THE SENATE TWENTY-FOURTH LEGISLATURE, 2008 STATE OF HAWAII

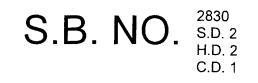
S.B. NO. 2830 S.D. 2 H.D. 2 C.D. 1

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A BILL FOR AN ACT

RELATING TO CAREGIVING.

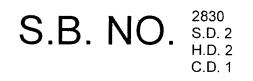
	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:
1	PART I. JOINT LEGISLATIVE COMMITTEE
2	ON FAMILY CAREGIVING
3	SECTION 1. (a) The legislature finds that during the 2007
4	interim, the joint legislative committee on family caregiving
5	continued its work on creating a comprehensive and sustainable,
6	community-based family caregiver support system that includes:
7	(1) A coordinated referral and case management service;
8	(2) Centralization of available services;
9	(3) Volunteers;
10	(4) Education and training; and
11	(5) Financial assistance.
12	During the 2007 interim, the joint legislative committee
13	examined localized studies and surveys, some of which contained
14	preliminary results, which provided concrete evidence of the
15	needs of family caregivers. The joint legislative committee
16	also studied what other states have done and are doing in
17	response to the growing concern regarding eldercare issues.



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1	(b)	The purpose of this part is to:
2	(1)	Extend the work of the joint legislative committee on
3		family caregiving for one year and require the
4		committee to submit a report of its findings and
5		recommendations to the legislature prior to the
6		convening of the 2009 regular session;
7	(2)	Change the name of the joint legislative committee on
8		family caregiving to the "joint legislative committee
9		on aging in place"; and
10	(3)	Require the aging and disability resource center to
11		provide the joint legislative committee with an update
12		on the physical site for the center in Hawaii county
13		and the "virtual" site in the city and county of
14		Honolulu.
15	SECTI	ION 2. Act 285, Session Laws of Hawaii 2006, as
16	amended by	/ Act 204, Session Laws of Hawaii 2007, is amended by
17	amending s	section 2 to read as follows:
18	"SECI	TION 2. (a) There is established a joint legislative
19	committee	on [family caregiving.] aging in place. The committee
20	shall be c	composed of eight members as follows:
21	(1)	Four members of the house of representatives,
22		consisting of three members from the majority party

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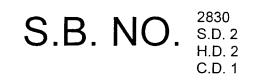
1		and one member from the minority party, who shall be
2		appointed by the speaker of the house of
3		representatives; and
4	(2)	Four members of the senate, consisting of three
5		members from the majority party and one member from
6		the minority party, who shall be appointed by the
7		president of the senate.
8	The	committee shall select a chairperson from its
9	membersh	ip.
10	(b)	The joint legislative committee shall develop
11	compreher	nsive public policy to strengthen support for family
12	caregiver	rs. For purposes of this Act, "family caregiver" means:
13	(1)	A person, including a non-relative such as a friend or
14		neighbor, who provides unpaid, informal assistance to
15		a person age sixty and older with physical or
16		cognitive disabilities; and
17	(2)	A grandparent who is a caregiver for a grandchild who
18		is age eighteen years or younger, or who is nineteen
19		years of age or older with physical or cognitive
20		limitations.
21	(c)	The joint legislative committee shall:
22	(1)	Consider providing support in categories including:

(1) Consider providing support in categories including:

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1		(A)	Coordinated services and policies;
2		(B)	Training and education;
3		(C)	Respite services;
4		(D)	Financial incentives; and
5		(E)	Balancing work and caregiving; [and]
6		and	
7	(2)	Expl	ore establishing a paid family leave program under
8		the	state temporary disability insurance law, similar
9		to t	he California Paid Family Leave Program, to
10		prov	ide wage replacement benefits to employees who
11		take	time off from work to care for a seriously ill
12		fami	ly member.
13	(d)	The	joint legislative committee may explore issues of
14	"aging in	plac	e" as they relate to family caregiving.
15	(e)	The	Hawaii aging and disability resource center shall
16	provide a	n upd	ate to the joint legislative committee of its
17	developme	nt an	d implementation of the physical site for the
18	<u>center in</u>	the	county of Hawaii, and the "virtual" site planned
19	for the c	ity a	nd county of Honolulu.
20	[(d)]] <u>(f)</u>	The joint legislative committee shall seek input
21	from the o	depart	ment of health, the department of human services,
22	the depart	rment	of taxation, the University of Hawaii, the
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1	executive office on aging, and the elderly, disability,			
2	business, and faith-based communities.			
3	[(c)] <u>(g)</u> The joint legislative committee shall submit its			
4	findings and recommendations to the legislature no later than			
5	twenty days prior to the convening of the regular sessions of			
6	2007 [and] , 2008 [-] , and 2010.			
7	$\left[\frac{f}{f}\right]$ (h) The joint legislative committee shall cease to			
8	exist on June 30, [2008.] <u>2010.</u> "			
9	PART II. FINANCIAL ASSISTANCE FOR CAREGIVING			
10	SECTION 3. The cash and counseling program is a national			
11	initiative sponsored by the Robert Wood Johnson Foundation; the			
12	United States Department of Health and Human Services, Office of			
13	the Assistant Secretary for Planning and Evaluation; and the			
14	Administration on Aging. Under the program, recipients of			
15	medicaid personal care services or home- and community-based			
16	services receive a flexible monthly allowance and can decide			
17	whom to hire and what services to receive. The program's			
18	innovative approach enables participants to direct and manage			
19	their personal assistance services according to their own			
20	specific needs. Participants can choose a family member or			
21	friend, in lieu of an agency worker, to provide the services.			
22	They receive counseling and fiscal assistance to help them			
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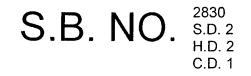
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manage their allowance and responsibilities. The program was
 first implemented in Arkansas, New Jersey, and Florida, and has
 since expanded to include other states.

During the 2007 interim, the joint legislative committee on 4 family caregiving received information and data related to the 5 family caregiver needs assessment conducted by the executive 6 7 office on aging, and cash and counseling research conducted by 8 the executive office on aging and the University of Hawaii school of social work. The family caregiver needs assessment 9 10 indicated that caregivers need more affordable services and 11 financial assistance. The cash and counseling research 12 demonstrated that those states that have cash and counseling programs reported high satisfaction by both caregivers and care 13 14 recipients and allowed informal caregivers to receive financial 15 recognition for their services.

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

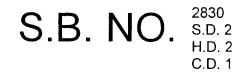
22 burdens of caregiving. This leaves a gap in services for those



elders of modest means. As a result, this group of individuals
 has the least coverage in terms of home- and community-based
 services.

The work on cash and counseling being conducted by the 4 5 executive office on aging and the University of Hawaii school of 6 social work will continue until the end of the 2007-2008 fiscal The research conducted to date shows that a cash and 7 vear. counseling project is worth pursuing, and it is essential to 8 continue the work in developing phase two of a cash and 9 10 counseling project, which can be completed by the end of 2008. 11 The executive office on aging shall design a SECTION 4. 12 cash and counseling project for non-medicaid participants to 13 direct and manage their personal assistance services according 14 to their own specific needs, while enabling family caregivers to 15 receive a level of financial recognition and support. In designing a cash and counseling project, the executive office on 16 aging may consider including a respite care component, a case 17 management component, a separate fiscal agent, a personal care 18 19 component, and allowing the consumer to be the employer of any 20 service provider, whether an agency or family member.

The executive office on aging may contract with a qualifiedconsultant to assist in designing a cash and counseling project.



1 The project shall include an advisory group to assist with 2 the design of the cash and counseling project. To ensure that 3 those who have the greatest need and the fewest resources are 4 able to use the program, the advisory group shall examine 5 whether an asset limitation or restriction on consumers shall be 6 implemented in the design of a cash and counseling project.

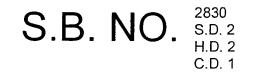
7 The executive office on aging shall report on the results 8 of its efforts to design a cash and counseling project as part 9 of the joint legislative committee on aging in place's report to 10 the legislature pursuant to section 2 of this Act.

11

PART III. KUPUNA CARE

SECTION 5. (a) On July 1, 1999, the executive office on aging launched its statewide long-term care program called kupuna care. Kupuna care was developed in partnership with the county area agencies-on-aging to address the growing numbers of elders with long-term care needs.

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



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

Voluntary contributions to the service provider are welcome 10 11 for any service provided and are used to support the cost of care of additional clients. In addition to the services 12 provided to the elderly, kupuna care also offers services for 13 14 the family careqivers of their elderly clients. As Hawaii's population ages, many more families will be providing higher 15 levels of long-term care to frail and disabled older adults at 16 home. For many family caregivers, their role as family 17 careqiver arises as suddenly as the care recipient's health 18 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 In addition, family caregivers may not know who is them. 2008-2391 SB2830 CD1 SMA-3.doc

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

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

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.

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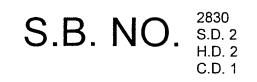
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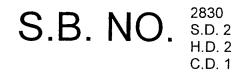
1	The	legis	lature finds that the kupuna care program can
2	expand it	s ser	vices and incorporate progressive ways of meeting
3	the growi	ng ne	eds of Hawaii's older adults and allow these
4	individua	ls to	age in place.
5	(b)	In a	ddition to current kupuna care operation and
6	services,	the	purpose of this part is to:
7	(1)	Allo	w 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;
16		and	
17	(2)	Incr	ease program funding for kupuna care to ensure
18		that	kupuna care continues to maintain the quality of
19		life	of Hawaii's older adults and their family
20		a - x - v	ziveza

20 caregivers.





1	SECT	ION 6. The kupuna care program, as administered by the			
2	executive	office on aging, may, in addition to its current			
3	operation	and services:			
4	(1)	Offer emergency, overnight, and weekend respite			
5		services;			
6	(2)	Provide grants for home modifications that facilitate			
7		aging in place pursuant to a care plan as part of a			
8		cash and counseling approach; and			
9	(3)	Provide grants to family caregivers pursuant to a care			
10		plan as part of a cash and counseling approach.			
11	SECTION 7. There is appropriated out of the general				
12	revenues of the State of Hawaii the sum of $\frac{900}{500,000}$ or so much				
13	thereof as may be necessary for fiscal year 2008-2009 to address				
14	the kupuna care program waitlist and for the expansion of the				
15	kupuna care program, in general.				
16	The sum appropriated shall be expended by the executive				
17	office on aging for the purposes of this part.				
18	PART	IV. GRANDPARENTS RAISING GRANDCHILDREN TASK FORCE			
19	SECT	ION 8. (a) Act 204, Session Laws of Hawaii 2007 (Act			
20	204), expa	anded the mandate of the joint legislative committee on			
21	family car	regiving by including grandparents of children aged			
22	eighteen y	years and younger, or nineteen years of age or older			
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with physical or cognitive limitations, in Act 204's definition
 of family caregiver. The revised definition is now more
 consistent with the scope of the National Family Caregiver
 Support Program. Act 204 also required the joint legislative
 committee to examine the issues facing this population of
 grandparents raising grandchildren.

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

The needs assessment indicates that, in Hawaii, more than 14 14,000 grandparents are the primary caregivers for more than 15 33,000 grandchildren, and that these numbers are expected to 16 17 grow. While there is a wide range of service needs within this population, the most often-cited are those that relate to 18 19 children's programs, financial assistance, respite, and 20 grandparents' rights. Many of these services are available, but 21 barriers are preventing grandparents from accessing them.



Barriers may include:

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(1) A lack of information regarding the availability of
 services;

3 (2) A lack of services in a particular county; or

4 (3) Legal or financial impediments.

5 For instance, in focus groups, some grandparents expressed a 6 fear of losing their grandchildren. Others identified a need 7 for an advocate or case worker to help guide them to the 8 services and through the various systems.

9 (b) The legislature finds that the needs assessment provides critical demographic information and feedback regarding 10 11 what programs and services grandparents require to care for their grandchildren. The findings indicate that the population 12 of grandparents raising grandchildren faces particular 13 challenges, different in some ways from the general caregiver 14 population, and should have a focused task force to specifically 15 address those concerns. The legislature further finds that a 16 comprehensive, coordinated effort is needed to identify: 17

18 (1) The services that exist to meet the identified needs; 19 (2) Any service deficiencies;

20 (3) Barriers that prevent grandparents from accessing
21 services; and

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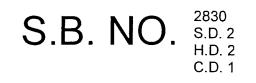
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1	(4)	What can be done to facilitate the provision of
2		services to grandparents raising grandchildren.
3	(c)	The purpose of this part is to establish a task force
4	to focus	specifically on the needs and issues of grandparents
5	raising g	grandchildren.
6	SECT	FION 9. (a) There is established a grandparents
7	raising g	grandchildren task force to focus on the needs and
8	issues of	grandparents raising grandchildren. The task force
9	shall cor	nsist of a representative of:
10	(1)	The University of Hawaii's college of tropical
11		agriculture and human resources to serve as co-chair;
12	(2)	Queen Liliʻuokalani Children's Center to serve as
13		co-chair;
14	(3)	The University of Hawaii's center on aging research
15		and education;
16	(4)	The department of education;
17	(5)	The department of human services;
18	(6)	The department of health's executive office on aging;
19	(7)	The department of public safety;
20	(8)	The judiciary;
21	(9)	The department of the attorney general's child support
22		enforcement agency;

