

2017 Regular Session

SENATE CONCURRENT RESOLUTION NO. 92

BY SENATOR MILKOVICH

HEALTH/HOSPITALS DEPT. Requests that the Department of Health study, plan, and report on establishing a nursing facility diversion program for senior and other citizens.

1 A CONCURRENT RESOLUTION

2 To urge and request the Louisiana Department of Health to study nursing facility diversion
3 program models, prepare a statewide implementation plan to provide senior and
4 other citizens the full opportunity to live out their lives in their own homes and
5 educate eligible consumers regarding community services and the financing of such
6 supports and services, and submit a written report and implementation plan to the
7 Senate and House health and welfare committees no later than September 30, 2017.

8 WHEREAS, on December 21, 2016, after a two-year investigation into Louisiana's
9 delivery of services to people with serious mental illness who reside in nursing facilities
10 across the state and assessing the state's compliance with Title II of the Americans with
11 Disabilities Act (ADA) which requires that individuals with disabilities receive services in
12 the most integrated setting appropriate to their needs, the United States Department of
13 Justice (DOJ) concluded that the state has failed to comply with the ADA and that minimum
14 steps need to be taken in order to meet its obligations under the law; and

15 WHEREAS, the DOJ concluded that Louisiana is in violation of Title II of the
16 Americans with Disabilities Act by unnecessarily relying on nursing facilities to serve
17 people with serious mental illness, rather than providing services in the most integrated
18 setting appropriate to their needs; and

1 WHEREAS, approximately 4,000 people with serious mental illness are currently
2 institutionalized in the state's nursing facilities where they are isolated and segregated from
3 their families, friends, and communities; and

4 WHEREAS, the DOJ further stated that the state's systemic failure to provide
5 appropriate community services also places individuals who currently live in the community
6 at serious risk of unnecessary institutionalization in nursing facilities, and contributing
7 factors include:

8 (1) The state does not identify people with serious mental illness prior to nursing
9 home admission and divert them into effective, community-based alternatives.

10 (2) The state does not identify individual with serious mental illness currently in
11 nursing facilities, inform them about available options, and provide them with effective
12 transition planning and the community services they need to successfully live in the
13 community.

14 (3) The state does not have a sufficient supply of community-based supports to serve
15 people with serious mental illness who wish to transition from nursing facilities or who are
16 at serious risk of placement in a nursing facility. Further, the state does not make the
17 existing supply of community-based supports adequately available to these individuals; and

18 WHEREAS, a study should be conducted of best practice nursing facility diversion
19 programming models and a Louisiana implementation plan be developed to provide senior
20 and other citizens the full opportunity to live out their lives in their own homes; and

21 WHEREAS, not having such a program is placing the state at risk of federal
22 litigation; and

23 WHEREAS, no entity is charged with providing information to those at risk
24 concerning funding options or alternative community supports and services, thereby
25 facilitating the admission of seriously mental ill people into nursing facilities; and

26 WHEREAS, one of the most important tools to divert people from nursing facilities
27 is the Pre-admission Screening and Resident Review process, known as PASRR, which
28 Congress enacted as part of the Nursing Home Reform Act in 1987; and

29 WHEREAS, under PASRR, any person considered for nursing home admission who
30 is suspected of having an intellectual disability or mental illness must undergo a PASRR

1 Level I screen; and

2 WHEREAS, if the PASRR Level I screen indicates that the individual may have a
3 mental illness, an intellectual disability, or a related condition, the state must apply the more
4 rigorous PASRR Level II evaluation, which is designed to determine (a) whether an
5 individual's needs can be met in the community; or (b) whether, and what, specialized
6 services can be provided in a nursing facility that will meet that person's needs; and

7 WHEREAS, Louisiana's PASRR program does little to prevent unnecessary
8 institutionalization of individuals with serious mental illness in nursing facilities; rather it
9 helps to facilitate their admission; and

10 WHEREAS, between fiscal years 2010 and 2014, of 6,142 people given PASRR II
11 screens, 5,292 were admitted to nursing facilities with only fourteen percent being referred
12 to community services; and

13 WHEREAS, there are currently one thousand new admissions annually to nursing
14 facilities of people with severe mental illness; and

15 WHEREAS, community placement will be more economical than nursing facility
16 admission.

17 THEREFORE, BE IT BE RESOLVED that the Legislature of Louisiana does hereby
18 urge and request the Louisiana Department of Health to study nursing facility diversion
19 program models and prepare a statewide implementation plan to provide senior and other
20 citizens the full opportunity to live out their lives in their own homes and to educate eligible
21 consumers (any persons at risk of nursing home admission who receive Medicaid funding)
22 regarding community services, in-home support and care, and the financing of such supports
23 and services.

24 BE IT FURTHER RESOLVED that the department shall submit a written report and
25 implementation plan to the Senate and House health and welfare committees no later than
26 September 30, 2017.

27 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
28 secretary of the Louisiana Department of Health.

