

JAN 18 2008

A BILL FOR AN ACT

RELATING TO THE DEVELOPMENTAL DISABILITIES ADVOCACY SYSTEM.

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

1 SECTION 1. (a) The legislature finds that Title 42 United
2 States Code chapter 144, subchapter 1, part C, provides for the
3 protection and advocacy of the individual rights of persons with
4 development disabilities. The purpose of the federal law, as
5 expressed in Title 42 United States Code section 15041, is to
6 "provide for allotments to support a protection and advocacy
7 system (referred to in this part as a "system") in each State to
8 protect the legal and human rights of individuals with
9 developmental disabilities." Each state is allotted from
10 \$150,000 to \$200,000 in federal funds for this purpose each
11 fiscal year (42 U.S.C. 15042). In order for a state to receive
12 this federal allotment, a state must "have in effect a system to
13 protect and advocate the rights of individuals with
14 developmental disabilities."

15 (b) The advocacy system must have the authority to:

16 (1) Pursue legal, administrative, and other appropriate
17 remedies or approaches to ensure the protection of,



1 and advocacy for, the rights of such individuals
2 within the state who are or who may be eligible for
3 treatment, services, or habilitation, or who are being
4 considered for a change in living arrangements, with
5 particular attention to members of ethnic and racial
6 minority groups;

7 (2) Provide information on and referral to programs and
8 services addressing the needs of individuals with
9 developmental disabilities; and

10 (3) Investigate incidents of abuse and neglect of
11 individuals with developmental disabilities if the
12 incidents are reported to the system or if there is
13 probable cause to believe that the incidents occurred.

14 (c) Furthermore, the advocacy system must annually:

15 (1) Develop, submit to the Secretary of Health and Human
16 Services, and take action with regard to goals and
17 priorities, developed through data driven strategic
18 planning, for the system's activities; and

19 (2) Provide to the public, including individuals with
20 developmental disabilities attributable to either
21 physical impairment, mental impairment, or a
22 combination of physical and mental impairment, and



1 their representatives, and as appropriate, non-state
2 agency representatives of the state councils on
3 developmental disabilities, and centers, in the state,
4 an opportunity to comment on various issues.

5 (d) The advocacy system is further required by federal law
6 to:

7 (1) Establish a grievance procedure;

8 (2) Not be administered by the state council on
9 developmental disabilities;

10 (3) Be independent of any agency that provides treatment,
11 services, or habilitation to individuals with
12 developmental disabilities;

13 (4) Have access at reasonable times to any individual with
14 a developmental disability in a location in which
15 services, supports, and other assistance are provided
16 to the individual;

17 (5) Have access to certain records;

18 (6) Hire and maintain staff;

19 (7) Have authority to educate policymakers; and

20 (8) Provide assurances to the Secretary of Health and
21 Human Services that funds allotted to the state will
22 be used to supplement, and not supplant, the non-



1 federal funds that would otherwise be made available
2 for the purposes for which the federal funds are
3 allotted.

4 The legislature further finds that the advocacy system may
5 be organized as a nonprofit entity with a multimember governing
6 board, as it is in Hawaii. In such a case, if the governor has
7 the authority to appoint members of the board, not more than
8 one-third of the members of the advocacy system's governing
9 board may be appointed by the governor (42 U.S.C. section
10 15044).

11 (e) The purpose of this Act is to authorize the governor,
12 in accordance with federal law, to appoint members from lists of
13 nominees submitted by the president of the senate and the
14 speaker of the house of representatives to the governing board
15 of the State's advocacy system, which is organized as a
16 nonprofit entity.

17 SECTION 2. Chapter 333F, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§333F- Advocacy system; appointment of members by
21 governor; nominations from president of the senate and speaker
22 of the house of representatives. The governor is authorized to



1 appoint a total of two members to the governing board of the
2 State's advocacy system, which is organized as a nonprofit
3 entity as described in Title 42 United State Code section 15044.
4 Pursuant to 42 United State Code section 15044, the governor
5 shall appoint one member each from a list of nominees submitted
6 by the president of the senate and from a list of nominees
7 submitted by the speaker of the house of representatives."

8 SECTION 3. No person serving on the governing board of the
9 State's advocacy system as of the effective date of this Act
10 shall be removed from that position because of changes to
11 procedures required by section 2 of this Act; provided that any
12 appointment of a new member made in compliance with the
13 provisions of section 2 of this Act shall be made immediately
14 upon the expiration of the term of the appropriate incumbent.

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 

Report Title:

Developmental Disabilities Advocacy System; Governor Appointment

Description:

Authorizes governor to appoint 2 members from lists of nominees submitted by the senate president and speaker of the house of representatives, to the governing board of the State's advocacy system for persons with developmental disabilities, organized as a nonprofit entity under 42 United States Code section 15044.

