

Date: 04/07/2011

Committee: House Judiciary

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: Wednesday, April 06, 2011 3:43 PM
To: JUDtestimony
Subject: HCR132/HR112 to be heard Thursday, 04/07/11, at 2:00pm in Room 325

Importance: High

TO: Representative Keith-Agaran, Chair
Representative Rhoads, Vice Chair
Judiciary Committee Members

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

DATE: 04/07/11

RE: Support of Intent for HCR132/HR112 with concerns

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 themself.

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 that can be given or revoked not a service provider's privilege to invoke.

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 so choose.

Unless a client has lost all their civil rights or is a danger to self and/or others and is deemed therefore incapable of consent, no third party should have the right to be able to use or claim another individual's confidentiality as their own.

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

Respectfully,

Dara Carlin, M.A.
Domestic Violence Survivor Advocate