



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

The Honorable Colleen Hanabusa, President
and Members of the Senate
Page 2

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