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# A BILL FOR AN ACT

RELATING TO DISCRIMINATION.

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

1           SECTION 1. Section 378-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4           "Invasive medical test" means a medical test or screening  
5 that:

6           (1) Involves puncturing or incising an individual's skin  
7           or inserting a foreign material into an individual's  
8           body; or

9           (2) Requires an individual to provide samples of bodily  
10           fluids, bodily tissue, or genetic material.

11 "Invasive medical test" does not include any medical testing or  
12 screening that is required by federal or state law; intended to  
13 screen for the illegal use of drugs, except for the use of  
14 marijuana; or is necessary for the individual's employer to  
15 comply with workplace safety standards issued under the  
16 Occupational Safety and Health Act of 1970, P.L. 91-596."



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1 SECTION 2. Section 489-2, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Invasive medical test" means a medical test or screening  
5 that:

6 (1) Involves puncturing or incising an individual's skin  
7 or inserting a foreign material into an individual's  
8 body; or

9 (2) Requires an individual to provide samples of bodily  
10 fluids, bodily tissue, or genetic material.

11 "Invasive medical test" does not include any medical testing or  
12 screening that is required by federal or state law."

13 SECTION 3. Section 378-2, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) It shall be an unlawful discriminatory practice:

16 (1) Because of race, sex including gender identity or  
17 expression, sexual orientation, age, religion, color,  
18 ancestry, disability, marital status, arrest and court  
19 record, reproductive health decision, invasive medical  
20 test status, vaccination status, or domestic or sexual  
21 violence victim status if the domestic or sexual



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1 violence victim provides notice to the victim's  
2 employer of [~~sueh~~] the employee's status or the  
3 employer has actual knowledge of [~~sueh~~] the employee's  
4 status:

5 (A) For any employer to refuse to hire or employ or  
6 to bar or discharge from employment, or otherwise  
7 to discriminate against any individual in  
8 compensation or in the terms, conditions, or  
9 privileges of employment;

10 (B) For any employment agency to fail or refuse to  
11 refer for employment, or to classify or otherwise  
12 to discriminate against, any individual;

13 (C) For any employer or employment agency to print,  
14 circulate, or cause to be printed or circulated  
15 any statement, advertisement, or publication or  
16 to use any form of application for employment or  
17 to make any inquiry in connection with  
18 prospective employment, that expresses, directly  
19 or indirectly, any limitation, specification, or  
20 discrimination;



- 1 (D) For any labor organization to exclude or expel  
2 from its membership any individual or to  
3 discriminate in any way against any of its  
4 members, employer, or employees; or
- 5 (E) For any employer or labor organization to refuse  
6 to enter into an apprenticeship agreement as  
7 defined in section 372-2; provided that no  
8 apprentice shall be younger than sixteen years of  
9 age;
- 10 (2) For any employer, labor organization, or employment  
11 agency to discharge, expel, or otherwise discriminate  
12 against any individual because the individual has  
13 opposed any practice forbidden by this part or has  
14 filed a complaint, testified, or assisted in any  
15 proceeding respecting the discriminatory practices  
16 prohibited under this part;
- 17 (3) For any person, whether an employer, employee, or not,  
18 to aid, abet, incite, compel, or coerce the doing of  
19 any of the discriminatory practices forbidden by this  
20 part, or to attempt to do so;



- 1           (4) For any employer to violate the provisions of section  
2           121-43 relating to nonforfeiture for absence by  
3           members of the national guard;
- 4           (5) For any employer to refuse to hire or employ or to bar  
5           or discharge from employment any individual because of  
6           assignment of income for the purpose of satisfying the  
7           individual's child support obligations as provided for  
8           under section 571-52;
- 9           (6) For any employer, labor organization, or employment  
10          agency to exclude or otherwise deny equal jobs or  
11          benefits to a qualified individual because of the  
12          known disability of an individual with whom the  
13          qualified individual is known to have a relationship  
14          or association;
- 15          (7) For any employer or labor organization to refuse to  
16          hire or employ, bar or discharge from employment,  
17          withhold pay from, demote, or penalize a lactating  
18          employee because the employee breastfeeds or expresses  
19          milk at the workplace. For purposes of this  
20          paragraph, the term "breastfeeds" means the feeding of  
21          a child directly from the breast;



1 (8) For any employer to refuse to hire or employ, bar or  
 2 discharge from employment, or otherwise to  
 3 discriminate against any individual in compensation or  
 4 in the terms, conditions, or privileges of employment  
 5 of any individual because of the individual's credit  
 6 history or credit report, unless the information in  
 7 the individual's credit history or credit report  
 8 directly relates to a bona fide occupational  
 9 qualification under section 378-3(2); or

10 (9) For any employer to discriminate against any  
 11 individual employed as a domestic, in compensation or  
 12 in terms, conditions, or privileges of employment  
 13 because of the individual's race, sex including gender  
 14 identity or expression, sexual orientation, age,  
 15 religion, color, ancestry, disability, marital status,  
 16 [~~œ~~] reproductive health decision[-], invasive medical  
 17 test status, or vaccination status."

18 SECTION 4. Section 489-3, Hawaii Revised Statutes, is  
 19 amended to read as follows:

20 "§489-3 Discriminatory practices prohibition. Unfair  
 21 discriminatory practices that deny, or attempt to deny, a person



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1 the full and equal enjoyment of the goods, services, facilities,  
2 privileges, advantages, and accommodations of a place of public  
3 accommodation on the basis of race; sex, including gender  
4 identity or expression; sexual orientation; color; religion;  
5 ancestry; invasive medical test status; vaccination status; or  
6 disability, including the use of a service animal, are  
7 prohibited."

8 SECTION 5. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



JAN 21 2021



# H.B. NO. 241

**Report Title:**

Discrimination; Invasive Medical Tests; Vaccinations;  
Prohibition

**Description:**

Prohibits certain discriminatory practices based on an individual's invasive medical test status or vaccination status.

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

