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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol, Room 446
415 S. Beretania Street
Honolulu, Hawaii 96813

Written Comments

HB483 HD2 RELATING TO CIVIL RIGHTS

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the House Committee on Finance

Thursday, February 28, 2019, 2:00 p.m.
Conference Room 308

Chair Luke and Members of the Committee:

Good afternoon Chair Luke and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 483, H.D. 2, Relating to Civil Rights.

The purpose of this measure is to:

- (1) Extend the deadline for the Bureau to complete its study of existing federal Title IX procedures and enforcement, in addition to examining Title IX corollaries in other jurisdictions; and
- (2) Serve as a means for implementing the recommendations in the study.

The Bureau takes no position on this measure, but submits the following comments for your consideration.

The Bureau acknowledges that the act requiring the study, Act 110, Session Laws of Hawaii 2018, established a report due date of no later than twenty days prior to the convening of the 2019 Regular Session, which was December 27, 2018. Due to an extraordinary amount of additional work during this past interim and the substantial complexity of this study's subject matter, the Bureau has been unable to complete the Title IX

study in the time allotted to it. However, the Bureau is working diligently to complete the study as soon as possible in light of the challenges posed by, among other things; articulating the evolving nature of the federal Title IX enforcement process and the concomitant uncertainty that lies ahead; an unavoidable change to assigned Bureau personnel conducting the study during a critical time in the study process; and the Bureau's current heavy session workload.

Thank you again for the opportunity to submit written comments.



Testimony on behalf of the
Hawai'i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the House Committee on Finance

In Support of HB483 HD2

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

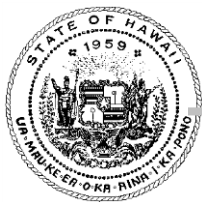
The Hawai'i State Commission on the Status of Women supports HB483 HD2, which would require the Legislative Reference Bureau to submit by 1/24/2019, a report studying how other jurisdictions oversee Title IX enforcement.

Last year, Hawai'i made history by passing HB1489 into Act 110, creating a state analog to the Patsy Mink Equal Opportunity in Education Act (Title IX). The landmark law; however, is incomplete and lacks enforcement procedures and remedies. In light of the Trump administration's revocation of more than twenty Obama-era policy guidelines on anti-discrimination laws, state action is critical. The Commission supports the extension of the LRB deadline to ensure that the new law is enforceable, and does not erode existing Hawai'i civil rights laws.

The Commission supports a deadline for the report that is no later than August 1, 2019. The Commission supports the intent of this measure and respectfully urge the Committee to pass HB483 HD2 with the requested amendment.

Sincerely,

Khara Jabola-Carolus



HAWAI‘I CIVIL RIGHTS COMMISSION

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February 28, 2019
Rm. 308, 2:00 p.m.

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

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

Re: H.B. No. 483, H.D.2

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. 483, H.D.2, which amends Section 3 of Act 110, Session Laws of Hawaii 2018, to allow the Legislative Reference Bureau (LRB) additional time, to complete its study by August 1, 2019 of existing Title IX enforcement practices and procedures at the federal level and in other jurisdictions, and submit a report to the legislature with findings and recommendations, including proposed legislation regarding an appropriate enforcement mechanism for the newly codified HRS chapter 368D, which goes into effect on January 1, 2020.

Under Act 110, the LRB report and recommendations, including draft legislation providing for enforcement of HRS chapter 368D, was to be submitted twenty days prior to the convening of the 2019 session. H.B. No. 483, H.D.2, should be advanced in order to allow for substantive discussion of the LRB recommendations, keeping alive the possibility that a statutory enforcement scheme can be enacted, to provide for enforcement of HRS chapter 368D, effective January 1, 2020.

HB-483-HD-2

Submitted on: 2/26/2019 1:51:20 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments:



Aloha Chair Luke, Vice Chair Cullen and members,

The Coalition is in strong support of this bill that would add teeth to our State Patsy T. Mink (Title IX) Act. We think that our own DOE has had 50 years to comply. Further, with developments at the Federal DOE, we feel this is, not only long overdue, but a matter of some urgency. Therefore, we request an amendment.

HB483 HD2 extends the deadline for the Legislative Reference Bureau's study on Title IX, directed by Act 110 Session Laws of Hawaii 2018, to no later than [August 1, 2019](#). We also need to extend the effective date of Act 110 [from January 1, 2020 to July 1, 2020](#) since we will need the LRB study to introduce a Title IX bill for the 2020 legislative session before Act 110 should be effective. One of the goals of Title IX bill would be to provide enforcement mechanism for Act 110.

The dramatic changes to US DOE's Title IX regulation, being perpetrated but Trump appointee, Betsy Devos, require action. This study would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, and recommendations on the foregoing issues, including a proposed legislation. The findings and recommendations from the study are **critical input** to propose a Title IX bill for the 2020 Hawaii state legislative session.

Please, Please pass this bill,

Mahalo,

Ann S. Freed

Co-Chair, Hawaii Women's Coalition



of Hawaii

February 26, 2019

From: Hannah Liebreich, Title IX Specialist, Public Policy Committee, AAUW Hawaii
Younghee Overly, Public Policy Chair, AAUW Hawaii

To: Hawaii State House Committee on Finance
Hearing Date/Time: February 28, 2019 2:00 PM
Place: Hawaii State Capitol, Rm. 308
Re: Testimony in SUPPORT of HB483 HD2

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

Thank you for this opportunity to testify in strong support of HB483 HD2 with a request for amendment. HB483 HD2 extends the deadline for the Legislative Reference Bureau's study on Title IX, directed by Act 110 Session Laws of Hawaii 2018, to no later than August 1, 2019. We also need to extend the effective date of Act 110 from January 1, 2020 to July 1, 2020 since we will need the LRB study to introduce a Title IX bill for the 2020 legislative session before Act 110 should be effective. One of the goals of the Title IX bill would be to provide enforcement mechanism for Act 110.

With recent dramatic changes to US DOE's Title IX regulation, we need this study which would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, and recommendations on the foregoing issues, including proposed legislation. The findings and recommendations from the study are critical to a Title IX bill for the 2020 Hawaii state legislative session.

HB483 HD 2 is imperative because:

- The U.S. Department of Education (USDOE) is working to systematically dismantle Title IX protections. After withdrawing Title IX protection for transgender students in February 2017 and reversing 2011 and 2014 Title IX guidance in September 2017, the USDOE announced in November 2018 a Notice of Proposed Rulemaking (NPRM), a plan to reverse the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included discrimination based on sexual orientation, and gender identity and expression. The USDOE also rescinded its guidance on the investigation of campus sex assaults.

- Once implemented, the USDOE November 2018 Title IX NPRM would carry the full force of the law and go well beyond previously published sub-regulatory guidance. The proposed rules seek to change the fundamental paradigms of Title IX compliance that have guided most recipients since 2011, and many since 2001. Regulating Title IX in such an extensive and detailed manner presents significant potential challenges as funding recipients are subject not only to the Office of Civil Rights' (OCR) mandates but also to Title IX and due process case law that is currently evolving at an unprecedented pace.

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 1,700 supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons. As a community organization, AAUW of Hawaii humbly asks Members of the Committee to support HB483 HD 2.

Thank you for your time and consideration regarding this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Hannah Liebreich', written in a cursive style.

Hannah Liebreich

HB-483-HD-2

Submitted on: 2/26/2019 1:50:00 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 483 HD 2.

Mahalo nui loa for the opportunity to testify on this measure.

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii

HB-483-HD-2

Submitted on: 2/26/2019 3:57:05 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Kimura	Healthy Mothers Healthy Babies	Support	No

Comments:

Thank you for this opportunity to testify in in strong support of HB483 HD2 with a request for amendment. HB483 HD2 extends the deadline for the Legislative Reference Bureau's study on Title IX, directed by Act 110 Session Laws of Hawaii 2018, to no later than August 1, 2019.

We also need to extend the effective date of Act 110 from January 1, 2020 to July 1, 2020 since we will need the LRB study to introduce a Title IX bill for the 2020 legislative session before Act 110 should be effective. One of the goals of Title IX bill would be to provide enforcement mechanism for Act 110.

With recent dramatic changes to US DOE's Title IX regulation, we need this study which would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, and recommendations on the foregoing issues, including a proposed legislation. The findings and recommendations from the study are critical input to propose a Title IX bill for the 2020 Hawaii state legislative session.

Thank you for the opportunity to provide comments and support.

To: Hawaii State House of Representatives Committee on Finance
Hearing Date/Time: Thursday, February 28, 2019, 2:00 pm.
Place: Hawaii State Capitol, Rm. 308
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 483, H.D. 2, relating to Civil Rights

Dear Chair Lee and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in strong support of H.B. 483, H.D.2, which requires the Legislative Reference Bureau to submit by 8/1/19 a report studying how other jurisdictions oversee Title IX enforcement.

Enforcement of Title IX is urgently needed in light of the current federal administration’s overt and concerted effort to dismantle federal anti-discrimination laws. The Trump administration has reversed the federal government's previous interpretation of the prohibition against discrimination based on “sex” that included discrimination based on sexual orientation, and gender identity and expression. The administration also rescinded protections for transgendered students that had been put into effect by President Obama. In addition, USDOE rescinded its guidance on the investigation of campus sex assaults. As a result, those who have suffered sex-based harm must now contend with weaker protections from sex discrimination, including sexual harassment and sexual assault. This war on women, girls, and LGBT individuals calls upon all of us to take action.

The most recent University of Hawaii Climate Survey Report, which polled 44,671 adult students across ten UH campuses, further reveals the necessity for a state-level solution. For example, 1 in 8 students felt that it was likely that they would experience sexual assault or sexual harassment while on campus, while 1 in 4 felt that an off-campus, university-sponsored event incident was likely.¹ In addition, 1 in 16 UH survey participants system-wide reported non-consensual sexual contact at any time while enrolled at UH.²

Please pass H.B. 483 to take a step closer to ensuring that our state Title X law adequately protects victims of sexual assault and harassment on campus and provides them with the care and justice they deserve.

Thank you for this opportunity to testify in support of this important measure.

Sincerely,
Laurie Field
Hawaii State Director

¹ Loui, P. “University of Hawaii Student Campus Climate Survey on Sexual Harassment and Gender-Based Violence: Executive Summary,” Sept. 11, 2017.

² *Id.*

HB-483-HD-2

Submitted on: 2/26/2019 7:38:31 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

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

Comments:

HB-483-HD-2

Submitted on: 2/26/2019 2:51:11 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Bilyk	Individual	Support	No

Comments:

To Chair Rep. Sylvia Luke, Vice Chair Rep. Ty Cullen/, and members of the House Finance Committee
Subject: Testimony in **SUPPORT** of H.B. 483, H.D. 2
Date: February 28, 2019, at 2:00 p.m. in Rm 308

Thank you for the opportunity to testify in **SUPPORT** of H.B. 483 with amendment.

HB483 extends the deadline for the legislative reference bureau (LRB) to complete the study on the implementation and complaint process for Act 110 which enshrines Title IX into State law. The original deadline was January 2019 and I hope the legislature will establish a new deadline which will require the LRB to complete their work at the earliest feasible opportunity.

Act 110 will affect all Hawaii's students by protecting equal access to an education without fear of discrimination, abuse or harassment.

As the LRB reviews enforcement options; procedures for investigation, adjudication and complaint filing; resolution; relief, etc. for Act 110, I know both LRB and legislators will be mindful that effective enforcement procedures are critical and urgently needed because Hawaii's students deserve to be safe in school.

Sincerely,

Amy Monk
Commissioner, Hawaii State Commission on the Status of Women

HB-483-HD-2

Submitted on: 2/26/2019 5:44:47 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Individual	Support	Yes

Comments:

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

Thank you for this opportunity to testify in in strong support of HB483 HD2 with a request for amendment. HB483 HD2 extends the deadline for the Legislative Reference Bureau's study on Title IX, directed by Act 110 Session Laws of Hawaii 2018, to no later than August 1, 2019. We also need to extend the effective date of Act 110 from January 1, 2020 to July 1, 2020 since we will need the LRB study to introduce a Title IX bill for the 2020 legislative session before Act 110 should be effective. One of the goals of Title IX bill would be to provide enforcement mechanism for Act 110.

With recent dramatic changes to US DOE's Title IX regulation, we need this study which would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, and recommendations on the foregoing issues, including a proposed legislation. The findings and recommendations from the study are critical input to propose a Title IX bill for the 2020 Hawaii state legislative session.

Bullying and harassment is a serious problem. According to [a Yale study](#), students who are bullied or harassed are two to nine times more likely to consider suicide. According to [a study by USDOE Office of Civil Rights conducted in 2013 and 2014](#), nearly one-third of K-12 students in Hawaii are personally bullied or harassed at school or at school related activities. Of those students who are bullied, 61.7% believe they were bullied because of their race, sex or disability. About half of the students who were bullied reported the incident to a teacher or a school employee; over half of the students who reported the incident were bullied again; and in 14.6% of the cases, the school took no action. The [2017 UH Student Climate Survey on Sexual Harassment and Gender Based Violence](#) shows sexual harassment and assault is a serious problem for college students in Hawaii as well, even more so for the LGBTQ students and graduate students.

Meanwhile, the USDOE under the current federal administration is working to systematically dismantle Title IX protections. After withdrawing Title IX protection for transgender students in February 2017^[1] and reversing 2011 and 2014 Title IX guidance in September 2017^[2], the USDOE announced in November 2018 Notice of Proposed Rulemaking (NPRM), a plan to reverse the federal government's previous interpretation of the prohibition against discrimination based on "sex" that included

discrimination based on sexual orientation, and gender identity and expression. USDOE also rescinded its guidance on the investigation of campus sex assaults.^[3]

With erosion of Title IX protection at the federal level, I feel urgency in providing Title IX protection at state level to ensure our young people are protected from harassment and assault. Please pass HB483 HD2 with amendment requested.

Mahalo for your consideration.

[1] <https://www.ed.gov/news/press-releases/us-secretary-education-betsy-devos-issues-statement-new-title-ix-guidance>

[2] <https://www.ed.gov/news/press-releases/department-education-issues-new-interim-guidance-campus-sexual-misconduct>

[3] <https://www.aauw.org/article/the-attack-on-title-ix/>

HB-483-HD-2

Submitted on: 2/26/2019 9:32:28 PM

Testimony for FIN on 2/28/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Aloha,

Thank you for this opportunity to testify in in strong support of HB483 HD2 with a request for amendment. HB483 HD2 extends the deadline for the Legislative Reference Bureau's study on Title IX, directed by Act 110 Session Laws of Hawaii 2018, to no later than August 1, 2019. We also need to extend the effective date of Act 110 from January 1, 2020 to July 1, 2020 since we will need the LRB study to introduce a Title IX bill for the 2020 legislative session before Act 110 should be effective. One of the goals of Title IX bill would be to provide enforcement mechanism for Act 110.

With recent dramatic changes to US DOE's Title IX regulation, we need this study which would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, and recommendations on the foregoing issues, including a proposed legislation. The findings and

recommendations from the study are critical input to propose a Title IX bill for the 2020 Hawaii state legislative session.

Mahalo,

Caroline Kunitake

Hearing Date: Thursday, February 28, 2019, 2:05 pm, Room 325

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

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

**Re: TESTIMONY IN SUPPORT OF HB 483, HD 2
Relating to Civil Rights**

My name is Jean Evans. I retired after 40 years holding executive positions in several Hawaii non-profit agencies and received both my baccalaureate and graduate degrees from the University of Hawaii at Manoa. I am also a member of AAUW Hawaii.

I am in strong support of HB 483, HD 2 Relating to Civil Rights.

