

MAR 14 2007

## SENATE CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR OF THE STATE OF HAWAII TO CONVENE A TASK  
FORCE TO ESTABLISH A STATEWIDE POLICY FOR STATE FUNDED  
PROGRAMS AND SERVICES ON THE USE OF RESTRAINTS AND  
SECLUSION.

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

4  
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

11  
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

17  
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

22  
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



1 behavior management interventions in which restraints are used;  
2 and  
3

4 WHEREAS, there are accreditation guidelines for the use of  
5 restraints and seclusion from organizations such as the Joint  
6 Commission on Accreditation of Healthcare Organizations (JCAHO),  
7 the Commission on Accreditation of Rehabilitation Facilities  
8 (CARF), and Centers on Medicare and Medicaid Services (CMS);  
9 however, these guidelines only cover a small segment of the  
10 population, and may not protect the rights of individuals who  
11 may be restrained in community and classroom settings; and  
12

13 WHEREAS, the Hawai'i Maternal and Child Health Leadership  
14 Education in Neurodevelopmental and Related Disabilities Program  
15 (MCH LEND) 2006 Community Needs Assessment on Autism identified  
16 that:  
17

- 18 (1) There is an inconsistency in guidelines and protocols  
19 regarding the purpose and the implementation of  
20 restraints across departments, service environments,  
21 and programs;  
22
- 23 (2) This inconsistency can become a point of confusion for  
24 individuals who are served by more than one program or  
25 in more than one service setting;  
26
- 27 (3) This inconsistency can also be a challenge for  
28 individual service providers who work for more than  
29 one program and may have to implement a different  
30 methodology, depending not on the circumstances of the  
31 incident, but program requirements; and  
32
- 33 (4) At times, restraints are being implemented by  
34 individuals who may not have adequate or current  
35 training in the restraint methodology of the program;  
36 and  
37

38 WHEREAS, there has been an increase in the identification  
39 and the use of restraints within the Hawaii Medicaid Home and  
40 Community Based Waiver Programs as found in their ongoing  
41 quality monitoring activities; and  
42



1 WHEREAS, the Hawaii Families As Allies (HFAA) Youth Council  
2 has identified the use of restraints as one of the most  
3 important issues facing Hawaii's youth with disabilities; now,  
4 therefore,  
5

6 BE IT RESOLVED by the Senate of the Twenty-fourth  
7 Legislature of the State of Hawaii, Regular Session of 2007, the  
8 House of Representatives concurring, that the Director of Health  
9 is requested to convene a task force to review the current  
10 definitions, uses, and methodologies employed by the Departments  
11 of Education, Health, Human Services, and Public Safety, and  
12 other publicly funded programs as it relates to restraints and  
13 seclusion, as well as the current literature and best practices,  
14 to develop a consistent statewide policy; and  
15

16 BE IT FURTHER RESOLVED that the Director of Health involve  
17 representatives of all relevant agencies and organizations, both  
18 public and private, in the convening of the task force; and  
19

20 BE IT FURTHER RESOLVED that the purpose of the task force  
21 is to develop a statewide policy for state-funded programs and  
22 services on the use of restraints and seclusion; and  
23

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;
- 28
- 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;
- 34
- 35 (4) Determine the feasibility of implementing a  
36 standardized methodology across programs and service  
37 environments;
- 38
- 39 (5) Make recommendations on the initial and ongoing  
40 training requirements of personnel; and
- 41
- 42 (6) Develop specifications for a quality monitoring system  
43 that:  
44



- 1 (A) Can be replicated across departments for
- 2 consistency;
- 3
- 4 (B) Tracks the use of restraints or seclusion in
- 5 noninstitutionalized settings;
- 6
- 7 (C) Tracks serious injuries in any setting; and
- 8
- 9 (D) Establishes guidelines for quality reviews and
- 10 data analysis to identify trends; and
- 11

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

- 14
- 15 (1) The Department of Health, including representation
- 16 from the Adult Mental Health Division, Child and
- 17 Adolescent Mental Health Division, Developmental
- 18 Disabilities Division, Dental Health Division, Family
- 19 Health Services Division, and the Office of Health
- 20 Care Assurance;
- 21
- 22 (2) The Department of Education, including representation
- 23 from Special Education, Regular Education, and
- 24 Transportation;
- 25
- 26 (3) The Department of Human Services, including
- 27 representation from the Social Services Division,
- 28 Office of Youth Services, and Child Welfare;
- 29
- 30 (4) The Department of Public Safety;
- 31
- 32 (5) The University of Hawaii, including the Maternal Child
- 33 Health Leadership Education in Neurodevelopmental and
- 34 Related Disabilities Program and the Center on
- 35 Disability Studies;
- 36
- 37 (6) Hawaii State Council on Developmental Disabilities;
- 38
- 39 (7) Disability and Communication Access Board;
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- 41 (8) Hawai'i Disability Rights Center;
- 42
- 43 (9) Healthcare Association of Hawaii;



- 1
- 2 (10) Hawaii Long Term Care Association;
- 3
- 4 (11) Hawaii Families as Allies;
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- 6 (12) Community Children's Council;
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- 8 (13) Hawaii Centers for Independent Living;
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- 10 (14) Private service providers; and
- 11
- 12 (15) Consumer representation; and
- 13

14 BE IT FURTHER RESOLVED that the task force is requested to  
 15 submit to the Legislature an annual report no later than twenty  
 16 days prior to the start of each Regular Session, beginning with  
 17 the Regular Session of 2008, on any recommended legislation or  
 18 funding appropriation necessary to implement the statewide  
 19 policy; and

20  
 21 BE IT FURTHER RESOLVED that certified copies of this  
 22 Concurrent Resolution be transmitted to the Governor, Director  
 23 of Health, Director of Human Services, Superintendent of  
 24 Education, Director of Public Safety, Board of Regents of the  
 25 University of Hawaii, Executive Administrator for the Hawaii  
 26 State Council on Developmental Disabilities, Executive Director  
 27 of the Disability and Communication Access Board, Executive  
 28 Director of the Hawai'i Disability Rights Center, Executive  
 29 Director of the Healthcare Association of Hawaii, Executive  
 30 Director of the Hawaii Long Term Care Association, Executive  
 31 Director of the Hawaii Families as Allies, Supervisor of the  
 32 Community Children's Councils, and the Executive Director of the  
 33 Hawaii Centers for Independent Living.

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 36 OFFERED BY: Erzanne Chun Oakland  
*Russell H. Aul*

