

STAND. COM. REP. NO.

1401

Honolulu, Hawaii

MAR 30 2007

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

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

Madam:

Your Committee on Human Services and Public Housing, to which was referred S.C.R. No. 48 entitled:

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

begs leave to report as follows:

The purpose of this measure is to request that the Auditor conduct a financial and program audit of the Hawaii Disability Rights Center.

Opportunities for the Retarded, Inc.; the Arc in Hawaii, Helemano Plantation; and twenty individuals submitted testimony in support of this measure. The State Council on Developmental Disabilities; the University of Hawaii at Manoa, Center on Disability Studies; the Hawaii Disability Rights Center; Mental Health America of Hawaii, Family Voices of Hawai'i; PDMI-Care; and twenty-eight individuals submitted testimony in opposition to this measure. Six individuals submitted comments.

The Hawaii Disability Rights Center has a specific role and responsibilities pursuant to the Developmentally Disabled Assistance and Bill of Rights Act of 2000. It is charged with supporting, protecting, and advocating for the human, civil, and legal rights of Hawaii's estimated 180,000 people with disabilities. By federal and state requirements, the Hawaii Disability Rights Center is subject to an annual external



financial audit, site reviews by the federal government, as well as site reviews by peer organizations from other states.

The Hawaii Disabilities Rights Center has access to records of any individual with a disability, to the extent required by federal law and as further provided in section 333F-8.5, Hawaii Revised Statutes. However, providers of services to individuals with disabilities may be uncertain as to their obligation to disclose patient records to an entity such as the Hawaii Disability Rights Center.

Your Committee finds that it would be beneficial to have information that clarifies the relationship between the laws mandating access to the records of an individual to a protection and advocacy agency and the laws protecting the privacy of that individual.

Your Committee has amended this measure by:

- (1) Urging the parties to the litigation between the Hawaii Disability Rights Center and Opportunities for the Retarded, Inc. to amicably settle their pending litigation;
- (2) Requesting the Hawaii Disability Rights Center to submit a report to the Legislature and the Attorney General that includes:
  - (A) An outline of the federal authority that grants the Hawaii Disability Rights Center access to facilities serving individuals with disabilities, individuals with disabilities, and the records of the individuals with disabilities;
  - (B) With the concurrence of the federal Administration on Developmental Disabilities, an analysis of the inter-relationship between the aforementioned federal authority and the laws protecting the privacy of individuals and their records; and
  - (C) A statement of its policies and procedures regarding the manner in which it conducts investigations of allegations of abuse or neglect of an individual with a disability, including how,



when, and under what circumstances, the investigations are undertaken;

- (3) Amending the title of the measure to reflect its change in purpose; and
- (4) Making technical, nonsubstantive changes for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Human Services and Public Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 48, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 48, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Human Services and  
Public Housing,

*Suzanne Chun Oakland*  
SUZANNE CHUN OAKLAND, Chair



