



STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 18, 2020

TO: The Honorable Representative Sylvia Luke, Chair  
House Committee on Finance

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 2054 HD1 – RELATING TO EMPLOYMENT PRACTICES**

Hearing: February 20, 2020, Time 12:00 p.m.  
Conference Room 308, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this measure as all individuals should have a workplace environment free from harassment, assault, and violence. Low wage, low skill workers, or workers just entering the workforce are especially vulnerable to harassment. This measure is a positive employment policy that will improve the social and economic mobility of Hawaii's residents. DHS provides benefits and services that support individuals and families with their basic needs so adults can address their children's care and education, and improve their own skills to gain and maintain employment.

**PURPOSE:** The purposes of the bill prohibits an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault. Prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault. Takes effect 1/1/2050. (HD1)

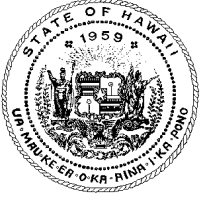
Women, men, gender non-conforming, and low-income individuals, all may experience sexual harassment and sexually coercive behavior in the workplace. However, the majority of workplace harassment victims are women. The risk of being sexually harassed in the workplace increases greatly for women of color and women who work in low paying jobs.

As such, workplace harassment and subsequent retaliation have a direct effect on individual's ability to work and to be economically self-sufficient. Many victims do not report for fear of being retaliated against.

The proliferation of non-disclosure agreements (NDA) has enabled abusers to continue their abuse and in turn, silence their victims from reporting.

DHS provides services to 1 in 4 Hawaii residents, and to some of the most vulnerable individuals and families in the State. Through our multi-generational 'Ohana Nui framework, we endeavor to address the multiple factors that contribute to multi-generational poverty including the impact of trauma on individuals and families. Reducing harassment in the work place and supporting better employment practices will further this goal.

Thank you for the opportunity to testify in support.



# HAWAI‘I CIVIL RIGHTS COMMISSION

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

February 20, 2020  
Rm. 308, 12:00 p.m.

To: The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
Members of the House Committee on Finance

From: Liann Ebesugawa, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

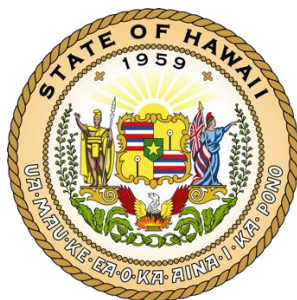
Re: H.B. No. 2054, H.D. 1

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 H.B. No. 2054, H.D. 1.**

H.B. No. 2054, H.D. 1 amends HRS chapter 378 to add a new section prohibiting employers from requiring nondisclosure agreements that prevent disclosure of sexual assault or sexual harassment as a condition of employment. The bill also prohibits employers from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault. HCRC supports both prohibitions, which in combination will preclude nondisclosure agreements that can enable serial harassers to continue unlawful sexual harassment. The current bill creates a new section in HRS chapter 378, but does not designate in which part it will be placed. If enacted, placement of the new section in HRS chapter 378, part I, would provide for both enforcement and remedies.

The HCRC supports H.B. No. 2054, H.D. 1.



‘O kēia ‘ōlelo hō’ike no ke  
**Komikina Kūlana Olakino o Nā Wāhine**

Testimony on behalf of the  
**Hawai‘i State Commission on the Status of Women**

Prepared for the House Committee on Finance

In Support of HB2054 HD1  
February 20, 2020, at 12 p.m. in Room 308

Dear Chair Luke, Vice Chair Cullen, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports the intent of HB2054 HD1, which prohibits non-disclosure agreements, legally enforceable contracts that prohibit disclosure of sexual harassment or sexual assault, as a condition of employment. The Commission notes the silencing effect of confidentiality clauses or non-disclosure agreements (NDAs). NDAs are not actually victim-centered, and have functioned to shield serial offenders of sex discrimination, including sexual assault and sexual harassment, by allowing the pattern of misconduct to continue unnoticed and other women to suffer similar abuse by the same offender.

