

STAND. COM. REP. NO. 607

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 1048
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred S.B. No. 1048 entitled:

"A BILL FOR AN ACT RELATING TO SEXUAL HARASSMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Make unenforceable confidentiality clauses in employment contracts when an act of sexual harassment is claimed by an employee;
- (2) Ban mandatory arbitration agreements as to sexual harassment claims beginning July 1, 2019; and
- (3) Make mandatory confidentiality clauses in an arbitration agreement unenforceable as to sexual harassment claims.

Your Committee received testimony in support of this measure from Hawai'i State Commission on the Status of Women, Planned Parenthood Votes Northwest and Hawaii, Midwives Alliance of Hawaii, AAUW of Hawaii, and three individuals. Your Committee received comments on this measure from the Hawai'i Civil Rights Commission.

Your Committee finds that confidentiality clauses in employment contracts that apply to sexual harassment claims and



mandatory arbitration agreements requiring arbitration of sexual harassment claims allow sexual harassment to be kept a secret and off the record. The use of confidentiality agreements and mandating private arbitrations also allows serial harassers to escape scrutiny and liability, and enables them to continue to harass others. This measure will ban confidentiality agreements that apply to sexual harassment claims and mandatory arbitration of sexual harassment claims, which will allow victims to take their case through the court system and to speak publicly about sexual harassment if they so choose.

Your Committee notes that this measure allows for confidentiality agreements when entered into by the parties as part of a legal settlement to a specific claim of sexual harassment, and does not prohibit use of a voluntary confidentiality provision where specific claims of sexual harassment are alleged.

Your Committee has amended this measure by inserting an effective date of January 1, 2051, to encourage further discussion.

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 S.B. No. 1048, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1048, S.D. 1, and be referred to your Committee on Judiciary.

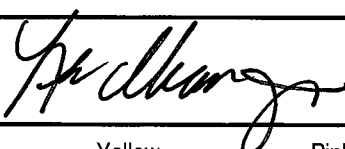
Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,


BRIAN T. TANIGUCHI, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

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

Bill / Resolution No.:* SB 1048	Committee Referral: LCA, JDC	Date: 2-5-19		
<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				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
IHARA, Jr., Les (VC)	✓			
CHANG, Stanley	✓			
GABBARD, Mike	✓			
FEVELLA, Kurt	✓			
TOTAL	5	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes