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# 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 368-1, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§368-1 Purpose and intent.** The legislature finds and  
8 declares that the practice of discrimination because of race,  
9 color, religion, age, sex, including gender identity or  
10 expression, sexual orientation, marital status, national origin,  
11 ancestry, or disability in employment, housing, public  
12 accommodations, or access to services receiving state financial  
13 assistance is against public policy. It is the purpose of this  
14 chapter to provide a mechanism [~~which~~] that provides for a  
15 uniform procedure for the enforcement of the State's  
16 discrimination laws. It is the legislature's intent to preserve  
17 all existing rights and remedies under such laws."



1 SECTION 3. Section 378-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

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

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

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

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

19 (A) For any employer to refuse to hire or employ or  
20 to bar or discharge from employment, or otherwise  
21 to discriminate against any individual in



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



- 1           (2) For any employer, labor organization, or employment  
2           agency to discharge, expel, or otherwise discriminate  
3           against any individual because the individual has  
4           opposed any practice forbidden by this part or has  
5           filed a complaint, testified, or assisted in any  
6           proceeding respecting the discriminatory practices  
7           prohibited under this part;
- 8           (3) For any person whether an employer, employee, or not,  
9           to aid, abet, incite, compel, or coerce the doing of  
10          any of the discriminatory practices forbidden by this  
11          part, or to attempt to do so;
- 12          (4) For any employer to violate the provisions of section  
13          121-43 relating to nonforfeiture for absence by  
14          members of the national guard;
- 15          (5) For any employer to refuse to hire or employ or to bar  
16          or discharge from employment, any individual because  
17          of assignment of income for the purpose of satisfying  
18          the individual's child support obligations as provided  
19          for under section 571-52;
- 20          (6) For any employer, labor organization, or employment  
21          agency to exclude or otherwise deny equal jobs or  
22          benefits to a qualified individual because of the



1 known disability of an individual with whom the  
2 qualified individual is known to have a relationship  
3 or association;

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

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



1           SECTION 5. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4           SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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



**Report Title:**

Civil Rights; Nondiscrimination; Gender Identity

**Description:**

Prohibits discrimination on the basis of gender identity or expression as a public policy matter and specifically with regard to employment. (SD1)

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

