
A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS.

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

1 SECTION 1. The purpose of this Act is to clarify existing
2 law with regard to sex discrimination and provide that
3 discrimination based upon gender identity or expression
4 constitutes a form of sex discrimination.

5 SECTION 2. Section 378-1, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Gender identity or expression" includes a person's actual
9 or perceived gender, as well as a person's gender identity,
10 gender-related self-image, gender-related appearance, or gender-
11 related expression, regardless of whether that gender identity,
12 gender-related self-image, gender-related appearance, or gender-
13 related expression is different from that traditionally
14 associated with the person's sex at birth."

15 SECTION 3. Section 368-1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§368-1 Purpose and intent.** The legislature finds and
18 declares that the practice of discrimination because of race,



1 color, religion, age, sex, including gender identity or
 2 expression, sexual orientation, marital status, national origin,
 3 ancestry, or disability in employment, housing, public
 4 accommodations, or access to services receiving state financial
 5 assistance is against public policy. It is the purpose of this
 6 chapter to provide a mechanism which provides for a uniform
 7 procedure for the enforcement of the State's discrimination
 8 laws. It is the legislature's intent to preserve all existing
 9 rights and remedies under such laws."

10 SECTION 4. Section 378-2, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "**§378-2 Discriminatory practices made unlawful; offenses**
 13 **defined.** It shall be an unlawful discriminatory practice:

14 (1) Because of race, sex, including gender identity or
 15 expression, sexual orientation, age, religion, color,
 16 ancestry, disability, marital status, or arrest and
 17 court record:

18 (A) For any employer to refuse to hire or employ or
 19 to bar or discharge from employment, or otherwise
 20 to discriminate against any individual in
 21 compensation or in the terms, conditions, or
 22 privileges of employment;



- 1 (B) For any employment agency to fail or refuse to
- 2 refer for employment, or to classify or otherwise
- 3 to discriminate against, any individual;
- 4 (C) For any employer or employment agency to print,
- 5 circulate, or cause to be printed or circulated
- 6 any statement, advertisement, or publication or
- 7 to use any form of application for employment or
- 8 to make any inquiry in connection with
- 9 prospective employment, which expresses, directly
- 10 or indirectly, any limitation, specification, or
- 11 discrimination;
- 12 (D) For any labor organization to exclude or expel
- 13 from its membership any individual or to
- 14 discriminate in any way against any of its
- 15 members, employer, or employees; or
- 16 (E) For any employer or labor organization to refuse
- 17 to enter into an apprenticeship agreement as
- 18 defined in section 372-2; provided that no
- 19 apprentice shall be younger than sixteen years of
- 20 age;
- 21 (2) For any employer, labor organization, or employment
- 22 agency to discharge, expel, or otherwise discriminate



1 against any individual because the individual has
2 opposed any practice forbidden by this part or has
3 filed a complaint, testified, or assisted in any
4 proceeding respecting the discriminatory practices
5 prohibited under this part;

6 (3) For any person whether an employer, employee, or not,
7 to aid, abet, incite, compel, or coerce the doing of
8 any of the discriminatory practices forbidden by this
9 part, or to attempt to do so;

10 (4) For any employer to violate the provisions of section
11 121-43 relating to nonforfeiture for absence by
12 members of the national guard;

13 (5) For any employer to refuse to hire or employ or to bar
14 or discharge from employment, any individual because
15 of assignment of income for the purpose of satisfying
16 the individual's child support obligations as provided
17 for under section 571-52;

18 (6) For any employer, labor organization, or employment
19 agency to exclude or otherwise deny equal jobs or
20 benefits to a qualified individual because of the
21 known disability of an individual with whom the



1 qualified individual is known to have a relationship
2 or association;

3 (7) For any employer or labor organization to refuse to
4 hire or employ or to bar or discharge from employment,
5 or withhold pay, demote, or penalize a lactating
6 employee because an employee breastfeeds or expresses
7 milk at the workplace. For purposes of this
8 paragraph, the term "breastfeeds" means the feeding of
9 a child directly from the breast; or

10 (8) For any employer to refuse to hire or employ or to bar
11 or discharge from employment, or otherwise to
12 discriminate against any individual in compensation or
13 in the terms, conditions, or privileges of employment
14 of any individual because of the individual's credit
15 history or credit report, unless the information in
16 the individual's credit history or credit report
17 directly relates to a bona fide occupational
18 qualification under section 378-3(2)."

19 SECTION 5. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.

22 SECTION 6. New statutory material is underscored.



1 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

[Signature]
Karl Rhoad
~~AND~~ A.C. Fiedler
[Signature]

JAN 21 2011



Report Title:

Civil Rights; Nondiscrimination; Gender Identity

Description:

Prohibits discrimination on the basis of gender identity and expression as a public policy matter and specifically with regard to employment.

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

