

STAND. COM. REP. NO. 3548

Honolulu, Hawaii

MAY 18 2020

RE: H.B. No. 1782
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred H.B. No. 1782, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYMENT DISCRIMINATION,"

begs leave to report as follows:

The purpose and intent of this measure is to limit the convictions that may be used by employers in making hiring decisions from all convictions in the most recent ten years to felony convictions and misdemeanor convictions that occurred in a certain time period.

Your Committee received testimony in support of this measure from the Department of Human Resources Development, Hawai'i Civil Rights Commission, Hawai'i State Commission on the Status of Women, Office of the Prosecuting Attorney of the County of Kaua'i, Office of Hawaiian Affairs, Hawai'i Friends of Restorative Justice, LGBT Caucus of the Democratic Party of Hawaii, Pride at Work - Hawaii, Community Alliance on Prisons, Hawai'i Health and Harm Reduction Center, Hawaiian Affairs Caucus of the Democratic Party of Hawaii, and twenty-seven individuals. Your Committee received testimony in opposition to this measure from Society for Human Resource Management Hawaii. Your Committee received comments on this measure from the Common Cause Hawaii, Securities Industry and Financial Markets Association, and Chamber of Commerce Hawaii.



Your Committee finds that the current ten-year lookback period for conviction records that employers are allowed to use in making hiring decisions should be shortened to reduce unnecessary employment discrimination against those with old and relatively minor conviction records. Your Committee further finds that reducing the 10-year lookback time period for convictions to 5-years and 3-years for felony and misdemeanor convictions, respectively, will support the employment prospects of those with a criminal history and aid in the individual's rehabilitation. Economic self-sufficiency has been shown to reduce crime and recidivism rates.

Your Committee notes that S.B. No. 2193, (Regular Session of 2020), which was previously passed by the Senate, is substantially similar to this measure, and establishes the 5-year and 3-year look back period. Your Committee has heard the testimony of the Hawaii Civil Rights commission requesting that these provisions be re-inserted.

Your Committee has also heard the concerns of Securities Industry and Financial Markets Association that for consumer safety reasons, the employment of professionals registered as broker-dealers, investment advisers, or federal covered investment advisers, are subject to the federal Securities Exchange Act, which precludes persons with certain felony and misdemeanor convictions from working in the industry for ten years.

Therefore, your Committee has amended this measure by:

- (1) Specifying a 5-year limitation for felony convictions and a 3-year limitation for misdemeanor convictions for the lookback period;
- (2) Inserting an additional exemption under section 378-2.5(d) to include:
 - (A) Broker-dealers;
 - (B) Investment advisers; and
 - (C) Federal covered investment advisers; and



- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

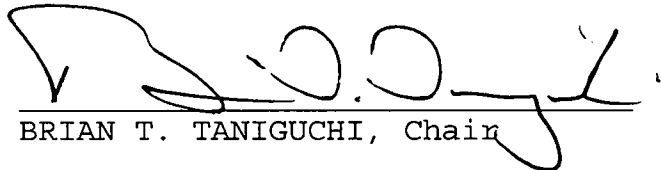
Furthermore, your Committee finds that data relating to recidivism is conflicting. According to the 2018 study on recidivism by the Hawaii State Department of Health, 63.2 percent of offenders were arrested for a new offense within the first year of release and 88.9 percent within the first 2 years. Conversely, according to data from the same year conducted nationwide by the United States Department of Justice:

- (1) 83 percent of prisoners released were arrested at least once during the 9 years following their release;
- (2) 44 percent of the prisoners released were arrested within the first year;
- (3) 68 percent of the prisoners in the study arrested within 3 years after their release; and
- (4) 79 percent were arrested within 6 years.

Your Committee finds that this issue raises concerns that merit further consideration and respectfully requests that your Committee on Judiciary further examine the issue.

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 H.B. No. 1782, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1782, H.D. 1, 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.:*	Committee Referral:	Date:		
<i>HB 1782 HD1</i>	<i>LCA, JDC</i>	<i>3-10-20</i>		
<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	<i>3</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>[Signature]</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes