

Charlotte A. Carter-Yamauchi
Director

Shawn K. Nakama
First Assistant

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0681



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

Written Comments

HB483, HD2, SD1 RELATING TO CIVIL RIGHTS

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the Senate Committee on Government Operations

Thursday, March 28, 2019, 9:45 a.m.
Conference Room 016

Chair Rhoads and Members of the Committee:

Good morning Chair Rhoads 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, S.D. 1, Relating to Civil Rights.

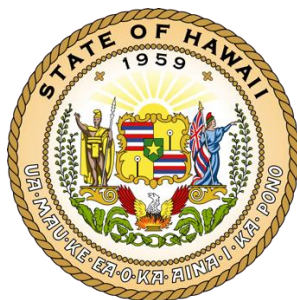
The purpose of this measure is to:

- (1) Amend Act 110, Session Laws of Hawaii 2018, to incorporate federal law regarding Title IX, which permits a narrow exception from Title IX for same-sex living facilities and membership practices of social fraternities, social sororities, and certain youth service organizations;
- (2) Extend the deadline until August 1, 2019, 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
- (3) 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 Senate Committee on Judiciary

In Support of HB483 HD2, SD1
Thursday, March 28, 2019, at 9:45 a.m. in Room 016

Dear Chair Rhoads, Vice Chair Wakai, and Honorable Members,

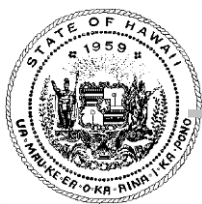
The Hawai'i State Commission on the Status of Women writes in **support** of HB483 HD2, SD1 which would require the Legislative Reference Bureau to submit by August 1, 2019, a report studying how other jurisdictions oversee Title IX enforcement.

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.

We support the intent of this measure and respectfully urge the Committee to pass HB483 HD2, SD1.

Sincerely,

Khara Jabola-Carolus



HAWAI‘I CIVIL RIGHTS COMMISSION

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

March 28, 2019
Rm. 016, 9:45 a.m.

To: Hon. Karl Rhoads, Chair
Hon. Glenn Wakai, Vice Chair
Members of the Senate Committee on Judiciary

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

LATE

Re: H.B. No. 483, H.D. 2, S.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. 483, H.D. 2, S.D. 1, 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. The S.D. 1 also amends Section 2 of Act 110 to provide an exemption for fraternities, sororities and voluntary youth service organizations, and clarifies that maintenance of living facilities for different sexes is not prohibited.

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, S.D. 1, should be advanced in order to require that LRB complete its mandated study and report by August 1, 2019, making recommendations regarding a statutory enforcement scheme for enforcement of HRS chapter 368D, effective January 1, 2020.

HB-483-SD-1

Submitted on: 3/22/2019 8:23:04 PM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Testifying for LGBT Caucus of the Democratic Party of Hawaii	Support	No

Comments:

Aloha Senators,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 483 HD 2 SD 1.

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-SD-1

Submitted on: 3/22/2019 8:35:41 PM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pride Work HI	Testifying for Pride at Work Hawaii	Support	No

Comments:

Dear Senators,

Pride@Work Hawaii supports the passage of HB 483 HD2 SD1.

Mahalo for the opportunity to testify.

Pride@Work Hawaii



of Hawaii

March 25, 2019

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

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Thursday March 28, 2019 9:45AM
Place: Hawaii State Capitol, Rm. 016
Re: Testimony in SUPPORT of HB483 HD2 SD1

Dear Chair Rhoads, Vice-Chair Wakai, and Members of the Committee,

Thank you for this opportunity to testify in strong support of HB483 HD2 SD1 with a request for amendment. HB483 HD2 extends the deadline for the legislative reference bureau to complete the study on Title IX directed by Act 110, Session Laws of Hawaii 2018, from 20 days before the start of the 2019 Hawaii legislative session to August 1, 2019. It also incorporates federal Title IX law regarding social groups and youth services organization, and same-sex living facilities into Act 110.

With recent dramatic changes to US DOE's Title IX guidance and potential change to the 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 to a Title IX bill for the 2020 Hawaii state legislative session.

