

## MEMORANDUM

DATE: March 9, 2009

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Daniese McMullin-Powell  
Chairperson  
State Council for Persons with Disabilities

RE: H.B. 38 [Critical Incident Reporting]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 38 which would require the Delaware Psychiatric Center (DPC), other mental hospitals certified to accept involuntary commitments, and the Stockley Center to report resident deaths and “critical incidents” to the Disabilities Law Program (DLP) within 72 hours of occurrence. SCPD endorses the proposed legislation and has the following observations.

First, the term “critical incidents” is restrictively defined to include only the following: 1) attempted suicide; 2) seclusion exceeding 15 minutes; 3) physical restraint exceeding 5 minutes or resulting in injury; and 4) victimization prompting solicitation of police intervention or investigation (lines 6-10).

Second, facilities would be required to cooperate with a DLP assessment or investigation prompted by the report (lines 32-35) and retaliation against persons cooperating with such an assessment or investigation is prohibited (lines 33-35).

Third, there was not a fiscal note on the predecessor bill (H.B. 408 in the 144<sup>th</sup> General Assembly). There is a fiscal note on the proposed legislation and therefore SCPD questions the need for a fiscal note.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

Cc: The Honorable Jack Markell  
The Honorable Rita Landgraf  
Mr. Brian Hartman, Esq  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council