



GOV. MSG. NO. 769

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 29, 2008

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:

This is to inform you that on May 29, 2008, the following bill was signed into law:

HB3352 HD2 SD2 CD1

A BILL FOR AN ACT RELATING TO AN AUDIT OF
THE HAWAII DISABILITY RIGHTS CENTER.
(ACT 127)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO AN AUDIT OF THE HAWAII DISABILITY RIGHTS CENTER.

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

1 SECTION 1. The legislature finds that Congress created a
2 nationwide protection and advocacy system for individuals with
3 developmental disabilities under the Developmental Disabilities
4 Assistance and Bill of Rights Act, as amended, to aid
5 individuals with developmental disabilities or mental illness
6 and their families in gaining access to appropriate support and
7 services. States are required to designate an agency or entity
8 to provide advocacy services to persons with developmental
9 disabilities and mental illness in order to receive federal
10 funds for programs for these persons.

11 The legislature notes that the Hawaii Disability Rights
12 Center (Center) is the agency designated under section 333F-8.5,
13 Hawaii Revised Statutes, to provide advocacy services to persons
14 with developmental disabilities or mental illness. Section
15 333F-8.5(c), Hawaii Revised Statutes, grants the Center access
16 to all records of any person with developmental disabilities or
17 mental illness, to the extent required by federal law. However,



1 there are also federal and state statutes, such as the Health
2 Insurance Portability and Accountability Act, which were enacted
3 to protect the privacy of patient records.

4 The legislature also finds that there is an ongoing dispute
5 as to whether the law that provides the Center access to records
6 overrides the privacy rights of persons receiving services and
7 their families, with or without the appropriate waivers of these
8 privacy rights, and, if so, what justification is necessary for
9 the Center to demand access to records of persons with
10 disabilities. Providers of services to individuals with
11 disabilities are uncertain as to their obligation to disclose
12 patient records to an entity such as the Center. Concerns have
13 been raised about the Center, its approach to resolving the
14 conflict between a patient's right to privacy, and its need for
15 access to the patient and the patient's records.

16 The legislature also notes that the department of health
17 has jurisdiction over state funding for the Hawaii Disability
18 Rights Center and has responsibility for the performance of the
19 Center. The legislature finds for purposes of this Act that the
20 Center is a "quasi-public institution" within the scope of
21 section 23-4, Hawaii Revised Statutes, because it is supported
22 in whole or in part by and handles state or public funds.



1 Although the Center is therefore subject to regular audits by
2 the auditor, it has never been audited by the auditor.

3 The purpose of this Act is to direct the auditor to perform
4 a financial and management audit of the Center to protect its
5 vulnerable clientele and to ensure that state funds are being
6 spent in accordance with applicable laws.

7 SECTION 2. (a) The auditor shall conduct a financial and
8 management audit of the Hawaii Disability Rights Center.

9 (b) The auditor shall submit a report to the legislature
10 no later than twenty days prior to convening of the regular
11 session 2009, containing findings and recommendations, including
12 any proposed legislation, concerning the Hawaii Disability
13 Rights Center's handling of state funds and its approach to
14 resolving the conflict between a patient's right to privacy and
15 its need for access to the patient and the patient's records.

16 SECTION 3. This Act shall take effect upon its approval.

APPROVED this 29 day of MAY, 2008



GOVERNOR OF THE STATE OF HAWAII