*Since Act 110 becomes effective January 1, 2020 before we can work on the Title IX bill based on the LRB study, we also want to ensure Act 110 is in accordance with federal Title IX regulation which allows schools to administer or assist in administering specific sex-restricted scholarships, fellowship, or other forms of financial assistance through a domestic or foreign will, trust, bequest, or similar instrument, **but require** that the overall effect of such sex-restricted financial assistance not discriminate on the basis of sex (Federal Regulation Volume 65, Page 52872, Sec. 430(b)) **as it reads January 1, 2019**. Please amend Act 110, SLH 2018, as such to avoid unintended consequences.*

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.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Hannah Liebreich".

Hannah Liebreich

HB-483-SD-1

Submitted on: 3/25/2019 7:07:19 PM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Kimura	Testifying for Healthy Mothers Healthy Babies	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 JUDICIARY
Thursday, March 29, 2019
9:45 a.m. Room 016

HB483 RELATING TO CIVIL RIGHTS

TESTIMONY

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

Chair Rhoads, Vice Chair Wakai and Committee Members:

The League of Women Voters of Hawaii supports HB483 which would incorporate federal law regarding social groups and youth services organizations and same-sex living facilities into Act 110, 2018 and extend the deadline for the Legislative Review Board to complete the study requested by Act 110 on existing federal Title IX enforcement practices and procedures on the federal level. It would require the LRB to make a report to the legislature no later than August 1, 2019.

Act 110 2018 “prohibited discrimination based on sex...on any state educational program or activity that receives state financial assistance.....” The law also directed the LRB to conduct a study of existing Title IX procedures and enforcement....and to present a report before the opening of the 2019 legislature. The study is still in progress.

Hawaii is proud of the signature legislation known as the Patsy Mink Equal Opportunity Act in Education in 2002, but federal protections have been diminished and eroded.

The League of Women Voters of Hawaii supports that the LRB be given specific timeline for submission of its report, not to exceed August 1, 2019.

Thank you for the opportunity to testify.

Executive Director
Adriana Ramelli

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Nadine Tenn Salle, M.D.

Joshua A. Wisch

Date: March 28, 2019

To: The Honorable Karl Rhoads, Chair
The Honorable Glenn Wakai Vice Chair
Senate Committee on Judiciary

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 S.D. 1
Relating to Civil Rights

Good afternoon Chair Rhoads, Vice Chair Wakai, and members of the Senate Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) supports H.B. 483 H.D. 2 S.D. 1.

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 S.D. 1.

LATE

HB-483-SD-1

Submitted on: 3/27/2019 7:56:50 PM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Democrats Committee on Legislative Priorities	Support	No

Comments:

LATE

HB-483-SD-1

Submitted on: 3/28/2019 12:27:32 AM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Midwives Alliance of Hawaii	Testifying for Midwives Alliance of Hawaii	Support	No

Comments:

We strongly support HB483 and urge legislators to adopt the amendments proposed by AAUW.

To: Hawaii Senate Committee on Judiciary

Re: Testimony in SUPPORT of H.B.2139, relating to Discrimination in Education

Date/Time: Tuesday, February 13, 2018, 2:00 p.m. at Capitol, Rm. 225

Aloha, Chair Nishimoto, Vice Chair San Buenaventura and members of the Judiciary Committee:

Thank you for the opportunity to testify in **SUPPORT** of H.B. 2139, a state version of Title IX which would prohibit discrimination on the basis of sex in educational programs and activities that receive state financial assistance.

It has been over 45 years since the federal Title IX equal opportunity in Education bill was introduced by Hawaii's own Patsy T. Mink and passed by Congress. The country has seen slow but steady progress of equality in education. However, a danger now lies in a federal administration that is working to roll back protections of Title IX. Hawaii needs this bill to ensure non-discrimination in state-funded education.

Further, HCRC testimony points out that 'adult employees of the education system are provided greater legal protections against sexual harassment in state educational programs than students.' This appears to be a serious shortcoming in Hawaii State law and one that needs correction. I feel this bill will provide students and parents a tool they can use to protect Hawaii's students from discrimination in education.

Thank you,

Amy Monk

Commissioner,

Hawaii State Commission on the Status of Women

Hearing Date: Thursday, March 28, 2019, 9:45AM, Room 016

To: Senate Committee on Judiciary
Chair, Karl Rhoads
Vice Chair, Glen Wakai

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

**Re: TESTIMONY IN SUPPORT OF HB483, HD2, SD1
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 HB483, HD2, SD1 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.

