



GOV. MSG. NO. 1324

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 11, 2011

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

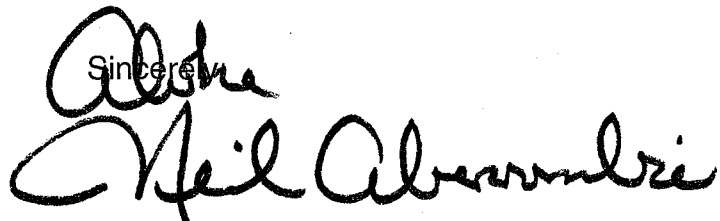
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 11, 2011, the following bill was signed into law:

HB761 HD1 SD2 CD1

RELATING TO INTELLECTUAL DISABILITIES.  
Act 220 (11)

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

JUL 11 2011

ORIGINAL

ACT 220

HOUSE OF REPRESENTATIVES  
TWENTY-SIXTH LEGISLATURE, 2011  
STATE OF HAWAII

H.B. NO. 761  
H.D. 1  
S.D. 2  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO INTELLECTUAL DISABILITIES.

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

1 SECTION 1. Chapter 324, Hawaii Revised Statutes, is  
2 amended by amending the title of part II to read as follows:

3 "PART II. MENTAL HEALTH AND [~~MENTAL RETARDATION~~]  
4 INTELLECTUAL DISABILITY STUDIES"

5 SECTION 2. Chapter 333F, Hawaii Revised Statutes, is  
6 amended by amending the title to read as follows:

7 "SERVICES FOR PERSONS WITH DEVELOPMENTAL [~~DISABILITIES~~] OR  
8 [~~MENTAL RETARDATION~~] INTELLECTUAL DISABILITIES"

9 SECTION 3. Section 333F-11, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) Notwithstanding any law to the contrary, the family  
12 court may appoint the director as guardian of any person if the  
13 court finds that:

14 (1) The person is an incapacitated person as defined in  
15 section 560:5-102;

16 (2) The person is developmentally or intellectually  
17 disabled [~~or mentally retarded~~];



- 1 (3) The person may reasonably be expected to need
- 2 treatment or care at any residential facility; and
- 3 (4) There is no other suitable guardian including the
- 4 public guardian as designated in chapter 551A who is
- 5 able or willing to serve as guardian."

6 SECTION 4. Section 346-230, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8 "(b) Upon the department's determination that protective  
9 services are no longer needed, the vulnerable adult shall be  
10 referred to the agency responsible for follow-up services. For  
11 the mentally ill[, ~~mentally retarded, or developmentally~~  
12 ~~disabled adult,~~] or adults with developmental or intellectual  
13 disabilities, the state agency designated to provide services  
14 shall be the department of health."

15 SECTION 5. Section 346D-2, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Waiver programs shall be established and administered  
18 by the department of human services to provide comprehensive  
19 home and community-based services for the aged, chronically ill,  
20 disabled, developmentally disabled, and [~~mentally retarded~~  
21 ~~individuals,~~] individuals with intellectual disabilities, who  
22 are certified as requiring acute, skilled nursing, intermediate



1 care facility, or intermediate care facility for [~~the mentally~~  
2 ~~retarded~~] individuals with intellectual disabilities level of  
3 care."

4 SECTION 6. Section 431:10-212, Hawaii Revised Statutes, is  
5 amended by amending the title to read as follows:

6 "**§431:10-212 Contract limitations for [~~mentally retarded~~**  
7 **and] handicapped children[~~-~~] and children with intellectual**  
8 **disabilities.**"

9 SECTION 7. Section 432:1-601, Hawaii Revised Statutes, is  
10 amended by amending the title to read as follows:

11 "**§432:1-601 Contract limitations for [~~mentally retarded~~**  
12 **and] handicapped children[~~-~~] and children with intellectual**  
13 **disabilities.**"

14 SECTION 8. Section 571-11, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§571-11 Jurisdiction; children.** Except as otherwise  
17 provided in this chapter, the court shall have exclusive  
18 original jurisdiction in proceedings:

19 (1) Concerning any person who is alleged to have committed  
20 an act prior to achieving eighteen years of age  
21 [~~which~~] that would constitute a violation or attempted  
22 violation of any federal, state, or local law or



1            [~~municipal~~] county ordinance. Regardless of where the  
2 violation occurred, jurisdiction may be taken by the  
3 court of the circuit where the person resides, is  
4 living, or is found, or in which the offense is  
5 alleged to have occurred;

6            (2) Concerning any child living or found within the  
7 circuit:

8            (A) Who is neglected as to or deprived of educational  
9 services because of the failure of any person or  
10 agency to exercise that degree of care for which  
11 it is legally responsible;

