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## HOUSE CONCURRENT RESOLUTION

REQUESTING THE JUDICIARY TO CONVENE A TASK FORCE TO REVIEW THE  
FAMILY COURT'S JUDICIAL WAIVER PROCESS INVOLVING JUVENILE  
FELONY DEFENDANTS.

1           WHEREAS, the Family Court has exclusive original  
2 jurisdiction in proceedings involving a felony act allegedly  
3 committed by a juvenile under the age of eighteen pursuant to  
4 section 571-11, Hawaii Revised Statutes; and

5  
6           WHEREAS, if the juvenile was between the age of fourteen  
7 and eighteen at the time the act was allegedly committed, the  
8 Family Court can waive its jurisdiction and order the juvenile  
9 held for criminal proceedings pursuant to section 571-22, Hawaii  
10 Revised Statutes; and

11  
12           WHEREAS, however, the Family Court must complete a full  
13 investigation and hearing to determine whether certain criteria  
14 exist to warrant excluding the juvenile from the juvenile  
15 justice system; and

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17           WHEREAS, while there are thousands of juvenile criminal  
18 cases annually, there have been only about one hundred judicial  
19 waiver requests over the past ten years; and

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21           WHEREAS, questions and concerns have arisen regarding the  
22 Family Court's judicial waiver process that require review; and

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24           WHEREAS, it is important to periodically examine the Family  
25 Court's judicial waiver process to determine whether it is  
26 adequately protecting not only juveniles, but the community as  
27 well; now, therefore,

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29           BE IT RESOLVED by the House of Representatives of the  
30 Twenty-fourth Legislature of the State of Hawaii, Regular  
31 Session of 2008, the Senate concurring, the Judiciary is



1 requested to convene a task force to review the Family Court's  
2 judicial waiver process involving juvenile felony defendants;  
3 and  
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5 BE IT FURTHER RESOLVED that in convening the task force,  
6 the Judiciary is requested to include at least one  
7 representative each of the: Judiciary, Department of the  
8 Attorney General, Office of the Public Defender, Department of  
9 Human Services, Office of Youth Services, Office or Department  
10 of the Prosecuting Attorney of each county, and Hawaii State Bar  
11 Association in private practice with criminal defense  
12 experience; and  
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14 BE IT FURTHER RESOLVED that in reviewing the Family Court's  
15 judicial waiver process involving juvenile felony defendants,  
16 the task force, among other things, is requested to:  
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- 18 (1) Examine the application of evidence that a juvenile is  
19 committable to an institution for the mentally  
20 defective or retarded or the mentally ill used to bar  
21 a judicial waiver;  
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- 23 (2) Identify concerns that arise during the Family Court's  
24 judicial waiver process that affect the rights and  
25 likelihood of reasonable rehabilitation of a juvenile,  
26 as well as affect the prospects for adequate  
27 protection of the public;  
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- 29 (3) Examine relevant procedural issues such as findings of  
30 adulthood, and the transfer of cases from the Family  
31 Court to District or Circuit Criminal Court;  
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- 33 (4) Identify any circumstances that may be suitable for an  
34 "automatic judicial waiver";  
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- 36 (5) Consider the need for speedy processing, disposition,  
37 and ruling on the matter of judicial waiver;  
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- 39 (6) Examine the judicial waiver process involving juvenile  
40 felony defendants in other states;  
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- 42 (7) Recommend possible statutory amendments to address  
43 issues and concerns; and  
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1 (8) Meet at least twice monthly; and


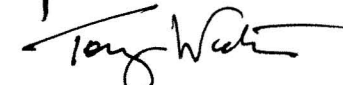
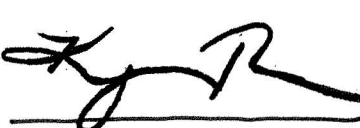
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BE IT FURTHER RESOLVED that the Judiciary is requested to provide administrative, professional, technical, and clerical support to the task force; and

BE IT FURTHER RESOLVED that the Judiciary is requested to submit a report of the task force's findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the 2009 Regular Session; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chief Justice of the Supreme Court, Senior Judge of the Family Court, Attorney General, Public Defender, Executive Director of the Office of Youth Services, the prosecuting attorney of each county, and the President of the Hawaii State Bar Association.

OFFERED BY:

  
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