

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE RESOLUTION 283

Introduced by Flood, 19.

The United States Department of Justice issued a report on March 7, 2008, to Governor Heineman detailing the findings from its 2007 investigation of the Beatrice State Developmental Center ("BSDC") pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997. The department concluded that numerous conditions and practices at BSDC violated the constitutional and federal statutory rights of its residents. In particular, the department found that BSDC failed to provide its residents with adequate: (1) Protection from harm; (2) training and associated behavioral and mental health services; (3) health care, including nutritional and physical management; and (4) discharge planning and placement in the most integrated setting. In its report, the department listed the minimum remedial measures required to protect the constitutional and statutory rights of the BSDC residents, including increasing the number of employees and ensuring that center residents can live and work in the most integrated setting possible. The report specifically expressed grave concerns regarding staffing difficulties at BSDC and the relationship of those staffing concerns to reports of abuse, neglect, and

substandard care.

The Legislature recognizes that it is essential that citizens under the twenty-four-hour care and supervision of the State of Nebraska be provided with qualified care from trained employees. This care is jeopardized when employees are mandated to work overtime for unnecessarily long hours.

In addition to the United States Department of Justice investigation, BSDC has not complied with the care standards set by the federal Centers for Medicare and Medicaid Service for the past eighteen months. Federal funding of the BSDC has continued only because the state has filed an appeal of the federal government's plan to terminate the state's Medicare and Medicaid funding for the facility. The safety, quality of life, and rights of the BSDC residents are of the utmost concern to the State of Nebraska and it is clear the facility has reached a critical point in its ability to care for its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDREDTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and appoint a special committee of the Legislature to be known as the Developmental Disabilities Special Investigative Committee of the Legislature. The committee shall consist of seven members of the Legislature appointed by the Executive Board. The committee shall elect a chairperson and vice-chairperson from the membership of

the committee. The Executive Board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The Executive Board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. The committee shall be an investigative committee and is hereby authorized to hold hearings and issue subpoenas as is deemed necessary by the committee.

2. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to study the quality of care and related staffing issues at the Beatrice State Developmental Center. The committee shall also investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, including the determination of whether adequate funding and capacity exists for persons to be served in the community, options for service provisions for current residents of the Beatrice State Developmental Center at other twenty-four-hour care facilities in the state, and the staffing practices at twenty-four-hour care facilities and the relationship of those practices to the quality of care provided to the developmentally disabled. The committee shall also study the Department of Health and Human Services with respect to such facilities, including how and why services to the developmentally disabled were permitted to decline to the current level as documented by the United States Department of Justice report.

LR 283

LR 283

The committee shall utilize existing studies and reports and legislation developed to address the current conditions. The committee shall not be limited to such studies, reports, or legislation. The committee shall issue a report with its findings and recommendations to the Legislature no later than December 15, 2008.