

ACT 220

H.B. NO. 761

A Bill for an Act Relating to Intellectual Disabilities.

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

SECTION 1. Chapter 324, Hawaii Revised Statutes, is amended by amending the title of part II to read as follows:

**“PART II. MENTAL HEALTH AND ~~[MENTAL RETARDATION]~~
INTELLECTUAL DISABILITY STUDIES”**

SECTION 2. Chapter 333F, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“SERVICES FOR PERSONS WITH DEVELOPMENTAL ~~[DISABILITIES]~~
OR ~~[MENTAL RETARDATION]~~ INTELLECTUAL DISABILITIES”**

SECTION 3. Section 333F-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any law to the contrary, the family court may appoint the director as guardian of any person if the court finds that:

- (1) The person is an incapacitated person as defined in section 560:5-102;
- (2) The person is developmentally or intellectually disabled [~~or mentally retarded~~];
- (3) The person may reasonably be expected to need treatment or care at any residential facility; and
- (4) There is no other suitable guardian including the public guardian as designated in chapter 551A who is able or willing to serve as guardian.”

SECTION 4. Section 346-230, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Upon the department’s determination that protective services are no longer needed, the vulnerable adult shall be referred to the agency responsible for follow-up services. For the mentally ill, ~~mentally retarded, or developmentally disabled adult,~~ or adults with developmental or intellectual disabilities, the state agency designated to provide services shall be the department of health.”

SECTION 5. Section 346D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Waiver programs shall be established and administered by the department of human services to provide comprehensive home and community-based services for the aged, chronically ill, disabled, developmentally disabled,

and ~~[mentally retarded individuals,]~~ individuals with intellectual disabilities, who are certified as requiring acute, skilled nursing, intermediate care facility, or intermediate care facility for ~~[the mentally retarded]~~ individuals with intellectual disabilities level of care.”

SECTION 6. Section 431:10-212, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“§431:10-212 Contract limitations for ~~[mentally retarded and]~~ handicapped children~~[-]~~ and children with intellectual disabilities.”

SECTION 7. Section 432:1-601, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“§432:1-601 Contract limitations for ~~[mentally retarded and]~~ handicapped children~~[-]~~ and children with intellectual disabilities.”

SECTION 8. Section 571-11, Hawaii Revised Statutes, is amended to read as follows:

“§571-11 Jurisdiction; children. Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age ~~[which]~~ that would constitute a violation or attempted violation of any federal, state, or local law or ~~[municipal]~~ county ordinance. Regardless of where the violation occurred, jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred;
- (2) Concerning any child living or found within the circuit:
 - (A) Who is neglected as to or deprived of educational services because of the failure of any person or agency to exercise that degree of care for which it is legally responsible;
 - (B) Who is beyond the control of the child’s parent or other custodian or whose behavior is injurious to the child’s own or others’ welfare;
 - (C) Who is neither attending school nor receiving educational services required by law whether through the child’s own misbehavior or nonattendance or otherwise; or
 - (D) Who is in violation of curfew;
- (3) To determine the custody of any child or appoint a guardian of any child;
- (4) For the adoption of a person under chapter 578;
- (5) For the termination of parental rights under sections 571-61 ~~[to]~~ through 571-63;
- (6) For judicial consent to the marriage, employment, or enlistment of a child, when ~~[such]~~ consent is required by law;
- (7) For the treatment or commitment of a mentally defective~~[-, mentally retarded,-]~~ or mentally ill child~~[-]~~, or a child with an intellectual disability;
- (8) Under the Interstate Compact on Juveniles under chapter 582 or the Interstate Compact for Juveniles under chapter 582D;
- (9) For the protection of any child under chapter 587A; and
- (10) For a change of name as provided in section 574-5(a)(2)(C).”

SECTION 9. Section 46-4, Hawaii Revised Statutes, is amended by substituting the words “individuals with intellectual disabilities” wherever the words “mentally retarded individuals” or “mentally retarded” appear, as the context requires.

SECTION 10. Sections 46-4 and 518-3, Hawaii Revised Statutes, are amended by substituting the words “intermediate care facility for individuals with intellectual disabilities in the community” wherever the words “intermediate care facility/mental retardation-community” appear, as the context requires.

SECTION 11. Sections 321-11.5, 321-15.2, 346-29.5, 346-37, 346D-2, 346D-3, 346E-1, and 846-2.7, Hawaii Revised Statutes, are amended by substituting the term “intermediate care facility for individuals with intellectual disabilities” or “intermediate care facilities for individuals with intellectual disabilities” wherever the term “intermediate care facility for the mentally retarded” or “intermediate care facilities for the mentally retarded” appears, as the context requires.

SECTION 12. Sections 321-15.9, 324-11, 328C-1, 333F-1, 333F-22, 431:10-212, 431:10D-212, 431M-1, 432:1-601, and 461-1, Hawaii Revised Statutes, are amended by substituting the term “intellectual disability” or “intellectual disabilities” wherever the term “mental retardation” appears, as the context requires.

SECTION 13. Sections 321-15.9, 333F-1, 333F-2, 333F-3, 333F-5, 333F-6, 333F-8, 333F-13, and 333F-22, Hawaii Revised Statutes, are amended by substituting the words “developmental or intellectual disabilities”, or like term, wherever the words “developmental disabilities or mental retardation”, or like term, appear, as the context requires.

SECTION 14. Section 333F-2, Hawaii Revised Statutes, is amended by substituting the acronym “ICF/ID” wherever the acronym “ICF/MR” appears, as the context requires.

SECTION 15. Sections 383-7, 386-1, 392-5, and 393-5, Hawaii Revised Statutes, are amended by substituting the words “developmental and intellectual disabilities” wherever the words “developmental disabilities and mental retardation” appear, as the context requires.

SECTION 16. Section 571-22, Hawaii Revised Statutes, is amended by substituting the words “individuals with intellectual disabilities” wherever the term “the mentally defective or retarded” appears, as the context requires.

SECTION 17. Sections 571-61 and 578-2, Hawaii Revised Statutes, are amended by substituting the term “intellectually disabled” wherever the term “mentally retarded” appears, as the context requires.

SECTION 18. This Act is not intended to change the coverage, eligibility, rights, responsibilities or definitions referred to in the amended provisions.

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

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SECTION 20. This Act shall take effect on July 1, 2011; provided that the amendments made to sections 321-11.5(b) and 321-15.2, Hawaii Revised Statutes, by section 11 of this Act shall not be repealed when section 321-11.5(b) and the definition of "healthcare facility" in section 321-15.2 are reenacted on June 30, 2014, by section 8 of Act 21, Special Session Laws of Hawaii 2009.

(Approved July 11, 2011.)