
A BILL FOR AN ACT

RELATING TO CIVIL RIGHTS.

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

1 SECTION 1. The legislature finds that Title IX of the
2 Education Amendments of 1972 (Title IX), renamed the Patsy Mink
3 Equal Opportunity in Education Act in 2002, triggered a seismic
4 shift in the education landscape by prohibiting discrimination
5 on the basis of sex by any educational program or activity
6 receiving federal funds. The legislature also finds that Hawaii
7 is rightfully proud of Patsy Mink's signature legislation, which
8 has given millions of girls and women educational opportunities
9 that were undreamed of before enactment of Title IX, in the
10 classroom and on playing fields; in research, teaching, and
11 graduate schools; and in employment, medicine, law, and other
12 professions.

13 However, the legislature also recognizes that Patsy Mink's
14 celebrated legacy has not been fully realized, and that the
15 efficacy of Title IX federal protections against sex
16 discrimination in education has been diminished and eroded. For
17 these reasons, in 2018 the legislature passed a corollary to



1 Title IX in state law. Act 110, Session Laws of Hawaii 2018
2 (Act 110), prohibits discrimination on the basis of sex,
3 including sexual orientation, gender identity, or gender
4 expression, in any state educational program or activity, or in
5 any educational program or activity that receives state
6 financial assistance, without regard to whether the educational
7 program or activity also receives federal funds.

8 The law also directs the legislative reference bureau to
9 conduct a study of existing federal Title IX procedures and
10 enforcement in addition to examining Title IX corollaries in
11 other jurisdictions. The legislative reference bureau was to
12 submit its report, including any proposed legislation, in
13 advance of the convening of the regular session of 2019.
14 However, the study is still in progress.

15 Accordingly, the purpose of this Act is to extend the
16 deadline for the legislative reference bureau to complete the
17 study requested by Act 110 and incorporate federal law regarding
18 Title IX into Act 110 that allow social fraternities, social
19 sororities, certain youth service organizations, and same-sex
20 living facilities to delineate along gender lines.



1 SECTION 2. Act 110, Session Laws of Hawaii 2018, is
2 amended as follows:

3 1. By amending section 2 to read:

4 "SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to title 20 to be appropriately designated
6 and to read as follows:

7 CHAPTER

8 DISCRIMINATION IN STATE EDUCATIONAL PROGRAMS AND ACTIVITIES

9 § -1 State educational programs and activities;

10 discrimination prohibited. (a) No person in the State, on the
11 basis of sex, including gender identity or expression as defined
12 in section 489-2, or sexual orientation as defined in section
13 489-2, shall be excluded from participation in, be denied the
14 benefits of, or be subjected to discrimination under:

15 (1) Any state educational program or activity; or

16 (2) Any educational program or activity that receives
17 state financial assistance.

18 (b) Nothing in this chapter shall be construed to prohibit
19 the membership practices of social fraternities or sororities or
20 voluntary youth service organizations, as set forth in title 20



1 United States Code Section 1681(a)(6), as in effect on
2 January 1, 2019.

3 (c) Nothing in this chapter shall be construed to prohibit
4 any educational institution receiving state funds from
5 maintaining separate living facilities for different sexes, as
6 set forth in title 20, United States Code Section 1686, as in
7 effect on January 1, 2019.

8 (d) Nothing in this chapter shall be construed to prohibit
9 an educational institution from administering or assisting in
10 administering a scholarship, fellowship, or other form of
11 financial assistance pursuant to a domestic or foreign will,
12 trust, bequest, or similar instrument that requires awards be
13 made to members of a particular sex specified therein; provided
14 that the overall effect of sex-restricted financial assistance
15 shall not discriminate on the basis of sex, as set forth in
16 title 34, Code of Federal Regulations section 106.37(b)(1), as
17 in effect on January 1, 2019.

18 [~~b~~] (e) Nothing in this chapter shall preclude a student
19 participating in any educational program or activity who is
20 aggrieved by a violation of this chapter from filing a civil
21 action in a court of competent jurisdiction.



1 [~~e~~] (f) A person, or an organization or association on
2 behalf of a person alleging a violation of this chapter may file
3 a complaint pursuant to this chapter.

4 [~~d~~] (g) As used in this section:

5 "Educational program or activity that receives state
6 financial assistance" means any educational program or activity
7 that receives state financial assistance, in any amount, for any
8 purpose. The term does not exclude an educational program or
9 activity that also receives federal funds.

10 "State educational program or activity" means an
11 educational program or activity of the University of Hawaii, the
12 department of education, or public charter schools."

13 2. By amending section 3 to read:

14 "SECTION 3. The legislative reference bureau shall conduct
15 a study of existing Title IX enforcement practices and
16 procedures on the federal level and in other jurisdictions,
17 including the following:

18 (1) A detailed review of enforcement entities responsible
19 for overseeing the investigation and adjudication of
20 complaints under Title IX and related state laws
21 prohibiting discrimination on the basis of sex;



- 1 (2) An examination of issues related to service and
2 standing for bringing applicable complaints;
- 3 (3) A review of the various remedies for violations that
4 may be available to an aggrieved party, including
5 alternative dispute resolution, injunctive relief, and
6 civil damages; and
- 7 (4) An examination of any potential inconsistencies
8 between multiple state and federal compliance mandates
9 and regulatory schemes.

10 No later than [~~twenty days prior to the convening of the~~
11 ~~regular session of 2019,~~] August 1, 2019, the legislative
12 reference bureau shall submit a report to the legislature with
13 findings and recommendations on the foregoing issues, including
14 proposed legislation concerning an appropriate enforcement
15 mechanism for chapter , Hawaii Revised Statutes."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval;
19 provided that section 2 shall take effect on January 1, 2020.



Report Title:

Civil Rights; LRB; Education; Discrimination; Title IX; Study

Description:

Effective 1/1/2020, incorporates federal law regarding social groups and youth services organizations, same-sex living facilities, and sex-restricted scholarships and other forms of financial assistance into Act 110, Session Laws of Hawaii 2018. Extends the deadline for the legislative reference bureau to complete the study requested by Act 110 on existing federal Title IX enforcement practices and procedures on the federal level and in other jurisdictions. Requires the legislative reference bureau to make a report to the legislature no later than 8/1/2019. (SD2)

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

