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## SENATE RESOLUTION

REQUESTING THE GOVERNOR OF THE STATE OF HAWAII TO CONVENE A TASK FORCE TO REVIEW POLICIES FOR STATE FUNDED PROGRAMS AND SERVICES ON THE USE OF RESTRAINTS AND SECLUSION ON ADULTS AND CHILDREN IN INSTITUTIONAL AND NONINSTITUTIONAL SETTINGS.

1           WHEREAS, the use of restraints is a common intervention to  
2 prevent a person who is aggressive or agitated from harm to self  
3 or others; and

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5           WHEREAS, the effects of restraints can include isolation,  
6 depression, panic, physical or mental trauma, retraumatization,  
7 fear, and anger; which can include a loss of dignity,  
8 independence and self-esteem; as well as physical effects, such  
9 as pressure sores, infection, incontinence, and muscle atrophy;  
10 and

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12           WHEREAS, there have been a great many studies documenting  
13 the adverse effects, both physical and mental, on people who are  
14 restrained, such as new studies in Canada and the United States  
15 which reveal that death from the use of restraints happens all  
16 too frequently; and

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18           WHEREAS, it is estimated that eight to ten child deaths,  
19 and countless injuries, including bites, damaged joints, broken  
20 bones and friction burns, in the United States each year involve  
21 behavior management restraints; and

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23           WHEREAS, the investigative reporting team of Connecticut's  
24 largest newspaper, The Hartford Courant, documented that there  
25 are between 50 to 150 deaths each year as the result of  
26 restraints; and

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28           WHEREAS, within our State, there is no standardized or  
29 integrated reporting mechanism across service environments and  
30 programs; and consequently, there is no data on the number of  
31 injuries to either recipients or staff members occurring during  
32 behavior management interventions in which restraints are used;  
33 and



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 2 WHEREAS, there are accreditation guidelines for the use of  
 3 restraints and seclusion from organizations such as the Joint  
 4 Commission on Accreditation of Healthcare Organizations (JCAHO),  
 5 the Commission on Accreditation of Rehabilitation Facilities  
 6 (CARF), and Centers on Medicare and Medicaid Services (CMS);  
 7 however, these guidelines only cover a small segment of the  
 8 population, and may not protect the rights of individuals who  
 9 may be restrained in community and classroom settings; and

10  
 11 WHEREAS, the Hawai'i Maternal and Child Health Leadership  
 12 Education in Neurodevelopmental and Related Disabilities Program  
 13 (MCH LEND) 2006 Community Needs Assessment on Autism identified  
 14 that:

- 15  
 16 (1) There is an inconsistency in guidelines and protocols  
 17 regarding the purpose and the implementation of  
 18 restraints across departments, service environments,  
 19 and programs;  
 20  
 21 (2) This inconsistency can become a point of confusion for  
 22 individuals who are served by more than one program or  
 23 in more than one service setting;  
 24  
 25 (3) This inconsistency can also be a challenge for  
 26 individual service providers who work for more than  
 27 one program and may have to implement a different  
 28 methodology, depending not on the circumstances of the  
 29 incident, but program requirements; and  
 30  
 31 (4) At times, restraints are being implemented by  
 32 individuals who may not have adequate or current  
 33 training in the restraint methodology of the program;  
 34 and

35  
 36 WHEREAS, there has been an increase in the identification  
 37 and the use of restraints within the Hawaii Medicaid Home and  
 38 Community Based Waiver Programs as found in their ongoing  
 39 quality monitoring activities; and

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 41 WHEREAS, the Hawaii Families As Allies (HFAA) Youth Council  
 42 has identified the use of restraints as one of the most

1 important issues facing Hawaii's youth with disabilities; now,  
2 therefore,  
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4 BE IT RESOLVED by the Senate of the Twenty-fourth  
5 Legislature of the State of Hawaii, Regular Session of 2007,  
6 that the Governor is requested to convene a task force to review  
7 the current definitions, uses, and methodologies employed by the  
8 Departments of Education, Health, Human Services, and Public  
9 Safety, and other publicly funded programs as it relates to the  
10 use of restraints and seclusion on adults and children in  
11 institutional and noninstitutional settings, as well as the  
12 current literature and best practices, to develop a consistent  
13 statewide policy; and  
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15 BE IT FURTHER RESOLVED that the Governor involve  
16 representatives of all relevant agencies and organizations, both  
17 public and private, in the convening of the task force; and  
18

19 BE IT FURTHER RESOLVED that the purpose of the task force  
20 is to review the policies of state-funded programs and services  
21 on the use of restraints and seclusion to ensure they are being  
22 implemented consistently; and  
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24 BE IT FURTHER RESOLVED that the task force is requested to:  
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- 26 (1) Clarify the use of restraints and seclusion and define  
27 appropriate uses;  
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- 29 (2) Delineate the strategies and methodologies used  
30 related to de-escalation;  
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- 32 (3) Define the minimum documentation and debriefing  
33 requirements of restraint or seclusion use;  
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- 35 (4) Determine the feasibility of implementing a  
36 standardized methodology across programs and service  
37 environments;  
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- 39 (5) Make recommendations on the initial and ongoing  
40 training requirements of personnel;  
41
- 42 (6) Review potential alternatives to the use of restraints  
43 and seclusion, and incorporate these alternatives into



1 the protocols of the various programs and agencies;  
2 and

3  
4 (7) Develop specifications for a quality monitoring system  
5 that:

6  
7 (A) Can be replicated across departments for  
8 consistency;

9  
10 (B) Tracks the use of restraints or seclusion in  
11 institutional and noninstitutionalized settings,  
12 differentiating between uses on adults and  
13 children;

14  
15 (C) Tracks serious injuries in any setting; and

16  
17 (D) Establishes guidelines for quality reviews and  
18 data analysis to identify trends; and

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20 BE IT FURTHER RESOLVED that the task force membership  
21 include but not be limited to representatives from:

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23 (1) The Department of Health, including representation  
24 from the Adult Mental Health Division, Child and  
25 Adolescent Mental Health Division, Developmental  
26 Disabilities Division, Dental Health Division, Family  
27 Health Services Division, and the Office of Health  
28 Care Assurance;

29  
30 (2) The Department of Education, including representation  
31 from Special Education, Regular Education, and  
32 Transportation;

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34 (3) The Department of Human Services, including  
35 representation from the Social Services Division,  
36 Office of Youth Services, and Child Welfare;

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38 (4) The Department of Public Safety;

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40 (5) The University of Hawaii, including the Maternal Child  
41 Health Leadership Education in Neurodevelopmental and  
42 Related Disabilities Program and the Center on  
43 Disability Studies;



- 1 (6) Hawaii State Council on Developmental Disabilities;
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- 3 (7) Disability and Communication Access Board;
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- 5 (8) Hawai'i Disability Rights Center;
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- 7 (9) Healthcare Association of Hawaii;
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- 9 (10) Hawaii Long Term Care Association;
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- 11 (11) Hawaii Families as Allies;
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- 13 (12) Community Children's Council;
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- 15 (13) Hawaii Centers for Independent Living;
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- 17 (14) Private service providers; and
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- 19 (15) Consumer representation; and
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21 BE IT FURTHER RESOLVED that the task force is requested to  
 22 submit to the Legislature an annual report no later than twenty  
 23 days prior to the start of each Regular Session, beginning with  
 24 the Regular Session of 2008, on its findings and  
 25 recommendations, including any legislation or funding  
 26 appropriation necessary to implement the recommended policy; and  
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28 BE IT FURTHER RESOLVED that certified copies of this  
 29 Resolution be transmitted to the Governor, Director of Health,  
 30 Director of Human Services, Superintendent of Education,  
 31 Director of Public Safety, Board of Regents of the University of  
 32 Hawaii, Executive Administrator for the Hawaii State Council on  
 33 Developmental Disabilities, Executive Director of the Disability  
 34 and Communication Access Board, Executive Director of the Hawai'i  
 35 Disability Rights Center, Executive Director of the Healthcare  
 36 Association of Hawaii, Executive Director of the Hawaii Long  
 37 Term Care Association, Executive Director of the Hawaii Families  
 38 as Allies, Supervisor of the Community Children's Councils, and  
 39 the Executive Director of the Hawaii Centers for Independent  
 40 Living.

