

ACT 261

H.B. NO. 717

A Bill for an Act Relating to Nepotism.

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

SECTION 1. Chapter 84, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**~~§84-~~ Nepotism; prohibition.** (a) No employee shall:

- (1) Appoint, hire, promote, or retain a relative or household member to, or demote, discharge, or terminate a relative or household member from; or
- (2) Participate in an interview or discussion regarding the appointment, hiring, promotion, or retention of a relative or household member to, or the demotion, discharge, or termination of a relative or household member from,

a paid position in the employee's employing agency; provided that this subsection shall not prohibit an employee from performing ministerial acts that may impact the relative or household member if those acts are a part of the normal job functions of the employee.

(b) No employee shall supervise a relative or household member unless the employee:

- (1) Has a physical impairment requiring the employment of a particular relative or household member; provided that the employee discloses the prospective employment to the state ethics commission before the appointment or hire is made; or
- (2) Disqualifies oneself from taking any official action directly affecting the relative or household member.

(c) No employee shall award a contract to or otherwise take official action on a contract with a business if the employee knows or reasonably should know that the employee's relative or household member is an executive officer of or holds a substantial ownership interest in that business.

(d) Notwithstanding the prohibitions in this section, if an employee who is a supervisor or executive director is unable to waive or disengage from completing their official duties or from taking official action and is legally required to take action that directly impacts a relative or household member receiving an award or other official action on a contract described in subsection (c), the employee shall not be in violation of this section if the employee:

- (1) Has complied with the disclosure requirements of section 84-17; and
- (2) Posts a notice of intent to award the contract and files a copy of the notice with the state ethics commission at least five days before awarding the contract. If the posting and filing of the award in advance is otherwise prohibited by law, notice shall be posted and filed as soon as practicable. Every notice of intent shall describe the employee's relationship with the relative or household member, the relative or household member's relationship with the entity receiving the contract, action taken and to be taken affecting the relative or household member's business, and the dollar value of the contract.

(e) Upon application, the state ethics commission may grant an exception to an employee or agency that is unable to comply with this section for good cause, including a demonstrated lack of qualified personnel or applicants.

(f) Any employee who knowingly violates this section shall be subject to the administrative fines set forth in section 84-39. Any favorable action obtained by a relative or household member of an employee in violation of this section shall be voidable in accordance with sections 84-16 and 84-19.

(g) This section shall not affect the applicability of section 84-13 or 84-14.

(h) This section shall not prohibit a state agency from appointing, hiring, promoting, retaining, demoting, discharging, or terminating a relative or household member of an employee employed by the agency.

(i) Notwithstanding sections 84-2 and 84-3, this section shall not apply to employees or agencies of the legislative or judicial branch of the State.

(j) For purposes of this section:

"Household member" means an individual who resides in the same dwelling unit as the employee.

"Relative" means the employee's parent, grandparent, stepparent, child, grandchild, stepchild, foster child, adopted child, sibling, half-sibling, stepsibling, parent's sibling, first cousin, sibling's child, spouse, spouse's parent, child-in-law, or sibling-in-law, or any individual who has become a member of the employee's immediate family through the Hawaiian hanai custom."

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

**SECTION 3.** New statutory material is underscored.<sup>1</sup>

**SECTION 4.** This Act shall take effect upon its approval.

(Became law on July 11, 2023, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

#### Note

1. Edited pursuant to HRS §23G-16.5.