
A BILL FOR AN ACT

RELATING TO DISCRIMINATION.

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

1 SECTION 1. The legislature finds that every individual
2 should have an equal opportunity to participate fully in the
3 economic, cultural, and intellectual life of the State. The
4 legislature also finds that every individual should have an
5 equal opportunity to participate in all aspects of life,
6 including, but not limited to, in employment, places of
7 accommodation, resort or amusement, in educational institutions,
8 in public services, and in housing and commercial space
9 accommodations.

10 Presently, Federal law does not provide protection based on
11 political affiliation. However, other states, cities, and
12 counties do. The District of Columbia Human Rights Act prohibits
13 discrimination based on political affiliation by public and
14 private employers, housing, educational institutions, public
15 accommodations, and when applying for government services,
16 facilities, and benefits.

17 The purpose of this Act is to prohibit unfair
18 discriminatory practices.



1 SECTION 2. Section 378-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "PART I. [OLD] DISCRIMINATORY PRACTICES
4

5 §§378-1 to 378-10 REPEALED. L 1977, c 85, §2; L 1981, c
6 94, §2.
7

8 PART I. DISCRIMINATORY PRACTICES
9

10 §378-1 Definitions. As used herein:

11 "Arrest and court record" includes any information about an
12 individual having been questioned, apprehended, taken into
13 custody or detention, held for investigation, charged with an
14 offense, served a summons, arrested with or without a warrant,
15 tried, or convicted pursuant to any law enforcement or military
16 authority.

17 "Because of sex" shall include, but is not limited to,
18 because of pregnancy, childbirth, or related medical conditions;
19 and women affected by pregnancy, childbirth, or related medical
20 conditions shall be treated the same for all employment-related
21 purposes, including receipt of benefits under fringe benefit
22 programs, as other individuals not so affected but similar in
23 their ability or inability to work.



1 "Being regarded as having such an impairment" includes but
2 is not limited to employer consideration of an individual's
3 genetic information, including genetic information of any family
4 member of an individual, or the individual's refusal to submit
5 to a genetic test as a condition of initial or continued
6 employment.

7 "Commission" means the civil rights commission.

8 "Disability" means the state of having a physical or mental
9 impairment which substantially limits one or more major life
10 activities, having a record of such an impairment, or being
11 regarded as having such an impairment.

12 "Domestic or sexual violence victim" or "victim" means an
13 individual who is the victim of domestic or sexual violence as
14 defined in section 378-71.

15 "Employer" means any person, including the State or any of
16 its political subdivisions and any agent of such person, having
17 one or more employees, but shall not include the United States.

18 "Employment" means any service performed by an individual
19 for another person under any contract of hire, express or
20 implied, oral or written, whether lawfully or unlawfully entered
21 into. Employment does not include services by an individual
22 employed as a domestic in the home of any person, except as
23 provided in section 378-2(a)(9).



1 "Employment agency" means any person engaged in the
2 business of providing employment information, procuring
3 employment for applicants, or providing employees for placement
4 with employers upon request.

5 "Family member" means, with respect to a certain
6 individual, another individual related by blood to that
7 individual.

8 "Gender identity or expression" includes a person's actual
9 or perceived gender, as well as a person's gender identity,
10 gender-related self-image, gender-related appearance, or gender-
11 related expression, regardless of whether that gender identity,
12 gender-related self-image, gender-related appearance, or gender-
13 related expression is different from that traditionally
14 associated with the person's sex at birth.

15 "Genetic information" means information about genes, gene
16 products, hereditary susceptibility to disease, or inherited
17 characteristics that may derive from the individual or family
18 member.

19 "Genetic test" means a laboratory test which is generally
20 accepted in the scientific and medical communities for the
21 determination of the presence or absence of genetic information.

22 "Labor organization" means any organization which exists
23 and is constituted for the purpose, in whole or in part, of



1 collective bargaining or of dealing with employers concerning
2 grievances, terms or conditions of employment, or of other
3 mutual aid or protection.

4 "Marital status" means the state of being married or being
5 single.

6 "Person" means one or more individuals, and includes, but
7 is not limited to, partnerships, associations, or corporations,
8 legal representatives, trustees, trustees in bankruptcy,
9 receivers, or the State or any of its political subdivisions.

10 "Reproductive health decision" means the use or attempted
11 use of any legal drug, device, or medical service intended to
12 prevent or terminate a pregnancy, or the use or attempted use of
13 any assisted reproductive technology.

14 "Sexual orientation" means having a preference for
15 heterosexuality, homosexuality, or bisexuality, having a history
16 of any one or more of these preferences, or being identified
17 with any one or more of these preferences. "Sexual orientation"
18 shall not be construed to protect conduct otherwise proscribed
19 by law.

20 "Political Affiliation" means the state of belonging to,
21 endorsing, or voting for candidates belonging to a political
22 party."



