

STAND. COM. REP. NO. **675**

Honolulu, Hawaii

**MAR 06 2015**

RE: S.B. No. 1012  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 1012 entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to allow an employee who has suffered a tangible adverse employment action resulting from a supervisor's discriminatory action to sue the employer, subject to an affirmative defense provided to the employer.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Society for Human Resource Management Hawaii, Chamber of Commerce Hawaii, and two individuals. Your Committee received testimony in opposition to this measure from the Hawaii State Commission on the Status of Women, Hawaii Civil Rights Commission, Democratic Party of Hawaii Women's Caucus, ILWU Local 142, American Civil Liberties Union of Hawaii, and three individuals.

Your Committee finds that this measure helps to create a fair balance between the rights of an employee who has suffered a tangible discriminatory action by a supervisor and an employer who has provided programs and training to avoid situations of harassment by a supervisor. Your Committee notes that proponents of this measure have indicated a willingness to work with opponents to this measure for the purpose of developing language that may be more agreeable to both parties.

2015-1926 SSCR SMA.doc



Your Committee has amended this measure by:

- (1) Removing section 1, which would have created a new section in chapter 378, Hawaii Revised Statutes;
- (2) Inserting a new section 1 that adds to the exemptions from liability in section 378-3, Hawaii Revised Statutes, by providing that chapter 378, Hawaii Revised Statutes, shall not impose liability on an employer for harassment by a supervisor unless the supervisor's agency status is proven to have been used to effect the harassment;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) Making a technical, nonsubstantive amendment 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. 1012, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1012, 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,

  
GILBERT S.C. KEITH-AGARAN, Chair



