

STAND. COM. REP. NO.

1897

Honolulu, Hawaii

April 28, 2009

RE: S.C.R. No. 90  
S.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred  
S.C.R. No. 90, S.D. 1, entitled:

"SENATE CONCURRENT RESOLUTION URGING THE UNITED STATES  
CONGRESS TO OPPOSE SPECIFIED PROPOSED RULE AMENDMENTS FOR THE  
DEVELOPMENTAL DISABILITIES PROGRAM, 73 FED. REG. 19,708  
(APRIL 10, 2008) (TO BE CODIFIED AT 45 C.F.R. PT. 1385-88)  
THAT IMPLEMENT THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND  
BILL OF RIGHTS ACT OF 2000, AND TO SUPPORT NEW SECTIONS IN  
THE UPCOMING REAUTHORIZATION,"

begs leave to report as follows:

The purpose of this concurrent resolution is to urge the  
United States Congress to:

- (1) oppose specified proposed rule amendments that  
implement the Developmental Disabilities Assistance and  
Bill of Rights Act of 2000;
- (2) support new sections in the upcoming  
reauthorization.

Testimony in support of this concurrent resolution was  
submitted by a few concerned individuals.

Comments were submitted by the Hawaii Disability Rights  
Center.

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Your Committee acknowledges the concerns expressed by the Hawaii Disability Rights Center. The Hawaii Disability Rights Center states that the resolution misconstrues the proposed regulations in the following respects:

- (1) The only increase in the P&A's discretion to the act in cases of abuse would be to investigate significant financial exploitation that may prevent a disabled individual from obtaining food and shelter;
- (2) The P&A could investigate cases where an individual's health and safety is in serious and immediate danger;
- (3) While the P&A would decide in the first instance whether it has probable cause, the rules would not affect the authority of courts to review the P&A's determination and to decide whether probable cause exists;
- (4) The P&A could obtain confidential records without first seeking the consent of guardians and legal representatives only in cases of death or where there is cause to believe an individual is in serious or immediate jeopardy;
- (5) The proposed federal rules would provide clear authority to the P&A to report information to government agencies in cases of abuse, neglect, or serious jeopardy to an individual's health or safety, and where an individual who has died is believed to be developmentally disabled;
- (6) Procedures for re-designating the P&A are not changed in any substantive way.

However, taking into account the aforementioned comments, your Committee still feels the need to urge Congress to oppose the proposed amendments to the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 90, S.D. 1, and recommends its adoption.



Respectfully submitted on  
behalf of the members of the  
Committee on Human Services,

  
JOHN M. MIZUNO Chair



