



GOV. MSG. NO. 1134

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

May 2, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on May 2, 2011, the following bill was signed into law:

HB546 SD1

RELATING TO CIVIL RIGHTS
ACT 034 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

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.

APPROVED this 2 day of MAY, 2011



GOVERNOR OF THE STATE OF HAWAII