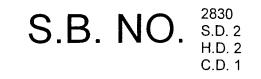
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1	(10)	Each area office on aging;
2	(11)	The policy advisory board for elder affairs;
3	(12)	Na Tutu Coalition;
4	(13)	Legal Aid Society of Hawaii;
5	(14)	Volunteer Legal Services Hawaii;
6	(15)	Partners in Development; and
7	(16)	An individual who is a grandparent.
8	(b)	In assessing the needs and issues of grandparents
9	raising g	randchildren, the task force shall, among other things:
10	(1)	Review the 2007 Needs Assessment of Grandparents
11		Raising Grandchildren in the State of Hawaii, prepared
12		by the University of Hawaii's department of family and
13		consumer science;
14	(2)	Review the most recent Four Year State Plan on Aging
15		submitted to the United States Administration on Aging
16		by the executive office on aging and the area agencies
17		on aging;
18	(3)	Review the testimony of the various agencies submitted
19		to the joint legislative committee on family
20		caregiving at its hearing on August 16, 2007,
21		regarding issues facing grandparents raising
22		grandchildren;





1	(4)	Review laws relating to issues of grandparents raising
2		grandchildren, including:
3		(A) Section 302A-482, Hawaii Revised Statutes,
4		regarding the affidavit for caregiver consent,
5		which permits a caregiver, under certain
6		circumstances, to enroll a minor in school and
7		consent to participation in curricular and
8		co-curricular activities;
9		(B) Chapter 571, Hawaii Revised Statutes, regarding
10		child custody and support; and
11		(C) Chapter 587, Hawaii Revised Statutes, regarding
12		child protective services;
13	(5)	Review the memorandum prepared by the department of
14		education to guide school personnel when enrolling
15		students who reside with caregivers;
16	(6)	Review the support and services offered to caregivers
17		by the department of education through its
18		comprehensive student support system;
19	(7)	Investigate whether a need arises when a minor
20		residing, formally or informally, with a grandparent
21		requires consent for medical service, including when a
22		student needs consent for programs and services under
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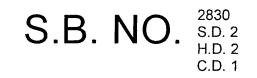


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1		the federal Individuals with Disabilities Act or
2		Section 504 of the Rehabilitation Act of 1973;
3	(8)	Investigate the issues that arise when a minor
4		residing formally or informally with a grandparent is
5		returned to the custody of a parent;
6	(9)	Investigate any housing issues that may arise when a
7		grandparent is raising a grandchild, particularly when
8		the grandparent resides in senior housing, and
9		identify any state or federal laws or rules that would
10		render a grandparent cohabiting with a grandchild
11		ineligible for housing under a particular scheme;
12	(10)	Review how each area office on aging allocates the
13		federal funds it receives under the national family
14		caregiver support program for grandparent programs;
15	(11)	Identify the agencies that collect data relating to
16		grandparents raising grandchildren and determine
17		whether the data can be more comprehensive, uniform,
18		and readily available or exchanged; and
19	(12)	Identify legal needs and whether these needs are being
20		adequately addressed.
21	(c)	The task force shall submit an interim report to the

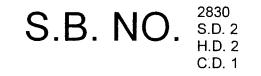
22 legislature and the joint legislative committee on aging in

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1 place no later than twenty days prior to the convening of the 2 2009 regular session and a final report to the legislature and the joint legislative committee on aging in place no later than 3 4 twenty days prior to June 30, 2009. The final report shall 5 include, to the greatest extent possible: 6 (1)A list of the services that exist in each county to 7 meet grandparents' identified needs; 8 (2)A discussion of service deficiencies in each county; 9 (3)A discussion of identifiable barriers that prevent 10 grandparents from accessing services; 11. (4)A summary of the task force's work and any findings 12 regarding the task force's responsibilities as 13 detailed in subsection (b); and 14 (5) Recommendations, including any proposed legislation. The task force shall cease to exist on June 30, 2009. 15 (d) 16 PART V. RESPITE CARE 17 SECTION 10. The joint legislative committee on aging in 18 place has been diligent in its role to strengthen support to 19 family caregivers through respite care. The legislative 20 reference bureau conducted a study pursuant to House Concurrent Resolution No. 187 (2007), regarding how other states address 21 22 the issue of respite care. The report indicates that respite is 2008-2391 SB2830 CD1 SMA-3.doc



