

ACT 308

H.B. NO. 1787

A Bill for an Act Relating to Persons With Disabilities.

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

SECTION 1. Chapter 78, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§78- Employment first; persons with disabilities. (a) Employment first shall be a policy of the State and the counties. Employment services are the first choice of services that are offered for persons with disabilities receiving assistance from publicly funded systems. State and county agencies shall ensure that employment first is effectively implemented in hiring practices and all programs and services administered or funded by the State and counties, including programs and services that help persons with disabilities obtain employment. All state and county agencies shall coordinate efforts and collaborate to ensure that programs, policies, procedures, and funding support competitive employment in an integrated setting for persons with disabilities. All state and county agencies, when feasible, may share data and information to track progress toward full implementation of this section.

(b) Nothing in this section shall be construed to require any employer to give preference to hiring a person with a disability.

(c) Nothing in this section shall be construed as eliminating any other appropriate supported employment service.

(d) As used in this section:

“Competitive employment” means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which a person with a disability is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by a person without a disability.

“Employment first” means the competitive employment and full inclusion of persons with a disability in an integrated setting as a first and preferred option for employment services.

“Integrated setting” means an employment setting in which persons with disabilities interact with persons without disabilities, other than persons without disabilities who are providing services to those persons with disabilities, to the same extent that persons without disabilities interact with other persons in comparable positions.

“Person with a disability” means a person who has a physical or mental impairment that substantially limits one or more major life activities.”

SECTION 2. Section 346D-4, Hawaii Revised Statutes, is amended to read as follows:

“§346D-4 Provision of services. (a) Services that maximize the individual’s independence shall be provided in the individual’s home, the home of a responsible relative or other adult, or a residential alternative setting.

(b) The program shall provide the services in the most economic manner feasible ~~[which]~~ that is compatible with preserving quality of care through:

- (1) Informal care providers, such as family members, friends, or neighbors who regularly provide specific services without remuneration and not as a part of any organized volunteer activity;
- (2) Individual providers hired and directed by the waiver program individual to provide specific approved services;
- (3) Contracts with agency providers, such as home care agencies and public or private health and social service organizations;
- (4) Contracts with individual providers, such as counselors, nurses, therapists, and residential alternative program operators who provide services for the waiver program; and
- (5) Program personnel, such as social workers and nurses who are hired by the waiver program to provide specific services.

(c) The department of human services shall:

- (1) Practice employment first principles, as described in section 78-___, with respect to waiver program personnel; and
- (2) Ensure that contracted agency providers that provide services for the waiver program follow employment first principles, as described in section 78-___.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2022; provided that section 2 shall take effect on June 30, 2023.

(Approved July 12, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.