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## HOUSE RESOLUTION

URGING CONGRESS TO OPPOSE THE PROPOSED RULE AMENDMENTS PUBLISHED ON APRIL 10, 2008 IN THE FEDERAL REGISTER (73 FED. REG. 19708) THAT IMPLEMENT THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000, AND TO SUPPORT NEW SECTIONS IN THE UPCOMING REAUTHORIZATION.

1 WHEREAS, pursuant to section 333F-8.5, Hawaii Revised  
2 Statutes, the State of Hawaii has designated an entity to  
3 provide advocacy services to persons with developmental  
4 disabilities and mental illness; and

5  
6 WHEREAS, the designated advocacy service provider, direct  
7 service providers, and governmental organizations provide vital  
8 services to the disabled community and it is imperative that  
9 entities serving this population work in cooperation with each  
10 other to more effectively serve the community; and

11  
12 WHEREAS, the federal Developmental Disabilities Assistance  
13 and Bill of Rights Act of 2000 provides wide powers and  
14 discretion to the designated advocacy service provider to carry  
15 out its mission but fails to provide meaningful state or local  
16 oversight over these services; and

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18 WHEREAS, in 2008 the Legislature ordered a financial and  
19 management audit of the designated advocacy service provider  
20 based on concerns about the advocacy service's fulfillment of  
21 its mission; and

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23 WHEREAS, the state agency's attempts to comprehensively  
24 review the performance of the designated advocacy service  
25 provider has been suspended due to vaguely worded directions  
26 from current laws and the lack of sufficient criteria for  
27 evaluation; and

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29 WHEREAS, designated advocacy service providers have the  
30 power to advocate and protect in cases of abuse or neglect, but  
31 do not have the legal power to enforce laws regarding abuse and  
32 neglect; and

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1 WHEREAS, the Administration on Developmental Disabilities  
2 published a notice of rule change in the Federal Register on  
3 April 10, 2008 (73 Fed. Reg. 19708) proposing clarifications and  
4 new requirements in implementing the Developmental Disabilities  
5 Assistance and Bill of Rights Act of 2000 that would:

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- 7 (1) Allow designated advocacy services wide discretion in  
8 defining what amounts to "abuse";  
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  - 10 (2) Eliminate judicial review of any finding of "probable  
11 cause" by designated advocacy service providers;  
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  - 13 (3) Reduce the power of guardians and families to review a  
14 designated advocacy service provider's actions  
15 involving disabled family members;  
16
  - 17 (4) Further reduce state oversight over advocacy service  
18 providers;  
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  - 20 (5) Allow designated advocacy service providers to  
21 continue to endanger disabled persons by refusing to  
22 share vital information regarding abuse and neglect  
23 with state and local law enforcement agencies; and  
24
  - 25 (6) Reduce the State's power to redesignate its advocacy  
26 service provider; and  
27

28 WHEREAS, the Developmental Disabilities Assistance and Bill  
29 of Rights Act of 2000 is scheduled for reauthorization in 2009;  
30 now, therefore,  
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32 BE IT RESOLVED by the House of Representatives of the  
33 Twenty-fifth Legislature of the State of Hawaii, Regular Session  
34 of 2009, that this body stands opposed to the proposed  
35 amendments to the Developmental Disabilities Assistance and Bill  
36 of Rights Act of 2000 as published on April 10, 2008 in the  
37 Federal Register (73 Fed. Reg. 19708), and urges Congress to  
38 oppose the same; and  
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40 BE IT FURTHER RESOLVED that in the process of  
41 reauthorization, the Developmental Disabilities Assistance and  
42 Bill of Rights Act of 2000 should include the following:  
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- 1 (1) Clear provisions for meaningful state oversight over  
2 designated advocacy service providers;  
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- 4 (2) Provisions providing for protocol and transparency  
5 regarding the designated advocacy service providers'  
6 oversight and investigative practices;  
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- 8 (3) Provisions for compulsory cooperation by designated  
9 advocacy service providers with state agencies  
10 regarding abuse and neglect, unless a state entity is  
11 the subject of investigation; and  
12
- 13 (4) Provisions enumerating rights for entities that are  
14 subject to oversight by designated advocacy service  
15 providers; and  
16

17 BE IT FURTHER RESOLVED that certified copies of this  
18 Resolution be transmitted to Hawaii's congressional delegation,  
19 the Governor, Director of Health, Director of Human Services,  
20 President and Majority Leader of the United States Senate, and  
21 Speaker of the United States House of Representatives.  
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23  
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OFFERED BY: John M. P. [Signature]  
Tom Brunner

MAR 18 2009

