

STAND. COM. REP. NO. 606

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 1041
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 1041 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT PRACTICES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit written nondisclosure agreements involving sexual assault and sexual harassment as part of an employee's condition of employment; and
- (2) Prohibit employers from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

Your Committee received testimony in support of this measure from the Hawai'i State Commission on the Status of Women, Planned Parenthood Votes Northwest and Hawaii, Screen Actors Guild - American Federation of Television and Radio Artists, Midwives Alliance of Hawaii, League of Women Voters, AAUW of Hawaii, and two individuals. Your Committee received comments on this measure from the Hawai'i Civil Rights Commission and Department of Human Services.

Your Committee finds that nondisclosure agreements that prevent disclosure of sexual assault and sexual harassment as a



condition of employment silence victims of sexual harassment, sometimes allowing harassers to continue sexual harassment of other employees. There is also a concern that nondisclosure agreements enable repeat offenders who engage in a pattern of sexual harassment. Your Committee also finds that many victims of sexual assault and harassment do not report it because of fear of being retaliated against. This measure will help end the silencing of victims by banning nondisclosure agreements that prevent disclosure of sexual assault and harassment and prohibiting employers from retaliating against an employee for disclosing sexual harassment and assault.

Your Committee notes that this measure expressly allows the use of nondisclosure agreements that are part of settlements between an employer and an employee alleging sexual harassment. In addition, this measure does not apply to human resources employees and other types of employees when the maintenance of confidentiality is necessary as part of an ongoing investigation.

Your Committee has amended this measure by inserting an effective date of January 1, 2051, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1041, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1041, S.D. 1, and be referred to your Committee on Judiciary.


Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,


BRIAN T. TANIGUCHI, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Labor, Culture and the Arts
LCA

Bill / Resolution No.:* SB1041	Committee Referral: LCA, JDC	Date: 2-5-19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley	✓			
GABBARD, Mike	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes