

MAR 10 2023

SENATE RESOLUTION

REQUESTING THE HAWAII CIVIL RIGHTS COMMISSION AND EXECUTIVE
OFFICE ON AGING TO STUDY THE PREVALENCE OF AGE
DISCRIMINATION IN HIRING APPLICANTS OVER THE AGE OF SIXTY.

1 WHEREAS, the United States Congress passed the Age
2 Discrimination in Employment Act of 1967, title 29 United States
3 Code section 621, as amended, to protect certain applicants and
4 employees forty years of age and older from discrimination on
5 the basis of age in the hiring; promotion; discharge;
6 compensation; or terms, conditions, or privileges of employment;
7 and

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9 WHEREAS, in April 2017, the United States Bureau of Labor
10 Statistics published a summary of an article that appeared in
11 the Federal Reserve Bank of San Francisco *Economic Letter* 2017-
12 06, February 27, 2017, "Age Discrimination and Hiring of Older
13 Workers", reporting on employer responses to applicant profiles
14 for advertised positions by measuring the number of callbacks
15 each age group of fictitious but otherwise identical applicants
16 received for a subsequent interview; and

17
18 WHEREAS, the authors found that, across all the
19 applications, the callback rate for interviews was uniformly
20 lower for older applicants - a finding that they describe as
21 "consistent with age discrimination in hiring"; for sales
22 positions, the thirty percent gap in callback rates between
23 young and older men was statistically significant but still
24 smaller than the thirty-six percent gap in the rates for young
25 and older women; and

26
27 WHEREAS, the National Council on Aging and American
28 Association of Retired Persons have produced numerous studies
29 documenting the pervasiveness of ageism in the workplace; and

30
31 WHEREAS, there is ample anecdotal information suggesting
32 that many human resources departments utilize specific search



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1 engines such as Intelius, TruthFinder, Spokeo, and BeenVerified
2 to prescreen applicant information before contacting a
3 prospective employee for an interview; and
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5 WHEREAS, Patrick Button, Assistant Professor of Economics
6 at Tulane University, offered testimony before the United States
7 Equal Employment Opportunity Commission that explained that
8 enforcement of anti-discrimination laws as applied to hiring is
9 more difficult than other types of anti-discrimination
10 enforcement because most of the discrimination occurs at the
11 interview offer phase, making it nearly impossible to prove that
12 age discrimination is the reason for a lack of interview; and
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14 WHEREAS, this body finds that in Hawaii, many employers do
15 not acknowledge receipt of a resume or application for a
16 position, which is an important factor in proving hiring
17 discrimination; and
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19 WHEREAS, the State of Connecticut passed legislation in
20 2021 that makes it a discriminatory employment practice for an
21 employer to require a prospective employee to provide a date of
22 birth, dates of school attendance, or graduation dates on an
23 initial employment application; and
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25 WHEREAS, Hawaii has a strong commitment to the protection
26 of civil rights; and
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28 WHEREAS, article I, section 5, of the Hawaii State
29 Constitution provides that, "No person shall be deprived of
30 life, liberty or property without due process of law, nor be
31 denied the equal protection of the laws, nor be denied the
32 enjoyment of the person's civil rights or be discriminated
33 against in the exercise thereof because of race, religion, sex
34 or ancestry."; and
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36 WHEREAS, the Legislature gave meaning to this commitment by
37 creating the Hawaii Civil Rights Commission through the
38 enactment of Act 219, Session Laws of Hawaii 1988, and Acts 386
39 and 387, Session Laws of Hawaii 1989, and making discriminatory
40 practices in employment unlawful, including discrimination
41 because of age under section 378-2, Hawaii Revised Statutes; and
42



1 WHEREAS, in establishing the Executive Office on Aging, the
2 Legislature declared that, "in keeping with the traditional
3 American concept of the inherent dignity of the individual in
4 our democratic society, the older people of our State are
5 entitled to, and it is the joint and several duty and
6 responsibility of the State of Hawaii and its counties to enable
7 our older people to secure equal opportunity to the full and
8 free enjoyment of" an adequate income in retirement and
9 opportunity for employment with no discriminatory personnel
10 practices because of age; now, therefore,

11
12 BE IT RESOLVED by the Senate of the Thirty-second
13 Legislature of the State of Hawaii, Regular Session of 2023,
14 that the Hawaii Civil Rights Commission and Executive Office on
15 Aging are requested to study the prevalence of age
16 discrimination in the hiring of applicants over the age of
17 sixty; and

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19 BE IT FURTHER RESOLVED that the Hawaii Civil Rights
20 Commission and Executive Office on Aging are requested to
21 collaborate on a report to the Legislature concerning:

- 22
23 (1) Any discriminatory practices and barriers limiting the
24 ability of Hawaii's kupuna to reenter the workforce;
25
26 (2) Recommendations on mitigation measures to eliminate
27 age discrimination and reduce barriers to hiring
28 individuals over the age of sixty; and
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30 (3) Any other matters the Hawaii Civil Rights Commission
31 and Executive Office on Aging deem appropriate; and
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33 BE IT FURTHER RESOLVED that the Hawaii Civil Rights
34 Commission and Executive Office on Aging are requested to submit
35 their findings and recommendations, including any proposed
36 legislation, to the Legislature no later than twenty days prior
37 to the convening of the Regular Session of 2024; and
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39 BE IT FURTHER RESOLVED that certified copies of this
40 Resolution be transmitted to the Director of Labor and
41 Industrial Relations, Director of Health, Executive Director of

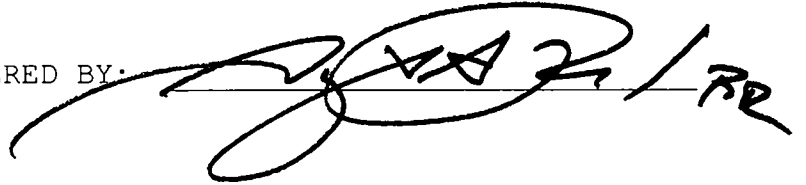


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1 the Hawaii Civil Rights Commission, and Director of the
2 Executive Office on Aging.

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OFFERED BY:

A handwritten signature in black ink, appearing to be "J. A. R. / R.", written over a horizontal line.