
SENATE CONCURRENT 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



1 injuries to either recipients or staff members occurring during
2 behavior management interventions in which restraints are used;
3 and
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5 WHEREAS, there are accreditation guidelines for the use of
6 restraints and seclusion from organizations such as the Joint
7 Commission on Accreditation of Healthcare Organizations (JCAHO),
8 the Commission on Accreditation of Rehabilitation Facilities
9 (CARF), and Centers on Medicare and Medicaid Services (CMS);
10 however, these guidelines only cover a small segment of the
11 population, and may not protect the rights of individuals who
12 may be restrained in community and classroom settings; and
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14 WHEREAS, the Hawai'i Maternal and Child Health Leadership
15 Education in Neurodevelopmental and Related Disabilities Program
16 (MCH LEND) 2006 Community Needs Assessment on Autism identified
17 that:
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- 19 (1) There is an inconsistency in guidelines and protocols
20 regarding the purpose and the implementation of
21 restraints across departments, service environments,
22 and programs;
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- 24 (2) This inconsistency can become a point of confusion for
25 individuals who are served by more than one program or
26 in more than one service setting;
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- 28 (3) This inconsistency can also be a challenge for
29 individual service providers who work for more than
30 one program and may have to implement a different
31 methodology, depending not on the circumstances of the
32 incident, but program requirements; and
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- 34 (4) At times, restraints are being implemented by
35 individuals who may not have adequate or current
36 training in the restraint methodology of the program;
37 and
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39 WHEREAS, there has been an increase in the identification
40 and the use of restraints within the Hawaii Medicaid Home and
41 Community Based Waiver Programs as found in their ongoing
42 quality monitoring activities; and
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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,

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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 Governor is
9 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 the use of
13 restraints and seclusion on adults and children in institutional
14 and noninstitutional settings, as well as the current literature
15 and best practices, to develop a consistent statewide policy;
16 and

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

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22 BE IT FURTHER RESOLVED that the purpose of the task force
23 is to review the policies of state-funded programs and services
24 on the use of restraints and seclusion to ensure they are being
25 implemented consistently; and

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27 BE IT FURTHER RESOLVED that the task force is requested to:

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29 (1) Clarify the use of restraints and seclusion and define
30 appropriate uses;
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32 (2) Delineate the strategies and methodologies used
33 related to de-escalation;
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35 (3) Define the minimum documentation and debriefing
36 requirements of restraint or seclusion use;
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38 (4) Determine the feasibility of implementing a
39 standardized methodology across programs and service
40 environments;
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42 (5) Make recommendations on the initial and ongoing
43 training requirements of personnel;
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1 (6) Review potential alternatives to the use of restraints
2 and seclusion, and incorporate these alternatives into
3 the protocols of the various programs and agencies;
4 and

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6 (7) Develop specifications for a quality monitoring system
7 that:

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9 (A) Can be replicated across departments for
10 consistency;

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

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17 (C) Tracks serious injuries in any setting; and

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19 (D) Establishes guidelines for quality reviews and
20 data analysis to identify trends; and

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

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

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32 (2) The Department of Education, including representation
33 from Special Education, Regular Education, and
34 Transportation;

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

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40 (4) The Department of Public Safety;

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42 (5) The University of Hawaii, including the Maternal Child
43 Health Leadership Education in Neurodevelopmental and



1 Related Disabilities Program and the Center on
2 Disability Studies;

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4 (6) Hawaii State Council on Developmental Disabilities;

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6 (7) Disability and Communication Access Board;

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8 (8) Hawai'i Disability Rights Center;

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10 (9) Healthcare Association of Hawaii;

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12 (10) Hawaii Long Term Care Association;

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14 (11) Hawaii Families as Allies;

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16 (12) Community Children's Council;

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18 (13) Hawaii Centers for Independent Living;

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20 (14) Private service providers; and

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

