



GOV. MSG. NO. 859

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 1776 HD1 SD1 CD1

On July 15, 2009, House Bill No. 1776, entitled "A Bill for an Act Relating to Public Assistance" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this measure is to prevent inmates from receiving public assistance by: (1) requiring the Department of Public Safety to provide a complete list of all inmates in its custody to the Department of Human Services no later than December 31, 2009, and beginning January 31, 2010, to provide the Department of Human Services with monthly reports listing newly admitted inmates; and (2) requiring the Department of Human Services to identify the status of each inmate on the monthly list with respect to the inmate's current receipt of public assistance. State law presently prohibits inmates from receiving public assistance.

Although I support the policy of screening inmates for public assistance, this task might have been more easily accomplished through a Memorandum of Agreement or Memorandum of Understanding between the Department of Public Safety and the Department of Human Services. Legislation was unnecessary and interferes with the flexibility of each department to manage its internal affairs and adjust to changing circumstances.

For the foregoing reasons, I allowed House Bill No. 1776 to become law as Act 188, effective July 15, 2009, without my signature.

Sincerely,

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

LINDA LINGLE

ACT 188

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 1776
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO PUBLIC ASSISTANCE.

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

1 SECTION 1. The legislature finds that, under section
2 346-29(b), Hawaii Revised Statutes, an applicant or recipient of
3 public assistance who is also an inmate of any public
4 institution may not receive public assistance from the State
5 under chapter 346, Hawaii Revised Statutes. The one exception
6 is for an inmate of a public institution who is otherwise
7 eligible for medical assistance and who has been determined by
8 the medical director of the institution as having a major
9 illness or medical condition requiring the provision of medical
10 care outside of the institution. In addition, any applicant or
11 recipient who is found guilty of fraudulently misrepresenting
12 residence in two or more states to receive assistance is also
13 prohibited from receiving public assistance in Hawaii for ten
14 years from the date of conviction. Furthermore, a fugitive
15 felon or an individual who is in violation of a condition of
16 probation or parole, or has sufficient income or other resources
17 to provide a standard above that required by chapter 346, Hawaii



1 Revised Statutes, may not receive public assistance in the
2 state.

3 However, the legislature finds that the department of
4 public safety does not provide the department of human services
5 with lists of newly admitted inmates. The department of human
6 services currently does not regularly screen inmates for receipt
7 of public assistance except for inmates who are convicted of
8 welfare fraud.

9 The purpose of this Act is to improve the efficiency of
10 enforcing the public assistance law with respect to inmates who
11 are no longer eligible to receive public assistance by requiring
12 the department of public safety to provide monthly lists of
13 newly admitted inmates to the department of human services to
14 enable that department to screen for all inmates not eligible to
15 receive public assistance.

16 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§353- Public assistance; inmates; monthly reports to
20 department of human services. Beginning January 31, 2010, to
21 assist the department of human services to enforce section
22 346-29(b), the director shall prepare and transmit to the



1 department of human services monthly reports listing all inmates
2 newly admitted during the previous month to any correctional
3 facility within the state; provided that no later than December
4 31, 2009, the director shall transmit to the department of human
5 services an initial list of all inmates within the department of
6 public safety's correctional facilities statewide."

7 SECTION 3. Section 346-29, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§346-29 Applications for public assistance; manner, form,**
10 **conditions.** (a) Applications for public assistance under this
11 chapter shall be made by the applicant, or by someone acting in
12 the applicant's behalf, in the manner, place, and form
13 prescribed by the department.

14 (b) No applicant or recipient who is found guilty of
15 fraudulently misrepresenting residence to obtain assistance in
16 two or more states shall be entitled to public assistance under
17 this chapter for ten years from date of conviction. No
18 applicant or recipient shall be entitled to public assistance
19 under this chapter who is a fugitive felon or who is in
20 violation of a condition of probation or parole or has
21 sufficient income or other resources to provide a standard above
22 that provided in this chapter, or who is an inmate of any public



1 institution, except that any inmate of a public institution who
2 is otherwise eligible for medical assistance and who has been
3 determined by the medical director of the institution as having
4 a major illness or medical condition requiring the provision of
5 medical care outside of the institution may receive assistance
6 under this chapter. An inmate of a public institution or
7 resident of a medical institution may apply for assistance to
8 begin after the inmate's discharge from the institution. To
9 enforce this subsection, the department shall examine each list
10 of inmates within, or newly admitted to, a correctional facility
11 in the state that is submitted to the department by the director
12 of public safety pursuant to section 353- , regardless of the
13 nature of the offense for which an inmate is incarcerated or the
14 duration of incarceration, to determine whether an inmate is
15 eligible for public assistance under this chapter.

