



GOV. MSG. NO. 1087

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 11, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 531 HD3 SD2 CD1

On July 10, 2007, House Bill No. 531 entitled "A Bill for an Act Relating to Children" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to establish a "Hawaii 3-5 Transition" task force to study the feasibility of expanding eligibility, pursuant to Part C of the Individuals with Disabilities in Education Act (IDEA), for services from the Department of Health's (DOH) Early Intervention Section to children between 3 to 5 years old who have developmental disabilities. The task force is to submit a report on its findings no later than 20 days prior to the start of the 2008 legislative session, which would be early January 2008. The task force is appropriated \$120,000 for fiscal year 2007-2008. The task force shall cease to exist at the end of the 2008 regular legislative session.

While the objectives of enriching services for early childhood care have merit, I find this bill does not provide sufficient time to study the critical issues that it requests be studied and then to prepare a comprehensive report. The Department of Education, the Department of Health (DOH), and the University of Hawaii's Center for Disability Studies have all expressed concerns that the timeline is too short to accomplish the tasks that are requested in this measure.

The task force must identify the potential number of children who would be served in this new population and who may benefit from intervention services under Part B of the IDEA; research evidence-based practices and service models; define the array of services and derive resource and cost projections; and conduct a needs assessment, including a statewide qualitative study of families of young children who are receiving special education, as well as those who have exited from intervention services.

Conducting the feasibility study will be further hampered because the final federal regulations have not been issued implementing Part B of the Individuals with Disabilities in Education Act of 2004 (PL 108-446). The proposed regulations for 34 Code of Federal Regulations Part 303 were recently published for the notice and comment period. The final

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federal regulations will not be issued until later this year. Thus, the task force's efforts may be premature.

In addition, this bill proposes to create a large, diverse group that is representative of the affected State agencies, providers, advocates, family members, and other stakeholders. Six months is insufficient time for the task force members to be identified, meet and develop a work plan, explore the relevant topics, develop a state-community-family consensus on issues, and draft, review, finalize, and submit a comprehensive report.

For the foregoing reasons, I allowed House Bill No. 531 to become law as Act 289, effective July 10, 2007, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1 SECTION 1. The federal Individuals with Disabilities
2 Education Improvement Act provides that children with
3 disabilities are entitled to receive a free and appropriate
4 public education. To the extent possible, children with special
5 needs are to be provided with the same educational experiences
6 as their non-disabled peers. Under the federal No Child Left
7 Behind Act, states are held accountable for ensuring that all
8 children are afforded the opportunity to learn.

9 Section 619 of Part B of the Individuals with Disabilities
10 Education Improvement Act implements the earlier landmark Public
11 Law 94-142, known as the Individuals with Disabilities Education
12 Act, which ensures a free and appropriate public education for
13 individuals with disabilities that may include special education
14 and related services in the least restrictive environment for
15 children three years and one day up to five years of age with
16 disabilities. Part C of the Individuals with Disabilities
17 Education Improvement Act directs states to provide early
18 intervention services in the child's natural environment, which



1 may include the child's home or other locations with their
2 typically developing peers. Those early intervention services,
3 for infants and toddlers with disabilities from birth to age
4 three, and their families, may include information and support
5 to parents to increase their knowledge about and ability to
6 support their child's development.

7 Because of the complexity of the transition process for
8 children from being a toddler or infant to being a preschool
9 child, some eligible children may benefit from a longer
10 transition period and continued services in the child's natural
11 environment under programs offered pursuant to Part C of the
12 Individuals with Disabilities Education Improvement Act, instead
13 of placement under Part B of that Act, which mandates services
14 to be provided in the least restrictive environment. Further,
15 due to the differences in eligibility criteria between Part B
16 and Part C, approximately twenty-five per cent of children three
17 years and one day up to five years of age who exited Part C
18 programs in 2004, were eligible to receive services through Part
19 B programs.

20 Hawaii's early intervention section of the department of
21 health is a federal and state mandated program that provides
22 services to support the development of children from birth to



1 three years of age, along with information and support for
2 parents that increases their knowledge about and ability to
3 support their child's development. However, children with
4 developmental delays may require services beyond age three that
5 could be provided by the early intervention section of the
6 department of health.

7 The purpose of this Act is to provide a mechanism to study
8 the feasibility of expanding Hawaii's early intervention section
9 to continue services for children three years and one day up to
10 five years of age through programs usually provided to infants
11 and toddlers pursuant to section 619 of the Individuals with
12 Disabilities Education Improvement Act, and if deemed
13 appropriate, to develop the infrastructure and support services
14 necessary to provide continued services in the natural
15 environments.

16 SECTION 2. (a) There is established a "Hawaii 3-5
17 transition" task force to study the feasibility of expanding
18 Hawaii's early intervention section to continue services for
19 children three years and one day up to five years of age.

20 (b) The members of the task force shall include
21 representation from the neighbor islands, rural Oahu, and
22 underserved populations and shall include at least two parents



1 of children who may require these services and one
2 representative from each of the following:

- 3 (1) The department of health;
- 4 (2) The department of education;
- 5 (3) The department of human services;
- 6 (4) The office of the governor;
- 7 (5) The board of education;
- 8 (6) The Hawaii early intervention coordinating council;
- 9 (7) The special education advisory council;
- 10 (8) The Hawaii state council on developmental
11 disabilities;
- 12 (9) The department of education's Section 619 state and
13 district coordinator;
- 14 (10) The Good Beginnings Alliance;
- 15 (11) Early intervention service providers;
- 16 (12) Head Start providers;
- 17 (13) The American Academy of Pediatrics, Hawaii Chapter;
- 18 (14) The University of Hawaii, college of education,
19 personnel preparation faculty;
- 20 (15) The Hawaii Association for the Education of Young
21 Children;
- 22 (16) Kia'i ka 'ike;



- 1 (17) Early childhood special education professional
- 2 development programs;
- 3 (18) One member of the house of representatives appointed
- 4 by the speaker of the house; and
- 5 (19) One member of the senate appointed by the president of
- 6 the senate.

7 (c) The department of health shall convene the task force,
8 and the department of health and the department of education
9 shall provide staff support to the task force, as necessary.

10 (d) The members of the task force shall serve without
11 compensation but shall be reimbursed for necessary expenses,
12 including travel expenses incurred in the performance of their
13 duties.

14 (e) In completing the feasibility study, the task force
15 shall:

- 16 (1) Identify the potential number of children, on an
- 17 annual basis, who exit Part C programs, are eligible
- 18 for programs under Part B Section 619 of the
- 19 Individuals with Disabilities Education Improvement
- 20 Act, but may benefit from a longer transition period
- 21 and continued Part C program services in the child's
- 22 natural environment or community-based settings;



- 1 (2) Identify the potential number of children, on an
2 annual basis, who exit Part C programs, are found not
3 eligible for services under Part B of Section 619 of
4 the Individuals with Disabilities Education
5 Improvement Act, but continue to have developmental
6 delays and who may benefit from intervention services
7 between the ages of three years and one day up to five
8 years of age;
- 9 (3) Identify the potential number of children, on an
10 annual basis, who have not received services through
11 Part C programs, but are identified as having
12 developmental delays and who may benefit from
13 intervention services between the ages of three years
14 and one day up to five years of age;
- 15 (4) Research evidence-based practices in order to define
16 service models for children between the ages of three
17 years and one day up to five years of age necessary to
18 meet the needs of this population;
- 19 (5) Define the array of services required for children
20 between the ages of three years and one day up to five
21 years of age with developmental delays;



- 1 (6) Based upon the potential number of children to be
2 served, derive resource and cost projections to
3 implement services; and
- 4 (7) Conduct a needs assessment of families focusing on
5 their experiences transitioning out of Part C
6 programs, as well as transitioning into Part B
7 programs.
- 8 (f) The task force shall also:
- 9 (1) Project the length of time required to develop the
10 necessary resource pool to serve the targeted
11 population;
- 12 (2) Develop indicators for evaluation to assess the
13 outcomes of the early intervention system providing
14 services to children between the ages of three years
15 and one day up to five years of age with developmental
16 delays;
- 17 (3) Submit a report to the legislature not later than
18 twenty days prior to the convening of the 2008 regular
19 session. The report shall include:
- 20 (A) Recommendations regarding the feasibility of
21 expanding Hawaii's early intervention section to



1 serve children between three years and one day up
2 to five years of age with developmental delays;
3 (B) If deemed feasible, recommendations as to
4 eligibility and service models for the expansion
5 of the early intervention section, taking into
6 consideration the identified needs, recommended
7 best practices, resources and cost projections,
8 service payment (e.g., continuum of payment
9 options from no cost to families to partial
10 payment by families), and procedural safeguards
11 without adversely affecting the implementation of
12 Part C program services;
13 (C) If recommended, additional information, including
14 eligibility criteria and programmatic, financing,
15 and evaluation requirements to implement an array
16 of appropriate service models for children
17 between three years and one day up to five years
18 of age with developmental delays in natural and
19 least restrictive environments;
20 (D) An implementation plan; and
21 (E) A timeline to begin services; and



1 (4) Cease to exist upon the adjournment sine die of the
2 2008 regular session.

3 (g) The University of Hawaii center on disability studies
4 shall serve as the advisory committee facilitator and shall
5 provide the necessary research, as well as conduct the needs
6 assessment for the feasibility study.

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$120,000 or so much
9 thereof as may be necessary for fiscal year 2007-2008 for the
10 purposes of section 2 of this Act.

11 The sum appropriated shall be expended by the department of
12 health for the purposes of section 2 of this Act.

13 SECTION 4. If any provision of this Act, or the
14 application thereof to any person or circumstance is in conflict
15 with federal requirements that are a prescribed condition for
16 the allocation of federal funds to the State, such provision of
17 this Act, or the application thereof to any person or
18 circumstance, shall be invalid; provided that the invalidity
19 does not affect other provisions or applications of the Act,
20 which can be given effect without the invalid provision or
21 application, and to this end the provisions of this Act are
22 severable.



1 SECTION 5. This Act shall take effect on July 1, 2007.

