

1 state law protections against disability discrimination to the
2 final EEOC administrative regulation guidelines.

3 SECTION 2. Act 30, Special Session Laws of Hawaii 2009, is
4 amended by amending section 3 to read as follows:

5 "SECTION 3. The [Hawai'i] civil rights commission
6 established under section 368-2, Hawaii Revised Statutes, shall
7 complete the rulemaking process for purposes of section 2 of
8 this Act no later than [~~December 31, 2010.~~] twelve months after
9 the United States Equal Employment Opportunities Commission
10 publishes final rules in the Federal Register interpreting the
11 Americans with Disabilities Act Amendments Act of 2008, P.L.
12 110-325."

13 PART II

14 SECTION 3. Section 368-4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§368-4 **Records; confidentiality; disclosure; reporting**
17 **requirements.** (a) All records of the investigation arising
18 from a complaint filed with the commission shall be kept
19 confidential and shall not be disclosed to anyone; provided that
20 any factual matters provided to the commission during the intake
21 and investigation of the complaint, including complainant and
22 respondent statements and documents, pre-complaint



1 questionnaires, witness statements for which the witness has not
2 requested confidentiality[7] or for whom the commission has not
3 approved confidentiality pursuant to subsection (c), other
4 documents received from witnesses, and correspondence with
5 parties and witnesses may be disclosed:

6 (1) As may be required by order of a court with
7 jurisdiction in a case arising from a complaint filed
8 with the commission; or

9 (2) As may be requested by a party in a complaint filed
10 with the commission, if a complainant verifies in
11 writing that the complainant has received a notice of
12 right to sue pursuant to section 368-12 and a civil
13 action has been filed or the right to sue has not
14 expired, or if a respondent verifies in writing that
15 the complainant has filed a civil action.

16 (b) All records of non-factual matters relating to the
17 investigation and arising from a complaint filed with the
18 commission, including:

- 19 (1) Settlement discussions;
20 (2) Financial records;
21 (3) Commission attorney communications and work products;
22 (4) Confidential witness statements; and



1 (5) Commission investigatory procedures, including but not
2 limited to:

3 (A) Training and educational discussions between
4 staff;

5 (B) The case analysis manual;

6 (C) Procedures and standards used in case analysis;

7 (D) Investigatory directives;

8 (E) Investigative plans, strategies, or goals;

9 (F) Case reviews; and

10 (G) Investigator notes, impressions, recommendations,
11 and reports;

12 shall be considered confidential records except as otherwise
13 provided by law.

14 (c) In making a determination to approve or deny a request
15 that a witness' identity or statement be kept confidential, the
16 commission shall consider:

17 (1) The relevance, materiality, and importance of the
18 witness' statement;

19 (2) The likelihood that the witness' statement could not
20 be obtained without approval of a request that the
21 witness' identity or statement be kept confidential;

22 and



1 (3) A reasonable and clearly definable fear by the witness
2 that the witness or any other clearly identified
3 person would suffer serious bodily or economic harm,
4 retaliation, or termination of employment, if the
5 witness' identity or statement were not kept
6 confidential.

7 [~~e~~] (d) The disclosure of records that are not related
8 to the investigation arising from a complaint filed with the
9 commission shall be subject to chapter 92F.

10 [~~d~~] (e) The commission shall maintain complete records
11 of all complaints filed with the commission and shall compile
12 annual statistical data on the number of complaints filed and
13 the status or disposition of those complaints by types of
14 complaints.

15 (f) As used in this section, a "confidential witness
16 statement" means:

17 (1) A statement from a person who is not a complainant or
18 respondent to a complaint filed with the commission;

19 (2) Who requests their identity or statement be kept
20 confidential; and

21 (3) The commission approves the request for
22 confidentiality pursuant to subsection (c).



Report Title:

Hawaii Civil Rights Commission; Disability Discrimination

Description:

Extends the deadline for the Hawaii civil rights commission (HCRC) to adopt new rules regarding disability discrimination to allow for conformity with new federal rules. Requires the HCRC to take into account certain circumstances when determining whether or not to release certain confidential information.
(CD1)

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

