

ACT 213

S.B. NO. 1816

A Bill for an Act Relating to Student Substance Abuse Assessment Referrals.

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

SECTION 1. Act 44, Session Laws of Hawaii 2004, required the department of education to refer a student who is subject to suspension for substance abuse to be assessed by a certified substance abuse treatment counselor or professional qualified pursuant to chapter 431M, Hawaii Revised Statutes. The purpose of the assessment is to determine whether the student needs treatment for substance abuse or dependency and whether to refer the student for appropriate treatment services. The outcome of this process determines whether the student will be subject to continued disciplinary action. These mandates were funded in Act 40, Session Laws of Hawaii 2004.

The department of education has indicated that, based on statewide data in recent years for drug and alcohol offenses, the estimated annual costs for the assessments would be \$300,000 to \$500,000.

The purpose of this Act is to clarify the law on student substance assessment referrals.

SECTION 2. Section 302A-1134.6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

~~“(f) [Prior to implementing any decision to exclude the child from attending school due to a violation of subsection (b) or (c), the child shall be referred to and assessed by a certified substance abuse treatment counselor on a priority basis to determine whether the child needs treatment for substance abuse or dependency. If the assessment determines that the child:~~

- ~~(1) Needs treatment for substance abuse or dependency and:

 - ~~(A) If outpatient treatment is immediately available or the child is placed into a residential treatment facility, the child shall not be excluded from school and all disciplinary action shall be deferred; provided that the child:

 - ~~(i) Enters into treatment;~~
 - ~~(ii) Complies with the terms and conditions of the treatment program; and~~
 - ~~(iii) Remains in treatment until discharged from treatment.~~

~~If the child completes the treatment program, no disciplinary action based on the original offense shall be taken and all records of disciplinary action relating to the original offense shall be expunged; or~~~~
 - ~~(B) If no treatment program is immediately available, the child shall not be excluded from attending school, but may be transferred to an alternative learning center, pending admission to a treatment program. Disciplinary action shall be deferred in accordance with paragraph (1)(A) during the pendency of the child’s treatment and all records of disciplinary action relating to the original offense shall be expunged upon completion of the treatment program; or~~~~
- ~~(2) Does not need treatment for substance abuse or dependency, disciplinary action of exclusion from school may be taken in accordance with the department’s rules.~~

~~Nothing in this subsection prohibits the principal from suspending the child pursuant to the crisis suspension rules of the department for a period not to exceed ten days, provided the principal commences the referral and assessment process required under this section during the crisis suspension period.] A child determined to be in violation of subsection (b) or (c) shall be subject to the department’s disciplinary rules; provided that:~~

- ~~(1) The child shall be allowed to return to school earlier than the department’s original disciplinary determination; provided that the child gives the school evidence of the following:
 - ~~(A) A substance abuse assessment has been completed; and~~
 - ~~(B) The child is progressing toward clinical discharge from any substance abuse treatment or substance abuse counseling recommended by the substance abuse assessment;~~~~
- ~~(2) If the substance abuse assessment finds that the child does not need substance abuse treatment or substance abuse counseling, the school may allow the child to return to school earlier than originally indicated; provided that:
 - ~~(A) The child provides a certified copy of the assessment; and~~
 - ~~(B) The child’s parent or legal guardian consents to the child receiving follow-up counseling or other student support services to be provided by the department.~~~~

- In determining whether to allow the child to return to school early, the school, at a minimum, shall take into consideration the nature and severity of the offense, the impact of the offense on others, and the age of the offender as well as whether the offender is a repeat offender; and
- (3) For the child's first violation of subsection (b) or (c), if the child provides evidence of clinical discharge from the substance abuse treatment program or substance abuse counseling, all records of disciplinary action relating to the original offense shall be expunged.'

SECTION 3. (a) There is established in the department of health for administrative purposes, a student substance abuse assessment and treatment advisory task force to review the process by which a child who violates the zero tolerance policy for drugs and alcohol in public schools is referred for assessment and treatment of substance abuse and excluded from school.

(b) The advisory task force shall consist of nine members appointed without regard to section 26-34, Hawaii Revised Statutes, as follows:

- (1) Two members shall represent the director of health and the administrator of the alcohol and drug abuse division of the department of health;
- (2) Two members shall represent the department of education and shall consist of the superintendent of education or the superintendent's designee and a school administrator to be appointed by the superintendent;
- (3) A member of the house of representatives to be appointed by the speaker of the house of representatives;
- (4) A member of the senate to be appointed by the president of the senate; and
- (5) Three members from the healthcare profession, which may include persons involved with the assessment or treatment of children for substance abuse or dependence, to be appointed jointly by the speaker of the house of representatives and president of the senate.

The advisory task force shall select a chairperson from among its members. The number of members necessary to constitute a quorum to do business shall consist of a majority of all members of the advisory task force. When a quorum is in attendance, the concurrence of a majority of the members in attendance shall make any action of the advisory task force valid.

(c) The advisory task force shall:

- (1) Review the process established by section 302A-1134.6, Hawaii Revised Statutes, as amended by section 14 of Act 44, Session Laws of Hawaii 2004, to determine whether it is working and, if not, why not;
- (2) Review the amendments to section 302A-1134.6, Hawaii Revised Statutes, made by section 2 of this Act, and other applicable federal laws to determine whether the amendments will improve the process;
- (3) Determine what further changes need to be made, including the addition of resources, to improve the assessment and treatment of children in public schools for substance abuse and dependence; and
- (4) Develop a long-range plan for development and implementation of school-based substance abuse treatment programs for middle and high school students. The treatment model shall provide all middle and high school students with access to immediate treatment options for substance abuse or dependency in lieu of disciplinary action.

(d) The department of health shall provide administrative and staff support to the advisory task force; provided that the advisory task force may also request assistance from the department of education and other appropriate state executive agencies in fulfilling the purpose and duties of the advisory task force.

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(e) Members of the advisory task force shall not receive compensation for their services but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties under this Act.

(f) The advisory task force shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2006.

(g) The advisory task force shall cease to exist on June 30, 2006.

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

SECTION 5. This Act shall take effect upon approval; provided that on June 30, 2006, sections 2 and 3 of this Act shall be repealed and section 302A-1134.6(f), Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved July 8, 2005.)