In doing so, NDAs perpetuate the power imbalance between men and women in the workplace. They also create a ripple effect impacting women’s career choices and ability to advance in the workplace. The Legislature should act to ban NDAs as part of a broader strategy to eradicate sexual harassment. Accordingly, the Commission respectfully urges the Committee to pass HB2054 HD1.

Sincerely,

Khara Jabola-Carolus

# IRON WORKERS STABILIZATION FUND

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February 20, 2020

House Committee on Finance  
Conference Room 308  
State Capitol  
415 South Beretania Street

Re: HB2054, HD1 - RELATING TO EMPLOYMENT PRACTICES.

Aloha Chair Luke, Vice-Chair Cullen, and members of the House Committee on Finance:

We **SUPPORT** the intent of HB2054 HD1. This bill will prohibit an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault. It further prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault. No one should fear retaliation of loss of employment or otherwise for reporting sexual assault or sexual harassment. This bill will help us move towards a more healthy and safe working environment.

Sincerely,



T. George Paris  
Managing Director

TGP: MP



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
Members, Committee on Finance

From: Rowena Buffett Timms, Executive Vice President & Chief Administrative Officer, The Queen's Health Systems  
Colette Masunaga, Manager, Government Relations & External Affairs, The Queen's Health Systems

Date: February 18, 2020

Hrg: House Committee on Finance Hearing; Thursday, February 20, 2020 at 12:00 P.M. in Room 308

Re: **Comments on HB 2054 HD1, Relating to Employment Practice**

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The Queen's Health Systems (Queen's) is a not-for-profit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, 66 health care centers and labs, and more than 1,600 physicians statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to offer comments with concerns on HB 2054 HD1, Relating to Employment Practice. The proposed bill would prohibit an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault, as well as prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

While Queen's appreciates and supports the intent of this measure, we have concerns that the bill, as written, is too broad and would impede on our peer review process. The peer review process - as mandated by The Centers for Medicare and Medicaid Services, Conditions of Participation, and The Joint Commission - requires that hospitals take on the responsibility for quality assessment and performance improvement.

The Queen's Medical Staff Bylaws requires individuals (employed and non-employed), participating in credentialing, peer review, and quality management activities, preserve confidentiality and invoke the peer review privileges afforded under HRS §624-25.5.

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

In order to preserve the medical staff peer review process, Queen's respectfully requests the following amendment under section 1, (c) be added.

(c) This section shall not apply to:

(1) Human resources employees expected to maintain the confidentiality of an investigation as part of their official duties; and

(2) Employees requested to maintain the confidentiality of an ongoing human resources investigation.

(3) Proceedings under section 624-25.5"

Thank you for the opportunity to testify on this measure.

**HB-2054-HD-1**

Submitted on: 2/18/2020 1:40:12 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Hawaii Women's Coalition	Support	No

Comments:

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee,

The Hawaii Women’s Coalition writes in support of H.B. 2054 HD1, to prohibit an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault and to prohibit an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

A recent survey by Safe Spaces & Workplaces of Hawaii adults showed 52% of women and 42% of men experienced workplace sexual harassment while working in Hawaii. Only 18% reported the incident to Human Resources. Many stay silent because they don’t want to make waves; others see sexual harassment as a strictly legal issue likely to result in costly litigation. 15% changed their job or quit.

A recent study “Limiting Our Livelihoods” by American Association of University Women (AAUW) showed 38% of women who were sexually harassed said the harassment contributed to their decision to leave their job, 37% said the harassment disrupted their career advancement. Many do not report the incident because they fear retaliation.

Although federal law appears comprehensive and robust, employees who are harassed at work are often unable to access justice. The barriers include:

- Narrow standards about the kinds of employers covered by existing laws. For example, employers with fewer than 15 employees are exempt;
- The exclusion from coverage of various categories of workers, including contractors and unpaid interns;
- A limited time frame for bringing charges;



- Onerous standards of proof: Courts have narrowly interpreted the definition of sexual harassment so many egregious complaints have not met the required standard;
- Reduced liability: The Supreme Court has narrowed the circumstances in which employers and coworkers can be liable for harassment;
- Non-disclosure agreements and mandatory arbitration: These can prevent employees from speaking out and/or pursuing legal remedies;
- Non-disclosure agreements and retaliating employees for disclosing and discussing sexual harassment or sexual assault allows serial harassers to escape accountability and continue with harassment.

Fifteen states passed new laws since 2017 to protect workers from sexual harassment; thirteen states now limit or prohibit employers from requiring employees to sign non-disclosure agreements as a condition of employment or as part of a settlement agreement. Hawaii should join Arizona, California, Illinois, Louisiana, Maryland, Nevada, New Jersey, New York, Oregon, Tennessee, Vermont, Virginia, and Washington by passing this bill.

Thank you for your support for this important measure to promote fairness and equity in the workplace.

Sincerely,

Hawaii Women's Coalition



February 19, 2020

Committee on Finance  
Rep. Luke, Chair  
Rep. Cullen, Vice Chair

The House of Representatives  
The Thirtieth Legislature  
Regular Session of 2020

RE: HB 2054, HDI - RELATING TO EMPLOYMENT PRACTICES  
DATE: Thursday, February 20, 2020  
TIME: 12:00 PM  
PLACE: Conference Room 308  
State Capitol 415 South Beretania Street, Honolulu HI

Aloha Chair Luke, Vice Chair Cullen, 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

Mericia Palma Elmore, Executive Director  
SAG-AFTRA Hawaii Local  
[mericia.palmaelmore@sagaftra.org](mailto:mericia.palmaelmore@sagaftra.org)  
Ph: 808-596-0388 • Fax: 808-593-2636  
201 Merchant St Suite 2301 Honolulu, HI 96813

SCREEN ACTORS GUILD - AMERICAN FEDERATION OF  
TELEVISION AND RADIO ARTISTS  
SAGAFTRA.org  
Associated Actors & Artistes of America / AFL-CIO

**HB-2054-HD-1**

Submitted on: 2/18/2020 10:09:15 AM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

**HB-2054-HD-1**

Submitted on: 2/18/2020 10:38:56 AM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patricia Bilyk	Breastfeeding Hawaii	Support	No

Comments:

**HB-2054-HD-1**

Submitted on: 2/18/2020 1:38:23 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	aauw of hawaii	Support	No

Comments:

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee,

Members of AAUW of Hawaii are grateful for this opportunity to testify in strong support of H.B. 2054 HD1, which would prohibit 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.

Workplace sexual harassment is more common than we think: 53% of women and 42% of men experienced workplace sexual harassment while working in Hawaii according to a recent survey by Safe Spaces & Workplaces. Workplace sexual harassment take a toll on victim's physical and mental health, and it also limits the livelihood for 38% of those harassed said the harassment contributed to their decision to leave their job and 37% said the harassment disrupted their career advancement.<sup>[1]</sup> Many in Hawaii don't report because they don't want to make waves; many don't report because they fear retaliation.

Non-disclosure agreements and retaliating employees for disclosing and discussing sexual harassment or sexual assault silences victims and allow serial harassers to escape accountability and continue with harassment and assault.

Fifteen states passed new laws since 2017 to protect workers from sexual harassment; thirteen states now limit or prohibit employers from requiring employees to sign non-disclosure agreements as a condition of employment or as part of a settlement agreement.<sup>[2]</sup> Hawaii should join Arizona, California, Illinois, Louisiana, Maryland, Nevada, New Jersey, New York, Oregon, Tennessee, Vermont, Virginia, and Washington by passing this bill and protect the workers from workplace sexual harassment and assault.

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 650 active members with over 3800 supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

Please pass this important measure and mahalo.

Younghee Overly

Public Policy Chair, AAUW of Hawaii

publicpolicy-hi@aauw.net

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[1] <https://www.aauw.org/research/limiting-our-livelihoods/>

[2] <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/07/20-States-By-2020-report.pdf>

**HB-2054-HD-1**

Submitted on: 2/18/2020 3:59:15 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Jo Morrow	AAUW	Support	No

Comments:

I'm actually upset that I have to justify my testimony saying I should not be harrassed because of gender. We are in the 21st Century. Gender based salary differentials should not even be part of the 21st Century.

