
A BILL FOR AN ACT

RELATING TO BEHAVIOR SUPPORT REVIEW COMMITTEE FOR PERSONS WITH
DEVELOPMENTAL OR INTELLECTUAL DISABILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The department of health's position on behavior
2 support is to ensure that behavior interventions are implemented
3 appropriately to assist and support individuals receiving
4 services and those providing support to them. This position:

5 (1) Emphasizes positive behavior supports that promote the
6 growth, development, and independence of individuals;
7 individual choice in daily decision-making; self-
8 management; and individual responsibility for
9 behaviors;

10 (2) Provides for working with persons with challenging
11 behavior (with a focus on teaching replacement
12 behaviors that serve as the function for what the
13 individual is communicating rather than the
14 suppression or elimination of undesirable behaviors),
15 and specification of prohibited interventions; and



1 (3) Enables appropriate safeguards and oversight if
2 aversive procedures (planned or crisis) are used, with
3 planning for the eventual elimination of seclusion and
4 restraints.

5 When an individual with intellectual or developmental
6 disabilities is a danger to oneself or to others, restraints or
7 seclusion may be recommended. Before and after such methods are
8 administered, a behavior support review committee is convened to
9 evaluate such cases and make recommendations.

10 The behavior support review committee membership may
11 include a parent of an individual receiving service from the
12 department of health's developmental disabilities division, a
13 developmental disabilities division service provider who
14 provides at least two services to participants, a community
15 member with no direct involvement with the developmental
16 disabilities division's waiver provider programs, a department
17 of health facilitator with experience or training in best
18 practices to support behaviors of individuals with developmental
19 disabilities, a department of health case manager with
20 experience in supporting participants with behavior concerns,



1 and a person receiving services from the developmental
2 disabilities division.

3 The purpose of this Act is to describe the behavior support
4 review process and to provide behavior support review committee
5 members with immunity from liability.

6 SECTION 2. Chapter 333F, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 "PART . BEHAVIOR SUPPORT REVIEW COMMITTEE FOR PERSONS WITH
10 DEVELOPMENTAL OR INTELLECTUAL DISABILITIES

11 §333F- Definitions. Whenever used in this part, unless
12 the context otherwise requires:

13 "Department" means the department of health.

14 "Developmental disability" shall be as defined in section
15 333F-1.

16 "Director" means the director of health or the director's
17 designated representative.

18 "Intellectual disability" shall be as defined in section
19 333F-1.



1 "Person with developmental or intellectual disabilities"
2 means a youth or an adult with a developmental or intellectual
3 disability.

4 "Restraint" means any physical, chemical, or mechanical
5 intervention that restricts the movement or function of the
6 person or a portion of the person's body.

7 "Seclusion" means any involuntary confinement of a person
8 alone in a room or an area where a person is physically
9 prevented from having contact with others or leaving.

10 **§333F- Behavior support review.** The department of
11 health may convene a committee to conduct multidisciplinary and
12 multiagency reviews of restraint or seclusion of persons with
13 developmental or intellectual disabilities in order to ensure
14 appropriate use and to reduce the risk of harm or death to
15 persons with developmental or intellectual disabilities.

16 **§333F- Access to information.** (a) Upon written request
17 of the director, all providers of supports and state and county
18 agencies shall disclose to the department and those individuals
19 appointed by the director to participate in the behavior support
20 review committee the circumstances of restraint or seclusion
21 used or to be used for a person with developmental or



1 intellectual disabilities to allow the department to conduct
2 multidisciplinary reviews of restraint or seclusion used or to
3 be used for persons with developmental or intellectual
4 disabilities pursuant to section 321-31 and this part.

5 (b) To the extent that this section conflicts with other
6 state confidentiality laws, this section shall prevail.

7 §333F- Exception. Information regarding an ongoing
8 civil or criminal investigation shall be disclosed at the
9 discretion of the applicable state, county, or federal law
10 enforcement agency.

11 §333F- Use and review of information and records and
12 activities pertaining to behavior support review of persons with
13 developmental or intellectual disabilities. (a) Except as
14 otherwise provided in this part, all information and records
15 acquired by the department during its multidisciplinary,
16 multiagency reviews of the restraint or seclusion of persons
17 with developmental or intellectual disabilities pursuant to this
18 part shall be kept confidential and may be disclosed only as
19 necessary to carry out the purposes of this part.

20 (b) Information and statistical compilations of data from
21 the multidisciplinary reviews of restraint or seclusion of



1 persons with developmental or intellectual disabilities that do
2 not contain any information that would permit the identification
3 of any person shall be public record.

4 (c) No individual participating in the department's
5 multidisciplinary review of the restraint or seclusion of a
6 person with developmental or intellectual disabilities shall be
7 questioned in any civil or criminal proceeding regarding
8 information presented in, or opinions formed, as a result of
9 meetings of the multidisciplinary review of restraints or
10 seclusion. Nothing in this subsection shall be construed to
11 prevent a person from testifying to information obtained
12 independently of the department's multidisciplinary behavior
13 support review, or that is public information, or where
14 disclosure is required by law or court order.

15 (d) Information held by the department as a result of a
16 multidisciplinary review of the restraint or seclusion of a
17 person with developmental or intellectual disabilities conducted
18 under this part shall not be subject to subpoena, discovery, or
19 introduction into evidence in any civil or criminal proceeding.

20 §333F- Immunity from liability. No agency or individual
21 participating in multidisciplinary reviews of restraint or



1 seclusion of persons with developmental or intellectual
2 disabilities pursuant to this part shall be held civilly or
3 criminally liable for providing information required under this
4 part."

5 SECTION 3. This Act shall take effect on July 1, 2112.



Report Title:

Behavior Support Review Committee for Persons with Developmental or Intellectual Disabilities

Description:

Authorizes the Department of Health to establish a behavior support review process to conduct multidisciplinary reviews of the restraint or seclusion of persons with developmental or intellectual disabilities. Exempts those who participate in the reviews from liability. (SB812 HD1)

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