

**HB-488**

Submitted on: 2/6/2019 9:10:16 AM

Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

**HB-488**

Submitted on: 2/4/2019 4:53:32 PM

Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Younghi Overly	AAUW of Hawaii	Support	Yes

Comments:

Dear Chair Johanson, Vice-Chair Eli, and members of LAB Committee,

Thank you for this opportunity to submit a testimony in SUPPORT of HB488, which would prohibit written nondisclosure agreements involving sexual assault and sexual harassment as part of an employee's conditions of employment, and prohibit employers from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

NDA's involving sexual assault and sexual harassment is another form of silencing victims and Hawaii should join other 16 states with legislations to ban this outdated practice (Source: [SHRM "States Take Action Against Nondisclosure Agreements"](#)).

The American Association of University Women (AAUW) of Hawaii is a state-wide organization made up of six branches (Hilo, Honolulu, Kauai, Kona, Maui, and Windward Oahu) and includes just over 450 active members with over 1700 supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

Please pass HB488 and mahalo for this opportunity to testify in support of this important bill.

## eli2 - Ivan

---

**From:** Rep. Stacelynn K.M. Eli  
**Sent:** Tuesday, February 5, 2019 10:57 PM  
**To:** eli2 - Ivan  
**Subject:** Fwd: Ref bill HB488 Confidentiality agreements

Sent from my iPhone

Begin forwarded message:

**From:** Ann Freed <[annsfreed@gmail.com](mailto:annsfreed@gmail.com)>  
**Date:** February 5, 2019 at 7:43:46 PM HST  
**To:** [repjohanson@Capitol.hawaii.gov](mailto:repjohanson@Capitol.hawaii.gov)  
**Cc:** [repeli@Capitol.hawaii.gov](mailto:repeli@Capitol.hawaii.gov)  
**Subject:** Ref bill HB488 Confidentiality agreements

Aloha Rep Johanson and Rep Eli,

So sorry, I noticed errors in my submission of online testimony.

Please accept this correction. Mahalo

COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Rep. Aaron Ling Johanson, Chair  
Rep. Stacelynn K.M. Eli, Vice Chair

### **Support for HB488**

Aloha Chair Johanson, Vic Chair Eli and members,

We are in support of this measure. Given the prevalence of the use of these types of agreements to cover up the behavior of serial sex abusers, this seems the right step to take. We do note however that victim confidentiality should be observed and perhaps an amendment is in order to insure that.

Mahalo for the opportunity to testify,

Ann. S. Freed  
Co-Chair, Hawaii Women's Coalition

**HB-488**

Submitted on: 2/4/2019 6:43:44 PM

Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Midwives Alliance of Hawaii	Midwives Alliance of Hawaii	Support	No

Comments:



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT  
Thursday, February 7, 2019, 9:30 a.m., Room 309

HB488 RELATING TO EMPLOYMENT PRACTICES

**TESTIMONY**

Barbara J. Service, Legislative Committee, League of Women Voters of Hawaii

Chair Johanson, Vice-Chair Eli and Committee Members:

**The League of Women Voters of Hawaii supports HB488 that prohibits written nondisclosure agreements (NDA's) involving sexual assault and sexual harassment as part of an employee's condition of employment and prohibits employers from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.**

It is estimated that 1/3 of the U.S. workforce is bound to their employers by NDA's, essentially silencing victims.

Times have changed. 16 states are looking at legislation similar to HB488 and California and New Jersey have already passed laws.

Please move this bill forward.

Thank you for the opportunity to submit testimony.

To: Hawaii State House Committee on Labor and Public Employment  
Hearing Date/Time: Thursday, February 7, 2019 (9:30 am)  
Place: Hawaii State Capitol, Rm. 309  
Re: Testimony in support of HB488 (relating to employment practices)

Dear Representative Aaron Ling Johanson (Chair), Representative Stacelynn K.M. Eli (Vice Chair), and Committee Members,

I am grateful for this opportunity to testify in **strong support of HB488 (relating to employment practices)**.

It is appalling that sexual misconduct occurs in workplaces, and it is equally appalling when victims are required to sign nondisclosure agreements, or are silenced in other ways by employers. This often means that they are unable to obtain true justice, and it also leaves perpetrators free to offend against others.

I have been the victim of sexual misconduct in several work locations, and never approached the police for assistance because that was how things worked at that time. I suspect that many women of my generation have similar experiences. Since, we now live in more enlightened times, and Hawaii is viewed as a progressive locale, I would like to see this bill passed, which would help to encourage future victims of workplace sexual misconduct to come forward, and hopefully, obtain justice.

In conclusion, **I urge the passage of HB488.**

Thank you for the opportunity to testify.

Sincerely

*Susan J. Wurtzburg* Ph.D.

**HB-488**

Submitted on: 2/4/2019 6:45:34 PM

Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lea Minton	Individual	Support	No

Comments:



**LATE**

# HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 • FAX: 586-8655 • TDD: 568-8692

February 7, 2019  
Rm. 309, 9:30 a.m.

