

Honolulu, Hawaii

MAR 23 2012

RE: H.B. No. 2228
H.D. 2
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 2228, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO BREASTFEEDING IN THE
WORKPLACE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend chapter 387, Hawaii Revised Statutes, relating to wage and hour laws to:
 - (A) Prohibit employers from precluding their breastfeeding employees from expressing breastmilk during any meal or other break period required by law or collective bargaining agreement;
 - (B) Require an employer with twenty or more employees to make reasonable efforts to provide a clean location, other than a bathroom, for employees to express breastmilk in privacy;
 - (C) Require covered employers to post a notice in a conspicuous location; and
 - (D) Establish a civil fine of \$50 for failing to provide a clean location or post a notice; and



- (2) Repeal section 378-10, Hawaii Revised Statutes, relating to breastfeeding in the workplace during a meal or other break period, for clarity and consistency.

Your Committee received testimony in support of this measure from the Hawaii Civil Rights Commission; Hawaii State Commission on the Status of Women; Office of Hawaiian Affairs; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; United Public Workers, AFSCME Local 646, AFL-CIO; Chamber of Commerce of Hawaii; Women's Coalition; Young Women's Christian Association of Oahu; Hawaii State Democratic Women's Caucus; Healthy Mothers Healthy Babies Coalition of Hawaii; Planned Parenthood of Hawaii; American Civil Liberties Union of Hawaii; Breastfeeding Hawaii; and one private individual. Testimony in opposition to this measure was submitted by the Hawaii Bar Owners Association. The Department of Labor and Industrial Relations submitted comments.

Your Committee finds that in Hawaii, over ninety percent of new mothers, which is much higher than the national average, intend to breastfeed their babies. Unfortunately, six months after birth, only about sixteen percent of infants are exclusively breastfed as recommended by the American Academy of Pediatrics, the World Health Organization, and other public health organizations.

Your Committee further finds that the expected duration for a mother in the workplace to breastfeed is approximately three to six months for each child, which is rather brief when considering the typical length of an employee's working life. Employers who allow their breastfeeding employees to express breastmilk while at work have seen reduced employee absenteeism and turnover and improved employee work productivity and loyalty. Also, an economic risk exists in not allowing breastfeeding employees to express breastmilk at work. In April 2010, a study indicated that \$13,000,000,000 a year could be saved in the United States if ninety percent of mothers breastfed their infants for the recommended period of six months. This measure enables the State to save a proportionate share of this total by requiring an employer with twenty or more employees to make reasonable efforts to provide a clean location for breastfeeding employees to express breastmilk in privacy.

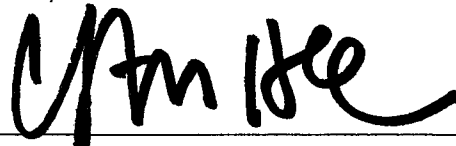
Your Committee has amended this measure by:



- (1) Adopting the language suggested by The Chamber of Commerce of Hawaii that incorporates applicable language from the federal Fair Labor Standards Act to:
 - (A) Exempt employers with twenty or more employees from providing a clean location for breastfeeding employees to express breastmilk in privacy, if compliance with this requirement imposes an undue hardship; and
 - (B) Define undue hardship as the difficulty or expense of compliance with breastfeeding in the workplace requirements for a specific employer in comparison to the size, financial resources, nature, and structure of the employer's business; 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2228, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2228, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



