

JAN 21 2022

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# A BILL FOR AN ACT

RELATING TO EQUAL EMPLOYMENT OPPORTUNITY.

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

1           SECTION 1. The legislature finds that sexism and  
2 transphobia operate in conjunction against the lives of  
3 transgender women. These forces have the effect of drastically  
4 reducing employment opportunities and income and compel  
5 transgender women to enter underground economies for economic  
6 survival. During the coronavirus disease 2019 (COVID-19)  
7 pandemic, lesbian, gay, bisexual, transgender, and queer people  
8 also experienced reduced employment and income at far higher  
9 rates compared to the general population. The United States  
10 Supreme Court, in *Bostock v. Clayton County*, 590 U.S. \_\_\_\_, 140  
11 S. Ct. 1731 (2020), held that federal law prohibits anti-  
12 transgender discrimination in employment.

13           The legislature also finds that there exists a need to  
14 close the gap between gender identity protections and lived  
15 reality for Hawaii's transgender ohana, especially transgender  
16 women. Hawaii leads the nation with 0.78 per cent of the  
17 population identifying as transgender. Transgender people are a



1 protected class under state law, yet their quality of life  
2 remains dire due to their unequal treatment within the  
3 employment sphere; workplaces are not safe for transgender and  
4 non-binary people. Nationally, one in four transgender people  
5 have lost a job due to transphobia and bias. Transgender  
6 workers report unemployment at twice the rate of the general  
7 population. Transgender workers are nearly four times more  
8 likely than the larger population to have a household income of  
9 under \$10,000 (fifteen per cent versus four per cent).

10 Our nation's military veterans include lesbian, gay,  
11 bisexual, transgender, and queer people. In recognition of  
12 their service and sacrifice, military veterans who are disabled,  
13 or who served on active duty during certain specified time  
14 periods or in military campaigns, are entitled to preference  
15 over non-veteran applicants in hiring for virtually all federal  
16 government jobs. However, given the history of discrimination  
17 in the military against non-heterosexual people and people who  
18 do not conform to gender stereotypes, many qualified people who  
19 otherwise may have been hired due to a veterans' preference have  
20 likely been denied the opportunity to benefit from this policy.



1           Locally, transgender individuals make up a significant  
2 percentage per capita of not only the annual Point-in-Time count  
3 of the homeless population but also close to half of the sexual  
4 and gender minority population. According to a report by the  
5 Hawaii sexual and gender minority workgroup convened by the  
6 state department of health in 2017, forty-one per cent of two  
7 hundred eighteen homeless gender minorities identified as  
8 transgender. According to data from the B.E. Journal of  
9 Economic Analysis and Policy, while transgender men earn more  
10 after their transition, transgender women see their earnings  
11 drop by nearly a third after they transition. As a result, many  
12 transgender people are economically coerced into the sex  
13 industry, which places them at high risk of death, sexually  
14 transmitted infections, substance use disorders, depression,  
15 post-traumatic stress disorder, and recurrent sexual assault.

16           Accordingly, the legislature believes that transgender  
17 people must be provided with a full range of employment  
18 opportunities by ensuring equal access to employment and that a  
19 proactive approach is needed to correct decades of  
20 discrimination.



1           The purpose of this Act is to require state departments and  
2 agencies to:

3           (1) Establish hiring and promotion goals for position-  
4 qualified transgender and non-binary persons by  
5 January 1, 2023;

6           (2) Develop transgender employment policies addressing  
7 specified areas by January 1, 2023, to promote  
8 inclusive, safe workplaces that respect gender  
9 identity; and

10          (3) Submit annual reports to the legislature.

11          SECTION 2. Chapter 78, Hawaii Revised Statutes, is amended  
12 by adding a new section to be appropriately designated and to  
13 read as follows:

14          "§78-           Transgender and non-binary persons; hiring goals  
15 and employment policies. (a) No later than January 1, 2023,  
16 each state department and agency shall establish hiring and  
17 promotion goals for position-qualified transgender and non-  
18 binary persons. Reporting of gender identity shall be voluntary  
19 by employees and potential job applicants. All state employment  
20 forms shall include a gender nonbinary option.



1        (b) No later than January 1, 2023, each state department  
2 and agency shall develop a transgender employment policy to  
3 promote inclusive, safe workplaces that respect gender identity.  
4 Policies shall address the following areas:

5        (1) Privacy. Transgender employees shall have the right  
6 to discuss their gender identity or expression openly,  
7 or to keep this information private;

8        (2) Official records. Upon request by an employee, an  
9 employer shall change an employee's official record to  
10 reflect a change in name or gender;

11       (3) Respecting workers' truth. An employee shall have the  
12 right to be addressed by the name and pronoun that  
13 corresponds to the employee's gender identity, upon  
14 request;

15       (4) Transition support. Employees who transition to  
16 another gender while employed shall be provided with  
17 support from managerial and human resources staff;

18       (5) Job assignments. For "sex-segregated" positions,  
19 transgender employees shall be classified and assigned  
20 in a manner consistent with their gender identity, not  
21 their gender assigned at birth;



1       (6) Dress code. Employers shall not establish or enforce  
2       dress codes that restrict employees' clothing or  
3       appearance on the basis of gender;

4       (7) Lockers. All employees shall have the right to use  
5       the locker room, if provided, that corresponds to  
6       their gender identity; and

7       (8) Health care. Employers shall only enter into health  
8       insurance contracts that include coverage for  
9       employees' transition-related care.

10       (c) No later than twenty days prior to the convening of  
11       each regular session, each state department and agency that is  
12       subject to the requirements of subsections (a) and (b) shall  
13       submit to the legislature a report that details each department  
14       and agency's progress toward meeting their respective hiring  
15       goals for transgender and non-binary persons, including specific  
16       actions taken to meet hiring goals; provided that the department  
17       of education and the university of Hawaii shall report their  
18       progress and actions to the department of human resources  
19       development, to be included in that department's report to the  
20       legislature."

21       SECTION 3. New statutory material is underscored.



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

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INTRODUCED BY:           *Jana Acasio*          



# S.B. NO. 2960

**Report Title:**

Employment; Hiring and Promotion; Transgender Persons; Non-Binary Persons; Inclusive Employment Policies; Report to Legislature

**Description:**

Requires state departments and agencies to establish hiring and promotion goals for position-qualified transgender and non-binary persons and develop transgender employment policies addressing specified areas by 1/1/2023. Requires annual reports to the Legislature.

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