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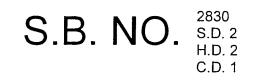
beneficial in ameliorating stress and other negative
 consequences of caregiving. Additionally, a comprehensive
 family caregiver needs assessment conducted pursuant to Act 204,
 Session Laws of Hawaii 2007, indicated that respite care is one
 of the top choices of assistance that caregivers feel would be
 helpful.

7 Respite care can relieve the everyday stress of providing 8 round-the-clock care. However, there are times when emergency 9 respite care becomes critical in instances where a family 10 caregiver is unexpectedly unable to provide care because of 11 illness, an accident, or other reasons.

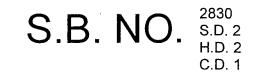
The legislature finds that more needs to be done to 12 determine the full inventory of respite care providers and the 13 specific types of respite care provided in the State. The types 14 of respite care can include planned respite care, short-term 15 16 respite, or emergency respite care. Additionally, although respite services may be available, caregivers are not always 17 aware that these services are offered or may not know where to 18 19 qo to seek assistance.

20 The purpose of this part is to request the executive office21 on aging to continue its respite inventory project pursuant to

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1	House Cor	ncurrent Resolution No. 187 (2007), in collaboration
2	with the	University of Hawaii school of social work.
3	SECI	TION 11. The executive office on aging, in
4	collabora	tion with the University of Hawaii school of social
5	work, sha	11:
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		PART VI. CARE HOME PAYMENTS
19	SECT	ION 12. Section 346-53, Hawaii Revised Statutes, is
20	amended by	y amending subsection (c) to read as follows:
21	"(с)	The director, pursuant to chapter 91, shall determine
22	the rate o	of payment for domiciliary care, including care
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provided in licensed developmental disabilities domiciliary homes, community care foster family homes, and certified adult foster homes, to be provided to recipients who are eligible for Federal Supplementary Security Income or public assistance, or both. The director shall provide for level of care payment as follows:

- (1)[For] Beginning on July 1, 2008, for adult residential 7 care homes classified as facility type I, licensed 8 developmental disabilities domiciliary homes as 9 defined under section 321-15.9, community care foster 10 family homes as defined under section 346-331, and 11 certified adult foster homes as defined under section 12 321-11.2, the state supplemental payment shall not 13 exceed [\$641.90;] \$651.90; and 14
- 15 (2) [For] Beginning on July 1, 2008, for adult residential
 16 care homes classified as facility type II, the state
 17 supplemental payment shall not exceed [\$749.90;]
- 18 \$759.90. [and
- 19 (3) For skilled nursing facilities and intermediate
 20 facilities, the state supplemental payment shall not
 21 exceed \$20.]



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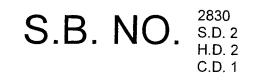
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1 If the operator does not provide the quality of care 2 consistent with the needs of the individual to the satisfaction 3 of the department, the department may remove the recipient to 4 another facility. 5 The department shall handle abusive practices under this 6 section in accordance with chapter 91. 7 Nothing in this subsection shall allow the director to 8 remove a recipient from an adult residential care home or other 9 similar institution if the recipient does not desire to be removed and the operator is agreeable to the recipient 10 remaining, except where the recipient requires a higher level of 11 12 care than provided or where the recipient no longer requires any 13 domiciliary care." 14 SECTION 13. There is appropriated out of the general 15 revenues of the State of Hawaii the sum of \$289,000 or so much **16**. thereof as may be necessary for fiscal year 2008-2009 for 17 increases in level of care payments as provided for in this 18 part.

19 The sum appropriated shall be expended by the department of 20 human services for the purposes of this part.

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1	SECTION 14. S	tatutory material	to be repealed is	bracketed
2	and stricken. New	statutory material	is underscored.	
3	SECTION 15. T	his Act shall take	effect on July 1,	2008.

APPROVED this

day of

, 2008

GOVERNOR OF THE STATE OF HAWAII