
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
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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.

