A BILL FOR AN ACT

RELATING TO EDUCATION.

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

SECTION 1. The legislature finds that the United States Court of Appeals for the Ninth Circuit recently held in *E.R.K. v. State of Hawaii Department of Education*, 728 F.3d 982 (9th Cir. 2013), that section 302A-1134(c), Hawaii Revised Statutes, which limits public school attendance to children who are twenty years of age or younger, violated the federal Individuals with Disabilities Education Act by denying public education to special needs students aged twenty to twenty-one.

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

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

"Exceptional children" includes:

(1) Persons under twenty-two years of age who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or
abilities to such an extent that specialized training, techniques, and equipment are required to enable these persons to attain the maximum of their abilities or capacities; provided that "exceptional children" shall not include "gifted and talented children";

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

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

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

"(c) Unless otherwise required by the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et. seq., no person who is twenty years of age or over on the first instructional day of the school year shall be eligible to attend a public school[—If], provided that if a person reaches twenty years of age after the first instructional day of the school
year, the person shall be eligible to attend public school for
the full school year."

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 Statutory material to be repealed is bracketed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

SECTION 5. This Act shall take effect upon its approval.
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. (CD1)

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