

MAR 11 2021

SENATE CONCURRENT RESOLUTION

REQUESTING THE DIRECTOR OF LABOR AND INDUSTRIAL RELATIONS TO
CONVENE A TASK FORCE ON PAID FAMILY LEAVE.

1 WHEREAS, most workers, at some point in life, will need to
2 take time off from work to care for an ill family member; and
3

4 WHEREAS, under the federal Family and Medical Leave Act of
5 1993, as amended (FMLA), certain employees who work for
6 employers with fifty or more employees are eligible for up to
7 twelve weeks of unpaid job-protected leave for qualifying
8 reasons such as a serious health condition of the employee that
9 makes the employee unable to perform the functions of the
10 employee's job; to care for the employee's spouse, son,
11 daughter, or parent with a serious health condition; qualifying
12 exigency arising out of the fact that the employee's spouse,
13 son, daughter, or parent is a military member on covered active
14 duty; the birth of a child and to bond with the newborn child;
15 and placement with the employee of a child for adoption or
16 foster care and to bond with the newly placed child; and
17

18 WHEREAS, under chapter 398, Hawaii Revised Statutes, aka
19 the Hawaii Family Leave Law (HFLL), certain employees who work
20 for employers with one hundred or more employees are eligible
21 for up to four weeks of unpaid job-protected leave (family
22 leave) for qualifying reasons such as the birth of a child of
23 the employee or the adoption of a child; and to care for the
24 employee's child, spouse, reciprocal beneficiary, sibling,
25 grandchild, or parent with a serious health condition; and
26

27 WHEREAS, the family leave provided under the FMLA and HFLL
28 is unpaid, and as of March 2018, only seventeen percent of
29 workers in the United States had access to paid family leave
30 through their employers; and
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32 WHEREAS, ALICE (Asset Limited, Income Constrained,
33 Employed) in Hawai'i: A Financial Hardship Study, published by



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1 the Aloha United Way in 2020, reports that despite the steady
2 economic improvements in Hawaii from 2010 to 2018, during which
3 the gross domestic product grew, unemployment rate fell to
4 historic lows, and wages rose, almost half of the families in
5 Hawaii were struggling to make ends meet in 2018; and

6
7 WHEREAS, with such financial constraints, a majority of
8 Hawaii's workforce cannot afford to take unpaid leave for family
9 caregiving purposes, such as to care for a family member with a
10 serious health condition or to bond with a new child; and

11
12 WHEREAS, the AARP Public Policy Institute reported in
13 November 2019 that as of 2017, there were approximately 157,000
14 unpaid family caregivers in Hawaii, and while the majority of
15 family caregivers are women, there is a growing trend for men,
16 especially adult sons, to take on family caregiving tasks for
17 the health and functional needs of their aging parents, other
18 older relatives, or close friends, and forty-four percent of all
19 male family caregivers report moderate to high financial strain
20 as a result of caregiving; and

21
22 WHEREAS, the need for leave to care for elderly family
23 members in Hawaii is expected to increase, as the Department of
24 Business, Economic Development, and Tourism projected in June
25 2018, that the percentage of residents aged sixty-five years and
26 older, which constituted 14.5 percent of the State's population
27 in 2010, is expected to rise to 19.1 percent in 2020, and to
28 22.6 percent in 2030; and

29
30 WHEREAS, as of January 2021, nine states – California,
31 Colorado, Connecticut, Massachusetts, New Jersey, New York,
32 Oregon, Rhode Island, and Washington – and the District of
33 Columbia have enacted paid family and medical leave laws; and

34
35 WHEREAS, section 7602(c) of the Federal Employee Paid Leave
36 Act, as provided in the National Defense Authorization Act for
37 Fiscal Year 2020 (P.L. 116-92), amended portions of the FMLA to
38 allow certain covered federal civilian employees up to twelve
39 weeks of paid parental leave in connection with the birth of a
40 child or placement of a child for adoption or foster care
41 occurring on or after October 1, 2020; and



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1 WHEREAS, in Act 109, Session Laws of Hawaii 2018, the
 2 Legislature, as groundwork to establish a paid family leave
 3 framework that will allow all employees in Hawaii access to
 4 leave benefits during times when leave is needed for family
 5 caregiving purposes, required the Legislative Reference Bureau
 6 (LRB) to analyze the impacts of establishing a paid family leave
 7 program on industry, consumers, employees, employers, and
 8 caregivers that would enable the Legislature to choose a model
 9 or framework that will work best for Hawaii's workforce; and

10
 11 WHEREAS, in December 2019, the LRB issued its Paid Family
 12 Leave Program Impact Study (PFL Study), which projected the
 13 costs and staffing required to establish and maintain a paid
 14 family leave system in Hawaii under three social insurance
 15 models that differ in the role the State plays – (1) a system
 16 funded exclusively by the State, such as a state-administered
 17 insurance fund; (2) a system that allows private plans to opt-
 18 out; and (3) a system in which the State's role is limited to
 19 governance of a system that is highly regulated and reliant on
 20 private markets or an insurance fund, or an employer mandate,
 21 such as the State's Temporary Disability Insurance (TDI) program
 22 – as follows:

23

	State System Funded Exclusively by State	State System with Opt-Out for Private Plans	Highly Regulated Private Market, Insurance Fund, or Employer Mandate
Start-up Cost	\$1,100,000	\$1,100,000	\$660,000
On-Going Support Cost	\$2,624,000	\$2,618,000	\$1,103,000
Support Staffing	22.5 people	22 people	7.5 people ; and

24
 25 WHEREAS, the PFL Study further reported that regardless of
 26 which paid family leave model is adopted, there are pertinent
 27 policy aspects that will need to be determined, such as the
 28 benefit amount and wage replacement ratio; length of leave
 29 (including maximum weeks) for bonding and family caregiving;
 30 employer eligibility (e.g., public employers, employer size,



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1 self-employed); employee eligibility (e.g., minimum time worked
2 or minimum earnings achieved); qualifying events; covered family
3 relationships; whether to provide job protection; interaction
4 with the State's TDI program; funding; administrative structure;
5 and claims management; now, therefore,

6
7 BE IT RESOLVED by the Senate of the Thirty-first
8 Legislature of the State of Hawaii, Regular Session of 2021, the
9 House of Representatives concurring, that the Director of Labor
10 and Industrial Relations is requested to convene a task force to
11 study, design, and develop a paid family leave pilot program
12 (PFL Pilot Program) with coverage limited to certain employers
13 and employees to be established and implemented by the
14 Department of Labor and Industrial Relations as a trial program
15 that could eventually be expanded to cover all public and
16 private sector workers in the State; and

17
18 BE IT FURTHER RESOLVED that the task force is requested to
19 include the following as members:

- 20
21 (1) The Director of Labor and Industrial Relations or the
22 Director's designee, who is requested to serve as the
23 chairperson of the task force;
24
25 (2) The Director of Human Resources Development or the
26 Director's designee;
27
28 (3) The Director of Finance or the Director's designee;
29
30 (4) The Attorney General or the Attorney General's
31 designee;
32
33 (5) The Mayor of the County of Hawaii or the Mayor's
34 designee;
35
36 (6) The Mayor of the County of Maui or the Mayor's
37 designee;
38
39 (7) The Mayor of the City and County of Honolulu or the
40 Mayor's designee;
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- 1 (8) The Mayor of the County of Kauai or the Mayor's
2 designee;
- 3
- 4 (9) A representative of a children's advocacy organization
5 in Hawaii to be appointed by the Speaker of the House
6 of Representatives;
- 7
- 8 (10) A representative of a women's advocacy organization in
9 Hawaii to be appointed by the Senate President;
- 10
- 11 (11) Two representatives from public sector labor
12 organizations in Hawaii, one to be appointed by the
13 Senate President and one to be appointed by the
14 Speaker of the House of Representatives;
- 15
- 16 (12) A representative from private sector labor
17 organizations in Hawaii to be appointed by the
18 Governor;
- 19
- 20 (13) A representative of the Hawaii insurance industry to
21 be appointed by the Governor;
- 22
- 23 (14) A representative of business organizations in Hawaii
24 to be appointed by the Senate President; and
- 25
- 26 (15) A representative of small business organizations in
27 Hawaii to be appointed by the Speaker of the House of
28 Representatives; and

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30 BE IT FURTHER RESOLVED that the task force may invite
31 additional organizations or agencies to participate in the task
32 force; and

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34 BE IT FURTHER RESOLVED that the task force is requested to
35 submit a report describing the progress made by the task force,
36 its findings and recommendations, including any proposed
37 legislation, to the Legislature no later than twenty days prior
38 to the convening of the Regular Session of 2022; and

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40 BE IT FURTHER RESOLVED that the report submitted by the
41 task force to the Legislature is requested to include:

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- 1 (1) Data on the amount of leave generally taken or if
2 there is no such data, the amount of leave deemed
3 generally necessary by health care providers for
4 qualifying reasons that are not based on the serious
5 health condition of the employee or the employee's
6 family members, such as the amount of leave taken for
7 the birth of a child or placement of a child for
8 adoption or foster care under the FMLA and HFLL and
9 leave taken to bond with a newly born or newly placed
10 child under the FMLA;
11
- 12 (2) Identification of issues related to the establishment
13 and implementation of the PFL Pilot Program;
14
- 15 (3) Recommendations for the basic structure of the PFL
16 Pilot Program, including but not limited to its
17 coverage of employers such as industry sectors and
18 geographic regions (counties), eligibility criteria
19 for employees (e.g., minimum time worked or earnings
20 achieved); benefit amount and wage replacement ratio;
21 length of leave (including maximum weeks) for bonding
22 and family caregiving; qualifying events; covered
23 family relationships; whether to provide job
24 protection; interaction with the State's TDI program;
25 administrative structure; and claims management;
26
- 27 (4) Impacts and estimated costs of establishing and
28 implementing the PFL Pilot Program, including but not
29 limited to the fiscal and administrative impacts on
30 the State and the impacts on public sector collective
31 bargaining and civil service law;
32
- 33 (5) Description of the opportunities and challenges of
34 expanding the PFL Pilot Program to Hawaii's entire
35 workforce (Hawaii PFL Program); and
36
- 37 (6) Proposed legislation for the PFL Pilot Program and
38 Hawaii PFL Program; and
39

40 BE IT FURTHER RESOLVED that certified copies of this
41 Concurrent Resolution be transmitted to the Governor, Director
42 of Labor and Industrial Relations, Director of Human Resources



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1 Development, Director of Finance, Attorney General, Mayor of the
2 County of Hawaii, Mayor of the County of Maui, Mayor of the City
3 and County of Honolulu, and Mayor of the County of Kauai.

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OFFERED BY:



