

Honolulu, Hawaii

MAR 2 4 2022

RE: H.B. No. 2495 H.D. 1 S.D. 1

Honorable Ronald D. Kouchi President of the Senate Thirty-First State Legislature Regular Session of 2022 State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred H.B. No. 2495, 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 employers from entering into or requiring employees to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault occurring in the workplace, at work-related events, between employees, or between the employer and an employee.

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, AAUW of Hawaii, Hawai'i Women Lawyers, Hawai'i State Democratic Women's Caucus, and four individuals.

Your Committee finds that nondisclosure agreements have functioned as a shield for repeat offenders of discrimination based on sex, including sexual harassment and sexual assault, by allowing the pattern of misconduct to continue unnoticed and other individuals to suffer similar abuse by the same offender. Your Committee further finds that existing law only prohibits employers from requiring their employees to enter into a nondisclosure agreement as a condition of employment, and therefore, does not



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cover circumstances after hire, including when a settlement agreement that releases the employer from an employee's claim of employment discrimination, including sexual harassment, includes a confidentiality or nondisclosure clause. This measure will prohibit employers from entering into nondisclosure agreements pertaining to sexual harassment or sexual assault under any circumstance.

Your Committee has amended this measure by:

- (1) Making it effective upon its approval; and
- (2) 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. 2495, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2495, 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



The Senate Thirty-First Legislature State of Hawaiʻi

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

| Bill / Resolution No.:* | Committee | Committee Referral: | | Date: | | |
|--|--|---------------------|-------------|---|----------|--|
| HB2495, HDI | LCA, JDC | | | 3/16/2022 | | |
| The Committee is reconsidering its previous decision on this measure. | | | | | | |
| If so, then the previous decision was to: | | | | | | |
| The Recommendation is: | | | | | | |
| Pass, unamended X Pass, with amendments Hold Recommit 2312 2311 2310 2313 | | | | | | |
| Members | | Aye | Aye (WF | R) Nay | Excused | |
| TANIGUCHI, Brian T. (C) | | | | | | |
| IHARA, Jr., Les (VC) | | | | | | |
| CHANG, Stanley | | | | | | |
| KEOHOKALOLE, Jarrett | | | | | | |
| FEVELLA, Kurt | | V | | | | |
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| TOTAL | | 5 | 0 | D | D | |
| Recommendation: | | | | | <u> </u> | |
| X Adopted | | | Not Adopted | | | |
| Chair's or Designee's Signature: | | | | | | |
| Distribution: Original File with Committee Re | tion: Original Yellow File with Committee Report Clerk's Office | | | Pink Goldenrod Drafting Agency Committee File Copy | | |

*Only <u>one</u> measure per Record of Votes