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

3 "**§378-2 Discriminatory practices made unlawful; offenses**
4 **defined.** (a) It shall be an unlawful discriminatory practice:

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

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

18 (B) For any employment agency to fail or refuse to
19 refer for employment, or to classify or otherwise
20 to discriminate against, any individual;

21 (C) For any employer or employment agency to print,
22 circulate, or cause to be printed or circulated
23 any statement, advertisement, or publication or



1 to use any form of application for employment or
2 to make any inquiry in connection with
3 prospective employment, that expresses, directly
4 or indirectly, any limitation, specification, or
5 discrimination;

6 (D) For any labor organization to exclude or expel
7 from its membership any individual or to
8 discriminate in any way against any of its
9 members, employer, or employees; or

10 (E) For any employer or labor organization to refuse
11 to enter into an apprenticeship agreement as
12 defined in section 372-2; provided that no
13 apprentice shall be younger than sixteen years of
14 age;

15 (2) For any employer, labor organization, or employment
16 agency to discharge, expel, or otherwise discriminate
17 against any individual because the individual has
18 opposed any practice forbidden by this part or has
19 filed a complaint, testified, or assisted in any
20 proceeding respecting the discriminatory practices
21 prohibited under this part;

22 (3) For any person, whether an employer, employee, or not,
23 to aid, abet, incite, compel, or coerce the doing of



- 1 any of the discriminatory practices forbidden by this
2 part, or to attempt to do so;
- 3 (4) For any employer to violate the provisions of section
4 121-43 relating to nonforfeiture for absence by
5 members of the national guard;
- 6 (5) For any employer to refuse to hire or employ or to bar
7 or discharge from employment any individual because of
8 assignment of income for the purpose of satisfying the
9 individual's child support obligations as provided for
10 under section 571-52;
- 11 (6) For any employer, labor organization, or employment
12 agency to exclude or otherwise deny equal jobs or
13 benefits to a qualified individual because of the
14 known disability of an individual with whom the
15 qualified individual is known to have a relationship
16 or association;
- 17 (7) For any employer or labor organization to refuse to
18 hire or employ, bar or discharge from employment,
19 withhold pay from, demote, or penalize a lactating
20 employee because the employee breastfeeds or expresses
21 milk at the workplace. For purposes of this
22 paragraph, the term "breastfeeds" means the feeding of
23 a child directly from the breast;



- 1 (8) For any employer to refuse to hire or employ, bar or
2 discharge from employment, or otherwise to
3 discriminate against any individual in compensation or
4 in the terms, conditions, or privileges of employment
5 of any individual because of the individual's credit
6 history or credit report, unless the information in
7 the individual's credit history or credit report
8 directly relates to a bona fide occupational
9 qualification under section 378-3(2); or
- 10 (9) For any employer to discriminate against any
11 individual employed as a domestic, in compensation or
12 in terms, conditions, or privileges of employment
13 because of the individual's race, sex including gender
14 identity or expression, sexual orientation, age,
15 religion, color, ancestry, disability, marital status,
16 [~~or~~] reproductive health decision, or political
17 affiliation. [-]
- 18 (b) For purposes of subsection (a) (1):
- 19 (1) An employer may verify that an employee is a victim of
20 domestic or sexual violence by requesting that the
21 employee provide:



- 1 (A) Certified or exemplified restraining orders,
- 2 injunctions against harassment, and documents
- 3 from criminal cases;
- 4 (B) Documentation from a victim services organization
- 5 or domestic or sexual violence program, agency,
- 6 or facility, including a shelter or safe house
- 7 for victims of domestic or sexual violence; or
- 8 (C) Documentation from a medical professional, mental
- 9 health care provider, attorney, advocate, social
- 10 worker, or member of the clergy from whom the
- 11 employee or the employee's minor child has sought
- 12 assistance in relation to the domestic or sexual
- 13 violence; and
- 14 (2) An employer may verify an employee's status as a
- 15 domestic or sexual violence victim not more than once
- 16 every six months following the date the employer:
- 17 (A) Was provided notice by the employee of the
- 18 employee's status as a domestic or sexual
- 19 violence victim;
- 20 (B) Has actual knowledge of the employee's status as
- 21 a domestic or sexual violence victim; or
- 22 (C) Received verification that the employee is a
- 23 domestic or sexual violence victim;



1 provided that where the employee provides verification
 2 in the form of a protective order related to the
 3 domestic or sexual violence with an expiration date,
 4 the employer may not request any further form of
 5 verification of the employee's status as a domestic or
 6 sexual violence victim until the date of the
 7 expiration or any extensions of the protective order,
 8 whichever is later. "

9 SECTION 4. Section 489-3, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**§489-3 Discriminatory practices prohibition.** Unfair
 12 discriminatory practices that deny, or attempt to deny, a person
 13 the full and equal enjoyment of the goods, services, facilities,
 14 privileges, advantages, and accommodations of a place of public
 15 accommodation on the basis of race; sex, including gender
 16 identity or expression; sexual orientation; color; religion;
 17 ancestry; ~~sex~~ disability, including the use of a service
 18 animal~~;~~ or political affiliation are prohibited."

19 SECTION 5. Statutory material to be repealed is bracketed
 20 and stricken. New statutory material is underscored.

21 SECTION 6. This Act shall take effect upon its approval

22

INTRODUCED BY:



JAN 25 2023



H.B. NO. 1284

Report Title:

Relating to discrimination based on political affiliation.

Description:

Prohibits discrimination by employers based on political affiliation. Prohibits unfair discriminatory practices that deny, or attempt to deny, a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation based on political affiliation.

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