
A BILL FOR AN ACT

RELATING TO AN AUDIT OF THE HAWAII DISABILITY RIGHTS CENTER.

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

1 SECTION 1. The legislature finds that Congress created a
2 nationwide protection and advocacy system for individuals with
3 developmental disabilities under the Developmental Disabilities
4 Assistance and Bill of Rights Act, as amended, to aid
5 individuals with developmental disabilities or mental illness
6 and their families in gaining access to appropriate support and
7 services. States are required to designate an agency or entity
8 to provide advocacy services to persons with developmental
9 disabilities and mental illness in order to receive federal
10 funds for programs for these persons.

11 The legislature notes that the Hawaii Disabilities Rights
12 Center is the agency designated under section 333F-8.5, Hawaii
13 Revised Statutes, to provide advocacy services to persons with
14 developmental disabilities or mental illness. Section
15 333F-8.5(c), Hawaii Revised Statutes, grants the Hawaii
16 Disabilities Rights Center access to all records of any person
17 with developmental disabilities or mental illness, to the extent



1 required by federal law. However, there are also federal and
2 state statutes, such as the Health Insurance Portability and
3 Accountability Act, which were enacted to protect the privacy of
4 patient records.

5 The legislature also finds that there is an ongoing dispute
6 as to whether the law that provides the Center access to records
7 overrides the privacy rights of persons receiving services and
8 their families, with or without the appropriate waivers of these
9 privacy rights, and, if so, what justification is necessary for
10 the Center to demand access to records of persons with
11 disabilities. Providers of services to individuals with
12 disabilities are uncertain as to their obligation to disclose
13 patient records to an entity such as the Hawaii Disability
14 Rights Center. Concerns have been raised about the Hawaii
15 Disabilities Rights Center's approach to resolving the conflict
16 between a patient's right to privacy and its need for access to
17 the patient and the patient's records.

18 The legislature also notes that the department of health
19 has jurisdiction over state funding for the Hawaii Disability
20 Rights Center and has responsibility for the performance of the
21 Center. The legislature finds for purposes of this Act that the
22 Hawaii Disabilities Rights Center is a "quasi-public



1 institution" within the scope of section 23-4, Hawaii Revised
2 Statutes, because it is supported in whole or in part by and
3 handles state or public funds. Although the Hawaii Disability
4 Rights Center is therefore subject to regular audits by the
5 auditor, it has never been audited by the auditor.

6 The purpose of this Act is to direct the auditor to perform
7 a financial and management audit of the Hawaii Disability Rights
8 Center to protect its vulnerable clientele and to ensure that
9 state funds are being spent in accordance with applicable laws.

10 SECTION 2. (a) The auditor shall conduct a financial and
11 management audit of the Hawaii Disabilities Rights Center.

12 (b) The auditor shall submit a report to the legislature
13 no later than twenty days prior to convening of the regular
14 session 2009, containing findings and recommendations, including
15 any proposed legislation, concerning the Hawaii Disability
16 Rights Center's handling of state funds and its approach to
17 resolving the conflict between a patient's right to privacy and
18 its need for access to the patient and the patient's records.

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2008-2009 for a



1 financial and management audit of the Hawaii Disabilities Rights
2 Center.

3 The sum appropriated shall be expended by the auditor for
4 the purposes of this Act.

5 SECTION 4. This Act shall take effect on July 1, 2008.

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INTRODUCED BY:

John M. McManis
Tom Berman



Report Title:

Hawaii Disability Rights Center; Audit

Description:

Requires the auditor to perform a financial and management audit of the Hawaii Disability Rights Center.

