HOUSE OF REPRESENTATIVES TWENTY-EIGHTH LEGISLATURE, 2015 STATE OF HAWAII

H.B. NO. 1109

A BILL FOR AN ACT

RELATING TO A BEHAVIOR SUPPORT REVIEW COMMITTEE FOR PERSONS WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the department of health's position on behavior support is to ensure that behavior interventions are implemented appropriately to assist and support individuals receiving services and those providing support to them. This position: (1) Emphasizes positive behavior supports that promote the

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 growth, development, and independence of individuals;
 individual choice in daily decision-making; selfmanagement; and individual responsibility for
 behaviors;
- 11 (2) Provides for working with persons with challenging
 12 behavior (with a focus on teaching replacement
 13 behaviors that serve as the function for what the
 14 individual is communicating rather than the
 15 suppression or elimination of undesirable behaviors,)
 16 and specification of prohibited interventions; and



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(3) Enables appropriate safeguards and oversight if 1 2 aversive procedures (planned or crisis) are used, with 3 planning for the eventual elimination of seclusion and restraints. 4 5 The legislature also finds that, when an individual with 6 intellectual or developmental disabilities is a danger to 7 themself or others, restraints or seclusion may be recommended and administered. After these methods are administered, a 8 9 behavior support review committee is convened in the department 10 of health developmental disabilities division to evaluate such 11 cases and make recommendations. The behavior support review 12 committee membership may include: A parent of an individual receiving service from the 13 (1)14 department of health developmental disabilities division; 15 A developmental disabilities division service provider 16 (2) 17 who provides at least two services to participants; 18 (3) A community member with no direct involvement with developmental disabilities division waiver provider 19 20 programs;



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1	(4)	A department of health facilitator with experience or
2		training in best practices to support behaviors of
3		individuals with developmental disabilities;
4	(5)	A department of health case manager with experience in
5		supporting participants with behavior concerns; and
6	(6)	A person receiving services from the developmental
7		disabilities division.
8	The purpose of this Act is to establish the behavioral	
9	support review process and to provide behavior support review	
10	committee members with immunity from liability.	
11	SECTION 2. Chapter 321, Hawaii Revised Statutes, is	
12	amended by adding a new part to be appropriately designated and	
13	to read as follows:	
14	"PART . BEHAVIOR SUPPORT REVIEW COMMITTEE FOR PERSONS WITH	
15		DEVELOPMENTAL OR INTELLECTUAL DISABILITIES
16	§321	- Definitions. Whenever used in this part, unless
17	the context otherwise requires:	
18	"Department" means the department of health.	
19	"Dev	elopmental disability" shall be as defined in section
20	333F-1.	



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"Director" means the director of health or the director's
 designee.

3 "Intellectual disability" shall be as defined in section4 333F-1.

5 "Person with developmental or intellectual disabilities"
6 means a youth or an adult with a developmental or intellectual
7 disability.

8 "Restraints" means the methods of restricting a person's 9 freedom of movement by holding a person (manual or physical 10 restraint); the application of a device specifically designed to safely restrain or assist in retraining; or using a psychotropic 11 12 medication prescribed without the appropriate Diagnostic and 13 Statistical Manual diagnosis or prescribed on an as needed basis (chemical restraint). A restraint does not include brief and 14 15 minimally restrictive physical contact in order to calm or comfort the person, or holding a person's hand to safely escort 16 17 the person from one area to another.

18 "Seclusion" means any involuntary confinement to a room or 19 area where one is physically prevented from leaving.

20 §321- Behavior support review. The department may
21 convene a behavior support review committee to conduct



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1 multidisciplinary and multiagency reviews of the administration of restraints or seclusion on persons with developmental or 2 3 intellectual disabilities to: Ensure appropriate use of restraints or seclusion; and 4 (1)5 (2)Reduce the risk of harm or death to persons with 6 developmental or intellectual disabilities. 7 §321-Access to information. Upon written request of 8 the director, all providers of residential supports and state 9 and county agencies, shall disclose to the department and the 10 members of a behavior support review committee for a person with developmental or intellectual disabilities the circumstances of 11 12 restraints or seclusion used for the person with developmental or intellectual disabilities, to allow the department to conduct 13 14 multidisciplinary reviews of restraints or seclusion used for persons with developmental or intellectual disabilities, 15 pursuant to section 321-31 and this part. 16 17 To the extent that this section conflicts with any (b)

18 other state confidentiality law, this section shall prevail.
19 §321- Exception. Information regarding an ongoing
20 civil or criminal investigation shall be disclosed at the

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discretion of the applicable state, county, or federal law
 enforcement agency.

3 Use and review of information and records and \$321-4 activities pertaining to behavior support review of persons with 5 developmental or intellectual disabilities. (a) Except as 6 otherwise provided in this part, all information and records acquired by the department or committee during its 7 multidisciplinary, multiagency reviews of restraints or 8 9 seclusion of persons with developmental or intellectual 10 disabilities pursuant to this part shall be kept confidential and may be disclosed only as necessary to carry out the purposes 11 of this part. 12

(b) Information and statistical compilations of data from the multidisciplinary reviews of restraints or seclusion of persons with developmental or intellectual disabilities that do not contain any information that would permit the identification of any person shall be public records.

(c) No individual participating in the department's
multidisciplinary review of the restraints or seclusion of a
person with developmental or intellectual disabilities may be
questioned in any civil or criminal proceeding regarding



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1 information presented in, or opinions formed, as a result of 2 meetings of the multidisciplinary review of restraints or 3 seclusion. Nothing in this subsection shall be construed to 4 prevent a person from testifying to information obtained 5 independently of the department's multidisciplinary behavior 6 support review, or that is public information, or where 7 disclosure is required by law or court order.

Information held by the department as a result of a 8 (d) 9 multidisciplinary review of the restraints or seclusion of a 10 person with developmental or intellectual disabilities conducted under this part shall not be subject to subpoena, discovery, or 11 12 introduction into evidence in any civil or criminal proceeding; 13 provided that information otherwise available from other sources 14 shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because it was 15 provided as required by this part. 16

17 §321- Immunity from liability. All agencies and 18 individuals participating in multidisciplinary reviews of 19 restraints or seclusions of persons with developmental or 20 intellectual disabilities pursuant to this part shall not be



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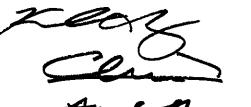
1 held civilly or criminally liable for providing information

2 required under this part."

3 SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:

Alle a Butti



JAN 2 7 2015



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Report Title:

Behavior Support Review Committee for Persons with Developmental and Intellectual Disabilities

Description:

Describes the behavioral support review process to conduct multidisciplinary reviews of restraints or seclusion of persons with developmental or intellectual disabilities, and exempts those who participate in the reviews from liability.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