To: The Honorable Aaron Ling Johanson, Chair  
The Honorable Stacelynn K.M. Eli, Vice Chair  
Members of the House Committee on Labor and Public Employment

From: Linda Hamilton Krieger, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

Re: H.B. 488

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services (on the basis of disability). The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports the intent of H.B. No. 488.

H.B. No. 488 amends HRS chapter 378 to add a new section prohibiting employers from requiring nondisclosure agreements that prevents disclosure of sexual assault or sexual harassment as a condition of employment. The bill prohibits employers from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

This measure prohibits such nondisclosure agreements as a condition of employment, but subsection (c) of the new section expressly allows confidential settlements of individual complaints. Confidential dispositions silence victims of sexual harassment, sometimes allowing harassers to continue sexual harassment of other employees. In recent news, we have seen numerous stories about repeated offenses by individuals who settled multiple sexual harassment complaints with confidential agreements. It is a common standard practice to include confidentiality or nondisclosure provisions in settlement agreements in employment discrimination cases, including sexual harassment cases, but there is growing concern that



the use confidentiality provisions in settlement of sexual harassment cases might enable repeat offenders who engage in a pattern of sexual harassment. By expressly allowing nondisclosure agreements in confidential settlements between an employee and an employer, this bill does not completely prohibit the use and effect of nondisclosure agreements.

The HCRC supports the intent of H.B. No, 488.



February 6, 2019

Committee on Labor & Public Employment  
Rep. Johanson, Chair  
Rep. Eli, Vice Chair

**LATE**

The Senate  
The Thirtieth Legislature  
Regular Session of 2019

RE: HB 488 - RELATING TO EMPLOYMENT PRACTICES  
DATE: Thursday, February 7, 2019  
TIME: 9:30 am  
PLACE: Conference Room 309  
State Capitol 415 South Beretania Street, Honolulu HI

Aloha Chair Johanson, Vice Chair Eli, and the Members of the Committee,

Thank you for the opportunity to testify in **support** of this measure. [SAG-AFTRA](#) represents over 1000 actors, recording artists, and media professionals in our state.

We support this ban on pre-employment nondisclosure agreements whenever this legal tool is used to cover up sexual harassment and assault in the workplace. These type of pre-employment requirements cover up abuse and act as a restraint on the freedom of speech on Hawaii's workers.

We also support adding a new section to HRS chapter 378 making it unlawful practice to retaliate against employees for disclosing or discussing sexual harassment or sexual assault. An employee's fear that her/his employer will retaliate against them for disclosing or even just discussing sexual assault or harassment acts as a powerful deterrent and silencer. Adding this section goes a long way to protect workers and to shine a light on discriminatory and dangerous practices.

In taking action to encourage open discourse, the state will not only strengthen the civil rights of Hawaii workers that may find themselves in vulnerable and precarious positions but will also allow for the exposure of persons who pose a risk to public safety.

Thank you again for your continued support and please don't hesitate to contact the SAG-AFTRA Hawaii Local office for more information on this issue as it relates to professional performers.

Respectfully,

Mericia Palma Elmore  
Executive Director SAG-AFTRA Hawaii Local

**LATE**

**HB-488**

Submitted on: 2/6/2019 4:43:05 PM  
Testimony for LAB on 2/7/2019 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Darlene Ewan	Aloha State Association of the Deaf	Support	No

Comments:

# "Advocacy for Change in State Government"

#advocacy for victims of harassment  
#METOO-Hawaii

**LATE**

---

*Jacquelyn Guitguiten*

To: The Honorable Aaron Ling Johanson, Chair  
and Members of the Committee on Labor & Public Employment

Date: Thursday, February 7, 2019  
Time: 9:30am  
Place: Conference Room 309, State Capitol

From: Jacquelyn Guitguiten  
Member of the Public/State Government Employee

Re: HB 0488, Relating to Employment Practices

My name is Jacquelyn Guitguiten and I am a state government employee and have dedicatedly served my state and the community for nearly 30 years. While I appreciate the intent of HB 0488, I would like to offer the following comments for your consideration to this Bill and going forward to all matters of harassment, state policies and the law.

I am a victim of sexual harassment/assault, harassment, retaliation and discrimination, which kept me a prisoner in my workplace. I have been forced to work in a volatile, threatening, toxic atmosphere and I was forced to endure this for more than 4 years. State policies and state law was ignored by those in all areas of state government that were entrusted to take immediate action according to the law. They all failed to follow-through, they all failed to acknowledge there is a victim—their inability to act responsibly has made them participants and bystanders to harassment.

Has state policy and the law failed to protect employees? If we are considered valued, respected and protected above one's own political and personal beliefs, then there needs to be apology in the form of restoring trust, respect and integrity. When will there be responsibility and accountability in state government?

Thank you for your time and consideration.