

ACT 289

H.B. NO. 531

A Bill for an Act Relating to Children.

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

SECTION 1. The federal Individuals with Disabilities Education Improvement Act provides that children with disabilities are entitled to receive a free and appropriate public education. To the extent possible, children with special needs are to be provided with the same educational experiences as their non-disabled peers. Under the federal No Child Left Behind Act, states are held accountable for ensuring that all children are afforded the opportunity to learn.

Section 619 of Part B of the Individuals with Disabilities Education Improvement Act implements the earlier landmark Public Law 94-142, known as the Individuals with Disabilities Education Act, which ensures a free and appropriate public education for individuals with disabilities that may include special education and related services in the least restrictive environment for children three years and one day up to five years of age with disabilities. Part C of the Individuals with Disabilities Education Improvement Act directs states to provide early intervention services in the child's natural environment, which may include the child's home or other locations with their typically developing peers. Those early intervention services, for infants and toddlers with disabilities from birth to age three, and their families, may include information and support to parents to increase their knowledge about and ability to support their child's development.

Because of the complexity of the transition process for children from being a toddler or infant to being a preschool child, some eligible children may benefit from a longer transition period and continued services in the child's natural environment under programs offered pursuant to Part C of the Individuals with Disabilities Education Improvement Act, instead of placement under Part B of that Act, which mandates services to be provided in the least restrictive environment. Further, due to the differences in eligibility criteria between Part B and Part C, approximately

twenty-five per cent of children three years and one day up to five years of age who exited Part C programs in 2004, were eligible to receive services through Part B programs.

Hawaii's early intervention section of the department of health is a federal and state mandated program that provides services to support the development of children from birth to three years of age, along with information and support for parents that increases their knowledge about and ability to support their child's development. However, children with developmental delays may require services beyond age three that could be provided by the early intervention section of the department of health.

The purpose of this Act is to provide a mechanism to study the feasibility of expanding Hawaii's early intervention section to continue services for children three years and one day up to five years of age through programs usually provided to infants and toddlers pursuant to section 619 of the Individuals with Disabilities Education Improvement Act, and if deemed appropriate, to develop the infrastructure and support services necessary to provide continued services in the natural environments.

SECTION 2. (a) There is established a "Hawaii 3-5 transition" task force to study the feasibility of expanding Hawaii's early intervention section to continue services for children three years and one day up to five years of age.

(b) The members of the task force shall include representation from the neighbor islands, rural Oahu, and underserved populations and shall include at least two parents of children who may require these services and one representative from each of the following:

- (1) The department of health;
- (2) The department of education;
- (3) The department of human services;
- (4) The office of the governor;
- (5) The board of education;
- (6) The Hawaii early intervention coordinating council;
- (7) The special education advisory council;
- (8) The Hawaii state council on developmental disabilities;
- (9) The department of education's Section 619 state and district coordinator;
- (10) The Good Beginnings Alliance;
- (11) Early intervention service providers;
- (12) Head Start providers;
- (13) The American Academy of Pediatrics, Hawaii Chapter;
- (14) The University of Hawaii, college of education, personnel preparation faculty;
- (15) The Hawaii Association for the Education of Young Children;
- (16) Kia'i ka 'ike;
- (17) Early childhood special education professional development programs;
- (18) One member of the house of representatives appointed by the speaker of the house; and
- (19) One member of the senate appointed by the president of the senate.

(c) The department of health shall convene the task force, and the department of health and the department of education shall provide staff support to the task force, as necessary.

(d) The members of the task force shall serve without compensation but shall be reimbursed for necessary expenses, including travel expenses incurred in the performance of their duties.

(e) In completing the feasibility study, the task force shall:

- (1) Identify the potential number of children, on an annual basis, who exit Part C programs, are eligible for programs under Part B Section 619 of the Individuals with Disabilities Education Improvement Act, but may benefit from a longer transition period and continued Part C program services in the child's natural environment or community-based settings;
  - (2) Identify the potential number of children, on an annual basis, who exit Part C programs, are found not eligible for services under Part B of Section 619 of the Individuals with Disabilities Education Improvement Act, but continue to have developmental delays and who may benefit from intervention services between the ages of three years and one day up to five years of age;
  - (3) Identify the potential number of children, on an annual basis, who have not received services through Part C programs, but are identified as having developmental delays and who may benefit from intervention services between the ages of three years and one day up to five years of age;
  - (4) Research evidence-based practices in order to define service models for children between the ages of three years and one day up to five years of age necessary to meet the needs of this population;
  - (5) Define the array of services required for children between the ages of three years and one day up to five years of age with developmental delays;
  - (6) Based upon the potential number of children to be served, derive resource and cost projections to implement services; and
  - (7) Conduct a needs assessment of families focusing on their experiences transitioning out of Part C programs, as well as transitioning into Part B programs.
- (f) The task force shall also:
- (1) Project the length of time required to develop the necessary resource pool to serve the targeted population;
  - (2) Develop indicators for evaluation to assess the outcomes of the early intervention system providing services to children between the ages of three years and one day up to five years of age with developmental delays;
  - (3) Submit a report to the legislature not later than twenty days prior to the convening of the 2008 regular session. The report shall include:
    - (A) Recommendations regarding the feasibility of expanding Hawaii's early intervention section to serve children between three years and one day up to five years of age with developmental delays;
    - (B) If deemed feasible, recommendations as to eligibility and service models for the expansion of the early intervention section, taking into consideration the identified needs, recommended best practices, resources and cost projections, service payment (e.g., continuum of payment options from no cost to families to partial payment by families), and procedural safeguards without adversely affecting the implementation of Part C program services;
    - (C) If recommended, additional information, including eligibility criteria and programmatic, financing, and evaluation requirements to implement an array of appropriate service models for children between three years and one day up to five years of age with developmental delays in natural and least restrictive environments;
    - (D) An implementation plan; and

- (E) A timeline to begin services; and
- (4) Cease to exist upon the adjournment sine die of the 2008 regular session.
- (g) The University of Hawaii center on disability studies shall serve as the advisory committee facilitator and shall provide the necessary research, as well as conduct the needs assessment for the feasibility study.

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$120,000 or so much thereof as may be necessary for fiscal year 2007-2008 for the purposes of section 2 of this Act.

The sum appropriated shall be expended by the department of health for the purposes of section 2 of this Act.

**SECTION 4.** If any provision of this Act, or the application thereof to any person or circumstance is in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, such provision of this Act, or the application thereof to any person or circumstance, shall be invalid; provided that the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)