I know what it's like to be a good looking young girl seeking a job. I know what it's like being seduced by my bosses for a position. It is an embarassment to everyone involved. Let's stop this now!

We all have children, grandchildren and are friends of children, who are female. Why are we persisting in this abhorrent behavior? Sincerely, Mary Jo Morrow

**HB-2054-HD-1**

Submitted on: 2/19/2020 11:12:26 AM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:



**HB-2054-HD-1**

Submitted on: 2/19/2020 11:20:08 AM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pride at Work - Hawaii	Pride @ Work - Hawaii	Support	No

Comments:

**HB-2054-HD-1**

Submitted on: 2/19/2020 1:37:30 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joe P. Moss	Individual	Support	No

Comments:

I strongly support this bill. Nondisclosure agreements help wrongdoers hide their actions and perpetuate the wrong doing in the organization. This allows them to prey on new victims who are unaware of their past behavior. Nondisclosure agreements are typically offered by employers who are in a strong bargaining position to people who need a job. It is not a fair contract. Please pass this bill. Thank you, Joe Moss

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
*House Committee on Finance*

Thursday, February 2nd, 2020; 12:00PM  
Hawaii State Capitol, Conference Room 308

In strong support for H.B. 2054, Relating to Employment Practices

Dear Chair Luke, Vice-Chair Cullen, and esteemed members of the committee

My name is Emma Ishihara and I am writing today in support for H.B. 2054, which would protect employees who have experienced sexual harassment in the workplace from being attacked by their employers or forced into legal silence.

However, something extremely important **must be changed** in this bill! The bill cannot wait to go into effect in 2050. Thirty years is **vastly too long** and there are far too many people who could be exploited in the meantime. These men, women, parents, teenagers entering work for the first time, elderly people about to retire, and others deserve to be protected by this law immediately. When passed, this bill needs to go into effect as soon as possible.

Recent movements such as the #MeToo and domestic violence awareness movements have shown the importance of workplace policy in the lives of women and men who are experiencing or who have experienced sexual harassment or sexual assault. Prohibiting behavior such as requiring nondisclosure agreements and retaliation is an incredible leap toward a safer and more protected social and working environment.

Thank you for the opportunity to testify in support for this bill,

Emma Ishihara.

Hearing Date: February 20, 2020, 12:00 PM, Rm. 308

To: House Committee on Finance  
Chair, Representative. Sylvia Luke  
Vice Chair, Representative Ty J.K. Cullen

From: Jean Evans, MPH (Individual, [jevans9999@yahoo.com](mailto:jevans9999@yahoo.com), 808-728-1152, 99-1669 Hoapono Pl., Aiea, HI 96701)

Re: **TESTIMONY IN SUPPORT OF HB 2054, HD1 RELATING TO EMPLOYMENT PRACTICES.**

**I am strong support of HB 2054, HD1 Relating to Employment Practices**

I am in favor of this ban on nondisclosure agreements (NDA). NDAs have been used to cover up sexual harassment and assault in the workplace for many years. Often these agreements are used to protect a serial workplace sexual harasser or assaulter such as those we have seen in the national news. One can only hazard a guess as to how many of these predators have been protected by their employer here in Hawaii.

I also support making it unlawful to retaliate against employees for disclosing or discussing sexual harassment or sexual assault. This will remove the fear an employee has that their employer will retaliate against them for disclosing or even just discussing sexual assault or harassment acts as a powerful deterrent and silencer.

This bill will ensure that Hawaii joins 13 other states in the nation to limit or prohibit employers from requiring employees to sign non-disclosure agreements as a condition of employment or as part of a settlement agreement. I urge you to pass this important bill.

Mahalo for allowing me to submit my testimony today.

*Jean Evans*

## **HB-2054-HD-1**

Submitted on: 2/18/2020 2:32:02 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joanna Amberger	Individual	Support	No

Comments:

Aloha

I am writing today to voice my strong support for HB 2054 HD 1. This bill is significant because it would:

1. Prohibit an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault.
2. Prohibit an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.

### **Reasons why we should adopt this measure:**

- A recent survey by Safe Spaces & Workplaces<sup>[1]</sup> of Hawaii adults showed 52% of women and 42% of men experienced workplace sexual harassment while working in Hawaii. Only 18% reported the incident to Human Resources. Many stay silent because they don't want to make waves; others see sexual harassment as a strictly legal issue likely to result in costly litigation. 15% changed their job or quit.
- A recent study "Limiting Our Livelihoods" by American Association of University Women (AAUW)<sup>[2]</sup> showed 38% of women who were sexually harassed said the harassment contributed to their decision to leave their job, 37% said the harassment disrupted their career advancement. Many do not report the incident because they fear retaliation.
- Although federal law appears comprehensive and robust, employees who are harassed at work are often unable to access justice. The barriers include:<sup>[3]</sup>
  - Narrow standards about the kinds of employers covered by existing laws. For example, employers with fewer than 15 employees are exempt.
  - The exclusion from coverage of various categories of workers, including contractors and unpaid interns.
  - A limited time frame for bringing charges.
  - Onerous standards of proof: Courts have narrowly interpreted the definition of sexual harassment so many egregious complaints have not met the required standard.
  - Reduced liability: The Supreme Court has narrowed the circumstances in which employers and coworkers can be liable for harassment.

- Non-disclosure agreements and mandatory arbitration: These can prevent employees from speaking out and/or pursuing legal remedies.
- Non-disclosure agreements and retaliating employees for disclosing and discussing sexual harassment or sexual assault allows serial harassers to escape accountability and continue with harassment.
- Fifteen states passed new laws since 2017 to protect workers from sexual harassment; thirteen states now limit or prohibit employers from requiring employees to sign non-disclosure agreements as a condition of employment or as part of a settlement agreement.<sup>[4]</sup> Hawaii should join Arizona, California, Illinois, Louisiana, Maryland, Nevada, New Jersey, New York, Oregon, Tennessee, Vermont, Virginia, Washington by passing this bill.

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[1] <https://www.safespacesandworkplaces.com/hawaii-workplace-survey>

[2] <https://www.aauw.org/research/limiting-our-livelihoods/>

[3] <https://www.aauw.org/files/2019/11/Limiting-our-Livelihoods-2-pager.pdf>

[4] <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/07/20-States-By-2020-report.pdf>

**HB-2054-HD-1**

Submitted on: 2/18/2020 4:14:19 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cheryl B.	Individual	Support	No

Comments:

Speaking honestly, can the House or Senate even talk about this subject? The last part especially,so much happens even at the Capitol. Prohibits an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault. Prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault. Takes effect 1/1/2050 Would hope that honest and thorough discussion would be held not just for others but for the Capitol as well.

**HB-2054-HD-1**

Submitted on: 2/18/2020 9:13:43 PM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Luke and Members of the Committee on Finance,

I am writing in support of HB2054 HD1.

A recent survey by Safe Spaces & Workplaces 1 of Hawaii adults showed 52% of women and 42% of men experienced workplace sexual harassment while working in Hawaii. Only 18% reported the incident to Human Resources. Many stay silent because they don't want to make waves; others see sexual harassment as a strictly legal issue likely to result in costly litigation. 15% changed their job or quit.

A recent study "Limiting Our Livelihoods" by American Association of University Women (AAUW) 2 showed 38% of women who were sexually harassed said the harassment contributed to their decision to leave their job, 37% said the harassment disrupted their career advancement. Many do not report the incident because they fear retaliation.

We need laws to protect everyone's right to a harassment free workplace.

Please support this bill.

Mahalo,

Caroline Kunitake



## **Hawaii State House of Representatives Finance Committee**

**Hearing Date:** Thursday, February 20, 2020

**Time & Room:** 2:05pm12:00 PM Room: 308

### **Re: Testimony in support of HB2054, HD1 Relating to Employment Practices**

Dear Representative Sylvia Luke, Chair Representative Ty J.K. Cullen, Vice Chair and members of the committee:

- A recent survey by Safe Spaces & Workplaces of Hawaii adults showed 52% of women and 42% of men experienced workplace sexual harassment while working in Hawaii. Many do not report the incident because they fear retaliation.