12            (B) Who is beyond the control of the child's parent  
13 or other custodian or whose behavior is injurious  
14 to the child's own or others' welfare;

15            (C) Who is neither attending school nor receiving  
16 educational services required by law whether  
17 through the child's own misbehavior or  
18 nonattendance or otherwise; or

19            (D) Who is in violation of curfew;

20            (3) To determine the custody of any child or appoint a  
21 guardian of any child;

22            (4) For the adoption of a person under chapter 578;



- 1 (5) For the termination of parental rights under sections
- 2 571-61 [~~to~~] through 571-63;
- 3 (6) For judicial consent to the marriage, employment, or
- 4 enlistment of a child, when [~~such~~] consent is required
- 5 by law;
- 6 (7) For the treatment or commitment of a mentally
- 7 defective[~~, mentally retarded,~~] or mentally ill
- 8 child[~~+~~], or a child with an intellectual disability;
- 9 (8) Under the Interstate Compact on Juveniles under
- 10 chapter 582 or the Interstate Compact for Juveniles
- 11 under chapter 582D;
- 12 (9) For the protection of any child under chapter 587A;
- 13 and
- 14 (10) For a change of name as provided in section 574-
- 15 5(a)(2)(C)."

16 SECTION 9. Section 46-4, Hawaii Revised Statutes, is

17 amended by substituting the words "individuals with intellectual

18 disabilities" wherever the words "mentally retarded individuals"

19 or "mentally retarded" appear, as the context requires.

20 SECTION 10. Sections 46-4 and 518-3, Hawaii Revised

21 Statutes, are amended by substituting the words "intermediate

22 care facility for individuals with intellectual disabilities in



1 the community" wherever the words "intermediate care  
2 facility/mental retardation-community" appear, as the context  
3 requires.

4 SECTION 11. Sections 321-11.5, 321-15.2, 346-29.5, 346-37,  
5 346D-2, 346D-3, 346E-1, and 846-2.7, Hawaii Revised Statutes,  
6 are amended by substituting the term "intermediate care facility  
7 for individuals with intellectual disabilities" or "intermediate  
8 care facilities for individuals with intellectual disabilities"  
9 wherever the term "intermediate care facility for the mentally  
10 retarded" or "intermediate care facilities for the mentally  
11 retarded" appears, as the context requires.

12 SECTION 12. Sections 321-15.9, 324-11, 328C-1, 333F-1,  
13 333F-22, 431:10-212, 431:10D-212, 431M-1, 432:1-601, and 461-1,  
14 Hawaii Revised Statutes, are amended by substituting the term  
15 "intellectual disability" or "intellectual disabilities"  
16 wherever the term "mental retardation" appears, as the context  
17 requires.

18 SECTION 13. Sections 321-15.9, 333F-1, 333F-2, 333F-3,  
19 333F-5, 333F-6, 333F-8, 333F-13, and 333F-22, Hawaii Revised  
20 Statutes, are amended by substituting the words "developmental  
21 or intellectual disabilities", or like term, wherever the words



1 "developmental disabilities or mental retardation", or like  
2 term, appear, as the context requires.

3 SECTION 14. Section 333F-2, Hawaii Revised Statutes, is  
4 amended by substituting the acronym "ICF/ID" wherever the  
5 acronym "ICF/MR" appears, as the context requires.

6 SECTION 15. Sections 383-7, 386-1, 392-5, and 393-5,  
7 Hawaii Revised Statutes, are amended by substituting the words  
8 "developmental and intellectual disabilities" wherever the words  
9 "developmental disabilities and mental retardation" appear, as  
10 the context requires.

11 SECTION 16. Section 571-22, Hawaii Revised Statutes, is  
12 amended by substituting the words "individuals with intellectual  
13 disabilities" wherever the term "the mentally defective or  
14 retarded" appears, as the context requires.

15 SECTION 17. Sections 571-61 and 578-2, Hawaii Revised  
16 Statutes, are amended by substituting the term "intellectually  
17 disabled" wherever the term "mentally retarded" appears, as the  
18 context requires.

19 SECTION 18. This Act is not intended to change the  
20 coverage, eligibility, rights, responsibilities or definitions  
21 referred to in the amended provisions.





1 SECTION 19. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 20. This Act shall take effect on July 1, 2011;  
4 provided that the amendments made to sections 321-11.5(b) and  
5 321-15.2, Hawaii Revised Statutes, by section 11 of this Act  
6 shall not be repealed when section 321-11.5(b) and the  
7 definition of "healthcare facility" in section 321-15.2 are  
8 reenacted on June 30, 2014, by section 8 of Act 21, Special  
9 Session Laws of Hawaii 2009.

APPROVED this 11 day of JUL , 2011

*Neil Abernethy*

GOVERNOR OF THE STATE OF HAWAII

