

JAN 23 2020

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that there are medicaid  
2 beneficiaries in the State with intellectual or developmental  
3 disabilities who are unable to access home- and community-based  
4 services. These individuals are at higher risk for future  
5 institutionalization, because they may lack independent daily  
6 living skills and may be unable to manage their own care or to  
7 access the support necessary to maintain their independence.

8           Accordingly, the purpose of this Act is to:

9           (1) Require the department of human services, upon  
10 approval from the centers for medicare and medicaid  
11 services, to establish and implement a program to  
12 offer home- and community-based services to  
13 individuals with intellectual or developmental  
14 disabilities who are found, through an assessment, to  
15 be at risk of institutionalization;

16           (2) Require the department to utilize any method  
17 available, including but not limited to a state plan



1 amendment or waiver to the QUEST integration section  
 2 1115 demonstration project, to provide coverage for  
 3 home- and community-based services for individuals  
 4 with intellectual or developmental disabilities; and  
 5 (3) Appropriate moneys for the department to establish and  
 6 implement a program for at-risk individuals with  
 7 intellectual or developmental disabilities.

8 SECTION 2. This Act shall be known and may be cited as  
 9 Kelii's law.

10 SECTION 3. Chapter 346, Hawaii Revised Statutes, is  
 11 amended by adding a new section to be appropriately designated  
 12 and to read as follows:

13 "§346- Program for at-risk individuals with  
 14 intellectual or developmental disabilities. (a) Upon approval  
 15 from the centers for medicare and medicaid services, the  
 16 department shall establish and implement a program for providing  
 17 home- and community-based services to at-risk individuals with  
 18 intellectual or developmental disabilities who do not meet  
 19 medicaid's institutional level of care criteria for home-and  
 20 community-based services. Individuals eligible for services  
 21 under this program shall:



- 1        (1) Have been diagnosed with an intellectual or  
2        developmental disability;
- 3        (2) Have been found through a functional assessment to be  
4        at risk of deteriorating to the institutional level of  
5        care;
- 6        (3) Have been found ineligible to receive medicaid long  
7        term services and supports or the I/DD waiver; and
- 8        (4) Reside in his or her own home; provided that  
9        individuals who reside in a community shelter may  
10       receive at-risk services that are appropriate for  
11       their living environment as determined by \_\_\_\_\_ ;  
12       provided further that services under this section  
13       shall not be provided to individuals already residing  
14       in a care facility, including but not limited to a  
15       care home, foster home, hospital, nursing facility, or  
16       hospice facility.
- 17       (b) Eligibility shall be assessed annually to determine  
18       whether ongoing at-risk services are medically necessary."

19       SECTION 4. No later than June 30, 2021, the department of  
20       human services shall seek approval from the centers for medicare  
21       and medicaid services to provide coverage for home- and



1 community-based services for medicaid eligible individuals with  
2 intellectual or developmental disabilities who are at risk for  
3 institutionalization.

4 SECTION 5. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$ or so much  
6 thereof as may be necessary for fiscal year 2020-2021 for the  
7 department of human services to establish and implement a  
8 program for providing home- and community-based services to at-  
9 risk individuals with intellectual or developmental  
10 disabilities; provided that the sum appropriated shall be in  
11 addition to the base budget of the department of human services.

12 The sum appropriated shall be expended by the department of  
13 human services for the purposes of this Act.

14 SECTION 6. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 7. If any provision of this Act, or the  
18 application thereof to any person or circumstance, is held  
19 invalid, the invalidity does not affect other provisions or  
20 applications of the Act that can be given effect without the



# S.B. NO. 3122

1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 8. New statutory material is underscored.

4 SECTION 9. This Act shall take effect on July 1, 2020.

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# S.B. NO. 3122

**Report Title:**

DHS; Intellectual Disabilities; Developmental Disabilities; Home- and Community-Based Services; Medicaid; Kelii's Law; Appropriation

**Description:**

Requires the Department of Human Services, upon approval from the Centers for Medicare and Medicaid Services, to establish and implement a program for providing home- and community-based services to at-risk individuals having intellectual or developmental disabilities who meet certain criteria. Requires the department to utilize any vehicle available, including a state plan amendment or waiver to the QUEST integration section 1115 demonstration project to provide home- and community-based services for individuals having intellectual or developmental disabilities. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