#### **This bill prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault.**

- Retaliation against employees for disclosing and discussing sexual harassment or sexual assault allows serial harassers to escape accountability and continue with harassment.

#### **This bill prohibits an employer from requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault.**

- Non-disclosure agreements can prevent employees from speaking out and/or pursuing legal remedies.

I urge you to add these protections to Chapter 378, Hawaii Revised Statutes. Please pass this bill and protect workers in Hawaii from sexual harassment.

Thank you for the opportunity to testify.

Janet Morse  
AAUW Hawaii member  
Kailua, Oahu

**HB-2054-HD-1**

Submitted on: 2/19/2020 11:24:34 AM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Solange saxby	Individual	Support	No

Comments:

A recent survey by Safe Spaces & Workplaces 1 of Hawaii adults showed 52% of women and 42% of men experienced workplace sexual harassment while working in Hawaii. Only 18% reported the incident to Human Resources. Many stay silent because they don't want to make waves; others see sexual harassment as a strictly legal issue likely to result in costly litigation. 15% changed their job or quit.

Although federal law appears comprehensive and robust, employees who are harassed at work

are often unable to access justice. The barriers include: 3

- o Narrow standards about the kinds of employers covered by existing laws. For example,

employers with fewer than 15 employees are exempt.

- o The exclusion from coverage of various categories of workers, including contractors and

unpaid interns.

- o A limited time frame for bringing charges.

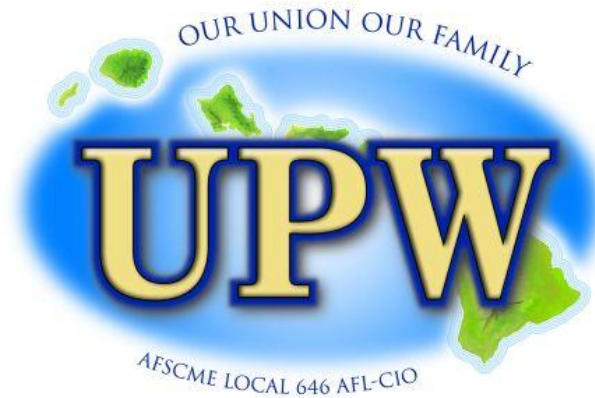
- o Onerous standards of proof: Courts have narrowly interpreted the definition of sexual harassment so many egregious complaints have not met the required standard.

- o Reduced liability: The Supreme Court has narrowed the circumstances in which employers and coworkers can be liable for harassment.

- o Non-disclosure agreements and mandatory arbitration: These can prevent employees from speaking out and/or pursuing legal remedies.

Please Support the passing of this bill!

**LATE**



THE HAWAII STATE HOUSE OF REPRESENTATIVES

The Thirtieth Legislature  
Regular Session of 2020

COMMITTEE ON FINANCE

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Date of Hearing: Thursday, February 20, 2020  
Time of Hearing: 12:00 p.m.  
Place of Hearing: Conference Room 308  
State Capitol  
415 South Beretania Street

**Testimony on HB 2054, HD1 Relating to Employment Practices**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 13,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and four counties. The UPW also represents about 1,500 members in the private sector.

HB2054, HD1 prohibits an employer from requiring an employee to enter into a non-disclosure agreement pertaining to sexual harassment or sexual assault. It also prohibits an employer from retaliating against an employee for disclosing or discussing sexual harassment or sexual assault. The UPW supports this measure.

Thank you for the opportunity to submit this testimony.



**LATE**

**HB-2054-HD-1**

Submitted on: 2/20/2020 10:33:29 AM

Testimony for FIN on 2/20/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dorothy Norris	Individual	Support	No

Comments:

No one should be subject to sexual harassment at work. This is the one place that anyone in the position of power over another individual should not ever be allowed to bully or intimidate an employee based on the person sexual orientation.