

STAND. COM. REP. NO. 990

Honolulu, Hawaii

MAR 17 , 2021

RE: S.B. No. 538
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Labor & Tourism, to which was referred S.B. No. 538 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII CIVIL RIGHTS COMMISSION,"

begs leave to report as follows:

The purpose of this measure is to clarify the jurisdiction of the Hawaii Civil Rights Commission. Specifically, this measure:

- (1) Clarifies the intent for a state law counterpart for disability discrimination in federally funded programs and services; and
- (2) Excludes jurisdiction over programs or activities that are covered by the Individuals with Disabilities Education Act.

Your Committee received testimony in support of this measure from the Department of Education, Hawai'i Civil Rights Commission, Disability and Communication Access Board, Hawaii Disability Rights Center, National Federation of the Blind of Hawaii, and two individuals. Your Committee received comments on this measure from one individual.

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Your Committee finds that when Act 387, Session Laws of Hawaii 1989, was enacted and codified as section 368-1.5, Hawaii Revised Statutes, it was intended to be the state counterpart to section 504 of the federal Rehabilitation Act of 1973, as amended, and provide a state remedy for disability discrimination. Your Committee further finds that the practical effect of the Hawaii Supreme Court's ruling in *Hawaii Technology Academy, et al. v. L.E., et al.*, 141 Hawaii 147 (2017), was to leave people with disabilities with a state law against discrimination but no actual state remedy.

Your Committee finds that this measure resolves the anomaly by defining a program or activity receiving state financial assistance to include a program or activity that receives federal and state financial assistance.

Your Committee has amended this measure by changing the effective date to December 25, 2040, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Labor & Tourism that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 538, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Tourism,


RICHARD H.K. ONISHI, Chair



