

A Bill for an Act Relating to Substance Abuse.

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

SECTION 1. Act 213, Session Laws of Hawaii 2005, created the student substance abuse assessment and treatment advisory task force, charged with:

- (1) Reviewing the process by which a child who violates the zero tolerance policy for drugs and alcohol in public schools is referred for assessment and treatment of substance abuse and excluded from school; and
- (2) Reporting its findings and recommendations, including any proposed legislation, to the legislature prior to the convening of the regular session of 2006.

Act 213 also amended the zero tolerance policy to allow a child to return to school earlier than indicated in the original disciplinary determination, following the completion of a substance abuse assessment and any related treatment or counseling.

Although minimum insurance benefits for substance abuse treatment are statutorily required under chapter 431M, Hawaii Revised Statutes, there is little use of these benefits because insurers lack enough providers to conduct the substance abuse assessments necessary to qualify individuals for covered services. This is of particular concern in the case of children facing substance abuse-related school discipline under the zero tolerance policy.

The purpose of this Act is to improve the process by which public school students are assessed and treated for substance abuse by:

- (1) Making the zero tolerance policy for public schools, as amended by Act 213, permanent;
- (2) Further amending the public school zero tolerance policy for drugs and alcohol as recommended by the student substance abuse assessment and treatment advisory task force; and
- (3) Allowing certified substance abuse counselors to conduct assessments to qualify individuals for substance abuse-related insurance benefits.

SECTION 2. Section 431M-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Certified substance abuse counselor’ means a person who is certified pursuant to section 321-193.”

SECTION 3. Section 431M-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Alcohol and drug dependence benefits shall be as follows:
- (1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility [which] that has a written affiliation agreement with a hospital for emergency, medical, and mental health support services. The following services shall be covered under detoxification services:
    - (A) Room and board;
    - (B) Diagnostic x-rays;
    - (C) Laboratory testing; and
    - (D) Drugs, equipment use, special therapies, and supplies.
 Detoxification services shall be included as part of the covered in-hospital services, but shall not be included in the treatment episode limitation, as specified in subsection (a);

- (2) Alcohol or drug dependence treatment through in-hospital, nonhospital residential, or day treatment substance abuse services as a covered benefit under this chapter shall be provided in a hospital or nonhospital facility. Before a person qualifies to receive benefits under this subsection, a qualified physician, psychologist, licensed clinical social worker, or advanced practice registered nurse shall determine that the person suffers from alcohol or drug dependence, or both~~[-The]~~; provided that the substance abuse services covered under this paragraph shall include those services [which] that are required for licensure and accreditation[-] and shall be included as part of the covered in-hospital services as specified in subsection (a). Excluded from alcohol or drug dependence treatment under this subsection are detoxification services and educational programs to which drinking or drugged drivers are referred by the judicial system~~[-]~~ and services performed by mutual self-help groups; ~~and~~
- (3) Alcohol or drug dependence outpatient services as a covered benefit under this chapter shall be provided under an individualized treatment plan approved by a qualified physician, psychologist, licensed clinical social worker, or advanced practice registered nurse and ~~must~~ shall be services reasonably expected to produce remission of the patient's condition. An individualized treatment plan approved by a licensed clinical social worker or an advanced practice registered nurse for a patient already under the care or treatment of a physician or psychologist shall be done in consultation with the physician or psychologist. Services covered under this paragraph shall be included as part of the covered outpatient services as specified in subsection (a)~~[-]~~; and
- (4) Substance abuse assessments for alcohol or drug dependence as a covered benefit under this section for a child facing disciplinary action under section 302A-1134.6 shall be provided by a qualified physician, psychologist, licensed clinical social worker, advanced practice registered nurse, or certified substance abuse counselor. The certified substance abuse counselor shall be employed by a hospital or nonhospital facility providing substance abuse services. The substance abuse assessment shall evaluate the suitability for substance abuse treatment and placement in an appropriate treatment setting."

SECTION 4. Act 213, Session Laws of Hawaii 2005, is amended as follows:  
1. By amending section 2 to read:

“SECTION 2. Section 302A-1134.6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) A child determined to be in violation of subsection (b) or (c) shall be subject to the department's disciplinary rules; provided that:

- (1) The school shall administer a screening tool approved by the department to determine whether there is a need for the child to be referred for a substance abuse assessment;
- ~~[(1)]~~ (2) The child shall be allowed to return to school earlier than the department's original disciplinary determination; provided that the child gives the school evidence of the following:
- (A) A substance abuse assessment has been completed; and
- (B) The child is progressing toward clinical discharge from any substance abuse treatment or substance abuse counseling recommended by the substance abuse assessment;
- ~~[(2)]~~ (3) If the substance abuse assessment finds that the child does not need substance abuse treatment or substance abuse counseling, the school

may allow the child to return to school earlier than originally indicated; provided that:

- (A) The child provides a certified copy of the assessment; and
- (B) The child's parent or legal guardian consents to the child and the child's family receiving follow-up counseling or other student support services to be provided by the department.

In determining whether to allow the child to return to school early, the school ~~[- at a minimum,]~~ administrator shall ~~[take into consideration]~~ review and determine the nature and severity of the offense, the impact of the offense on others, ~~[and]~~ the age of the offender ~~[as well as]~~, and whether the offender is a repeat offender; and

- ~~[(3)]~~ (4) For the child's first violation of subsection (b) or (c), if the child provides evidence of clinical discharge from the substance abuse treatment program or substance abuse counseling, all records of disciplinary action relating to the original offense shall be expunged. For the purposes of this paragraph, "expunged" means the records of substance abuse assessment shall be segregated and kept confidential but shall be destroyed upon graduation of the child."

2. By amending section 5 to read:

~~"SECTION 5. This Act shall take effect upon its approval; provided that on June 30, 2006, [sections 2 and] section 3 of this Act shall be repealed [and section 302A-1134.6(f), Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act]."~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2006; provided that section 4 of this Act shall take effect on June 29, 2006.

(Approved June 19, 2006.)