STAND. COM. REP. NO. 3554

Honolulu, Hawaii

MAY 1 9 2020

RE: H.B. No. 2054

H.D. 1 S.D. 1

Honorable Ronald D. Kouchi President of the Senate Thirtieth State Legislature Regular Session of 2020 State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred H.B. No. 2054, H.D. 1, 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 prohibit an employer from:

- (1) Requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault; and
- (2) Retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

Your Committee received testimony in support of this measure from the Department of Human Services, Hawai'i Civil Rights
Commission, Hawai'i State Commission on the Status of Women, LGBT
Caucus of the Democratic Party of Hawaii, Pride at Work - Hawaii,
Hawaii Women's Coalition, American Association of University Women of Hawaii, Hawai'i Women Lawyers, Planned Parenthood Votes
Northwest and Hawaii, Screen Actors Guild - American Federation of Television and Radio Artists Hawaii Local, and seven individuals.
Your Committee received comments to this measure from The Queen's Health Systems.

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Your Committee finds that 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 to engage in a pattern of sexual harassment. Your Committee further finds that many victims of sexual assault and harassment do not report it because of fear of retaliation. This measure will help end the silencing of victims by banning nondisclosure agreements that prevent disclosure of sexual assault and harassment and by prohibiting employers from retaliating against an employee for disclosing sexual harassment and assault.

Your Committee has heard the concerns of the Hawai'i Civil Rights Commission regarding designated placement of the measure in chapter 378, Hawaii Revised Statutes. Your Committee has also heard the testimony of the Queen's Health System regarding peer review privileges.

Accordingly, your Committee has amended this measure by:

- (1) Placing the proposed new section in part I of chapter 378 Hawaii Revised Statutes, to ensure that enforcement and remedies are available;
- (2) Adding an exemption to subsection (c), to conform with bylaws of The Queen's Medical Health System;
- (3) Changing the effective date to upon its approval; and
- (3) 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 Labor, Culture and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2054, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2054, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

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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.:*	Committee Referral:			Date:	- 73
HB2054 HDI	LCA, JDC/WAM		AM	3-10	-10
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 (W	R) Nay	Excused
TANIGUCHI, Brian T. (C)					
IHARA, Jr., Les (VC)					
CHANG, Stanley					
GABBARD, Mike					V
FEVELLA, Kurt					
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TOTAL		3	0	0	2
Recommendation:					
Adopted Not Adopted				Í	
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