

JAN 16 2014

A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the United States
2 Court of Appeals for the Ninth Circuit recently held in E.R.K.
3 v. State of Hawaii Department of Education, 728 F.3d 982 (2013),
4 that section 302A-1134(c), Hawaii Revised Statutes, which limits
5 public school attendance to children who are twenty years of age
6 or younger, violated the federal Individuals with Disabilities
7 Education Act by denying public education to special-needs
8 students aged twenty to twenty-one.

9 The purpose of this Act is to bring Hawaii's law into
10 compliance with the requirements of the federal Individuals with
11 Disabilities Education Act.

12 SECTION 2. Section 302A-101, Hawaii Revised Statutes, is
13 amended by amending the definition of "exceptional children" to
14 read as follows:

15 "Exceptional children" includes:

16 (1) Persons under [~~twenty~~] twenty-two years of age who
17 deviate from the so-called normal person in physical,
18 mental, social, or emotional characteristics or



1 abilities to such an extent that specialized training,
2 techniques, and equipment are required to enable these
3 persons to attain the maximum of their abilities or
4 capacities; provided that "exceptional children" shall
5 not include "gifted and talented children";

6 (2) Persons under [~~twenty~~] twenty-two years of age who by
7 reason of physical defects cannot attend the regular
8 public school classes with normal children; and

9 (3) Persons under [~~twenty~~] twenty-two years of age who are
10 certified by a licensed physician eligible for
11 membership in the state medical society as being
12 emotionally maladjusted or intellectually incapable of
13 profiting from ordinary instructional methods."

14 SECTION 3. Section 302A-1134, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) [~~No~~] Unless otherwise required under the Individuals
17 with Disabilities Education Act, no person who is twenty years
18 of age or over on the first instructional day of the school year
19 shall be eligible to attend a public school[. —If]; provided
20 that if a person reaches twenty years of age after the first
21 instructional day of the school year, the person shall be
22 eligible to attend public school for the full school year."



S.B. NO. 2134

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 Statutory material to be repealed is bracketed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

3 SECTION 5. This Act shall take effect upon its approval.
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S.B. NO. 2134

Report Title:

Education; Special Education; Individuals with Disabilities
Education Act

Description:

Amends various sections of chapter 302A, HRS, to comply with the requirements of the federal Individuals with Disabilities Education Act.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

