

MAR 10 2023

SENATE CONCURRENT RESOLUTION

REQUESTING THE HAWAII CIVIL RIGHTS COMMISSION AND EXECUTIVE
OFFICE ON AGING TO STUDY THE PREVALENCE OF AGE
DISCRIMINATION IN HIRING APPLICANTS OVER THE AGE OF SIXTY.

1 WHEREAS, the United States Congress passed the Age
2 Discrimination in Employment Act of 1967, title 29 United States
3 Code section 621, as amended, to protect certain applicants and
4 employees forty years of age and older from discrimination on
5 the basis of age in the hiring; promotion; discharge;
6 compensation; or terms, conditions, or privileges of employment;
7 and

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9 WHEREAS, in April 2017, the United States Bureau of Labor
10 Statistics published a summary of an article that appeared in
11 the Federal Reserve Bank of San Francisco *Economic Letter* 2017-
12 06, February 27, 2017, "Age Discrimination and Hiring of Older
13 Workers", reporting on employer responses to applicant profiles
14 for advertised positions by measuring the number of callbacks
15 each age group of fictitious but otherwise identical applicants
16 received for a subsequent interview; and

17
18 WHEREAS, the authors found that, across all the
19 applications, the callback rate for interviews was uniformly
20 lower for older applicants - a finding that they describe as
21 "consistent with age discrimination in hiring"; for sales
22 positions, the thirty percent gap in callback rates between
23 young and older men was statistically significant but still
24 smaller than the thirty-six percent gap in the rates for young
25 and older women; and

26
27 WHEREAS, the National Council on Aging and American
28 Association of Retired Persons have produced numerous studies
29 documenting the pervasiveness of ageism in the workplace; and
30



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1 WHEREAS, there is ample anecdotal information suggesting
2 that many human resources departments utilize specific search
3 engines such as Intelius, TruthFinder, Spokeo, and BeenVerified
4 to prescreen applicant information before contacting a
5 prospective employee for an interview; and
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7 WHEREAS, Patrick Button, Assistant Professor of Economics
8 at Tulane University, offered testimony before the United States
9 Equal Employment Opportunity Commission that explained that
10 enforcement of anti-discrimination laws as applied to hiring is
11 more difficult than other types of anti-discrimination
12 enforcement because most of the discrimination occurs at the
13 interview offer phase, making it nearly impossible to prove that
14 age discrimination is the reason for a lack of interview; and
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16 WHEREAS, this body finds that in Hawaii, many employers do
17 not acknowledge receipt of a resume or application for a
18 position, which is an important factor in proving hiring
19 discrimination; and
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21 WHEREAS, the State of Connecticut passed legislation in
22 2021 that makes it a discriminatory employment practice for an
23 employer to require a prospective employee to provide a date of
24 birth, dates of school attendance, or graduation dates on an
25 initial employment application; and
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27 WHEREAS, Hawaii has a strong commitment to the protection
28 of civil rights; and
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30 WHEREAS, article I, section 5, of the Hawaii State
31 Constitution provides that, "No person shall be deprived of
32 life, liberty or property without due process of law, nor be
33 denied the equal protection of the laws, nor be denied the
34 enjoyment of the person's civil rights or be discriminated
35 against in the exercise thereof because of race, religion, sex
36 or ancestry."; and
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38 WHEREAS, the Legislature gave meaning to this commitment by
39 creating the Hawaii Civil Rights Commission through the
40 enactment of Act 219, Session Laws of Hawaii 1988, and Acts 386
41 and 387, Session Laws of Hawaii 1989, and making discriminatory



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1 practices in employment unlawful, including discrimination
2 because of age under section 378-2, Hawaii Revised Statutes; and

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4 WHEREAS, in establishing the Executive Office on Aging, the
5 Legislature declared that, "in keeping with the traditional
6 American concept of the inherent dignity of the individual in
7 our democratic society, the older people of our State are
8 entitled to, and it is the joint and several duty and
9 responsibility of the State of Hawaii and its counties to enable
10 our older people to secure equal opportunity to the full and
11 free enjoyment of" an adequate income in retirement and
12 opportunity for employment with no discriminatory personnel
13 practices because of age; now, therefore,

14
15 BE IT RESOLVED by the Senate of the Thirty-second
16 Legislature of the State of Hawaii, Regular Session of 2023, the
17 House of Representatives concurring, that the Hawaii Civil
18 Rights Commission and Executive Office on Aging are requested to
19 study the prevalence of age discrimination in the hiring of
20 applicants over the age of sixty; and

21
22 BE IT FURTHER RESOLVED that the Hawaii Civil Rights
23 Commission and Executive Office on Aging are requested to
24 collaborate on a report to the Legislature concerning:

- 25
26 (1) Any discriminatory practices and barriers limiting the
27 ability of Hawaii's kupuna to reenter the workforce;
- 28
29 (2) Recommendations on mitigation measures to eliminate
30 age discrimination and reduce barriers to hiring
31 individuals over the age of sixty; and
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33 (3) Any other matters the Hawaii Civil Rights Commission
34 and Executive Office on Aging deem appropriate; and

35
36 BE IT FURTHER RESOLVED that the Hawaii Civil Rights
37 Commission and Executive Office on Aging are requested to submit
38 their findings and recommendations, including any proposed
39 legislation, to the Legislature no later than twenty days prior
40 to the convening of the Regular Session of 2024; and

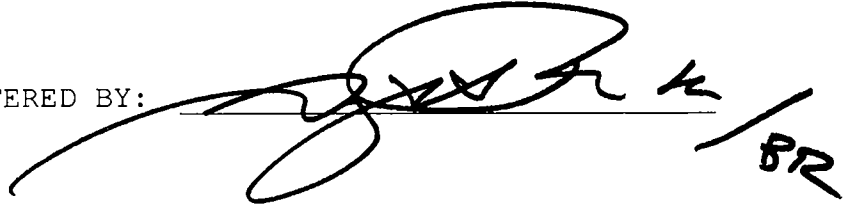


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1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the Director of Labor
3 and Industrial Relations, Director of Health, Executive Director
4 of the Hawaii Civil Rights Commission, and Director of the
5 Executive Office on Aging.

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OFFERED BY: _____

A large, stylized handwritten signature is written over a horizontal line. To the right of the signature, the initials "BR" are written in a similar cursive style.