

JAN 25 2017

A BILL FOR AN ACT

RELATING TO RETALIATION IN STATE AND STATE-FUNDED SERVICES
DISCRIMINATION.

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

1 SECTION 1. Section 368-1.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§368-1.5 Programs and activities receiving state**
4 **financial assistance.** (a) No otherwise qualified individual in
5 the State shall, solely by reason of his or her disability, be
6 excluded from the participation in, be denied the benefits of,
7 or be subjected to discrimination by state agencies, or under
8 any program or activity receiving state financial assistance.

9 (b) No person, state agency, or program or activity
10 receiving state financial assistance shall retaliate by
11 threatening or otherwise discriminating against an individual
12 because of the exercise of any right granted or protected under
13 this section, or because the individual has opposed any practice
14 made unlawful by this section, or because the individual has
15 made a complaint, testified, assisted, or participated in any
16 manner in an investigation, proceeding, or hearing under this
17 section.

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1 ~~[(b)]~~ (c) As used in this section, the term "disability"
2 means the state of having a physical or mental impairment which
3 substantially limits one or more major life activities, having a
4 record of such an impairment, or being regarded as having such
5 an impairment.

6 ~~[(e)]~~ (d) As used in this section, "state financial
7 assistance" means grants, purchase-of-service contracts, or any
8 other arrangement by which the State provides or otherwise makes
9 available assistance in the form of funds to an entity for the
10 purpose of rendering services on behalf of the State. It does
11 not include procurement contracts, state insurance or guaranty
12 contracts, licenses, tax credits, or loan guarantees to private
13 businesses of general concern that do not render services on
14 behalf of the State."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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Report Title:

Hawaii Civil Rights Commission; Disability Discrimination in Programs and Activities Receiving State Financial Assistance

Description:

Prohibits retaliation against people who assert rights under section 368-1.5, Hawaii Revised Statutes, or oppose disability discrimination in state and state-funded services.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO RETALIATION IN STATE AND STATE-FUNDED SERVICES.

PURPOSE: To protect against retaliation against an individual because the individual asserted rights protected under section 368-1.5, Hawaii Revised Statutes (HRS), or opposed unfair discriminatory practices in state and state-funded services based on disability, or made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing regarding such discrimination.

MEANS: Amend section 368-1.5, HRS.

JUSTIFICATION: The Hawaii Civil Rights Commission (HCRC) enforces state civil rights laws prohibiting discrimination in employment (chapter 378, HRS, part I), public accommodations (chapter 489, HRS), real property transactions (chapter 515, HRS), and state and state-funded services based on disability (section 368-1.5, HRS). The state fair employment, public accommodations, and fair housing statutes all provide protection against retaliation for engaging in protected activity. This proposal, if enacted, would conform the state and state-funded services statute prohibiting disability discrimination with the other laws administered by HCRC, by prohibiting retaliation against an individual for engaging in protected activity.

Impact on the public: This measure will help ensure that an individual who opposes unfair discriminatory practices based on disability in state and state-funded services is protected from retaliation. This in turn helps to ensure full, equal,

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and nondiscriminatory access to state and state-funded services.

Impact on the department and other agencies:
This proposal improves HCRC's ability to protect individuals who engage in protected activity.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR153.

OTHER AFFECTED
AGENCIES: State and state-funded agencies that provide services to the public.

EFFECTIVE DATE: Upon approval.