

MAR 14 2007

SENATE 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

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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

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

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



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

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12 BE IT FURTHER RESOLVED that the Director of Health involve
13 representatives of all relevant agencies and organizations, both
14 public and private, in the convening of the task force; and

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

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

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22 (1) Clarify the use of restraints and seclusion and define
23 appropriate uses;
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25 (2) Delineate the strategies and methodologies used
26 related to de-escalation;
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28 (3) Define the minimum documentation and debriefing
29 requirements of restraint or seclusion use;
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31 (4) Determine the feasibility of implementing a
32 standardized methodology across programs and service
33 environments;
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35 (5) Make recommendations on the initial and ongoing
36 training requirements of personnel; and
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38 (6) Develop specifications for a quality monitoring system
39 that:
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41 (A) Can be replicated across departments for
42 consistency;
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- 1 (B) Tracks the use of restraints or seclusion in
2 noninstitutionalized settings;
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- 4 (C) Tracks serious injuries in any setting; and
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- 6 (D) Establishes guidelines for quality reviews and
7 data analysis to identify trends; and
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9 BE IT FURTHER RESOLVED that the task force membership
10 include but not be limited to representatives from:

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- 12 (1) The Department of Health, including representation
13 from the Adult Mental Health Division, Child and
14 Adolescent Mental Health Division, Developmental
15 Disabilities Division, Dental Health Division, Family
16 Health Services Division, and the Office of Health
17 Care Assurance;
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- 19 (2) The Department of Education, including representation
20 from Special Education, Regular Education, and
21 Transportation;
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- 23 (3) The Department of Human Services, including
24 representation from the Social Services Division,
25 Office of Youth Services, and Child Welfare;
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- 27 (4) The Department of Public Safety;
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- 29 (5) The University of Hawaii, including the Maternal Child
30 Health Leadership Education in Neurodevelopmental and
31 Related Disabilities Program and the Center on
32 Disability Studies;
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- 34 (6) Hawaii State Council on Developmental Disabilities;
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- 36 (7) Disability and Communication Access Board;
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- 38 (8) Hawai'i Disability Rights Center;
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- 40 (9) Healthcare Association of Hawaii;
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- 42 (10) Hawaii Long Term Care Association;
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- 1 (11) Hawaii Families as Allies;
- 2
- 3 (12) Community Children's Council;
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- 5 (13) Hawaii Centers for Independent Living;
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- 7 (14) Private service providers; and
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- 9 (15) Consumer representation; and

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

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

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 33 OFFERED BY: Erzanne Chun Oakland
Ronald H. Bab