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# SENATE CONCURRENT RESOLUTION

REQUESTING THE ATTORNEY GENERAL TO PROVIDE AN ANALYSIS OF THE NATURE AND SCOPE OF OPERATIONS AND SERVICES THE HAWAII DISABILITY RIGHTS CENTER IS REQUIRED TO PROVIDE, AND THE PRACTICES AND PROCEDURES IT IS AUTHORIZED TO EMPLOY, PURSUANT TO STATE AND FEDERAL LAW, RULES, REGULATIONS, AND EXECUTIVE ORDERS.

1           WHEREAS, Congress created a nationwide protection and  
2 advocacy system for individuals with developmental disabilities  
3 under the Developmental Disabilities Assistance and Bill of  
4 Rights Act, as amended, to aid individuals with developmental  
5 disabilities or mental illness and their families in gaining  
6 access to appropriate support and services; and  
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8           WHEREAS, states are required to designate an agency or  
9 entity to provide advocacy services to persons with  
10 developmental disabilities and mental illness in order to  
11 receive federal funds for programs for these persons; and  
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13           WHEREAS, the Hawaii Disabilities Rights Center, (Center),  
14 is the agency designated under section 333F-8.5, Hawaii Revised  
15 Statutes, to provide advocacy services to persons with  
16 developmental disabilities or mental illness; and  
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18           WHEREAS, section 333F-8.5(c), Hawaii Revised Statutes,  
19 provides that the Center shall have access to all records of any  
20 person with developmental disabilities or mental illness, to the  
21 extent required by federal law; and  
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23           WHEREAS, there is an ongoing dispute as to whether the  
24 federal law that provides the Center access to records overrides  
25 the privacy rights of persons receiving services and their  
26 families, with or without the appropriate waivers of these  
27 privacy rights; and  
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1 WHEREAS, there is an ongoing dispute concerning the  
2 justification necessary for the Center to demand access to  
3 records of persons with disabilities; and  
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5 WHEREAS, the Center's need for access to records should be  
6 balanced to the greatest extent possible against the ability of  
7 service providers to allocate their limited personnel resources  
8 to both provide services to persons with disabilities and to  
9 produce documents in response to requests for records and other  
10 information; now, therefore,  
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12 BE IT RESOLVED by the Senate of the Twenty-fourth  
13 Legislature of the State of Hawaii, Regular Session of 2007, the  
14 House of Representatives concurring, that the Attorney General  
15 is requested to provide an analysis of the nature and scope of  
16 operations and services that the Hawaii Disability Rights Center  
17 is required to provide, and the practices and procedures it is  
18 authorized to employ, pursuant to federal and state law,  
19 regulations, rules, and executive orders; and  
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21 BE IT FURTHER RESOLVED that, in the analysis, the Attorney  
22 General is requested to:  
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- 24 (1) Provide an outline of the legal authority that grants  
25 the Center access to:  
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27 (A) Facilities serving individuals with disabilities;  
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29 (B) Individuals with disabilities; and  
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31 (C) The records of the individuals with disabilities;  
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33 (2) Describe, after conferring with the National  
34 Disability Rights Network, the federal Center for  
35 Mental Health Services, and the federal Administration  
36 on Developmental Disabilities, the inter-relationship  
37 between the aforementioned legal authority and the  
38 laws protecting the privacy of individuals and their  
39 records, including but not limited to the federal  
40 Health Insurance Portability and Accountability Act;  
41 and  
42  
43 (3) Describe, after conferring with the appropriate  
44 federal agencies, the inter-relationship between the



1 rights and responsibilities of natural and legal  
2 guardians respecting individuals with disabilities and  
3 those of the Center respecting these individuals; and  
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5 BE IT FURTHER RESOLVED that the Attorney General is  
6 requested to report on, in light of the law that governs the  
7 Center's operations, best practices identified in other  
8 jurisdictions regarding the manner in which the Center should  
9 conduct investigations of allegations of abuse or neglect of an  
10 individual with developmental disabilities or mental illness,  
11 including how, when, and under what circumstances the  
12 investigations are undertaken; and  
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14 BE IT FURTHER RESOLVED that the Attorney General is  
15 requested to submit the requested analysis and any recommended  
16 legislation, proposed administrative rules, or audit as deemed  
17 necessary, to the Legislature no later than twenty days prior to  
18 the convening of the Regular Session of 2008; and  
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20 BE IT FURTHER RESOLVED that certified copies of this  
21 Concurrent Resolution be transmitted to the United States  
22 Department of Education, the Attorney General, the Director of  
23 Health, the Director of Human Services, the Director of Labor  
24 and Industrial Relations, the National Disability Rights  
25 Network, the Center for Mental Health Services, the  
26 Administration on Developmental Disabilities, and the Hawaii  
27 Disabilities Rights Center.

