STAND. COM. REP. NO.

Honolulu, Hawaii

MAR 0 6 2015

RE: S.B. No. 1012 S.D. 1

Honorable Donna Mercado Kim President of the Senate Twenty-Eighth State Legislature Regular Session of 2015 State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 1012 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to allow an employee who has suffered a tangible adverse employment action resulting from a supervisor's discriminatory action to sue the employer, subject to an affirmative defense provided to the employer.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Society for Human Resource Management Hawaii, Chamber of Commerce Hawaii, and two individuals. Your Committee received testimony in opposition to this measure from the Hawaii State Commission on the Status of Women, Hawaii Civil Rights Commission, Democratic Party of Hawaii Women's Caucus, ILWU Local 142, American Civil Liberties Union of Hawaii, and three individuals.

Your Committee finds that this measure helps to create a fair balance between the rights of an employee who has suffered a tangible discriminatory action by a supervisor and an employer who has provided programs and training to avoid situations of harassment by a supervisor. Your Committee notes that proponents of this measure have indicated a willingness to work with opponents to this measure for the purpose of developing language that may be more agreeable to both parties.



Your Committee has amended this measure by:

- (1) Removing section 1, which would have created a new section in chapter 378, Hawaii Revised Statutes;
- (2) Inserting a new section 1 that adds to the exemptions from liability in section 378-3, Hawaii Revised Statutes, by providing that chapter 378, Hawaii Revised Statutes, shall not impose liability on an employer for harassment by a supervisor unless the supervisor's agency status is proven to have been used to effect the harassment;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1012, S.D. 1, and be placed on the calendar for Third Reading.

> Respectfully submitted on behalf of the members of the Committee on Judiciary and Labor,

GILBERT S.C. KEITH-AGARAN, Chair



The Senate Twenty-Eighth Legislature State of Hawaiʻi

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral:			Date: / /		
5B1012	JD			3/5/15		
The Committee is reconsidering its previous decision on this measure.						
If so, then the previous decision was to:						
The Recommendation is:						
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313						
Members		Aye	Aye (WR)	Nay	Excused	
KEITH-AGARAN, Gilbert S.C. (C)		V				
SHIMABUKURO, Maile S.L. (VC)		1				
ESPERO, Will		\checkmark				
GABBARD, Mike						
IHARA, Jr., Les					L	
THIELEN, Laura H.		V				
SLOM, Sam		-				
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TOTAL		4	0	1	2	
Recommendation:						
Adopted Not Adopted						
Chair's or Designee's Signature:						
Distribution: Original File with Committee Re	Yellow port Clerk's Office		Pink Drafting Agency	Goldenrod Committee File Copy		

*Only one measure per Record of Votes