
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

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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 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;
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 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

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 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

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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

23
24 BE IT FURTHER RESOLVED that the task force is requested to:

- 25
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;
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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:

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

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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;

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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;
- 2
- 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.

