

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 3036

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 3036 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that under the State's anti-discrimination law, as set forth in part I of chapter 378, Hawaii Revised Statutes, an employer, employment agency, or labor organization may refuse to hire or refer, or discharge any individual for reasons unrelated to discriminatory practices, equal pay, criminal conviction records, or credit history.

Your Committee received testimony in support of this measure from the Chamber of Commerce Hawaii and Society for Human Resource Management, Hawaii Chapter. Your Committee received testimony in opposition to this measure from the Hawai'i Civil Rights Commission, ILWU Local 142, and two individuals.

Your Committee finds that the State's employment practices laws relating to discriminatory practices, equal pay, criminal conviction records, and credit history were enacted to prohibit employment discrimination against individuals based upon protected categories, but were not intended to prevent employers from taking employment action for other unrelated reasons. Implementation of this measure clarifies that an employer, employment agency, or labor organization may refuse to hire or refer, or discharge any



individual for reasons unrelated to discriminatory practices, equal pay, criminal conviction records, or credit history.

Your Committee has amended this measure by:

- (1) Reinserting language to clarify that an employer may refuse to hire or refer, or discharge an individual for reasons relating to the ability of the individual to perform the work in question; provided that the employment policy is applied in a nondiscriminatory manner and unrelated to discriminatory practices, equal pay, criminal conviction records, or credit history;
- (2) Amending section 1 to reflect the amended purpose;
- (3) Inserting an effective date of January 7, 2059, for the purposes of clarity and consistency; and
- (4) Making technical, nonsubstantive amendments 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. 3036, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3036, 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 Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.: SB 3036	Committee Referral: JDL	Date: 2/29/16		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended <small>2312</small></div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments <small>2311</small></div> <div style="text-align: center;"><input type="checkbox"/> Hold <small>2310</small></div> <div style="text-align: center;"><input type="checkbox"/> Recommit <small>2313</small></div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
KAHELE, Kaiali'i	/			
KIM, Donna Mercado				/
THIELEN, Laura H.	/			
SLOM, Sam	/			
TOTAL	6			1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: small;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes