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**A BILL FOR AN ACT**

RELATING TO ETHICS IN PROCUREMENT.

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

1           SECTION 1.        The legislature finds that it is in the public  
2 interest to ensure the integrity of state hiring and contracts.  
3 Accordingly, the purpose of this Act is to promote good government  
4 by prohibiting state employees from hiring, contracting with, or  
5 taking official action affecting relatives.

6           SECTION 2.        Chapter 84, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated and  
8 to read as follows:

9           "**§84-\_\_ Prohibition on nepotism.**

10          (a) For purposes of this section "relative" means an  
11 individual who is related to a legislator or employee as a father,  
12 mother, son, daughter, brother, sister, uncle, aunt, first cousin,  
13 nephew, niece, husband, wife, father-in-law, mother-in-law, son-  
14 in-law, daughter-in-law, brother-in-law, sister-in-law,  
15 stepfather, stepmother, stepson, stepdaughter, stepbrother,  
16 stepsister, half brother, half sister, grandparent, or grandchild.

1       (b) This section does not prohibit the continuation of a job  
2 assignment that existed on [date of enactment] if it complies with  
3 subsection (e).

4       (c) A legislator or employee may not appoint, employ or  
5 promote a relative or member of the household to, or discharge,  
6 fire or demote a relative or member of the household from, a paid  
7 position or unpaid board or commission position with the agency  
8 that the legislator or employee serves or over which he or she  
9 exercises jurisdiction or control.

10       (d) A legislator or employee may not participate as a public  
11 official in any interview, discussion or debate regarding the  
12 appointment, employment or promotion of a relative or member of  
13 the household to, or the discharge, firing or demotion of a  
14 relative or member of the household from, a paid position or  
15 unpaid board or commission position with the agency that the  
16 legislator or employee serves or over which he or she exercises  
17 jurisdiction or control. As used in this paragraph, "participate"  
18 does not include serving as a reference, providing a  
19 recommendation, or performing other ministerial acts that are part  
20 of the normal job functions of the legislator or employee.

21       (e) An individual may be employed in the same agency in  
22 which the individual's relative is the executive director or  
23 supervisor if the supervising legislator or employee disqualifies

1 themselves from taking any official action directly and  
2 specifically affecting their relative.

3 (f) Sections (c)-(d) do not apply to a legislator or employee  
4 who:

5 (1) has a physical impairment that necessitates the  
6 employment of a particular relative; and

7 (2) discloses the employment to the Hawaii State Ethics  
8 Commission.

9 (g) No legislator or employee shall award a contract to or  
10 otherwise take official action directly affecting a contract with  
11 a business if the legislator or employee knows or reasonably  
12 should know that the legislator or employee's relative or a member  
13 of their household is an executive officer of, or holds a  
14 substantial ownership interest in, that business.

15 (h) This section does not prohibit a state agency from  
16 appointing, employing, promoting, discharging, firing or demoting  
17 a person who is a relative or member of the household of a public  
18 official or employee serving the state agency.

19 (i) Any person within an agency who knowingly participates in  
20 a violation of this chapter is subject to the penalties set forth  
21 in section 84-39, and any favorable action obtained in violation  
22 of this section may be voidable in accordance with sections 84-16  
23 and 84-19.

1       (k) A department head who is unable to disqualify the  
2 department head's self on any matter described in subsection (g)  
3 will not be in violation of this section if:

4       (1) the department head has complied with the disclosure  
5 requirements of section 84-17; and

6       (2) the department head posts a notice of intent to award  
7 the contract and files a copy of the notice with the  
8 state ethics commission at least five days prior to  
9 awarding the contract. If such posting and filing is  
10 otherwise prohibited by law, notice shall be posted and  
11 filed as soon as practicable. Every such notice of  
12 intent shall describe the department head's relationship  
13 with the relative or household member, the relative or  
14 household member's relationship with the entity  
15 receiving the contract, and the dollar value of such  
16 contract.

17       (1) Upon application, the Hawaii State Ethics Commission may  
18 grant an exception to an agency is that unable to comply  
19 with this section for good cause, such as a demonstrated  
20 lack of qualified personnel.

21       (m) This section shall not affect the applicability of  
22 sections 84-13 or 84-14.

1           SECTION 3.        If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7           SECTION 4.        This Act does not affect rights and duties  
8 that matured, penalties that were incurred, and proceedings that  
9 were begun before its effective date, and does not apply to any  
10 individual whose employment was terminated before the effective  
11 date of this Act.

12          SECTION 5.        Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14          SECTION 6.        This Act shall take effect on           .

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16                           INTRODUCED BY: \_\_\_\_\_