

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

S.B. NO. 2438, RELATING TO CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 3, 2026 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFER(S): Anne E. Lopez, Attorney General, or
David N. Matsumiya, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is stated to be "to deter interference with civil rights, provide effective civil remedies for such interference, and promote accountability by authorizing civil actions against any person who interferes or attempts to interfere with the exercise or enjoyment of constitutional and statutory rights" (page 1, lines 9-14) by "threats, intimidation, or coercion" (page 2, lines 12-13).

We are concerned that the bill, as drafted, is vague and overly broad and we believe that definitions for the terms "threats," "intimidation," and "coercion" would render the bill more easily enforceable.

We suggest that the bill incorporate a definition of "threat" that utilizes a reasonable person standard, similar to the way California courts have defined "threat." See *Ruelas v. County of Alameda*, 519 F. Supp. 3d 636, 662 (N.D. Cal. 2021) (stating that a threat is alleged when a "reasonable person, standing in the shoes of the plaintiff, would have been intimidated by the actions of the defendants and have perceived a threat of violence."). Another suggestion would be to model the definition after what the Supreme Court of the State of Hawai'i has articulated when identifying speech that qualifies as "terroristic threatening" – communication that is objectively susceptible to an interpretation of intent to inflict harm or loss on another that could induce fear of bodily injury in a reasonable recipient. See *State v. Valdivia*, 95 Hawai'i 465, 475-76, 24 P.3d

661, 671-72 (2001) (quoting *State v. Chung*, 75 Hawai'i 398, 416, 862 P.2d 1063, 1073 (1993)).

A similar definition could be crafted to define "intimidation" with a similar reasonable person/objective standard.

As to "coercion," Hawai'i courts have defined it to be "[c]ompulsion of a free agent by physical, moral, or economic force or threat of physical force," *Balogh v. Balogh*, 134 Hawai'i 29, 45, 332 P.3d 631, 647 (App. 2014) (quoting *Black's Law Dictionary* 315 (10th ed. 2014)). The Intermediate Court of Appeals noted that coercion need not consist of physical force or threats of it but could also include social or economic pressure illegally or immorally applied. *Id.* Another option is to borrow a definition from the criminal context to define coercion as intentionally compelling or inducing another to engage in conduct from which the person has a legal right to abstain or to abstain from conduct in which the person has a legal right to engage, by means of instilling in the person a fear that, if a demand is not complied with, bodily, social, or economic harm will be inflicted. See *State v. Pineda*, 70 Haw. 245, 251, 768 P.2d 239, 242 (1989). This is similar to the definition that California courts apply when considering actions brought under their own version of this bill: coercion is "such force, either physical or moral, as to constrain [the plaintiff] to do against his will something he would not otherwise have done." *Herrera v. AllianceOne Receivable Management, Inc.*, 170 F. Supp. 3d 1282, 1288 (S.D. Cal. 2016) (citing *Meyers v. City of Fresno*, No. 10-2359, 2011 WL 902115, at *7 (E.d. Cal. Mar. 15, 2011)).

Finally, including specific definitions for "threats," "intimidation," and "coercion" in the bill, particularly definitions with a reasonable person/objective or intentionality element, ensures that meritorious claims for interference with constitutional and statutory rights are brought to the court. We believe this would help to avoid the potential use of this bill to institute frivolous actions with the intent to interfere with another individual's valid exercise of that individual's civil rights (which would run contrary to the bill's stated purpose).

We respectfully ask the Committee to pass this bill with the recommended amendments.



HAWAI‘I CIVIL RIGHTS COMMISSION

KOMIKINA PONO KIWILA O HAWAI‘I

830 PUNCHBOWL STREET, ROOM 411, HONOLULU, HI 96813 · PHONE: (808) 586-8636 · FAX: (808) 586-8655 · TDD: (808) 586-8692

DATE: Tuesday, February 3, 2026
TIME: 9:00 AM
PLACE: Conference Room 016 & Videoconference
State Capitol
415 South Beretania Street

To:

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

From: Alphonso Braggs, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: SB 2438 Relating to RELATING TO CIVIL INTERFERENCE WITH CONSTITUTIONAL
AND STATUTORY RIGHTS.
Testimony in SUPPORT

The Hawai‘i Civil Rights Commission (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. HCRC has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment (Chapter 378, Part I, HRS), housing (Chapter 515, HRS), public accommodations (Chapter 489, HRS), and access to state and state-funded services (HRS § 368-1.5).

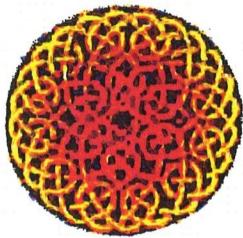
The purpose of SB 2438 is to provide a private right of action to aggrieved individuals and enforcement authority for the Attorney General and county attorneys. It provides broad remedies, speech protection, and a liberal construction for maximum protection and accountability.

SB 2438 comports with the Hawai'i State Constitution, which guarantees equal protection, due process, and the enjoyment of civil rights for all individuals. The Constitution emphasizes that these rights are not merely aspirational but actionable, requiring mechanisms to ensure they are protected against interference. By creating a civil cause of action for threats, intimidation, or coercion that obstructs constitutional and statutory rights, SB2438 operationalizes the constitutional commitment to fairness, liberty, and justice. It aligns with Hawai'i's long-standing dedication to protecting individual dignity and promoting accountability, ensuring that the exercise of rights, such as freedom of speech, equal access to housing, and nondiscrimination is meaningful and enforceable. In doing so, the bill embodies the spirit of Hawai'i's constitutional framework. Our society is grounded in equality and respect for human rights.

As the agency charged with enforcing Hawai'i's civil rights laws, HCRC understands that threats and coercion undermine equal access to justice and fair treatment. SB2438 complements existing anti-discrimination statutes because it targets interference with rights themselves, not just discriminatory acts. This is critical for safeguarding civil rights in housing, employment, and public spaces.

By filling a gap in existing civil rights protections, SB2438 strengthens Hawai'i's commitment to ensuring that intimidation and coercion do not erode fundamental freedoms.

Mahalo for hearing this bill.



Fujiwara & Rosenbaum, LLLC

1100 Alakea Street, FL 20, STE B

Honolulu, Hawaii 96813

February 1, 2026

**Chair Karl Rhoads
Vice Chair Mike Gabbard
Senate Committee on Judiciary**

**Re: S.B. No. 2438: RELATING TO CIVIL INTERFERENCE WITH
CONSTITUTIONAL AND STATUTORY RIGHTS, Strong Support
Hearing: Tuesday, February 3, 2026, 9:00 AM, Conference Room 016**

Dear Chair Rhoads, Vice-Chair Gabbard, and Members of the Committee:

I am testifying in urgent and unequivocal support of SB 2438, which creates a state-level equivalent to 42 U.S.C. § 1983.

In nearly four decades of civil rights practice, I have witnessed the arc of constitutional law bend toward transparency and accountability—but only when citizens possess the tools to demand it. I have stood in courtrooms fighting for the constitutional rights of the voiceless, the marginalized, and the forgotten. I have witnessed administrations come and go. I have seen the pendulum of justice swing toward liberty and retreat toward oppression.

Today, we stand at a crossroads. The question before this Committee is not whether people have rights under the US Constitution and Hawai'i Constitution. The question is whether Hawai'i will provide its citizens with the means to enforce those rights.

I have never—in four decades of practice—witnessed anything like what is happening now.

We are not facing a policy disagreement. We are facing a constitutional crisis. The federal government has become the primary violator of the rights it was created to protect. ICE agents are killing unarmed civilians in our streets. Families are being torn apart in predawn raids. Courts are being defied. Journalists are being threatened. Dissenters are being punished.

In this moment, the question before this Committee is not whether SB 2438 is good policy. The question is whether Hawai'i will stand as a bulwark for liberty when the federal government has abandoned its constitutional obligations—or whether we will leave our people defenseless.

SB 2438 establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. It authorizes private rights of action, empowers

the Attorney General, County Corporation Counsel, and County Attorneys to bring enforcement actions, and provides for injunctive relief, declaratory relief, and monetary damages.

This bill is not merely good policy. **It is a moral imperative.**

I. THE FEDERAL GOVERNMENT HAS BECOME THE ENEMY OF CIVIL RIGHTS

A. We Have Seen This Before—And We Know Where It Leads

I came of age as a civil rights attorney during the Reagan administration. I watched the federal government retreat from civil rights enforcement. I saw consent decrees abandoned, voting rights undermined, and communities of color left to fend for themselves.

But what we are witnessing now is categorically different.

The Trump administration is not merely neglecting civil rights. It is actively dismantling them. It is not failing to protect the vulnerable—it is targeting them. It is not interpreting the Constitution narrowly—it is defying it openly.

Consider what has happened in just the past year:

Federal agents have killed civilians with impunity. On January 24, 2026—ten days ago—**Alex Jeffrey Petti**—a 37-year-old ICU nurse was shot and killed by ICE in Minneapolis. He was not a suspect. He was trying to help a woman who was being tear-gassed. He was recording the encounter on his phone. For this act of compassion and civic engagement, he was executed in the street.

ICE is detaining more people than at any point in American history. As of November 2025, Immigration and Customs Enforcement is holding 65,735 human beings in detention facilities across this country. This is the highest number ever recorded. And here is the fact that should haunt every member of this Committee: **73.6% of these detainees have no criminal convictions whatsoever.** They are not criminals. They are mothers, fathers, children, workers, and neighbors. Many have lived in this country for decades. Many have U.S. citizen children who are now growing up without parents.

The administration has weaponized federal law enforcement against political opponents. Journalists have been surveilled. Protesters have been designated as terrorists. Lawyers representing immigrants have been threatened with prosecution. The message is clear: oppose us, and we will destroy you.

Federal courts are being openly defied. When judges have issued orders blocking administration policies, the response has been contempt—sometimes literally. The rule of law means nothing to those who believe they are above it.

The gutting of federal remedies. The doctrine of qualified immunity has been expanded to shield government actors from accountability. Federal courts have narrowed the scope of

constitutional protections. The Department of Justice, which once filed amicus briefs defending the right to record police, now serves a different master.

The Supreme Court has shown no interest in correcting this injustice. Congress has failed to act. The result is a system where ICE agents can violate constitutional rights with near-total impunity.

This is why state remedies are essential. When the federal courthouse doors are apparently “closed to justice”, the state courthouse must remain open.

II. THE CASE FOR A STATE PRIVATE RIGHT OF ACTION

A. A Constitutional Right Without a Remedy Is No Right at All

This principle is almost as old as the Republic. In **Marbury v. Madison** (1803), Chief Justice John Marshall wrote: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury." Marshall used this reasoning to affirm that the government must adhere to the rule of law and that the judiciary is responsible for providing remedies for legal injuries.

A right that cannot be enforced is merely an aspiration—words on parchment that provide no protection when the knock comes at the door.

SB 2438 transforms the rights guaranteed by the Hawai'i Constitution from aspirations into enforceable protections. It says to every resident of this state: if someone interferes with your constitutional rights through threats, intimidation, or coercion, you can go to court. You can seek an injunction to stop the violation. You can obtain a declaration of your rights. You can recover damages for the harm you have suffered.

This is not radical. This is the basic architecture of civil rights enforcement that has **existed since the Civil Rights Act of 1871—the Ku Klux Klan Act—created 42 U.S.C. §1983** to allow victims of state-sponsored violence to seek redress in federal court.

What is radical is: our federal government has abandoned this architecture. What is radical is: qualified immunity that shields violators from accountability. What is radical is: a federal administration that views constitutional constraints as obstacles to be overcome rather than principles to be honored.

B. The Hawai'i Constitution Provides Independent and Superior Protections

The United States Constitution establishes a floor, not a ceiling. State constitutions may—and often do—provide greater protections than federal minimums. This is not a loophole. It is a feature of our federal system, designed by the Founders to ensure that liberty would have multiple guardians.

The Hawai'i Constitution is one of the most protective in the nation¹:

Article I, Section 6 provides an **explicit right to privacy**: "The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest." This is not an implied right cobbled together from penumbras and emanations. It is an express guarantee, requiring the highest level of scrutiny to overcome.

Article I, Section 3 contains an **Equal Rights Amendment**: "Equality of rights under the law shall not be denied or abridged by the State on account of sex." The federal ERA was never ratified. Hawai'i's has been part of our constitution since 1972.

Article I, Section 5 explicitly prohibits discrimination "because of race, religion, sex, or ancestry"—language that goes beyond the federal Equal Protection Clause.

Article I, Section 7 protects against "unreasonable searches, seizures and invasions of privacy"—broader language than the Fourth Amendment, which Hawai'i courts have interpreted to reject federal exceptions like the "good faith" doctrine.

Article IX, Section 10 enshrines the Law of the Splintered Paddle (māmala-hoe kānāwai) as "a unique and living symbol of the State's concern for public safety," decreeing that "every elderly person, woman and child lie by the roadside in safety." This ancient law, established by Kamehameha I in 1797, mandates protection for all vulnerable persons. "The State shall have the **power to provide for the safety of the people from crimes against persons and property.**"

The Hawai'i Supreme Court has reaffirmed that this principle requires that "all people, including the elderly, women and children, could lie by the pathways in safety" and that "equality before the law has long been a guiding principle in Hawai'i."²

Article XI, Section 9 guarantees a **right to a clean and healthful environment**—a right that does not exist in the federal constitution.

¹ **PREAMBLE:** "We, the people of Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the Hawaii State motto, 'Ua mau ke ea o ka aina i ka pono.' We reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire. We reaffirm our belief in a government of the people, by the people and for the people, and with an understanding and compassionate heart toward all the peoples of the earth, do hereby ordain and establish this constitution for the State of Hawaii."

² **Statement by the Hawai'i Supreme Court Affirming Principles of Equal Justice for All (March 5, 2025):** "These principles of justice and servant leadership run deep in Hawai'i. In 1797, King Kamehameha I decreed the Law of the Splintered Paddle: Ke Kanawai Māmalahoe, that people great and humble should be respected alike, and that all people, including the elderly, women and children, could lie by the pathways in safety. Equality before the law has long been a guiding principle in Hawai'i. It seeks to elevate all people by recognizing their common humanity and eliminating the barriers that keep them from fully participating in society. It is a message that remains as important today as it was in 1797 and will always continue to guide the work we do at the Hawai'i State Judiciary."

Article XII, Section 7 protects the **traditional and customary rights of Native Hawaiians**—rights that have no federal constitutional analog.

The **Aloha Spirit Statute** (HRS §5-7.5) provides constitutional guidance for governmental decision-making. The statute defines "Aloha Spirit" as "the coordination of mind and heart within each person" and establishes that "each person must think and emote good feelings to others." The statute specifically provides that those "using their power" in government "may contemplate and reside with the life force and give consideration to the 'Aloha Spirit."³

The Hawai'i Supreme Court has recognized that the Aloha Spirit law "establishes that 'aloha means mutual regard and affection in which each person is important to every other person'" and that "these words define the shared vision for our state that we adopted as a people."⁴

These are not abstract principles. They are enforceable rights—but only if there is a mechanism to enforce them. **SB 2438 provides that mechanism.**

C. Historical Context and Constitutional Imperative

The importance of SB 2438 gains particular urgency when viewed against Hawai'i's historical experience with discriminatory federal enforcement actions. As documented "after the Empire of

³ **HRS § 5-7.5 --Aloha Spirit.**

(a) "Aloha Spirit" is the coordination of mind and heart within each person. It brings each person to the self. Each person must think and emote good feelings to others. In the contemplation and presence of the life force, "Aloha", the following unuhi laula loa may be used:
"Akahai", meaning kindness to be expressed with tenderness;
"Lokahi", meaning unity, to be expressed with harmony;
"Oluolu", meaning agreeable, to be expressed with pleasantness;
"Haahaa", meaning humility, to be expressed with modesty;
"Ahonui", meaning patience, to be expressed with perseverance.

These are traits of character that express the charm, warmth and sincerity of Hawai'i's people. It was the working philosophy of native Hawaiians and was presented as a gift to the people of Hawai'i. "Aloha" is more than a word of greeting or farewell or a salutation. "Aloha" means mutual regard and affection and extends warmth in caring with no obligation in return. "Aloha" is the essence of relationships in which each person is important to every other person for collective existence. "Aloha" means to hear what is not said, to see what cannot be seen and to know the unknowable.

(b) In exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature, governor, lieutenant governor, executive officers of each department, the chief justice, associate justices, and judges of the appellate, circuit, and district courts may contemplate and reside with the life force and give consideration to the "Aloha Spirit".

⁴ **Statement by the Hawai'i Supreme Court Affirming Principles of Equal Justice for All (March 5, 2025):**

"We strive to ensure that all people receive fair and respectful consideration in our court rooms. We are guided in this work by the Aloha Spirit law, Hawai'i Revised Statutes § 5-7.5, which establishes that 'aloha means mutual regard and affection . . . in which each person is important to every other person.' **These words define the shared vision for our state that we adopted as a people.**"

Japan attacked Pearl Harbor on December 7, 1941, FDR ordered the internment of the Japanese Americans, regardless of their citizenship" through Executive Order 9066.⁵

The historical record shows that "these prisoners were never even charged with a crime, let alone convicted. Two-thirds of them were U.S. citizens, born in the U.S." In Hawai'i specifically, "the U.S. government interned 2,270 people of Japanese ancestry" with "military personnel and local authorities collaborating on arrests."⁶

This historical precedent demonstrates the constitutional necessity of state governments establishing enforcement of their own constitution in state court.

D. Other States Have Led the Way

Hawai'i would not be the first state to provide a private right of action for civil rights violations. *See, e.g.*, California's Tom Bane Civil Rights Act, California Civ. Code § 52.1.

These types of laws work. They deter violations. They compensate victims. They hold violators accountable. They send a message that civil rights matter—that they are not merely suggestions to be ignored when inconvenient.

IV. THE URGENCY OF THIS MOMENT

A. The Federal Government Cannot Be Trusted to Protect Civil Rights

I want to be clear about what I am saying, because it is not something I say lightly.

