

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 535  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 535 entitled:

"A BILL FOR AN ACT RELATING TO LABOR,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Extend basic labor rights and protections to domestic workers by:
  - (A) Amending the Hawaii Employment Relations Act under chapter 377, Hawaii Revised Statutes, to establish hours of labor for domestic workers and define causal basis employment and domestic worker;
  - (B) Amending chapter 378, Hawaii Revised Statutes, to amend the definition of "employment" and prohibit the employment practice of discriminating against domestic workers;
  - (C) Amending the workers' compensation law under chapter 386, Hawaii Revised Statutes, to include service of domestic workers under the definition of "employment"; and
  - (D) Amending the wage and hour law under chapter 387, Hawaii Revised Statutes, to exclude individuals



employed in domestic service in or about the home of the individuals' employer on a casual basis; and

- (2) Direct the Department of Labor and Industrial Relations to submit a written report to the Legislature regarding the feasibility of allowing domestic workers to organize for the purposes of collective bargaining.

Your Committee received testimony in support of this measure from the Hawai'i Civil Rights Commission, Hawaii State Commission on the Status of Women, Hawaii Labor Relations Board, and American Civil Liberties Union of Hawai'i, and one individual. The Department of Labor and Industrial Relations submitted comments.

Your Committee finds that domestic workers provide services for a family other than their own within that family's home. The duties of a domestic worker depend on the employment relationship between the domestic worker and the domestic worker's employer. Duties may include cleaning, laundry, shopping, cooking, or child, senior, or pet care. Many domestic workers are hired under a private agreement that does not afford the basic legal employment rights and protections that guarantee minimum wage or basic work conditions, such as overtime pay, meal and rest breaks, or civil rights protections against abuse and harassment. This measure provides domestic workers a basic bill of employment rights and explores the feasibility of allowing domestic workers to organize under collective bargaining.

Your Committee has amended this measure by:

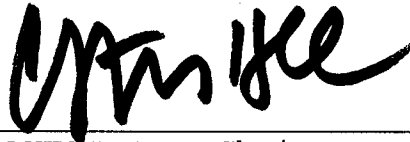
- (1) Adopting the amendments suggested by the Hawaii Civil Rights Commission that:
  - (A) Deletes the provisions that prohibit an employer from engaging in unwelcome sexual advances toward a domestic worker or subject a domestic worker to unwelcome harassment and inserts language that prohibits an employer from discharging from employment or discriminating against a domestic worker based on the domestic worker's race, sex, sexual orientation, age, religion, color, ancestry, disability, or marital status; and
  - (B) Makes conforming amendments to reflect these amendments;



- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 535, S.D. 1, and be placed on the calendar for Third Reading.

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



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CLAYTON HEE, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 35</b>	Committee Referral: <b>JDL</b>	Date: <b>02-07-13</b>		
<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				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les		✓		
SLOM, Sam			✓	
<b>TOTAL</b>	<b>3</b>	<b>1</b>	<b>1</b>	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes