



GOV. MSG. NO. 798

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 26, 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: Senate Bill No. 820 SD 1

On April 25, 2007, Senate Bill No. 820 SD 1 entitled "A Bill for an Act Relating to Developmental Disabilities" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to extend the repeal date of Act 303, Session Laws of Hawaii 2006. Act 303 established a pilot project to expand the residential options of individuals with developmental disabilities or mental retardation to allow them to live in a setting of the person's choice if it is determined that "the person can be sustained with supports, the supports are attached to the person, and adequate consideration and recognition is given to the person's safety and well-being." Act 303 is scheduled to sunset on June 30, 2008. Senate Bill No. 820 SD 1 extends this sunset date to June 30, 2009.

In Governor's Message 861 (2006), I expressed concerns with regard to Act 303. These concerns have not been addressed, and Senate Bill No. 820 SD 1 further extends the date of Act 303. Therefore, my concerns with Act 303 are applicable to this bill.

First, Act 303 does not state how the person's choice of residential setting is to be made and how the Department of Health (DOH) is to support the choice. Under the current system employed by the Developmental Disabilities Division (DDD) of the DOH, DDD assists clients to locate licensed or certified homes. This program creates uncertainty over the DOH's role in selection of these residential alternatives even though State money is spent supporting the individual.

Second, Act 303 does not specify how to determine whether "adequate consideration and recognition" has been given to the person's safety and well-being. Act 303 does not mention licensing or certification requirements, an omission that could lead to an interpretation that the program allows placement in unlicensed or uncertified homes. Allowing placement in unlicensed or uncertified homes poses a risk for the safety and well-being of persons with

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developmental disabilities or mental retardation because it is only through licensing or certification requirements that safety standards such as criminal history background checks of the home operator and periodic monitoring or unannounced home visits are maintained. Any program that purports to assist persons with developmental disabilities under the care of the State must include a degree of accountability within the system.

For the foregoing reasons, I allowed Senate Bill No. 820 SD 1 to become law as Act 40, effective April 25, 2007, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", with a stylized flourish at the end.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO DEVELOPMENTAL DISABILITIES.

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

1 SECTION 1. Section 333F-2, Hawaii Revised Statutes, sets
2 forth the supports and services the department of health
3 administers. These include the administration of early
4 identification of persons with developmental disabilities or
5 mental retardation and critical development, planning, and
6 implementation in coordination with other federal, state, and
7 county agencies of service programs. It establishes a continuum
8 of comprehensive services and residential alternatives in the
9 community to allow persons with developmental disabilities or
10 mental retardation to live in the least restrictive,
11 individually appropriate environment.

12 The purpose of this Act is to extend the repeal date of Act
13 303, Session Laws of Hawaii 2006, from June 30, 2008, to
14 June 30, 2009, in order to extend the repeal date of amendments
15 made to section 333F-2(c)(9), Hawaii Revised Statutes, and to
16 require a report from the department of health, state council on
17 developmental disabilities.



1 SECTION 2. The department of health, state council on
2 developmental disabilities shall submit a final report to the
3 legislature no later than twenty days prior to the convening of
4 the regular session of 2009. The report shall contain but not
5 be limited to:

6 (1) The number of persons with developmental disabilities
7 or mental retardation who choose to live independently
8 as provided by Act 303, Session Laws of Hawaii 2006;

9 (2) The financial impact Act 303, Session Laws of Hawaii
10 2006, has had on the State; and

11 (3) Any findings and recommendations, including any
12 proposed legislation.

13 SECTION 3. Act 303, Session Laws of Hawaii 2006, is
14 amended by amending section 2 to read as follows:

15 "SECTION 2. The department of health, state council on
16 developmental disabilities shall submit a preliminary report to
17 the legislature no later than twenty days prior to the convening
18 of the regular session of 2007 and a [~~final~~] progress report no
19 later than twenty days prior to the convening of the regular
20 session of 2008. The reports shall contain but not be limited
21 to:



- 1 (1) The number of persons with developmental disabilities
- 2 or mental retardation who choose to live independently
- 3 as provided by this Act;
- 4 (2) The financial impact this Act has had on the State;
- 5 and
- 6 (3) Any findings and recommendations, including any
- 7 proposed legislation."

8 SECTION 4. Act 303, Session Laws of Hawaii 2006, is
 9 amended by amending section 4 to read as follows:

10 "SECTION 4. This Act shall take effect upon its approval,
 11 and shall be repealed on June 30, [~~2008~~] 2009; provided that
 12 section 333F-2, Hawaii Revised Statutes, shall be reenacted in
 13 the form in which it read prior to this Act taking effect."

14 SECTION 5. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

GOVERNOR OF THE STATE OF HAWAII

Approved this day: _____

