

ACT 2

S.B. NO. 1811

A Bill for an Act Relating to Employment.

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

SECTION 1. Section 368-1, Hawaii Revised Statutes, is amended to read as follows:

“§368-1 Purpose and intent. The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or handicapped status in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy. It is the purpose of this chapter to provide a mechanism which provides for a uniform procedure for the enforcement of the State’s discrimination laws. It is the legislature’s intent to preserve all existing rights and remedies under such laws.”

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

““Sexual orientation” means having a preference for heterosexuality, homosexuality, or bisexuality, having a history of any one or more of these preferences, or being identified with any one or more of these preferences. “Sexual orientation” shall not be construed to protect conduct otherwise proscribed by law.”

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SECTION 3. Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

“§378-2 Discriminatory practices made unlawful; offenses defined. It shall be an unlawful discriminatory practice:

- (1) Because of race, sex, sexual orientation, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record:
 - [(1)] (A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment [because of race, sex, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record];
 - [(2)] (B) For any employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual [because of race, sex, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record];
 - [(3)] (C) 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 [because of race, sex, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record];
 - [(4)] (D) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees [because of race, sex, age, religion, color, ancestry, handicapped status, marital status, or arrest and court record]; or
 - (E) For any employer or labor organization to refuse to enter into an apprenticeship agreement as defined in section 372-2; provided that no apprentice shall be less than sixteen years of age;
- [(5)] (2) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because the individual has opposed any practice forbidden by this part or has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;
- [(6)] (3) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory 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, ancestry, handicapped status, marital status, or arrest and court record of an apprentice; provided that no apprentice shall be less than sixteen years of age;
- [(8)] (4) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard; or
- [(9)] (5) For any employer to refuse to hire or employ or to bar or discharge from employment, any individual because of assignment of income for the purpose of satisfying the individual's child support

obligations as provided for under section 571-52.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved March 21, 1991.)