
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 developmental 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 have
14 occurred.

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

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

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



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

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

- 8 (1) Establish a grievance procedure;
- 9 (2) Not be administered by the state council on
10 developmental disabilities;
- 11 (3) Be independent of any agency that provides treatment,
12 services, or habilitation to individuals with
13 developmental disabilities;
- 14 (4) Have access at reasonable times to any individual with
15 a developmental disability in a location in which
16 services, supports, and other assistance are provided
17 to the individual;
- 18 (5) Have access to certain records;
- 19 (6) Hire and maintain staff;
- 20 (7) Have authority to educate policymakers; and
- 21 (8) Provide assurances to the Secretary of Health and
22 Human Services that funds allotted to the State will



1 be used to supplement, and not supplant, the non-
2 federal funds that would otherwise be made available
3 for the purposes for which the federal funds are
4 allotted.

5 The legislature further finds that the advocacy system may
6 be organized as a nonprofit entity with a multimember governing
7 board, as it is in Hawaii. In such a case, if the governor has
8 the authority to appoint members of the board, not more than
9 one-third of the members of the advocacy system's governing
10 board may be appointed by the governor (42 U.S.C. section
11 15044).

12 (e) The purpose of this Act is to authorize the governor,
13 in accordance with federal law, to appoint two members to the
14 governing board of the State's advocacy system, which is
15 organized as a nonprofit entity.

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

19 "§333F- Advocacy system; appointment of members by
20 governor. The governor is authorized to appoint a total of two
21 members to the governing board of the State's advocacy system,



1 which is organized as a nonprofit entity as described in Title
2 42 United States Code section 15044."

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

11 SECTION 4. New statutory material is underscored.

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



Report Title:

Developmental Disabilities Advocacy System; Governor Appointment

Description:

Authorizes governor to appoint two members 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. (SD1)

