
A BILL FOR AN ACT

RELATING TO EMPLOYMENT PRACTICES.

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

1 SECTION 1. Section 378-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "disability" to read as
3 follows:

4 **"PART I. [NEW] DISCRIMINATORY PRACTICES**

5 **§378-1 Definitions.** As used herein:

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

12 "Because of sex" shall include, but is not limited to,
13 because of pregnancy, childbirth, or related medical conditions;
14 and women affected by pregnancy, childbirth, or related medical
15 conditions shall be treated the same for all employment-related
16 purposes, including receipt of benefits under fringe benefit
17 programs, as other individuals not so affected but similar in
18 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~~
9 ~~mental impairment which substantially limits one or more major~~
10 ~~life activities, having a record of such an impairment, or being~~
11 ~~regarded as having such an impairment.~~]

12 (1) Having any physiological disease, disorder, condition,
13 cosmetic disfigurement or anatomical loss, or having a record of
14 such impairment, or being regarded as having or having had such
15 an impairment, that:

16 (A) affects one or more body systems (neurological,
17 immunological, musculoskeletal, special sense
18 organs, respiratory, speech organs,
19 cardiovascular, reproductive, digestive,
20 genitourinary, hemic, lymphatic, skin and
21 endocrine); and



1 (B) limits a major life activity without regard to
2 mitigating measures, such as medications,
3 assistive devices, prosthetics or reasonable
4 accommodations; or

5 (C) any other health impairment that requires special
6 education or related services.

7 (2) Having any mental or psychological disorder, such as
8 mental retardation, organic brain syndrome, emotional or mental
9 illness, and specific learning disabilities that limit a major
10 life activity, or having a history of such impairment or being
11 regarded as having or having had such an impairment.

12 (3) Having any mental or psychological disorder or
13 condition that requires special education or related services.

14 "Disability" shall not include compulsive gambling,
15 kleptomania, pyromania, or unlawful drug use.

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

19 "Employment" means any service performed by an individual
20 for another person under any contract of hire, express or
21 implied, oral or written, whether lawfully or unlawfully entered



1 into. Employment does not include services by an individual
2 employed as a domestic in the home of any person.

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

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

10 "Genetic information" means information about genes, gene
11 products, hereditary susceptibility to disease, or inherited
12 characteristics that may derive from the individual or family
13 member.

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

17 "Labor organization" means any organization which exists
18 and is constituted for the purpose, in whole or in part, of
19 collective bargaining or of dealing with employers concerning
20 grievances, terms or conditions of employment, or of other
21 mutual aid or protection.



1 "Marital status" means the state of being married or being
2 single.

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

7 "Sexual orientation" means having a preference for
8 heterosexuality, homosexuality, or bisexuality, having a history
9 of any one or more of these preferences, or being identified
10 with any one or more of these preferences. "Sexual orientation"
11 shall not be construed to protect conduct otherwise proscribed
12 by law."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.
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INTRODUCED BY:

[Handwritten signatures and names]

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Report Title:
Disability

Description:
Amends the definition of "disability".

