

, 2015 March 20 RE: S.B. No. 812

S.D. 2 H.D. 1

Honorable Joseph M. Souki Speaker, House of Representatives Twenty-Eighth State Legislature Regular Session of 2015 State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 812, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO BEHAVIOR SUPPORT REVIEW COMMITTEE FOR PERSONS WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITIES,"

begs leave to report as follows:

The purpose of this measure to ensure the appropriate and safe use of restrictive intervention for persons with developmental and intellectual disabilities by authorizing the Department of Health to establish a behavior support review process to conduct multidisciplinary reviews of the use of restraints or seclusion for persons with developmental or intellectual disabilities and exempt those who participate in the reviews from liability.

The State Council on Developmental Disabilities provided testimony in support of the measure. The Department of Health provided testimony in support of the measure and recommended amendments. The Hawaii Association for Justice provided testimony in opposition.

Your Committee has amended this measure by:

 Creating the behavior support review process in Chapter 333F, instead of Chapter 321, Hawaii Revised Statutes;

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- (2) Amending the definition of "restraint" to mean any physical, chemical, or mechanical intervention that restricts the movement or function of the person or a portion of the person's body;
- (3) Amending the definition of "seclusion" to specify that it involves involuntary confinement of a person alone, prevented from having contact with others;
- (4) Amending the provision on immunity from liability by removing the language regarding the presumption of good faith for all agencies and individuals participating in multidisciplinary reviews;
- (5) Changing the effective date to July 1, 2112, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 812, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 812, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

> Respectfully submitted on behalf of the members of the Committee on Health,

DELLA AU BELATTI, Chair



State of Hawaii House of Representatives The Twenty-eighth Legislature



Record of Votes of the Committee on Health

| Bill/Resolution No.: SBG12 SD 2 | Committee F HLT, | Referral: JUD, A | | Date: 3/18/1 | S |
|---|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| The committee is reconsidering its previous decision on the measure. | | | | | |
| The recommendation is to: □ Pass, unamended (as is) □ Pass, with amendments (HD) □ Hold □ Pass short form bill with HD to recommit for future public hearing (recommit) | | | | | |
| HLT Members | | Ayes | Ayes (WR |) Nays | Excused |
| 1. BELATTI, Della Au (C) | | ~ | | | |
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| 2. CREAGAN, Richard P. (VC) | | ~ | | | |
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| 3. HASHEM, Mark J. | | | | | |
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| 4. JORDAN, Jo | | ~ | | | |
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| 5. KOBAYASHI, Bertrand | | | | | |
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| 6. MORIKAWA, Dee | | _ | | | |
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| 7. OSHIRO, Marcus R. | - | _ | | | |
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| 8. FUKUMOTO CHANG, Beth | | | | | |
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| 9. TUPOLA, Andria P.L. | | | | | - |
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| TOTAL (9) | | ଚ | | | / |
| The recommendation is: Adopted I Not Adopted If joint referral, did not support recommendation. | | | | | |
| Vice Chair's or designee's signature: | | | | | |
| Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO | | | | | |