

Prohibiting Workplace Discrimination by Employers

This Act generally makes it unlawful for employers to refuse to hire or fire people, or otherwise discriminate against employees, because of race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status. It requires employers to make reasonable accommodations for employees who are victims of domestic or sexual violence if those do not cause undue hardship to the operations of the employer. It allows employers to request verification of employees' continued status within specified time frames. The Act creates a civil remedy for employee-victims denied reasonable accommodations.

Submitted as:

Hawaii

[Act 206 of 2011](#)

Status: Enacted into law in 2011.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Prohibit Workplace
2 Discrimination by Employers.”

3
4 Section 2. [*Unlawful Discriminatory Practices by Employers.*]

5 (a) As used in this section, “domestic or sexual violence victim” or “victim” means an
6 individual who is the victim of domestic or sexual violence as defined in [insert citation].

7 (b) It shall be an unlawful discriminatory practice:

8 (1) Because of race, sex, sexual orientation, age, religion, color, ancestry, disability,
9 marital status, arrest and court record, or domestic or sexual violence victim status if the domestic or
10 sexual violence victim provides notice to the victim’s employer of such status or the employer has
11 actual knowledge of such status:

12 (A) For any employer to refuse to hire or employ or to bar or discharge from
13 employment, or otherwise to discriminate against any individual in compensation or in the terms,
14 conditions, or privileges of employment;

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

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

21 (D) For any labor organization to exclude or expel from its membership any
22 individual or to discriminate in any way against any of its members, employer, or employees; or

23 (E) For any employer or labor organization to refuse to enter into an
24 apprenticeship agreement as defined in [insert citation]; provided that no apprentice shall be younger
25 than [sixteen] years of age;

26 (2) For any employer, labor organization, or employment agency to discharge, expel,
27 or otherwise discriminate against any individual because the individual has opposed any practice

28 forbidden by this section or has filed a complaint, testified, or assisted in any proceeding respecting
29 the discriminatory practices prohibited under this section;

30 (3) For any person, whether an employer, employee, or not, to aid, abet, incite,
31 compel, or coerce the doing of any of the discriminatory practices forbidden by this section, or to
32 attempt to do so;

33 (4) For any employer to violate the provisions of [insert citation] relating to
34 nonforfeiture for absence by members of the National Guard;

35 (5) For any employer to refuse to hire or employ or to bar or discharge from
36 employment, any individual because of assignment of income for the purpose of satisfying the
37 individual's child support obligations as provided for under [insert citation];

38 (6) For any employer, labor organization, or employment agency to exclude or
39 otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an
40 individual with whom the qualified individual is known to have a relationship or association;

41 (7) For any employer or labor organization to refuse to hire or employ or to bar or
42 discharge from employment, or withhold pay, demote, or penalize a lactating employee because the
43 employee breastfeeds or expresses milk at the workplace. For purposes of this paragraph, the term
44 breastfeed means the feeding of a child directly from the breast; or

45 (8) For any employer to refuse to hire or employ or bar or discharge from
46 employment, or otherwise to discriminate against any individual in compensation or in the terms,
47 conditions, or privileges of employment of any individual because of the individual's credit history
48 or credit report, unless the information in the individual's credit history or credit report directly
49 relates to a bona fide occupational qualification under section [insert citation].

50 (c) An employer may verify that an employee is a victim of domestic or sexual violence by
51 requesting that the employee provide:

52 (1) A signed written statement from a person listed below from whom the employee
53 or the employee's minor child has sought assistance in relation to the domestic or sexual violence:

54 (A) An employee, agent, or volunteer of a victim services organization;

55 (B) The employee's attorney or advocate;

56 (C) The attorney or advocate of the employee's minor child;

57 (D) A medical or other health care professional;

58 (E) A member of the clergy; or

59 (F) A police or court record supporting the occurrence of the domestic or
60 sexual violence;

61 (2) An employer may verify an employee's status as a domestic or sexual violence
62 victim not more than [once every six months] following the date the employer:

63 (A) Was provided notice by the employee of the employee's status as a
64 domestic or sexual violence victim;

65 (B) Has actual knowledge of the employee's status as a domestic or sexual
66 violence victim; or

67 (C) Received verification that the employee is a domestic or sexual violence
68 victim; provided that where the employee provides verification in the form of a protective order
69 related to the domestic or sexual violence with an expiration date, the employer may not request any
70 further form of verification of the employee's status as a domestic or sexual violence victim until the
71 date of the expiration or any extensions of the protective order, whichever is later.

72 (d) An employer shall make reasonable accommodations in the workplace for an employee
73 who is a victim of domestic or sexual violence, including:

74 (1) Changing the contact information, such as telephone numbers, fax numbers, or
75 electronic-mail addresses, of the employee;

76 (2) Screening the telephone calls of the employee;

77 (3) Restructuring the job functions of the employee;
78 (4) Changing the work location of the employee;
79 (5) Installing locks and other security devices; and
80 (6) Allowing the employee to work flexible hours; provided that an employer shall
81 not be required to make the reasonable accommodations if those cause undue hardship on the work
82 operations of the employer.

83 (e) Prior to making the reasonable accommodations under this section, an employer may
84 verify that an employee is a victim of domestic or sexual violence as provided in this section.

85 (f) As used in this section, “undue hardship” means an action requiring significant difficulty
86 or expense on the operation of an employer, when considered in light of the following factors:

87 (1) The nature and cost of the reasonable accommodation needed under this section;

88 (2) The overall financial resources of the employer; the number of employees of the
89 employer; and the number, type, and placement of the work locations of an employer; and

90 (3) The type of operation of the employer, including the composition, structure, and
91 functions of the workforce of the employer, the geographic separateness of the victim’s work
92 location from the employer, and the administrative or fiscal relationship of the work location to the
93 employer.

94 (g) Any employee denied reasonable accommodations by an employer in violation of this
95 section may file a civil action against the employer to enforce this section and recover costs,
96 including reasonable attorney’s fees, incurred in the civil action.

97

98 Section 3. [*Severability.*] [Insert severability clause.]

99

100 Section 4. [*Repealer.*] [Insert repealer clause.]

101

102 Section 5. [*Effective Date.*] [Insert effective date.]