
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 Center's
15 approach to resolving the conflict between a patient's right to
16 privacy and its need for access to the patient and the patient's
17 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 require the auditor to
7 perform a financial and management audit of the Hawaii
8 Disability Rights Center to protect its vulnerable clientele and
9 to ensure that state funds are being spent in accordance with
10 applicable laws, and to make an appropriation therefor.

11 SECTION 2. Section 23-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§23-5 Auditor; powers.** (a) The auditor may examine and
14 inspect all accounts, books, records, files, papers, and
15 documents and all financial affairs of [every]:

16 (1) Every department, office, agency, and political
17 subdivision[-]; and

18 (2) The Hawaii Disabilities Rights Center under chapter
19 333F-8.5 as provided in subsection (d).

20 (b) The auditor may cause search to be made and extracts
21 to be taken from any account, book, file, paper, record, or
22 document in the custody of any public officer without paying any



1 fee for the same; and every officer having the custody of the
2 accounts, books, records, files, papers, and documents shall
3 make such search and furnish such extracts as thereto requested.

4 (c) The auditor may issue:

- 5 (1) Subpoenas compelling at a specified time and place the
6 appearance and sworn testimony of any person whom the
7 auditor reasonably believes may be able to provide
8 information relating to any audit or other
9 investigation undertaken pursuant to this chapter; and
- 10 (2) Subpoenas duces tecum compelling the production of
11 accounts, books, records, files, papers, documents, or
12 other evidence, which the auditor reasonably believes
13 may relate to an audit or other investigation being
14 conducted under this chapter.

15 Upon application by the auditor, obedience to the subpoena may
16 be enforced by the circuit court in the county in which the
17 person subpoenaed resides or is found in the same manner as a
18 subpoena issued by the clerk of the circuit court.

19 (d) The auditor shall conduct an audit under subsection
20 (a), to include a management audit, of the Hawaii Disabilities
21 Rights Center not less than once every seven year period."



1 SECTION 3. The auditor shall submit a report to the
2 legislature no later than twenty days prior to convening of the
3 regular session 2009, containing findings and recommendations,
4 including any proposed legislation, concerning the Hawaii
5 Disability Rights Center's handling of state funds and its
6 approach to resolving the conflict between a patient's right to
7 privacy and its need for access to the patient and the patient's
8 records.

9 SECTION 4. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2008-2009 for a
12 financial and management audit of the Hawaii Disabilities Rights
13 Center.

14 The sum appropriated shall be expended by the auditor for
15 the purposes of this Act.

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



Report Title:

Hawaii Disability Rights Center; Audit

Description:

Requires the auditor to perform a financial and management audit of the Hawaii Disability Rights Center. (SD1)

