

Honolulu, Hawaii

MAY 03 2007 , 2007

RE: S.C.R. No. 48
S.D. 1
H.D. 2
C.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam and Sir:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.C.R. No. 48, S.D. 1, H.D. 2, entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO CONDUCT A FINANCIAL AND PROGRAM AUDIT OF THE HAWAII DISABILITIES RIGHTS CENTER, "

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final adoption of this concurrent resolution in an amended form.

The purpose of the measure is to request an audit of the Hawaii Disability Rights Center (the Center) to investigate whether the Center:

- (1) Is fulfilling its mission;
- (2) Is abusing its authority over its access to records of persons with developmental disabilities or mental illness;



- (3) Has appropriate grievance procedures and alternative remedied to litigation in place; and
- (4) Is being appropriately overseen by any state or federal authority.

Your Committee on Conference finds that there is an ongoing dispute as to whether the federal law that provides the Center access to records overrides the privacy rights of persons receiving services and their families, with or without the appropriate waivers of these privacy rights.

Your Committee on Conference further finds that there is an ongoing dispute concerning the justification necessary for the Center to demand access to records of persons with disabilities.

Your Committee on Conference further finds that the Center's need for access to records should be balanced to the greatest extent possible against the ability of service providers to allocate their limited personnel resources to both provide services to persons with disabilities and to produce documents in response to requests for records and other information.

Your Committee on Conference amended this measure by deleting its title and contents, inserting a more accurate description of the concerns and issues involved, and requesting the Attorney General to:

- (1) Provide an outline of the legal authority that grants the Center access to:
 - (A) Facilities serving individuals with disabilities;
 - (B) Individuals with disabilities; and
 - (C) The records of the individuals with disabilities;
- (2) Describe, after conferring with the National Disability Rights Network, the federal Center for Mental Health Services, and the federal Administration on Developmental Disabilities, the inter-relationship between the aforementioned legal authority and the laws protecting the privacy of individuals and their records, including but not limited to the federal Health Insurance Portability and Accountability Act; and



- (3) Describe, after conferring with the appropriate federal agencies, the inter-relationship between the rights and responsibilities of natural and legal guardians respecting individuals with disabilities and those of the Center respecting these individuals.

Your Committee on Conference further amended this measure to request the Attorney General to:


- (1) Report on best practices identified in other jurisdictions regarding the manner in which the Center should conduct investigations of allegations of abuse or neglect of an individual with disabilities; and
- (2) Submit the analysis requested by this measure and any recommendations for legislation, administrative rules, or audit deemed necessary to the Legislature prior to the convening of the 2008 Regular Session.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference concurs with the intent and purpose of S.C.R. No. 48, S.D. 1, H.D. 2, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 48, S.D. 1, H.D. 2, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE


JOHN MIZUNO, Co-Chair


SUZANNE CHUN OAKLAND, Chair


KARL RHOADS, Co-Chair


ROSALYN W. BAKER, Co-Chair


MICHAEL Y. MAGAOAY, Co-Chair



