

Honolulu, Hawaii

MAY 19 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.



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.



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


BRIAN T. TANIGUCHI, Chair

