

JAN 23 2009

A BILL FOR AN ACT

RELATING TO CHILDREN.

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

1 SECTION 1. Chapter 321, part 28, Hawaii Revised Statutes,
2 is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "§321- Preschool education; continuation of services.

5 The parents of a child four years of age or older who was
6 previously eligible for early intervention services under 20
7 United States Code sections 1431 through 1444, shall have the
8 option to choose:

9 (1) The continuation of early intervention services, which
10 shall include an educational component that promotes
11 school readiness and incorporates pre-literacy,
12 language, and numeracy skills, until the child is
13 eligible under state law to enter kindergarten,
14 regardless of the child's eligibility for special
15 education services provided under 20 United States
16 Code sections 1411 through 1419; or



1 (2) The continuation of service coordination or case
2 management as provided under 20 United States Code
3 section 1436."

4 SECTION 2. Section 321-351, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§321-351[+] **Definitions.** As used in this part, unless
7 the context requires otherwise:

8 "Biological risk" means prenatal, perinatal, neonatal, or
9 early developmental events suggestive of biological insults to
10 the developing central nervous system which increase the
11 probability of delayed development.

12 "Case management" means an ongoing service of shared
13 responsibility between families and professionals that
14 identifies needs and assists in obtaining coordinated,
15 appropriate services and resources.

16 ~~["Delayed development" means a significant delay in one or~~
17 ~~more of the following areas of development: cognition, speech,~~
18 ~~language, physical, motor, vision, hearing, psychosocial, or~~
19 ~~self-help skills.]~~

20 "Department" means the department of health.

21 "Developmental delay" means a significant delay in one or
22 more of the following areas of development: cognition, speech,



1 language, physical, motor, vision, hearing, psychosocial, or
2 self-help skills.

3 "Director" means the director of health.

4 "Early intervention services" means services which:

5 (1) Are provided under public supervision;

6 (2) Are provided at no cost, except where federal or state
7 law provides for a system of payments by families,
8 including a sliding fee schedule;

9 (3) Are designed to meet the developmental needs of
10 ~~[infants and toddlers with special needs, which~~
11 ~~include but are not limited to]~~ an infant or toddler
12 with a disability, as identified by the individualized
13 family service plan team, in one or more of the
14 following areas: physical development, cognitive
15 development, ~~[and self-help skills;]~~ communication
16 development, social or emotional development, or
17 adaptive development;

18 (4) Are provided by qualified professional and
19 paraprofessional personnel;

20 (5) Are provided in conformity with an individualized
21 family ~~[support]~~ service plan; [and]



- 1 (6) Include [~~but are not limited to~~]: family [~~support,~~
2 training, counseling, and home visits; special
3 instruction; [~~speech~~] speech-language pathology and
4 audiology services, and sign language and cued
5 language services as appropriate to infants and
6 toddlers with or without hearing loss; occupational
7 therapy; physical therapy; music therapy;
8 psychological services; case management services;
9 medical services only for diagnostic or evaluation
10 purposes; early identification, screening, and
11 assessment services; [~~and~~] health services necessary
12 to enable the infant or toddler to benefit from the
13 other early intervention services[~~-~~]; social work
14 services; vision services; assistive technology
15 devices and assistive technology services; and
16 transportation and necessary related costs; and
- 17 (7) To the maximum extent possible, are provided in
18 natural environments, including home and community
19 settings in which children without disabilities can
20 participate.



