for fiscal year 2008-2009 for



1 the joint legislative committee on aging in place, which may
2 contract with a qualified consultant, to design a cash and
3 counseling model, pursuant to section 4 of this Act. The sum
4 appropriated shall be allocated as follows:

5	Senate	\$
6	House of representatives	\$

7 The sum appropriated shall be expended by the senate and
8 house of representatives to assist the joint legislative
9 committee on aging in place for the purposes of this part.

10 **PART III. KUPUNA CARE**

11 SECTION 6. (a) On July 1, 1999, the executive office on
12 aging launched its statewide long-term care program called
13 kupuna care. Kupuna care was developed in partnership with the
14 county area agencies-on-aging to address the growing numbers of
15 elders with long-term care needs.

16 Services provided by kupuna care are intended to help meet
17 the needs of older adults who cannot live at home without
18 adequate help from family or formal services, and includes
19 services such as adult day care, respite care, assisted
20 transportation, attendant care, case management, chore, home
21 delivered meals, homemaker, transportation, and personal care.



1 Kupuna care was designed to assist, not totally support,
2 Hawaii's older adults to live independently, safely, and
3 healthily for as long as possible. The care may cover United
4 States citizens or legal aliens sixty years or older who are not
5 receiving other comparable government assistance, who need help
6 with activities of daily living (eating, dressing, bathing,
7 toileting, transferring, and mobility), or because they have
8 reduced mental capacity, and who are not residing in an
9 institution.

10 Voluntary contributions to the service provider are welcome
11 for any service provided and are used to support the cost of
12 care of additional clients. In addition to the services
13 provided to the elderly, kupuna care also offers services for
14 the family caregivers of their elderly clients. As Hawaii's
15 population ages, many more families will be providing higher
16 levels of long-term care to frail and disabled older adults at
17 home. For many family caregivers, their role as family
18 caregiver arises as suddenly as the care recipient's health
19 declines, leaving the family caregivers with an immediate need
20 for services, but little preparation or education regarding who
21 to contact for assistance or what services are available to
22 them. In addition, the family caregivers may not know who is



1 capable or qualified to provide them with the services that they
2 or the care recipients need. Family caregivers themselves need
3 support services, including training, education, and counseling
4 in areas such as caregiving and dealing with end-of-life issues.

5 In addition, there are emotional, physical, and financial
6 costs of being a family caregiver. The younger family
7 caregivers are often in critical need of finding ways to reduce
8 the stress caused by caregiving. Respite has been shown to
9 reduce stress and other negative consequences of caregiving.
10 The *State of Hawaii Caregivers Need Assessment (2007)* indicates
11 that respite is something that family caregivers need. Besides
12 the everyday stress that respite can relieve, there are times
13 when a family caregiver may unexpectedly be unable to provide
14 the needed caregiving services due to the family caregiver's own
15 illness, accident, or other reasons. At these times, emergency
16 respite care becomes critical.

17 The needs assessment also indicates that family caregivers
18 need financial support as they carry the heavy financial burdens
19 of caring for a loved one. In addition, both family caregivers
20 and care recipients need financial assistance to make necessary
21 home modifications that enable the care recipient to age in
22 place.



1 The legislature finds that the kupuna care program can
2 expand its services and incorporate progressive ways of meeting
3 the growing needs of Hawaii's older adults and allow these
4 individuals to age in place.

5 (b) In addition to current kupuna care operation and
6 services, the purpose of this part is to:

7 (1) Allow the kupuna care program to:

8 (A) Offer emergency, overnight, and weekend respite
9 services;

10 (B) Provide grants for home modifications that
11 facilitate aging in place pursuant to a care plan
12 as part of a cash and counseling approach; and

13 (C) Provide grants to family caregivers pursuant to a
14 care plan as part of a cash and counseling
15 approach; and

16 (2) Increase program funding for kupuna care to ensure
17 that kupuna care continues to maintain the quality of
18 life of Hawaii's older adults and their family
19 caregivers.

20 SECTION 7. The kupuna care program, as administered by the
21 executive office on aging, may, in addition to its current
22 operation and services:



- 1 (1) Offer emergency, overnight, and weekend respite
- 2 services;
- 3 (2) Provide grants for home modifications that facilitate
- 4 aging in place pursuant to a care plan as part of a
- 5 cash and counseling approach; and
- 6 (3) Provide grants to family caregivers pursuant to a care
- 7 plan as part of a cash and counseling approach.

8 SECTION 8. There is appropriated out of the general
 9 revenues of the State of Hawaii the sum of \$ or so much
 10 thereof as may be necessary for fiscal year 2008-2009 to address
 11 the kupuna care program waitlist and for the expansion of the
 12 kupuna care program, in general.

13 The sum appropriated shall be expended by the executive
 14 office on aging for the purposes of this Act.

15 **PART IV. GRANDPARENTS RAISING GRANDCHILDREN TASK FORCE**

16 SECTION 9. (a) Act 204, Session Laws of Hawaii 2007 (Act
 17 204), expanded the mandate of the joint legislative committee on
 18 family caregiving by including grandparents of children aged
 19 eighteen years and younger, or nineteen years of age or older
 20 with physical or cognitive limitations, in Act 204's definition
 21 of family caregiver. The revised definition is now more
 22 consistent with the scope of the National Family Caregiver



1 Support Program. Act 204 also required the joint legislative
2 committee to examine the issues facing this population of
3 grandparents raising grandchildren.

4 Since then, numerous government agencies have testified
5 before the joint legislative committee regarding how the
6 agencies identify and address the needs of grandparents raising
7 grandchildren. In addition, the executive office on aging
8 presented the *2007 Needs Assessment of Grandparents Raising*
9 *Grandchildren in the State of Hawaii*, prepared by the University
10 of Hawaii department of family and consumer science.

11 The needs assessment indicates that, in Hawaii, more than
12 fourteen thousand grandparents are the primary caregivers for
13 more than thirty-three thousand grandchildren, and that these
14 numbers are expected to grow. While there is a wide range of
15 service needs within this population, the most often-cited are
16 those that relate to children's programs, financial assistance,
17 respite, and grandparents' rights. Many of these services are
18 available, but barriers are preventing grandparents from
19 accessing them. Barriers may include a lack of information
20 regarding the availability of services, a lack of services in a
21 particular county, or legal or financial impediments. For
22 instance, in focus groups, some grandparents expressed a fear of



1 losing their grandchildren. Others identified a need for an
2 advocate or case worker to help guide them to the services and
3 through the various systems.

4 (b) The legislature finds that the needs assessment
5 provides critical demographic information and feedback regarding
6 what programs and services grandparents require to care for
7 their grandchildren. The findings indicate that the population
8 of grandparents raising grandchildren faces particular
9 challenges, different in some ways from the general caregiver
10 population, and should have a focused task force to specifically
11 address those concerns. The legislature further finds that a
12 comprehensive, coordinated effort is needed to identify:

- 13 (1) The services that exist to meet the identified needs;
14 (2) Any service deficiencies;
15 (3) Barriers that prevent grandparents from accessing
16 services; and
17 (4) What can be done to facilitate the provision of
18 services to grandparents raising grandchildren.

19 (c) The purpose of this part is to establish a task force
20 to focus specifically on the needs and issues of grandparents
21 raising grandchildren.



1 SECTION 10. (a) There is established a grandparents
2 raising grandchildren task force to focus on the needs and
3 issues of grandparents raising grandchildren. The task force
4 shall consist of a representative of:

- 5 (1) The University of Hawaii, center on aging research and
6 education, to serve as co-chair;
- 7 (2) The University of Hawaii, college of tropical
8 agriculture and human resources, to serve as co-chair;
- 9 (3) The department of education;
- 10 (4) The department of human services;
- 11 (5) The department of health, executive office on aging;
- 12 (6) The department of public safety;
- 13 (7) The judiciary;
- 14 (8) The department of the attorney general, child support
15 enforcement agency;
- 16 (9) Each area office on aging;
- 17 (10) The policy advisory board for elder affairs;
- 18 (11) Na Tutu Coalition;
- 19 (12) Queen Lili'uokalani Children's Center;
- 20 (13) Legal Aid Society of Hawaii;
- 21 (14) Volunteer Legal Services Hawaii;
- 22 (15) Partners in Development; and



- 1 (16) An individual who is a grandparent.
- 2 (b) In assessing the needs and issues of grandparents
- 3 raising grandchildren, the task force shall, among other things:
- 4 (1) Review the 2007 *Needs Assessment of Grandparents*
- 5 *Raising Grandchildren in the State of Hawaii*, prepared
- 6 by the University of Hawaii, department of family and
- 7 consumer science;
- 8 (2) Review the most recent *Four Year State Plan on Aging*
- 9 submitted to the United States Administration on Aging
- 10 by the executive office on aging and the area agencies
- 11 on aging;
- 12 (3) Review the testimony of the various agencies submitted
- 13 to the joint legislative committee on family
- 14 caregiving at its hearing on August 16, 2007,
- 15 regarding issues facing grandparents raising
- 16 grandchildren;
- 17 (4) Review laws relating to issues of grandparents raising
- 18 grandchildren, including:
- 19 (A) Section 302A-482, Hawaii Revised Statutes,
- 20 regarding the affidavit for caregiver consent,
- 21 which permits a caregiver, under certain
- 22 circumstances, to enroll a minor in school and



- 1 consent to participation in curricular and
2 co-curricular activities;
- 3 (B) Chapters 571, Hawaii Revised Statutes, regarding
4 child custody and support; and
- 5 (C) Chapter 587, Hawaii Revised Statutes, regarding
6 child protective services;
- 7 (5) The memorandum prepared by the department of education
8 to guide school personnel when enrolling students who
9 reside with caregivers;
- 10 (6) Review the support and services offered to caregivers
11 by the department of education through its
12 comprehensive student support system;
- 13 (7) Investigate whether a need arises when a minor
14 residing, formally or informally, with a grandparent
15 requires consent for medical service, including when a
16 student needs consent for programs and services under
17 the federal Individuals with Disabilities Act or
18 Section 504 of the Rehabilitation Act of 1973;
- 19 (8) Investigate the issues that arise when a minor
20 residing formally or informally with a grandparent is
21 returned to the custody of a parent;



- 1 (9) Investigate any housing issues that may arise when a
2 grandparent is raising a grandchild, particularly when
3 the grandparent resides in senior housing, and
4 identify any state or federal laws or rules that would
5 render a grandparent cohabiting with a grandchild
6 ineligible for housing under a particular scheme;
- 7 (10) Review how each area office on aging allocates the
8 federal funds it receives under the National Family
9 Caregiver Support Program for grandparent programs;
- 10 (11) Identify the agencies that collect data relating to
11 grandparents raising grandchildren and whether the
12 data can be more comprehensive, uniform, and readily
13 available or exchanged; and
- 14 (12) Identify legal needs and whether these needs are being
15 adequately addressed.
- 16 (c) The task force on grandparents raising grandchildren
17 shall submit an interim report to the legislature and the joint
18 legislative committee on aging in place no later than twenty
19 days prior to the convening of the 2009 regular session and a
20 final report to the legislature and the joint legislative
21 committee on aging in place no later than twenty days prior to



1 June 30, 2009. The final report shall include, to the greatest
2 extent possible:

- 3 (1) A list of the services that exist in each county to
- 4 meet grandparents' identified needs;
- 5 (2) A discussion of service deficiencies in each county;
- 6 (3) A discussion of identifiable barriers that prevent
- 7 grandparents from accessing services;
- 8 (4) A summary of the task force's work and any findings
- 9 regarding the task force's responsibilities as
- 10 detailed in section 11(b) of this Act; and
- 11 (5) Recommendations, including any proposed legislation.
- 12 (d) The task force shall cease to exist on June 30, 2009.

13 **PART V. RESPITE CARE**

14 SECTION 11. The joint legislative committee on family
 15 caregiving has been diligent in its role to strengthen support
 16 to family caregivers through respite care. The legislative
 17 reference bureau conducted a study pursuant to House Concurrent
 18 Resolution No. 187, Session Laws of Hawaii 2007, regarding how
 19 other states address the issue of respite care. The report
 20 indicates that respite is beneficial in ameliorating stress and
 21 other negative consequences of caregiving. Additionally, a
 22 comprehensive family caregiver needs assessment conducted



1 pursuant to Act 204, Session Laws of Hawaii 2007, indicated that
2 respite care is one of the top choices of assistance that
3 caregivers feel would be helpful.

4 Respite care can relieve the everyday stress of providing
5 round-the-clock care. However, there are times when emergency
6 respite care becomes critical when a family caregiver is
7 unexpectedly unable to provide care because of illness, an
8 accident, or other reasons.

9 The legislature finds that more needs to be done to
10 determine the full inventory of respite care providers and the
11 specific types of respite care provided in the State. The types
12 of respite care can include planned respite care, short term
13 respite, or emergency respite care. Additionally, although
14 respite services may be available, caregivers are not always
15 aware that these services are offered or may not know where to
16 go to seek assistance.

17 The purpose of this part is to appropriate funds to the
18 executive office on aging to continue its respite inventory
19 project pursuant to House Concurrent Resolution No. 187 (2007),
20 in collaboration with the University of Hawaii school of social
21 work.



1 SECTION 12. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2008-2009 in
4 order for the executive office on aging, in collaboration with
5 the University of Hawaii school of social work, to:

6 (1) Continue to conduct an inventory of respite services
7 in Hawaii;

8 (2) Propose a definition of "respite care";

9 (3) Establish more detailed descriptions of each of the
10 various types of respite services provided in the
11 State; and

12 (4) Review the legislative reference bureau's 2007 report
13 on respite policies in other states to identify the
14 most promising approaches for Hawaii to support
15 expanding respite services, including how much support
16 is financed, what types of respite are provided and to
17 whom, and who performs the respite services.

18 The sum appropriated shall be expended by the department of
19 health, executive office on aging, for the purposes of this
20 part.

21 SECTION 13. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 14. This Act shall take effect on June 30, 2008;
2 provided that sections 5, 8, and 12 shall take effect on
3 July 1, 2008.



Report Title:

Joint Legislative Committee on Family Caregiving; Kupuna Care; Grandparents Raising Grandchildren Task Force; Respite Care; Appropriations

Description:

Extends the joint legislative committee on family caregiving; changes the committee's name to the joint legislative committee on aging in place; expands the committee's mandate to include aging in place issues related to family caregiving; requires the aging and disability resource center to report to the committee; requires the joint legislative committee to develop a model for a cash and counseling project; appropriates funds to the joint legislative committee; allows kupuna care to include overnight, weekend, and emergency respite, as well as provide grants to caregivers and for home modification; appropriates funds to the kupuna care program; establishes a task force to focus on the needs and issues of grandparents raising grandchildren; appropriates funds to the executive office on aging to continue its respite inventory project in collaboration with the University of Hawaii. (SB2830 SD2)