⁵ After the Empire of Japan attacked Pearl Harbor on December 7, 1941, FDR ordered the internment of the Japanese Americans, regardless of their citizenship two months later. Executive Order 9066. The War Relocation Authority (WRA) was established on March 18th to organize their removal. "These prisoners were never even charged with a crime, let alone convicted. Two-thirds of them were U.S. citizens, born in the U.S.- the remainder could not have become citizens because at that time people of Asian origin were prohibited from naturalization." <https://www.hawaiinternment.org/untold-story/resources> [Emphasis added]. See also **Removed by Force: The Eviction of Hawai'i's Japanese Americans During WWII** [**Removed by Force**, directed by Ryan Kawamoto and produced by Hawai'i attorney Bill Kaneko, is a full-length documentary which describes the untold story of 1,500 Americans of Japanese ancestry in Hawai'i who were unlawfully evicted from their homes during WWII. These cases were separate and apart from the unlawful incarceration of 120,000 Japanese American incarcerated on the West Coast and Hawai'i. **The film is based on the research and writings about the legal cases spearheaded by the Honolulu JACL which resulted in \$30M in redress compensation from the US Department of Justice**]; Michi Weglyn's landmark **Years of Infamy, The Untold Story** of America's Concentration Camps, and the NBC-produced documentary **"Guilty by Reason of Race."**

⁶ Fueled by suspicions of disloyalty with military personnel and **local authorities collaborating on arrests**, the U.S. government interned 2,270 people of Japanese ancestry in Hawai'i. The "internees" were at first confined to the local internment camps, with most being sent to O'ahu's U.S. Immigration station before being transferred to internment camps on the continent.

For most of my life, I have believed that the federal government—despite its flaws, despite its failures, despite its often-glacial pace—was ultimately committed to the protection of civil rights. I believed that the arc of the moral universe, while long, bent toward justice. I believed that the U.S. Constitution meant something.

I am no longer certain of any of these things.

The current administration has demonstrated, through word and deed, that it views civil rights as obstacles rather than obligations. It has shown contempt for judicial independence, for the rule of law, for the dignity of human beings.

When ICE agents can kill a man for recording them and face no consequences—when 65,735 people can be locked in cages without criminal convictions—when families can be torn apart in predawn raids—when journalists can be threatened for reporting the truth—we are no longer living under a government of laws.

We are living under a government of men. And those men have made clear that they will use their power to crush anyone who stands in their way.

B. Hawai'i Must Act Now

In this environment, waiting is not neutral. Waiting is complicity.

Every day that passes without a state remedy is a day when someone's rights may be violated with impunity. Every day that passes is a day when a family may be destroyed, a community may be terrorized, a life may be lost.

Hawai'i has a proud tradition of protecting civil liberties. We were the first state to recognize a woman's right to decide whether to give birth; the first state to have an Equal Rights Amendment; among the first states to recognize marriage equality. We have strong protections for privacy, for workers, for the environment. We have consistently demonstrated that our values include respect for human dignity and individual rights.

This bill continues that tradition. It says to the people of Hawai'i: your rights matter. Your dignity matters. Your lives matter. And when those rights are violated through threats, intimidation, or coercion, you will have recourse to the courts of this state.

C. Anticipating Objections

1. Existing Remedies: *Not Sufficient*. Some may argue that this bill is unnecessary—that existing remedies are sufficient. They are not. Federal remedies have been gutted by qualified immunity and Trumps' hostile courts. State tort remedies do not specifically address civil rights violations and do not provide the full range of relief this bill authorizes.

2. *Not Lead to Frivolous Litigation.* Some may argue that this bill will lead to frivolous litigation. It will not. The bill requires proof of interference through "threats, intimidation, or

coercion"—a high bar that will screen out meritless claims. And the bill includes protections for constitutionally protected speech, ensuring that it cannot be weaponized against legitimate expression.

3. Response to Trump Authoritarianism-Yes. Some may argue that this bill is politically motivated—a response to a particular administration. I will not pretend otherwise. Yes, this bill is urgent because of the current federal administration's oppressive misuse of power. But the protections it provides will endure beyond any administration. They will be available to anyone whose rights are violated, regardless of who occupies the White House or who controls Congress.

Civil rights should not be partisan. The right to be free from threats, intimidation, and coercion is not a Democratic right or a Republican right. It is a human right. It is an American right. It is a Hawai'iian right.

V. CONCLUSION

In forty years of civil rights practice, I have learned that rights are not self-executing. They require vigilance. They require advocacy. They require courage. And they require remedies.

The Founders understood this. That is why they created a federal system with multiple layers of protection. That is why they reserved powers to the states. That is why they ensured that when one level of government fails, another can step into the breach.

The federal government has failed. It has not merely failed to protect civil rights—it has become the primary violator of civil rights. In this moment, the states must act.

SB 2438 is not a radical bill. It is a necessary bill. It provides a remedy for those whose constitutional and statutory rights have been violated through threats, intimidation, or coercion. It empowers individuals to seek justice in our state courts. It ensures that the Hawai'i Constitution is more than words on paper.

I think of Rene Good, shot dead after dropping off her small child at school; ICU nurse Pretti, shot dead for the crime of compassion. I think of the 65,735 people in ICE detention, most of whom have committed no crime. I think of the families torn apart, the communities terrorized, the lives destroyed.

And I think of what we can do—what we must do—to ensure that Hawai'i remains a place where rights are respected, where dignity is honored, where justice is possible.

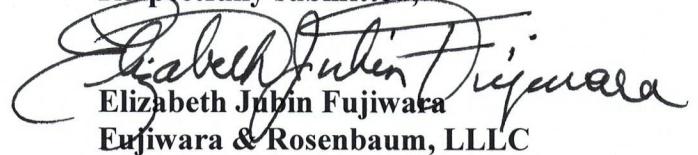
Pass SB 2438.

The people of Hawai'i deserve nothing less than the full protection of their constitutional rights. In this moment of Trumps' authoritarianism, federal overreach and constitutional crisis, our state must stand as a beacon of liberty in a darkening nation.

I urge you to pass this bill. I urge you to stand for the proposition that in Hawai'i, civil rights still matter.

Mahalo for the opportunity to testify. I am available to provide additional information, answer questions, or offer further testimony as this bill moves through the legislative process.

Respectfully submitted,


Elizabeth Jubin Fujiwara
Fujiwara & Rosenbaum, LLLC

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: [\(808\) 927-1214](tel:(808)927-1214) / kat.caphi@gmail.com

Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Tuesday, February 3, 2026

9:00 am

Room 016 and VIDEOCONFERENCE

STRONG SUPPORT FOR SB 2438 – PRIVATE RIGHTS OF ACTION FOR INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS

Aloha Chair Rhoads, Vice Chair Gabbard and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the 3,654 Hawai`i individuals living behind bars ¹nd under the “care and custody” of the Department of Corrections and Rehabilitation on January 26, 2026. We are always mindful that 799 – 43% of Hawai`i’s imprisoned male population are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates the opportunity to testify in **strong support of SB 2438** ensuring private rights of action for interference with constitutional and statutory rights through threats, intimidation or coercion.

We are living in perilous times where the US Constitution and states’ rights are being dismantled. The safety of citizens is challenged on a daily basis and the oligarchs are ignoring the basic standards of democracy and decency.

¹ DCR Weekly Population Report, January 26, 2026

[Pop-Reports-Weekly-2026-01-26.pdf](https://www.hdcr.hawaii.gov/Pop-Reports-Weekly-2026-01-26.pdf)

SB 2438 establishes a new chapter in Hawaii Revised Statutes that may be cited as Hawaii Civil Rights Protection Act. A civil action under this chapter may be brought by any aggrieved person, the Attorney General, or the corporation counsel or county attorney of any county against any person who interferes, or attempts to interfere, with the exercise or enjoyment of any right secured by the constitution or laws of the United States, or by the constitution or laws of the State of Hawaii, by threats, intimidation, or coercion. They shall be liable in a civil action under this chapter, regardless of whether the person is acting under color of law. This is the protection we need right now!

Hate crimes are specific in Hawaii Revised Statutes, yet the federal government appears to be motivated by hate for people who don't agree that the US Constitution guarantees freedom of speech, freedom of religion, freedom of the press, and equal rights. These are the basic tenets of democracy and yet people are being tortured and incarcerated for exercising these rights.

We implore the committee to pass SB 2438 that demonstrates that Hawaii will protect her people. This bill is a bright beacon in these dark times. Mahalo for the listening to our plea.



February 1, 2026

Senate Committee on the Judiciary

Hearing Date/Time: Tuesday, February 3, 2026/9:00AM

Place: Hawaii State Capitol, Conference Room 016

Re: Testimony in **STRONG SUPPORT** of S.B. No. 2438

Dear Chair Karl Rhoads, Vice-Chair Mike Gabbard and Members of Judiciary Committee:

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of S.B. No. 2438 [to create a new Hawai'i Revised Statutes Chapter, entitled the Hawaii Civil Rights Protection Act.](#)

We find that the rights guaranteed under the Constitution of the United States, the Constitution of the State of Hawai'i, and various federal and state laws are meaningful only if they are effectively enforceable. Definitely, threats, intimidation, and coercion, whether those actions are committed by public officials or private persons, do undermine the free exercise and enjoyment of these rights.

SB 2438 may be the most important bill we can support this legislative session. It gives us a way to fight back as the Trump federal government continues to violate our constitutional rights—and right now, that protection has never been more urgent.

SB 2438 is not radical. This legislation is the basic architecture of civil rights enforcement that has existed since the **Civil Rights Act of 1871—the Ku Klux Klan Act—created 42 U.S.C. §1983 to allow victims of state-sponsored violence to seek redress in federal court.** It creates a state equivalent to federal civil rights protections **—42 U.S.C. §1983**, which is now almost useless under Trump and his Supreme Court.

- Besides the destruction of reproductive rights in red states after **Dobbs v. Jackson Women's Health Organization**, 597 U.S. 215 (2022), Trump and his anti-abortion allies in Congress are not only attacking Planned Parenthood now, but they are also dragging us frighteningly close to a national abortion ban.
- As far as universities and schools the Trump administration is dismantling the Department of Education along with the Office of Civil Rights that enforces Title IX.
- Federal employers in Hawai'i as well as private employers who receive federal contracts must decide how to comply with Trump's DEI fiats.

What is radical is: a federal administration that views constitutional constraints as obstacles to be overcome rather than principles to be honored. We are facing a **constitutional crisis:** the federal government—which was created to protect our rights—has become the primary violator of those rights.

What the bill does: It creates a state-level equivalent to 42 U.S.C. § 1983, allowing individuals to sue in state court when their rights under the Hawai'i Constitution are violated by private persons or government actors.

Like Section 1983 this bill authorizes a *private right of action to deter interference with our constitutional and statutory rights through threats, intimidation, or coercion*. It promotes accountability against any person who interferes or attempts to interfere with those rights.

This would **allow Hawai'i residents, especially women, to enforce their state constitutional rights**—including our ERA, our privacy rights, as well as our reproductive rights—**in state court**.

Why SB 2438 matters for Hawai'i women:

- **Strengthens enforcement of equal protection.** Hawai'i's constitution has one of the strongest equality provisions. This bill gives them teeth by providing a clear path to hold either private persons or government officials accountable when those rights are violated.
- **Protects reproductive autonomy.** Hawai'i's constitutional right to privacy is enumerated and specific; it is broader than federal protections. **A state equivalent of Section 1983 ensures women can enforce these rights in state court, regardless of what happens at the federal level.**
- **Provides an alternative when federal courts are inaccessible.** Federal civil rights litigation is increasingly constrained by judicial interpretation (a drastic understatement). A state remedy keeps the courthouse doors open to hearing concerns regarding violations of women's rights. Consequently, we know that our judges will be fair and concerned about justice.
- **Supports survivors.** Women who experience civil rights violations by private persons as well as by state or local government—whether in policing, public employment, education, or healthcare—would have a direct avenue for accountability.

Amending the HRS by adding this new chapter would serve to advance the principles of equality, justice, and fairness for all individuals within the state.

Thank you for the opportunity to testify.

Sincerely,
Public Policy Committee, AAUW of Hawaii
publicpolicy-hi@aauw.net

The American Association of University Women (AAUW) of Hawaii is an all-volunteer, statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward Oahu. UH Hilo, UH Manoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.



TESTIMONY IN SUPPORT OF SB2438 - RELATING TO CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS

Senate Committee on Judiciary

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

LATE

February 2, 2026

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Legal Clinic (TLC) supports SB2438, to establish a civil cause of action for individuals whose constitutional or statutory rights are interfered with through threats, intimidation, or coercion.

As a nonprofit organization dedicated to immigrant justice in Hawai`i, and in this era of intensified federal immigration enforcement, we recognize that the communities we serve are acutely vulnerable to intimidation, coercion, and interference with their rights. SB2438 fills a critical gap in Hawai`i law by providing an accessible civil remedy to deter rights-violating conduct, hold bad actors accountable, and ensure that all individuals can exercise their rights freely and safely.

SB2438 also expressly safeguards First Amendment rights by clarifying that free speech alone does not constitute a violation unless it rises to the level of a true threat of violence that would cause a reasonable person or group to fear imminent harm. This balance is essential. SB2438 targets coercive conduct, not disagreement, protest, or other lawful expression. This bill protects civil rights without undermining free speech or political participation.

SB2438's flexible enforcement structure allows actions to be brought not only by aggrieved individuals but also by the Attorney General, corporation counsel, or county attorneys. Public enforcement authority is especially important in cases involving systemic interference, widespread intimidation, or vulnerable communities, including immigrants, who may fear retaliation if they act alone.

SB2438 is a thoughtful and balanced measure that strengthens civil rights protections while respecting constitutional boundaries. We urge the Committee to pass this bill.

Sincerely,

Christina Sablan
Community & Policy Advocate

LATE

SB-2438

Submitted on: 2/2/2026 2:10:51 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Honolulu Hawaii NAACP	Testifying for NAACP	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members,
The NAACP strongly supports SB 2438, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech.
Please pass this important measure.
Mahalo,
Alphonso Braggs
President

LATE

SB-2438

Submitted on: 2/2/2026 11:23:25 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Liza Ryan Gill	Testifying for Hawaii Coalition for Immigrant Rights	Support	Written Testimony Only

Comments:

The Hawai'i Coalition for Immigrant Rights stands in strong support for this bill.



LATE

COMMITTEE ON JUDICIARY

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice Chair

HEARING:

Tuesday, February 3, 2026 at 9:00 AM

Conference Room 016 & Videoconference

State Capitol

415 South Beretania Street

TESTIMONY IN SUPPORT - RE: SB 2203 RELATING TO CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS.

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

Roots Reborn strongly **supports** SB2438 which establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion, and includes protections for constitutionally protected speech. This bill authorizes both private rights of action and actions brought by the Attorney General, County Corporation Counsel, or County Attorney.

Roots Reborn is a grassroots, multicultural immigrant-justice and disaster-response organization serving migrant and immigrant communities on Maui and beyond. Born out of the August 2023 wildfires, we immediately stepped in to move aid, navigate systems alongside families, and build the trusted relationships that still anchor our work today. What began as wildfire response has grown into essential infrastructure for immigrant communities facing overlapping crises—from recovery and housing instability to shifting federal policies, increased enforcement, and rising fear.

The trust we have built has given us proximity to hear stories that rarely reach these chambers. Families who survived the fires, who lost homes, who are still piecing their lives together, now live with the additional terror of being separated from their children, their spouses, their neighbors. Many are afraid to go to work or school, or even to seek necessary medical care. For fire survivors already navigating grief, displacement, and rebuilding, this new crisis lands on top of everything else. Recovery becomes impossible when fear is constant.

Since December 2024, we have been meeting this new man-made disaster head-on. Roots Reborn is a founding coalition member of El Pueblo en Acción Maui (EPA Maui)—“The People in Action Maui”—a rapid response network and tipline made up of allied organizations and



concerned community members. We exist because we believe an informed, calm community is a safer community.

Through this coalition, we have:

- Distributed over 3,500 flyers on constitutional rights
- Trained more than 700 community members through Know Your Rights workshops
- Delivered over 50 trainings to healthcare providers, social service organizations, business owners, faith communities, educators, and labor union leaders
- Processed more than 450 calls and texts through our tipline from community members concerned about federal enforcement activity
- Trained over 50 volunteer observers in verification, de-escalation, and peaceful documentation

Our experience has confirmed what research and common sense tell us: when federal agents know they are being observed, the rights of community members are more likely to be protected.

Taking photographs and videos in public spaces, including recording law enforcement officers carrying out their duties, is a constitutional right protected by the First Amendment. SB 2438 reaffirms that right by providing a meaningful remedy when law enforcement unlawfully interferes with it.

Our EPA Maui volunteer observers are trained to verify and document federal enforcement activity in public spaces, including through recording, as the First Amendment allows. They do this work because transparency protects everyone.

The deaths of Renee Good and Alex Pretti at the hands of federal agents in Minneapolis have deeply shaken our volunteers. These two observers and community members were doing the same kind of constitutionally protected work our observers do. The video of their deaths is chilling. And the only reason their story is being told at all is because other volunteer observers were present to document what happened.

It is the violation of constitutional rights by federal agents — not the act of observing — that puts people like our volunteers at risk. Not only of having their rights infringed, but of bodily harm or death.

Despite these dangers, EPA Maui volunteers remain committed to protecting our community members and ensuring that government activity in public spaces is documented. That is why we urge you to **support SB 2438**.

Please help us protect the protectors.



Mahalo nui, and in honor of Renee Good and Alex Pretti,

Veronica Mendoza
Roots Reborn Founding Executive Director
EPA Maui Coalition Member

Committee: Senate Committee on Judiciary
Hearing Date/Time: Tuesday, February 3, 2026, 9:00 AM
Place: Conference Room 016
Re: ACLU Testimony in SUPPORT of, with a proposed amendment to, SB 2438, Relating to Civil Interference with Constitutional and Statutory Rights

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The American Civil Liberties Union of Hawai‘i (ACLU-HI) writes in **support of, with one suggested amendment to, SB 2438**, which creates a state remedy for interference with one’s constitutional and statutory rights. This bill provides a potential avenue for individuals to seek justice when the government violates their rights. To further strengthen this measure, **we respectfully request it be amended to provide that immunity is not a defense to actions brought against government actors pursuant to this Act.**

In recent times, we have witnessed alarming incidents where federal actors have trampled over the rule of law and violated basic human and constitutional rights. ICE agents have shot civilians,¹ incarcerated children,² and disrupted families. SB 2438 serves as a potential shield against this federal overreach, allowing individuals to take their grievances to Hawai‘i state courts when faced with unlawful actions from federal agents. Without this legislation, victims may find themselves without recourse, as federal courts have severely limited access to remedies for constitutional violations by federal officials.³

This bill creates a new civil remedy when threats, intimidation, or coercion occur. This is especially important as our state constitution offers stronger protections than the

¹ Hellman M. (2026, January 28). Eight People have died in dealings with ICE so far in 2026. These are their stories. *The Guardian*. <https://www.theguardian.com/us-news/2026/jan/28/deaths-ice-2026>

² The Marshall Project. (2026, January 29). “Why is this happening to us?” Daily number of kids in ICE detention jumps 6x under Trump. <https://www.themarshallproject.org/2026/01/29/ice-kids-in-detention-numbers>

³ See, e.g., James E. Pfander & Rex N. Alley, Federal Tort Liability After *Egbert v. Boule*: The Case for Restoring the Officer Suit at Common Law, 138 Harv. L. Rev. 985, 997 (2025).

U.S. Constitution, including explicit rights to privacy,⁴ equal rights,⁵ and environmental protections.⁶ These rights deserve meaningful enforcement, and similar laws have been passed in states like California,⁷ New Jersey,⁸ Maine,⁹ and Massachusetts.¹⁰

To further strengthen this measure, we respectfully request that it be amended to specify that immunity for government actors is not a defense in cases brought pursuant to this Act.

Mahalo for the opportunity to testify.

Sincerely,



Mandy Fernandes
Policy Director
American Civil Liberties Union of Hawai‘i

The mission of the ACLU of Hawai‘i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai‘i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai‘i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai‘i has been serving Hawai‘i for over 50 years.

⁴ Haw. State Const. Article I, Section 6.

⁵ Haw. State Const. Article I, Section 3.

⁶ Haw. State Const. Article XI, Section 9.

⁷ Cal. Civ. Code § 52.1

⁸ N.J. Stat. Ann. § 10:6-2(c)

⁹ Me. Stat. tit. 5, § 46821-A

¹⁰ Mass. Gen. Laws ch. 12, § 11I

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.org
www.acluhawaii.org

SB-2438

Submitted on: 1/30/2026 8:06:34 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee members,

Now, more than ever, we must vigorously and vigilantly defend our natural rights, our constitutional rights. I support this bill and I encourage the committee to **SUPPORT** this bill.

SB-2438

Submitted on: 1/31/2026 8:02:22 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

Please accept this as testimony in strong support of SB2438. It is a sad day when we can no longer take free speech and other constitutional rights for granted. Because of advances in technology, we can see how the bad deeds are playing out in real time, in Minnesota and elsewhere. Thus, this bill is needed.

Please move this bill forward, as quickly as possible.

lynne matusow

SB-2438

Submitted on: 1/31/2026 8:13:31 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael A. Cobb Jr	Individual	Support	Written Testimony Only

Comments:

I support this measure and encourage you to include all rights not just speech.

SB-2438

Submitted on: 2/1/2026 4:26:24 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sandy Ma	Individual	Support	Written Testimony Only

Comments:

Dear Chair Rhoads and Vice Chair Gabbard and Members of the Senate Judiciary Committee,

I am testifying in support of SB 2438, which (1) establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion, (2) authorizes private rights of action, (3) authorizes actions to be brought by the Attorney General, County Corporation Counsel, or County Attorney, (4) authorizes injunctive relief, declaratory relief, and certain monetary relief, and (5) includes protections for constitutionally protected speech.

SB 2438 provides a private right of action under state law for when someone violates our constitutional rights through threats, intimidation, or coercion.

Given the perilous times we are living in, SB 2438 is necessary to protect us from federal overreach. SB 2438 will allow us to go to our Hawaii state courts to enforce our legal rights and protections.

I respectfully request that you pass SB 2438 out of your Committee unamended. Thank you.

Sandy Ma

SB-2438

Submitted on: 2/1/2026 4:51:22 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Janet Teare	Individual	Support	Written Testimony Only

Comments:

PLEASE Support this bill to protect our civil rights! Thank you

SB-2438

Submitted on: 2/1/2026 7:18:48 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Peter Greenhill	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members,
I strongly support SB 2438, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech.
Please pass this important measure.
Mahalo.

Peter Greenhill

SB-2438

Submitted on: 2/1/2026 7:37:35 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Terry McDonald	Individual	Support	Written Testimony Only

Comments:

This "quiet bill" would have a profound affect here. In the past, it was the Federal Justice department that was the ultimate protector of our civil rights. Those days are gone.

This is the shield that will protect us, Hawaiian residents and Hawaiian voters. Without a means of redress, our important Hawaiian Constitution would be "window dressing."

With the passage of this bill, we give our State government the power over Federal Civil Rights violators operating in Hawaii.

I say emphatically, YES, YES, YES.

Respectfully submitted
Terry McDonald

704-390-6221

Hilo, Hawaii

Facilitator

Indivisible Hilo One

"Where Law Ends, Tyranny Begins"

SB-2438

Submitted on: 2/1/2026 8:44:15 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Meizhu Lui	Individual	Support	Written Testimony Only

Comments:

Feb. 1, 2026

Dear representatives of Hawaii's people,

I humbly request your support for **SB 2438**, which protects our civil rights. It is sad that this is necessary, but the Trump federal government is blatantly violating our constitutional rights, leaving every one of us at risk of unwarranted harassment, arrest, and worse.