1 "Environmental risk" means physical, social, or economic
2 factors which may limit development. Environmental risk
3 includes [~~7, but is not limited to~~] the following conditions:

4 (1) Birthweight between 1,500 and 2,500 grams, in
5 combination with any other environmental risk factor;

6 (2) Parental age less than sixteen;

7 (3) Parental age between sixteen and eighteen and less
8 than a high school education in combination with any
9 other environmental risk factor;

10 (4) Any existing physical, developmental, emotional, or
11 psychiatric disability in a primary caregiver;

12 (5) Presence of physical, developmental, emotional, or
13 psychiatric disability in a sibling or any other
14 family member in the home in combination with any
15 other environmental risk factor;

16 (6) Abuse of any legal or illegal substance by a primary
17 caregiver;

18 (7) Child abuse and neglect of target child or siblings;

19 (8) Economically disadvantaged family in combination with
20 any other environmental risk factor;

21 (9) Single parent in combination with any other
22 environmental risk factor; and



1 (10) Incarceration of a primary caregiver in combination
2 with any other environmental risk factor.

3 "Functional skills" means age appropriate essential
4 activities of daily life such as eating and communicating.

5 "Habilitative therapy" means care provided to individuals
6 with developmental or chronic conditions, or both, that
7 significantly limit normal development. Conditions include, but
8 are not limited to, deafness, speech or language impairments,
9 serious emotional disturbance, orthopedic impairment, traumatic
10 injury, autism spectrum disorders, and blindness. To be
11 considered habilitative, care must produce functional
12 improvement and measurable progress within a period of time
13 reasonable for the situation.

14 ~~["Individual family support plan"]~~ "Individualized family
15 service plan" means a dynamic, voluntary plan of action and
16 support developed by families and professionals that emanates
17 from the families' expressions of needs and goals.

18 ~~["Infants and toddlers with special needs" means infants~~
19 ~~and toddlers from birth to the age of three with delayed~~
20 ~~development, biological risk, or environmental risk.]~~



1 "Infant or toddler with a disability" means an individual
2 under three years of age who needs early intervention services
3 because the individual:

4 (1) Experiences developmental delays as measured by
5 appropriate diagnostic instruments and procedures in
6 one or more of the areas of cognitive development,
7 physical development, communication development,
8 social or emotional development, and adaptive
9 development; or

10 (2) Has a diagnosed physical or mental condition that has
11 a high probability of resulting in developmental
12 delay.

13 "Speech-language pathology services" means services
14 necessary for the diagnosis and treatment of speech, language,
15 and swallowing disorders caused by disease, surgery, injury, and
16 congenital or developmental anomalies. Speech-language
17 pathology services assess, diagnose, and treat disorders of
18 speech, language, swallowing, sensory awareness related to
19 speech or swallowing, and cognitive aspects of communication."

20 SECTION 3. Section 321-352, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§321-352 Early intervention services for infants [and
2 ~~toddlers with special needs.] or toddlers with disabilities.~~
3 The department [~~may~~] shall develop a statewide, coordinated,
4 multidisciplinary program which contains a continuum of services
5 to meet the needs of infants [and] or toddlers with [~~special~~
6 ~~needs.] disabilities. The department shall be the lead agency~~
7 for the coordination of federal and state funding for those
8 programs. Pursuant to chapter 103F, the department may purchase
9 services appropriate to carry out activities under this part."

10 SECTION 4. Section 321-353, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§321-353 Hawaii [~~early intervention~~] state interagency
13 coordinating council; establishment. [~~(a)~~] There is established
14 within the department for administrative purposes the Hawaii
15 [~~early intervention~~] state interagency coordinating council.

16 [~~Members shall be appointed for three year terms by the governor~~
17 ~~without the necessity of the advice and consent of the senate.~~

18 ~~The membership of the council shall consist of fifteen members~~
19 ~~selected from the following:~~

20 ~~(1) At least three parents of infants, toddlers, or~~
21 ~~children under the age of seven with special needs;~~



- 1 ~~(2) At least three public or private providers of early~~
- 2 ~~intervention services;~~
- 3 ~~(3) At least one representative from the legislature;~~
- 4 ~~(4) At least one person involved in personnel preparation;~~
- 5 ~~(5) At least one member representing the department of~~
- 6 ~~education;~~
- 7 ~~(6) At least one member representing the department of~~
- 8 ~~human services;~~
- 9 ~~(7) At least one member representing the office of the~~
- 10 ~~governor; and~~
- 11 ~~(8) Other members representing private or public agencies~~
- 12 ~~involved in or interested in the payment for or~~
- 13 ~~provision of services to infants and toddlers with~~
- 14 ~~special needs and their families.~~

