
A BILL FOR AN ACT

RELATING TO THE HAWAII CIVIL RIGHTS COMMISSION.

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

1 SECTION 1. The purpose of this Act is to clarify the
2 intent of the legislature in enacting section 368-1.5, Hawaii
3 Revised Statutes, in light of the Hawaii supreme court's
4 decision in *Hawaii Technology Academy and the Department of*
5 *Education v. L.E. and Hawaii Civil Rights Commission*, 141 Hawaii
6 147, 407 P.3d 103 (2017), which held that the legislature did
7 not intend the Hawaii civil rights commission to have
8 jurisdiction over disability discrimination claims under section
9 368-1.5, Hawaii Revised Statutes, if protections under section
10 504 of the Rehabilitation Act, P.L. 93-112, as amended, are
11 applicable.

12 When it was enacted, section 368-1.5, Hawaii Revised
13 Statutes, was meant to be the state counterpart to section 504
14 of the Rehabilitation Act, to provide a state remedy for
15 disability discrimination under section 368-1.5, Hawaii Revised
16 Statutes, in addition to the remedies available under section
17 504 of the Rehabilitation Act, thereby providing an alternative



1 state remedy in situations where federal remedies are also
2 available, and to provide those with disabilities non-
3 discriminatory access to state financially assisted activities
4 and programs, regardless of whether that program or activity
5 also receives federal financial assistance.

6 As such, the legislature reiterates that the intent of
7 enacting section 368-1.5, Hawaii Revised Statutes, was
8 originally, and is now, to give the Hawaii civil rights
9 commission jurisdiction over disability discrimination claims
10 under section 368-1.5, Hawaii Revised Statutes, even if
11 protections under section 504 of the Rehabilitation Act are
12 applicable.

13 SECTION 2. Section 368-1.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§368-1.5 Programs and activities receiving state**
16 **financial assistance.** (a) No otherwise qualified individual in
17 the State shall, [~~solely~~] by reason of his or her disability, be
18 excluded from the participation in, be denied the benefits of,
19 or be subjected to discrimination by state agencies, or under
20 any program or activity receiving state financial assistance.



1 (b) As used in this section, the term "disability" means
2 the state of having a physical or mental impairment, which
3 substantially limits one or more major life activities, having a
4 record of such an impairment, or being regarded as having such
5 an impairment.

6 (c) As used in this section, "state financial assistance"
7 means grants, purchase-of-service contracts, or any other
8 arrangement by which the State provides or otherwise makes
9 available assistance in the form of funds to an entity for the
10 purpose of rendering services on behalf of the State. It does
11 not include procurement contracts, state insurance or guaranty
12 contracts, licenses, tax credits, or loan guarantees to private
13 businesses of general concern that do not render services on
14 behalf of the State.

15 (d) As used in this section, the term "program or activity
16 receiving state financial assistance" includes a program or
17 activity that also receives federal financial assistance."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Civil Rights; Disability; Discrimination; State Agencies and Programs; Programs and Activities Receiving State Financial Assistance

Description:

Includes programs and activities that also receive federal financial assistance within the meaning of programs and activities receiving state financial assistance. Reiterates the legislature's intent of ensuring non-discriminatory access to State financially assisted programs, as it relates to the Hawaii civil rights commission's jurisdiction. (SD1)

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

