

JAN 17 2020

A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS.

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

1 SECTION 1. The legislature finds that students and workers
2 who are entering the competitive job market are increasingly
3 faced with an expectation that they must start in an unpaid or
4 low-paid internship as a gateway to employment. In some
5 instances, these internships create power imbalances that make
6 interns vulnerable to sexual harassment and other forms of
7 discrimination; however, many interns do not fall under the
8 definition of "employees" for purposes of federal and state fair
9 employment law protections.

10 The purpose of this Act is to provide basic protection
11 against discrimination for interns and participants in training
12 or apprenticeship programs.

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

16 "Internship or job training program" means any
17 apprenticeship training program leading to employment, paid or



1 unpaid internship that does not create an employment
2 relationship, or other limited duration program to provide
3 unpaid work experience."

4 SECTION 3. Section 378-2, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) It shall be an unlawful discriminatory practice:

7 (1) Because of race, sex including gender identity or
8 expression, sexual orientation, age, religion, color,
9 ancestry, disability, marital status, arrest and court
10 record, reproductive health decision, or domestic or
11 sexual violence victim status if the domestic or
12 sexual violence victim provides notice to the victim's
13 employer of such status or the employer has actual
14 knowledge of such status:

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



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- 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, that 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;



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- 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 of
17 assignment of income for the purpose of satisfying the
18 individual's child support obligations as provided for
19 under section 571-52;
- 20 (6) For any employer, labor organization, or employment
21 agency to exclude or otherwise deny equal jobs or



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

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

12 (8) For any employer to refuse to hire or employ, bar or
13 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); [~~or~~]



1 (9) For any employer to discriminate against any
 2 individual employed as a domestic, in compensation or
 3 in terms, conditions, or privileges of employment
 4 because of the individual's race, sex including gender
 5 identity or expression, sexual orientation, age,
 6 religion, color, ancestry, disability, marital status,
 7 or reproductive health decision[-]; or


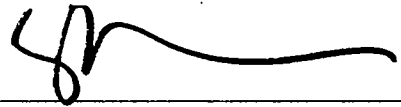
8 (10) For any person to discriminate against any individual
 9 in selection, termination, terms or conditions of an
 10 internship or training program because of the
 11 individual's race, sex including gender identity or
 12 expression, sexual orientation, age, religion, color,
 13 ancestry, disability, marital status, arrest and court
 14 record, or reproductive health decision."

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

17 SECTION 5. This Act shall take effect upon its approval.

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S.B. NO. 2312

Report Title:

Civil Rights; Internships and Training Programs

Description:

Prohibits discrimination against any individual in selection, termination, terms, or conditions of an internship or training program because of the individual's race, sex including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or reproductive health decision.

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