



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 28 2011

MEMORANDUM

TO: The Honorable John M. Mizuno, Chair
Committee on Human Services

FROM: Patricia McManaman, Director

SUBJECT: **H.C.R. 132/H.R. 123 - REQUESTING THE DEPARTMENT OF THE
ATTORNEY GENERAL TO REVIEW CONFIDENTIALITY LAWS
PERTAINING TO COURT INVOLVED, MULTI-AGENCY YOUTH**

Hearing: Monday, March 28, 2011; 9:00 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of these resolutions is to request the Department of Attorney General to review confidentiality laws pertaining to court involved, multi-agency youth.

DEPARTMENT'S POSITION: The Department of Human Services supports the intent of these resolutions. The challenges we face with our at-risk youth will never be overcome if information is not shared between agencies.

Accordingly, with the concurrence of the Department of the Attorney General, the DHS supports a review of existing federal and state laws relating to shared information concerning at-risk youth. The recommendations made should enhance the ability of schools, social service agencies, courts, and the juvenile and criminal justice systems to share information while safeguarding and protecting the rights of juveniles and their families.

Thank you for the opportunity to provide comments.

AN EQUAL OPPORTUNITY AGENCY

WRITTEN TESTIMONY ONLY

Date: 03/28/2011

Committee: House Human Services

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Resolution: HCR 132 (HR 112) Requesting the Department of the Attorney General to Review Confidentiality Laws Pertaining to Court-Involved, Multi-Agency Youth

Purpose of Resolution: Requests the Department of the Attorney General to review confidentiality laws pertaining to court-involved, multi-agency youth.

Department's Position: The Department of Education (Department) supports HCR 132 (HR 112) as written. In the public school system there are a number of court-involved youth who receive services from multiple agencies. Schools have consistently confronted challenges in sharing of information between agencies. This may result in service gaps, or occasionally, duplication of services. It would be highly valuable for the Department of the Attorney General to review the existing federal and state laws and rules in order to facilitate sharing of appropriate and necessary information. This action would serve to ensure better coordination of services and supports for these youth.

From: Dara Carlin, M.A. [breaking-the-silence@hotmail.com]
Sent: Thursday, March 24, 2011 9:28 PM
To: HUS testimony
Subject: HCR132/HR112 to be heard Monday, 03/28/11, at 9:00am in Room 329

TO: Representative John Mizuno, Chair
Representative Jo Jordan, Vice Chair
Human Services Committee Members

FROM: Dara Carlin, M.A.
Domestic Violence Survivor Advocate
881 Akiu Place
Kailua, HI 96734

DATE: 03/28/11

RE: Support for HCR132/HR112 with a suggestion

The purpose of this proposal will definitely assist youth and families who have multiple service providers who would need to communicate with each other to be on the same page, but I would also like to offer a word of caution in my research on the intent of confidentiality provisions.

The intent and purpose of client confidentiality is that it is the client's right, not the service providers' privilege. As such, the client also retains the right to waive confidentiality if he or she wishes. Unfortunately I've seen "confidentiality" cited to block, keep and prohibit information from being disseminated by persons OTHER than the client and in some instances, I've seen "confidentiality" used as the excuse to keep information from the client themselves.

In a therapeutic relationship, confidentiality is assured UNLESS the therapist believes there is a real threat of danger to the client's self or others. In either of those two instances, confidentiality may be broken in order to enact a Duty To Warn, otherwise confidentiality is the assurance the provider gives to the client so while I see the value and necessity for loosening confidentiality to be inclusive of treatment teams and to facilitate collaboration, I feel there should be some mention or reminder that confidentiality remains the client's right.

Confidentiality was created to protect and keep the client safe from harm, not to protect those who work for or with the client, so while I'm in support of the intent of this measure I'd like to suggest a safety mechanism for those whom confidentiality serves:

If a line could be added to state that confidentiality is always the right of the client to preserve or waive as they choose.

Thank you for this opportunity to provide testimony and this suggestion to HCR132/HR112.

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate