

ACT 219

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H.B. NO. 3408

A Bill for an Act Relating to a Civil Rights Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER CIVIL RIGHTS COMMISSION

PART I. GENERAL PROVISIONS

§ -1 **Purpose and intent.** The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, marital status, national origin, ancestry, handicapped status, or medical condition in employment, housing, or public accommodations is against public policy. It is the purpose of this Act to provide a mechanism which provides for a uniform procedure for the enforcement of the State's discrimination laws. It is the legislature's intent to preserve all existing rights and remedies under such laws.

§ -2 **Civil rights commission established.** (a) There is established a civil rights commission composed of five members nominated and, by and with the advice and consent of the senate, appointed by the governor for staggered terms in accordance with section 26-34. The governor shall designate one of the commissioners as the chair of the commission.

(b) Any action taken by the commission shall be by a simple majority of the members of the commission. All decisions of the commission shall be reduced to writing and shall state separately its findings of fact and conclusions. Any vacancy in the commission shall not impair the authority of the remaining members to exercise all the powers of the commission. The governor may appoint an acting member of the commission during the temporary absence from the State or the illness of any regular member. An acting member, during the acting member's term of service, shall have the same powers and duties as the regular member.

(c) The commission shall be within the department of labor and industrial relations for administrative purposes only.

§ -3 **Powers and functions of commission.** The commission shall have the following powers and functions:

- (1) To receive, investigate, and conciliate complaints alleging any unlawful discriminatory practice under existing state laws and conduct proceedings on complaints alleging unlawful practices where conciliatory efforts are inappropriate or unsuccessful.
- (2) To hold such hearings and make such inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive documents by the issuance of subpoenas, and delegate such powers to any member of the commission or any person appointed by the commission for the performance of its functions.
- (3) To commence civil action in circuit court to seek appropriate relief.
- (4) To issue the right to sue to a complainant.
- (5) To issue publications and results of investigations and research as in its judgement will tend to promote goodwill and minimize or eliminate discrimination in employment, housing, and public accommodations.
- (6) To submit annually to the governor and the legislature a written report of its activities and of its recommendations for administrative or statutory changes required to further the purposes of this chapter.
- (7) To adopt rules under chapter 91.

§ -4 **Records; reporting requirements.** The commission shall maintain complete records of all complaints filed with the commission and shall compile

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annual statistical data on the number of complaints filed and the status or disposition of such complaints by types of complaints. The commission shall provide to the governor and the legislature a report of such statistical data on an annual basis, not less than thirty days prior to the convening of the legislative session.

§ -5 Penalties. Whoever intentionally resists, prevents, impedes, or interferes with the commission or any of its authorized agents or representatives in the performance of duties pursuant to this chapter, or who in any manner intentionally violates an order of the commission, shall be fined not more than \$500, or imprisoned for not more than ninety days, or both."

SECTION 2. It is the intent of this Act to preserve all existing rights and remedies relating to the enforcement of current discrimination laws, and to this end, this Act shall not be construed to impair any contractual agreement currently in force between the State and the federal Equal Employment Opportunities Commission under Title VII of the Civil Rights Act of 1964.

SECTION 3. The legislative auditor, with assistance from the legislative reference bureau, and affected state departments and agencies, and interested public groups, shall conduct a review of all state discrimination laws and the current policies, procedures, and staffing of the respective state departments and agencies with respect to the enforcement of such laws for the purpose of reporting to the legislature:

- (1) The current status regarding the enforcement of the state's discrimination laws by the respective state departments and agencies;
- (2) Recommendations for a statutory mechanism for the establishment of a systematic and uniform procedure for the enforcement of state discrimination laws by the civil rights commission established by this Act, and any proposed amendments to the powers and functions of the commission;
- (3) A recommendation for staffing requirements of the civil rights commission to carry out its duties under this Act;
- (4) A recommendation for a transition timetable for the transfer of programs and services to the civil rights commission;
- (5) A recommendation on a proper mechanism to address alleged discrimination within state departments and agencies; and
- (6) Any relevant recommendations or considerations necessary for the Legislature to fully address the question of diligent and effective enforcement of the state's discrimination laws.

The department shall submit a report of its findings and recommendations to the Legislature not less than twenty days prior to the convening of the 1989 Regular Session.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the legislative reference bureau to assist the legislative auditor in carrying out the purposes of this Act. The sum appropriated shall be expended by the legislative reference bureau for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1989; provided, Sections 3 and 4 shall take effect upon approval.

(Approved June 7, 1988.)