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 to remain a leader in civil rights and follow in the footsteps of Patsy T. Mink.

Mahalo for allowing me to submit my testimony today.

A handwritten signature in cursive script that reads "Jean Evans". The signature is written in black ink and is positioned at the bottom left of the page.

HB-483-SD-1

Submitted on: 3/26/2019 7:06:16 AM

Testimony for JDC on 3/28/2019 9:45:00 AM

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

Comments:

Aloha,

Please support HB483 HD2 SD1. The state needs to complete the study on Title IX to ensure gender equality protections.

Every morning I walk past Patsy Mink's statue in front of the Hawaii State Library. **Patsy Mink** was one of the principal authors of the Education Amendments of 1972, largely referred to as **Title IX**, which was later renamed the **Patsy T. Mink** Equal Opportunity in Education Act, after her death in 2002.

Patsy Mink created a federal civil rights legacy that needs to be fiercely protected by her home state government.

We must ensure that this legacy of gender equality is passed on to future generations, especially for the people in the state of Hawaii.

Mahalo,

Caroline Kunitake

HB-483-SD-1

Submitted on: 3/26/2019 10:09:35 AM

Testimony for JDC on 3/28/2019 9:45:00 AM

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

Comments:

Dear Chair Rhoads, Vice-Chair Wakai, and Members of the Committee,

Thank you for this opportunity to testify in in strong support of HB483 HD2 SD1. HB483 HD2 SD1 extends the deadline for the legislative reference bureau to complete the study on Title IX directed by Act 110, Session Laws of Hawaii 2018, from 20 days before the start of the 2019 Hawaii legislative session to August 1, 2019. It also incorporates federal Title IX law regarding social groups and youth services organization, and same-sex living facilities into 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 this bill and 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/>

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Thursday March 28, 2019 9:45AM
Place: Hawaii State Capitol, Rm. 016
Re: Testimony in SUPPORT of HB483 HD2 SD1

Dear Chair Rhoads, Vice-Chair Wakai, and Members of the Committee,

Thank you for this opportunity to testify in strong support of HB483 HD2 SD1 with a request for amendment. HB483 HD2 extends the deadline for the legislative reference bureau to complete the study on Title IX directed by Act 110, Session Laws of Hawaii 2018, from 20 days before the start of the 2019 Hawaii legislative session to August 1, 2019. It also incorporates federal Title IX law regarding social groups and youth services organization, and same-sex living facilities into Act 110.

With recent dramatic changes to US DOE's Title IX guidance and potential change to the 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.

*Since Act 110 becomes effective January 1, 2020 before we can work on the Title IX bill based on the LRB study, we also want to ensure Act 110 is in accordance with federal Title IX regulation which allows schools to administer or assist in administering specific sex-restricted scholarships, fellowship, or other forms of financial assistance through a domestic or foreign will, trust, bequest, or similar instrument, **but require** that the overall effect of such sex-restricted financial assistance not discriminate on the basis of sex (Federal Regulation Volume 65, Page 52872, Sec. 430(b)) **as it reads January 1, 2019.** Please amend Act 110, SLH 2018, as such to avoid unintended consequences.*

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

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

Sincerely,
Judith Ann Armstrong
1717 Ala Wai Blvd
Apt 3006
Honolulu, HI 96815

LATE

HB-483-SD-1

Submitted on: 3/27/2019 2:10:58 PM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Maisa Thayer	Individual	Support	No

Comments:

Aloha Chair, Vice Chair and Committee Members,

I am a graduate student studying social work at Hawaii Pacific University and a 3rd generation Kama'aina in Hawaii. I am deeply concerned about what is happening on the federal level regarding Title IX funding and reproductive healthcare.

I believe that 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.

Please think about the long term affects of the funding decisions today, and the importance of supporting humanitarian efforts.

Mahalo,

Maisa Thayer

LATE

HB-483-SD-1

Submitted on: 3/28/2019 12:26:45 AM

Testimony for JDC on 3/28/2019 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments:

I strongly support this bill and urge legislators to adopt the amendments proposed by the AAUW. Thank you for the opportunity to testify.