This measure seeks to extend the deadline for the Legislative Reference Bureau's (LRB) study on Title IX to no later than August 1, 2019 since they missed the original deadline called for in last year's Act 110. Due to this delay, I also request that the effective date of Act 110 be extended from January 1, 2020 to July 1, 2020 to allow time for the LRB to draft a bill for the 2020 legislative session before to be ACT 100 should be effective.

The Trump administration's decision to reverse the federal government's active stance on upholding the investigation of campus sex assaults and harassment is very troublesome, especially in light of the "Me Too" movement. In addition, the new prohibition against discrimination based on sexual orientation and gender identity can lead to overt bullying, and ultimately unequal educational opportunities. The college experience is a time where students expand their knowledge and prepare for careers. It can also be a stressful time especially if young women and transgender students are fearful. I believe this bill will help assure Hawaii continues in remain a leader in civil rights and follow in the footsteps of Patsy T. Mink.

Mahalo for allowing me to submit my testimony today.



To: Hawaii State House Committee on Finance
Hearing Date/Time: February 28, 2019 2:00 PM
Place: Hawaii State Capitol Room 308
Re: Testimony in SUPPORT of HB483 HD2 WITH AMENDMENT

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

Thank you for this opportunity to testify in in strong support of HB483 HD2 WITH AMENDMENT. The bill extends the deadline for the legislative reference bureau to complete the study on Title IX directed by Act 110, Session Laws of Hawaii 2018 to no later than August 1, 2019.

We also need to extend the effective date of Act 110 from January 1, 2020 to July 1, 2020 since we will need the LRB study to introduce a Title IX bill for the 2020 legislative session before Act 110 should be effective. One of the goals of Title IX bill would be to provide enforcement mechanism for Act 110.

Based on a nationally representative survey of 1,965 students in grades 7–12 conducted by the American Association of University Women (AAUW), sexual harassment is part of everyday life in middle and high schools:

Both UH system and Hawaii DOE were found non-compliant to current federal Title IX law. UH Manoa is under entered Voluntary Resolution Agreement with OCR5 and Hawaii DOE has been sued by ACLU for its discrimination against girls.

Please pass HB483 HD2 with this amendment. We need this study which would provide analysis of Title IX enforcement practices and procedures on the federal level and other jurisdictions, recommendations on the foregoing issues, and proposed legislation. The findings and recommendations from the study are critical input to the proposal of a Title IX bill for the 2020 Hawaii state legislative session.

Sincerely,

Janet Morse
AAUW Hawaii Member

LATE

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Adriana Ramelli

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Date: February 28, 2019

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

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of H.B. 483 H.D. 2
Relating to Civil Rights

Good afternoon Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance:

The Sex Abuse Treatment Center (SATC) supports H.B. 483 H.D. 2.

National and local surveys of educational institutions that receive public funds support that protections against gender-based discrimination, including sexual harassment and violence, are badly needed.

In one study conducted by the American Association of University Women, it was found that sexual harassment is a part of everyday life in middle and high schools, with 48% of students surveyed reporting that they experienced some form of harassment during the school year (56% of female students and 40% of male students). In Hawaii, the University of Hawaii System reported its Climate Survey Report in 2018, which revealed that many students experienced harassment and violence on campus, and have come to expect that it will be a part of their school experience.

Gender-based discrimination in educational programs is a significant barrier to academic, professional, and personal success. Students who experience harassment and sexual violence, in particular, can suffer from stress and trauma resulting in poor academic performance, negative health consequences, social withdrawal, and the decision to defer or discontinue their education altogether.

Act 110 (2018) extended the anti-discrimination rule of the federal Patsy Mink Equal Opportunity in Education Act (Title IX), to state agencies and activities that receive state funds, and directed the Legislative Reference Bureau to perform a study in order to provide guidance and make recommendations as to effective enforcement and remedies. However, the Legislative Reference Bureau was unable to complete the study prior to the 2019 Session.

We respectfully ask that the Committee pass this measure to ensure that the study is completed in as timely a manner as possible.

Thank you for this opportunity to testify in support of H.B. 483 H.D. 2.