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# 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 (9th  
4 Cir. 2013), that section 302A-1134(c), Hawaii Revised Statutes,  
5 which limits public school attendance to children who are twenty  
6 years of age or younger, violated the federal Individuals with  
7 Disabilities Education Act by denying public education to  
8 special needs 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 by the Individuals  
17 with Disabilities Education Act, 20 U.S.C. 1400, et. seq., no  
18 person who is twenty years of age or over on the first  
19 instructional day of the school year shall be eligible to attend  
20 a public school[~~—If~~]; provided that if a person reaches twenty  
21 years of age after the first instructional day of the school



1 year, the person shall be eligible to attend public school for  
2 the full school year."

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 Statutory material to be repealed is bracketed  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

5 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Education; Special Education; Individuals with Disabilities  
Education Act

**Description:**

Amends various sections of chapter 302A, HRS, relating to  
Department of Education schools, to comply with the requirements  
of the federal Individuals with Disabilities Education Act.  
(SB2134 HD1)

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