15 ~~Any vacancy on the council shall be filled in the same~~

16 ~~manner in which the original position was filled.~~

17 ~~(b) The council shall elect its officers, and eight~~

18 ~~members shall constitute a quorum. Members shall serve without~~

19 ~~compensation but shall be reimbursed for expenses, including~~

20 ~~travel expenses, necessary for the performance of their duties.~~



1 ~~(c) The council shall meet at least quarterly and in such~~
2 ~~places as it deems necessary. The meetings shall be publicly~~
3 ~~announced, and be open and accessible to the general public.~~

4 ~~(d) The council shall perform the following functions:~~

5 ~~(1) Advise and assist the director in the identification~~
6 ~~of the sources of fiscal and other support for~~
7 ~~services for early intervention programs, assignment~~
8 ~~of financial responsibility to the appropriate agency,~~
9 ~~and the promotion of the interagency agreements;~~

10 ~~(2) Advise and assist the department in the preparation of~~
11 ~~applications and amendments thereto; and~~

12 ~~(3) Prepare and submit an annual report to the governor~~
13 ~~on the status of early intervention programs for~~
14 ~~infants and toddlers with special needs and their~~
15 ~~families within the State.] The interagency~~

16 coordinating council shall be established and shall perform
17 duties as provided under 42 United States Code section 1441."

18 SECTION 5. Section 321-357, Hawaii Revised Statutes, is
19 amended to read as follows:

20 " **[+]§321-357[+] Early intervention funds; purpose and use.**

21 (a) The purpose of the early intervention special fund and
22 early intervention trust fund is to expand and enhance early



1 intervention services for infants [~~and~~] or toddlers with
2 [~~special needs~~] disabilities by providing a cooperative funding
3 mechanism between the public and private sectors to work
4 together to make and secure appropriations and donations to the
5 funds.

6 (b) The department may procure services under chapters
7 103D and 103F in accordance with criteria and procedures
8 established by rules adopted pursuant to chapter 91, for
9 community-based, family-centered, early intervention services
10 including [~~but not limited to~~]:

11 (1) Programs to provide early intervention services for
12 infants and toddlers with developmental delays or at
13 biological or environmental risk;

14 (2) Family support programs to strengthen families to
15 reduce the risk of child abuse and neglect;

16 (3) Training and education for professionals,
17 paraprofessionals, and families; and

18 (4) Research, evaluation, and data management related to
19 early intervention services.

20 (c) Services to be procured under this section shall be in
21 accordance with chapters 103D and 103F and take the following
22 forms:



1 (1) Purchase of service contracts to private nonprofit
2 organizations, public agencies, or qualified
3 individuals to provide community-based,
4 family-centered, early intervention services; or

5 (2) Direct payments for services, educational materials,
6 training, quality assurance, equipment, data
7 collection, and program evaluation.

8 (d) The Hawaii [~~early intervention~~] state interagency
9 coordinating council shall make recommendations to the
10 department for the expenditure of moneys from the funds."

11 SECTION 6. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2009-2010 for
14 the purpose of providing early intervention services to children
15 who are older than three years of age but who are ineligible
16 under state law to enter kindergarten.

17 The sum appropriated shall be expended by the department of
18 health for the purposes of this Act.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21



1 SECTION 8. This Act shall take effect upon its approval;
2 provided that section 6 shall take effect on July 1, 2009

3

INTRODUCED BY: *Frances Chun Cleveland*



Report Title:

Early Intervention Services; Individuals with Disabilities
Education Improvement Act; Appropriation

Description:

Expands the scope of services provided and broadens the definition of children covered by state early intervention services. Incorporates elements of the federal Individuals with Disabilities Education Improvement Act of 2004. Makes an appropriation.

