

FEB 29 2008

SENATE CONCURRENT RESOLUTION

ESTABLISHING A TASK FORCE TO DEVELOP LEGISLATION FOR UNIVERSAL
LAW CARE AND IMPROVED ACCESS TO JUSTICE.

1 WHEREAS, every person in Hawaii deserves access to
2 affordable, quality legal services and care; and

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4 WHEREAS, according to a 2007 assessment funded by the
5 Hawaii Justice Foundation and the Hawaii State Bar Association,
6 many Hawaii residents face critical legal needs without being
7 able to obtain an attorney, including protection from domestic
8 abuse, securing affordable housing, family stability, living in
9 a safe and secure home, access to healthcare, and income
10 support; and

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12 WHEREAS, in Hawaii there is only one legal services
13 attorney for every 2,291 persons living below 125 percent of the
14 federal poverty guideline; and

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16 WHEREAS, since 1997, the number of domestic violence
17 protective orders filed has risen 62.78 percent from 2,859 to
18 4,654 in 2006.

19
20 WHEREAS, legal services providers are able to help only one
21 in three of those who contact them for assistance; and

22
23 WHEREAS, only one in five low and moderate-income Hawaii
24 residents have their legal needs met; and

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26 WHEREAS, legal service providers have inadequate resources
27 to assist the indigent and disadvantaged due to the high cost of
28 legal services and litigation as well as the high volume of
29 requests; and

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31 WHEREAS, unlike emergency room doctors, who are required to
32 care for persons in medical need regardless of their ability to



1 pay, lawyers are not required to provide civil legal services to
2 the indigent and disadvantaged in times of great legal need.

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4 WHEREAS, absent the assistance of legal service providers
5 or pro bono volunteers, the indigent and disadvantaged are
6 unable to gain adequate access to legal services and litigation;
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8 WHEREAS, lawyers should ensure that all members of the
9 public have equal redress to the courts for resolution of their
10 disputes and access to lawyers when legal services are
11 necessary; now, therefore,
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13 BE IT RESOLVED by the Senate of the Twenty-fourth
14 Legislature of the State of Hawaii, Regular Session of 2008, the
15 House of Representatives concurring, that a task force be
16 convened to develop legislation that provides for universal law
17 care and improved access to justice by creating new funding
18 sources for legal services to the indigent and disadvantaged;
19 and
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21 BE IT FURTHER RESOLVED that the task force be composed of
22 the following members:
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- 24 (1) The Attorney General, or the Attorney General's
25 designee;
- 26
27 (2) A representative of the appellate judges of Hawaii, to
28 be selected by the Chief Justice;
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30 (3) A representative of the Hawaii State Bar Association;
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32 (4) A representative of the Legal Aid Society of Hawaii;
33 and
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35 (5) A representative of the general public who is not an
36 attorney, to be appointed by the Governor; and
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38 BE IT FURTHER RESOLVED that the proposed legislation
39 include provisions for the split recovery of punitive damages,
40 providing that upon the entry of a verdict including an award of
41 punitive damages, the State shall become a judgment creditor as
42 to the punitive damages portion of the award and the punitive
43 damages portion of the award shall be allocated as follows:
44



- 1 (1) 75 percent shall be paid to the prevailing party;
- 2
- 3 (2) The attorney for the prevailing party shall be paid
- 4 out of the amount allocated to the prevailing party,
- 5 in the amount agreed upon between the attorney and the
- 6 prevailing party, although in no event may more than
- 7 13 percent of the amount awarded as punitive damages
- 8 be paid to the attorney for the prevailing party; and
- 9
- 10 (3) 25 percent of the punitive damages awarded shall be
- 11 deposited into the indigent legal assistance fund
- 12 established under section 607-5.7, Hawaii Revised
- 13 Statutes, or a comparable state fund established to
- 14 support legal services to the indigent and
- 15 disadvantaged; and
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17 BE IT FURTHER RESOLVED that the proposed legislation
18 include provisions that require a legal services fee of \$50 be
19 paid annually by each attorney with an active license to
20 practice law in the State, and that such provisions further
21 include that:

- 22
- 23 (1) The state licensing authority shall not renew or
- 24 reinstate, or shall deny or suspend any license or
- 25 application, of any attorney with an active license
- 26 who fails to pay the mandatory legal services fee;
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- 28 (2) Mandatory legal services fees collected shall be
- 29 deposited into the indigent legal assistance fund
- 30 established under section 607-5.7, Hawaii Revised
- 31 Statutes, or a comparable state fund established to
- 32 support legal services to the indigent and
- 33 disadvantaged; and
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- 35 (3) The mandatory legal services fee shall be administered
- 36 by the Hawaii Supreme Court; and
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38 BE IT FURTHER RESOLVED that that the Task Force is
39 requested to submit proposed legislation and a report of its
40 discussions, and any findings and recommendations, to the
41 Legislature no later than 20 days prior to the convening of the
42 Regular Session of 2009; and

43



S.C.R. NO. 90

1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the Governor, the Senate
3 President, the Attorney General, the Board of Directors of the
4 Legal Aid Society of Hawaii, the President of the Hawaii State
5 Bar Association, and the Chief Justice.

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OFFERED BY:

