

ACT 188

H.B. NO. 1663

A Bill for an Act Relating to Vocational Rehabilitation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 348, Hawaii Revised Statutes, is amended as follows:

1. By amending section 348-1 to read:

**“Sec. 348-1 State vocational rehabilitation; policy and scope.** (a) Vocational rehabilitation services shall be provided to handicapped individuals throughout the State in accordance with this chapter and within the limits of available federal, state, and private funds. The vocational rehabilitation plan, formulated in conformance with the Federal Vocational Rehabilitation Act, as amended, and adopted pursuant to this chapter, shall be in effect in all political subdivisions of the State.

(b) The acceptance of federal funds, donations, grants-in-aid, and outright grants, for use in carrying out the purposes of this chapter, is authorized, provided restrictions imposed by the donor are not inconsistent with this chapter.”

2. By amending section 348-2 to read:

**“Sec. 348-2 Definitions.** For the purposes of this chapter:

- (1) The term “handicapped individual” means an individual who is under a physical or mental disability which is stable or slowly progressive and constitutes a substantial handicap to employment, but which is of such a nature that appropriate vocational rehabilitation services may reasonably be expected to render him able to engage in a remunerative occupation.
- (2) The term “remunerative occupation” includes employment as an employee or self-employed, practice of a profession, homemaking, or farm and family work for which payment is in kind rather than cash, sheltered employment and home industry or other homebound work of a remunerative nature.
- (3) The term “eligible handicapped individual”, when used with respect to diagnostic and related services, training, guidance, and placement, means any handicapped individual whose vocational rehabilitation is determined feasible by the department of social services and housing, and when used with respect to other vocational rehabilitation services, means an individual meeting the above requirements who is also found by the department to require financial assistance with respect thereto, after full consideration of his financial resources, or in the instance of minors the financial resources of parents, and eligibility for any similar benefit by way of pension, compensation, insurance, or of any other available assistance.
- (4) The term “vocational rehabilitation services” means:
  - (A) Diagnostic and related services (including transportation) incidental to the determination of whether an individual is a handicapped individual, and if so, his eligibility for, and the nature and scope of other vocational rehabilitation services to be provided; and
  - (B) The following services provided eligible handicapped individuals needing the services:
    - (i) Training;
    - (ii) Guidance;
    - (iii) Placement;
    - (iv) Maintenance, not exceeding the estimated costs of subsistence during vocational rehabilitation;
    - (v) Occupational licenses, tools, equipment, initial stocks, and supplies (including equipment and initial stocks and supplies for vending stands), books, and training materials;
    - (vi) Transportation (other than provided as diagnostic and related services);
    - (vii) Physical restoration;
    - (viii) Reader services for the blind;
    - (ix) Interpreter services for the deaf;
    - (x) Telecommunications, sensory, or other technological aids and devices;
    - (xi) Services to family members;
    - (xii) Post employment services;

- (xiii) Other goods and services which will benefit an individual's employability.
- (5) The term "physical restoration" includes:
- (A) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time; and includes psychiatric treatment, dentistry, physical therapy, occupational therapy, speech or hearing therapy, treatment of medical complications, and emergencies which are associated with or arise out of physical restoration services or are inherent in the condition under treatment, and other medical services related to rehabilitation;
  - (B) Necessary hospitalization (either in-patient or out-patient), nursing or rest home care, in connection with surgery or treatment specified in the preceding subparagraph (A);
  - (C) Prosthetic devices essential to obtaining or retaining employment.
- (6) The term "prosthetic appliance" means any appliance designed to support or take the place of a part of the body, or to increase the acuity of a sensory organ.
- (7) The term "maintenance" means payments, not exceeding the cost of subsistence, provided an eligible handicapped individual necessary to derive the benefit of other vocational rehabilitation services being provided to achieve the individual's vocational rehabilitation objective.
- (8) The term "health maintenance" means payments for medical care for acute conditions occurring in the course of vocational rehabilitation which are not expected to last thirty days.
- (9) The term "vocational rehabilitation" means making an individual able, or increasing his ability to engage in, and placement in, a remunerative occupation through providing him needed vocational rehabilitation services.
- (10) The term "rehabilitation facility" means a facility operated for the primary purpose of assisting in the rehabilitation of handicapped individuals:
- (A) Which provides one or more of the following types of services:
    - (i) Testing, fitting, or training in the use of prosthetic devices;
    - (ii) Prevocational or conditioning therapy;
    - (iii) Physical or occupational therapy;
    - (iv) Adjustment training;
    - (v) Evaluation or control of special disabilities; or
  - (B) Through which is provided an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision.
- (11) The term "workshop" means a place where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals who cannot be readily absorbed in the competitive labor market.

- (12) The term "nonprofit", when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c) of the Internal Revenue Code.
  - (13) Establishment of a workshop or rehabilitation facility means:
    - (A) In the case of a workshop, the expansion, remodeling, or alteration of existing buildings, necessary to adapt the buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and
    - (B) In the case of a rehabilitation facility, the expansion, remodeling, or alteration of existing buildings, and initial equipment of such buildings, necessary to adapt the buildings to rehabilitation facility purposes (subject, however, to such limitations as the director of social services may by regulations prescribe in order to prevent impairment of the objectives of, or duplication of, other federal laws providing federal assistance to states in the construction of such facilities), and initial staffing thereof.
  - (14) "Department" means the department of social services and housing.
  - (15) "Director" means the director of social services."
3. By amending section 348-3 to read:

**"Sec. 348-3 Functions of the department.** (a) Except as may be otherwise provided with respect to the blind, the department of social services and housing shall be the state agency to supervise and administer the vocational rehabilitation services authorized by this chapter under the state plan formulated in conformance with the Federal Vocational Rehabilitation Act, as amended, except for that part as may be administered by a local agency of a political subdivision in the State, and the department of social services and housing shall be the agency to supervise the local agency in the administration of that part.

(b) The director of social services shall prepare, conformable to this chapter, the regulations and the state plan of vocational rehabilitation, and from time to time prepare such changes as shall appear to be necessary or desirable.

(c) Within such limits and under such conditions as may be specified in appropriations therefor, the department may establish public and other nonprofit rehabilitation facilities and workshops.

(d) The department shall use available state appropriations and donations for initiating projects for research, demonstrations, training, and traineeships, and for planning for and initiating expansion of vocational rehabilitation services under the state plan whenever federal funds are available for such purposes."

4. By repealing section 348-4.

5. By amending section 348-6 to read:

**"Sec. 348-6 Administrative personnel and administration.** (a) The department of social services and housing may adopt and promulgate regulations with respect to methods of administration, use of medical and other records of individuals

who have been provided vocational rehabilitation services, and the establishment and maintenance of personnel standards, including provisions relating to the tenure, appointment, and qualification of personnel, which shall govern with respect to such matters notwithstanding any other law.

(b) The department shall adopt and promulgate regulations respecting (1) the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, and (2) the order to be followed in selecting those to whom vocational rehabilitation services are to be provided in situations where such services cannot be provided all eligible handicapped people.

(c) The department may also promulgate regulations with regard to the use of professional personnel of the department in cooperation with the federal government for the purpose of surveying needs and implementing rehabilitation services in any of the federal government's political subdivisions or trust territories, when such actions or services involve no cost to the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 5, 1979.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.