

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: May 11, 2021
To: Joint Standing Committee on Health & Human Services
From: Anna Broome, Legislative Analyst

LD 629 Resolve, To Establish the Task Force To Study Improving Safety and Provide Protection from Violence for Health Care Workers in Hospitals and Mental Health Care Providers

SUMMARY: This resolve establishes the Task Force To Study Improving Safety and Provide Protection from Violence for Health Care Workers in Hospitals and Mental Health Care Providers. The task force has nine members and will review case studies related to violence or assault cases in health care and mental health care hospitals and facilities and current security practices to develop a plan to improve future security for health care workers and mental health care providers. The report is due by December 1, 2021, for presentation to the Second Regular Session of the 130th Legislature. (Original bill)

Amendment request from the sponsor: Establishes a task force with 15 members to review the process by which criminal law cases may be brought related to incidents of violence in hospitals, in particular, where patients or individuals related to patients assault hospital or medical staff. (See sponsor's markup below.)

ISSUES FROM TESTIMONY:

- Sponsor requesting an amendment.
- Northern Light, MaineHealth, and MHA supporting the amendment (opposed to the original bill) – looking for a pathway where hospitals can report the crime on behalf of an employee – not clear if the hospital can represent the interests of the employee; what are the options for hospitals?; what information is need for DA to prosecute? Hospitals have workplace violence prevention programs. NL has a system wide Workplace Violence Prevention Committee and developed a program “You Report, We Support.”
- Alliance: Need a process to assess the person involved and if they are in an acute mental health crisis, bad substance reaction or creating a dangerous situation due to anger – this would affect the response.

- NFNA: concerns about membership – CCSM, recipient of mental health services, organization that represents patients.

DRAFTING ISSUES:

- No emergency preamble so study could not begin until 90 days after adjournment; appointments made in 30 days (standard language). Legislative studies usually have emergency preambles.
- Unusual to not have a specific committee or committees receiving the report. This is drafted “for presentation to the Second Regular Session of the 130th Legislature.” If adding a committee to receive the report, may depend on the contents of the study (determining when criminal law cases may be brought is not typically HHS jurisdiction).
- Amendment does not conform to Jt Rule 353 – requires a maximum of 13 and a majority of legislators (see below). Legislative Council, through the study table, approves studies and can choose to amend to conform or they can approve studies as drafted, if non-conforming.
- Legislature cannot appoint members of the judicial branch. One option from the 2019 Task Force on Changes to the Maine Indian Claims Settlement Implementing Act – “invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.” Another option is from the Working Group to Improve the Provision of Indigent Legal Services (2017 budget, Pt UUUU-17) – “Two members appointed by the Chief Justice of the Supreme Judicial Court, at least one of whom...”
- Legislature could appoint district attorneys but they are also officers of the court so might be appropriate to do the same as the judicial branch members with the Chief Justice.
- Is the language of the duties clear enough? Could be more specific, e.g. response of hospital staff to assaults and violence; response of law enforcement to assaults and violence; response of prosecutors to cases of assaults and violence referred to them; the disposition of prosecuted cases.

FISCAL IMPACT:

Not yet received from OFPR but this is a legislative study so will go to the study table.

Amendment requested by the sponsor at public hearing:

Sec. 2. Task force membership. Resolved: That the task force consists of 9-15 members appointed as follows:

1. ~~Two~~ ^{ONE} member of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;
- TWO 2. ~~Three~~ members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature;
3. Two members who are representatives of entities knowledgeable about or involved in providing hospital, medical or mental health services, appointed by the President of the Senate; and
4. Two members who are representatives of entities knowledgeable about or involved in providing hospital, medical or mental health services, appointed by the Speaker of the House;
5. One member representing local law enforcement, appointed by the President of the Senate;
6. One member representing local law enforcement, appointed by the Speaker of the House;
7. One member representing district attorneys, appointed by the President of the Senate;
8. One member representing district attorneys, appointed by the Speaker of the House;
9. One member representing the judiciary, appointed by the President of the Senate; and
10. One member representing the judiciary, appointed by the Speaker of the House;

Sec. 5. Duties. Resolved: That the task force shall review ~~case studies related to violence or assault cases in health care and mental health care hospitals and facilities and current security practices and develop a plan to improve future security for health care workers and mental health care providers.~~ the process by which criminal law cases may be brought related to incidents of violence in hospitals, in particular, where patients or individuals related to patients assault hospital or medical staff.

Joint Rule 353 (excerpts):

Rule 353. Legislative Studies. To assist in the exercise of its duties, the Legislature may establish legislative study committees or may alternatively refer matters to joint standing committees or subcommittees of joint standing committees for study. This Joint Rule establishes standards that govern the drafting of legislative study instruments and the authorization of legislative studies. All legislative studies must be consistent with this Joint Rule and with Legislative Council policies adopted under this Joint Rule. Any bill, resolve or joint order proposing a legislative study that is inconsistent with this rule must be reviewed and approved by the Legislative Council.

3. **Appointment of members.** A majority of legislative study members must be legislators and the legislative study committee must be chaired by legislators appointed in a manner consistent with subsection 4. The legislative study committee must include members of the 2 parties holding the largest number of seats in the Legislature. All members of legislative study committees established by joint study order must be appointed by the presiding officers: Senate members by the President and House members by the Speaker. Members of a legislative study created by joint study order who are not legislators must be appointed either by the President or the Speaker. Legislative studies may include a minority of non-legislative members appointed by someone outside the Legislature. Joint appointment of members is not permitted.
5. **Committee size.** Legislative study committees may consist of no fewer than 3 and no more than 13 members.