16 (c) In determining the needs of an applicant or recipient
17 for public assistance by the department, the department shall:

- 18 (1) Disregard the amounts of earned or unearned income as
19 required or allowed by federal acts and other
20 regulations, to receive federal funds and disregard
21 from gross earned income twenty per cent plus \$200 and
22 a percentage of the remaining balance of earned income



1 consistent with federal regulations and other
2 requirements;

3 (2) Consider as net income in all cases the income as
4 federal acts and other regulations require the
5 department to consider for receipt of federal funds
6 and may consider the additional income and resources
7 as these acts and regulations permit to be considered;

8 (3) For households with minor dependents, disregard a
9 total of \$5,000 in assets and the value of one motor
10 vehicle in determining the needs of persons for
11 financial assistance; provided that the amount to be
12 disregarded shall not exceed standards under federally
13 funded financial assistance programs. This paragraph
14 shall not apply to persons eligible for federal
15 supplemental security income benefits, aid to the
16 aged, blind or disabled, or general assistance to
17 households without minor dependents. In determining
18 the needs of persons eligible for federal supplemental
19 security income benefits, aid to the aged, blind, or
20 disabled, or general assistance to households without
21 minor dependents, the department shall apply all the



- 1 resource retention and exclusion requirements under
2 the federal supplemental security income program;
- 3 (4) Apply the resource retention requirements under the
4 federal supplemental security income program in
5 determining the needs of a single person for medical
6 assistance only;
- 7 (5) Apply the resource retention requirements under the
8 federal supplemental security income program in
9 determining the needs of a family of two persons for
10 medical assistance only and an additional \$250 for
11 each additional person included in an application for
12 medical assistance only;
- 13 (6) Disregard amounts of emergency assistance granted
14 under section 346-65;
- 15 (7) Not consider as income or resources any payment for
16 services to or on behalf of, or any benefit received
17 by, a participant under the first to work program of
18 part XI, other than wages. Wages earned by a
19 participant while participating in the first to work
20 program shall be considered income of the participant,
21 unless the wages are excluded or disregarded under any
22 other law;



- 1 (8) Not consider as income or resources payment made to
2 eligible individuals, eligible surviving spouses,
3 surviving children or surviving parents as specified
4 under Title I of the Civil Liberties Act of 1988,
5 Public Law 100-383, which made restitution to
6 individuals of Japanese ancestry who were interned
7 during World War II;
- 8 (9) Allow the community spouse of an individual residing
9 in a medical institution to maintain countable
10 resources to the maximum allowed by federal statutes
11 or regulations with provisions for increases, as
12 allowed by the Secretary of Health and Human Services
13 by means of indexing, court order, or fair hearing
14 decree, without jeopardizing the eligibility of the
15 institutionalized spouse for medical assistance;
- 16 (10) Allow an individual residing in a medical institution
17 to contribute toward the support of the individual's
18 community spouse, thereby enabling the community
19 spouse to maintain the monthly maximum income allowed
20 by federal statutes or regulations, with provisions
21 for increases as allowed by the Secretary of Health



1 and Human Services by means of indexing, court order,
2 or fair hearing decree;

3 (11) Consider the transfer of assets from the applicant's
4 name to another name within the specified time period
5 as required by federal regulations, known as the
6 "lookback" period, prior to the application for
7 medical assistance for care in a nursing home or other
8 long-term care facility. Pursuant to rules adopted
9 under chapter 91, the director may attribute any
10 assets that have been transferred within the required
11 federal "lookback" period from the applicant if the
12 director determines that transfer of certain assets
13 was made solely to make the applicant eligible for
14 assistance under this chapter; and

15 (12) Not consider as income or resources any funds
16 deposited into a family self-sufficiency escrow
17 account on behalf of a participant under a federal
18 housing choice voucher family self-sufficiency program
19 as required or allowed under federal law.

20 [~~e~~] (d) In determining eligibility for medical
21 assistance, the department shall require from all applicants and
22 recipients the assignment of any benefits due to a third party



1 liability. Any rights or amounts so assigned shall be applied
2 against the cost of medical care paid under this chapter.

3 [~~(d)~~] (e) The director shall adopt rules pursuant to
4 chapter 91 defining assets and to determine eligibility for
5 medical assistance; provided that the cash surrender value of
6 life insurance policies owned by persons included in an
7 application shall be treated as assets."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII

