

A Bill for an Act Relating to Arrest and Court Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 378, Hawaii Revised Statutes, is amended as follows:

(a) Section 378-1, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 378-1 Definitions.** As used herein:

- (1) “Person” means one or more individuals, and includes partnerships, associations, or corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
- (2) “Employment agency” means any person undertaking to procure employees or opportunities to work.
- (3) “Labor organization” means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.
- (4) “Employer” means any person having one or more persons in his employment, and includes any person acting as an agent of an employer, directly or indirectly.
- (5) “Employment” means any service performed by an individual for another person under any contract of hire, express or implied, oral or written, whether lawfully or unlawfully entered into.
- (6) “Arrest and court records” include any information about an individual having been questioned, apprehended, taken into custody or detention, held for investigation, charged with an offense, served a summons, arrested with or without a warrant and tried, pursuant to any law enforcement or military authority. Convictions are not included in this definition.”

SECTION 2. Section 378, Hawaii Revised Statutes, is amended as follows:

(a) Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 378-2 Discriminatory practices made unlawful; offenses defined.**  
It shall be unlawful employment practice or unlawful discrimination:

- (1) For an employer to refuse to hire or employ or to bar or discharge from employment, any individual because of his race, sex, age, religion, color, ancestry, or arrest and court record which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment, provided that an employer may refuse to hire an individual for good cause relating to the ability of the individual to perform the work in question;
- (2) For an employer to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment because of race, sex, age, religion, color, ancestry, or arrest and court record;
- (3) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, sex, age, religion, color, ancestry, or arrest and court record unless based on a bona fide occupational qualification;
- (4) For any labor organization to exclude or expel from its membership any person or to discriminate in any way against any of its members, employer, or employees because of race, sex, age, religion, color, ancestry, or arrest and court record;
- (5) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any person because he has opposed any practice forbidden by this part or because he has filed a complaint, testified, or assisted in any proceeding respecting the employment practices and discrimination prohibited under this part;
- (6) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the practices forbidden by this part, or to attempt to do so;
- (7) For any employer or labor organization to refuse to enter into an apprenticeship agreement, as defined in section 372-2, because of the race, sex, age, religion, color, or ancestry of an apprentice; provided that no apprentice shall be less than sixteen years of age.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

\*Edited accordingly.

**ACT 54**

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

(Approved May 7, 1973.)