ICE has already brutally ripped away tens of thousands of people denying them due process, and putting them in substandard detention facilities, with no lawyers, no limit to how long the detention will last, no information about when and where they might be deported. About 100 Hawaii residents have already experienced this abrupt end to their peaceful stay in Hawai'i, as contributors to our communities and to our economy. At the same time, federal agencies defend ICE agents who commit murder.

Therefore, we need protection at the state level. If we are threatened, intimidated, or coerced by federal agents acting illegally, SB 2438 gives us the right as individuals to go to our Hawai'i state courts to demand our rights.

Hawai'i's constitution offers more extensive and stronger protections than the U.S. constitution. We have an explicit right to privacy, an Equal Rights Amendment, protections for Native Hawaiian traditional rights, protections for the environment and more. We are proud that the state of Hawai'i ensures protection for all of us, regardless of race, gender, or immigration status. SB 2438 follows in that democratic tradition.

Please pass SB 2438 resoundingly to put the federal agents on notice that this state follows the rule of law. No cooperation with ICE! End ICE for good!

Thank you, especially to Senator Rhoads for taking this initiative.

Aloha,

Meizhu Lui

PO Box 175, 35-354 Pahale Road

Papaaloa, HI 96780

SB-2438

Submitted on: 2/1/2026 9:45:21 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gaye Chan	Individual	Support	Written Testimony Only

Comments:

Dear Chair and Committee Members, I strongly support SB 2438. Frightening things are happening across the US. The Trump administration is trampling constitutional rights and blatantly blaming the victims. I urge you to pass laws that protect us against these horrors. SB 2438 would offer some protection by ensuring meaningful enforcement of our rights and providing essential remedies while protecting free speech.

SB-2438

Submitted on: 2/1/2026 10:10:19 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Lum	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members,

I strongly support SB 2438, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech.

Please pass this important measure.

Mahalo,

Jen Lum, 'Ewa Beach

SB-2438

Submitted on: 2/1/2026 11:32:07 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jane Aquino	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members,

I strongly support SB 2438, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech.

Please pass this important measure.

Mahalo,
Jane Aquino, IHSN and Hawaii J20 member

Aloha Chair and Committee Members,

I strongly support **SB 2438**, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech.

Please pass this important measure.

Mahalo,

Melanie Lau, MD

SB-2438

Submitted on: 2/2/2026 6:53:36 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patti Cook	Individual	Support	Written Testimony Only

Comments:

Urgently needs to be expedited by the 2026 session to protect the people of Hawai'i from federal overreach and abuse of civil rights/due process. MAHALO. Patti Cook

SB-2438

Submitted on: 2/2/2026 7:38:43 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia J. Goto	Individual	Support	Written Testimony Only

Comments:

Support

SB-2438

Submitted on: 2/2/2026 8:13:20 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard S Velasquez	Individual	Support	Written Testimony Only

Comments:

please insure Hawaii is protected

SB-2438

Submitted on: 2/2/2026 8:31:15 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nandita Sharma	Individual	Support	Written Testimony Only

Comments:

I strongly support SB 2438 and encourage you to do the same.

SB 2438 is urgently needed to address the continued and ongoing violation of our constitutional and statutory rights through threats, intimidation, or coercion by the federal government.

This is not the time to be silent or be cowered by the rising authoritarianism of the Trump administration (or any other local and state governments).

This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech.

Mahalo,

Nandita Sharma,

LATE

SB-2438

Submitted on: 2/2/2026 9:03:56 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendell Hayes	Individual	Support	Written Testimony Only

Comments:

I strongly support SB2438 because I want our civil rights in Hawai'i to be even stronger.

Mahalo,

Wendell Hayes

Volcano

LATE

SB-2438

Submitted on: 2/2/2026 10:42:38 AM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Muftiah Martin	Individual	Support	Written Testimony Only

Comments:

Aloha, I'm writing with an enthusiastic voice of support for SB2438. With the Trump administration, we are facing a constitutional crisis where the rule of law is disregarded by US government entities both domestically and internationally. The time to take action in any legally permissible way is now. This bill would go some ways to protecting our constitutionally enshrined rights by giving Hawaii residents a way to pursue civil action against a corrupt, fascist federal government. The bill is written in such a way that a high bar must be reached, so I believe we are protected from frivolous suits during this administration or a future, hopefully more democratic one. This point should be thoroughly reviewed by all legislators before voting, and if you agree with me, please pass this bill swiftly. Mahalo!

LATE

SB-2438

Submitted on: 2/2/2026 11:47:44 AM

Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
maile nakano	Individual	Support	Remotely Via Zoom

Comments:

Protect free speech!

Show aloha

LATE

DAPHNE E.BARBEE

ATTORNEY AT LAW
CENTURY SQUARE, SUITE 1908
1188 BISHOP STREET
HONOLULU, HAWAII 96813
808-533-0275
daphnebarbee@gmail.com



February 2, 2026

Testimony in Support of SB 2438

Dear Chair and Committee Members,

I strongly support SB 2438, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech and the right to complain about discriminatory and unconstitutional conduct. I would ensure that private attorney's action on behalf of clients remain allowed to file such lawsuits.

Please pass this important measure.

Mahalo,


Daphne Barbee-Wooten
Attorney at Law

LATE

SB-2438

Submitted on: 2/2/2026 1:23:37 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendy Chase	Individual	Support	Written Testimony Only

Comments:

Please iinforce our rights in Hawaii"s constitution

No murder of civilians using their right of free speech

No families torn apart

No detention of people with no criminal convictions

Protesters',journalists' and lawyers' rights to free speech must be protected

LATE

SB-2438

Submitted on: 2/2/2026 2:21:57 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Noelle Lindenmann	Individual	Support	Written Testimony Only

Comments:

Aloha Committee members:
I write in strong support of SB2438.

This bill helps people who are seeking justice when rights are violated. It ensures rights guaranteed to us by the State Constitution are enforceable.

Thank you,
Noelle Lindenmann, Kailua-Kona

LATE

SB-2438

Submitted on: 2/2/2026 2:28:58 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Shane Bagwell	Individual	Support	Written Testimony Only

Comments:

I am a lawyer, and have been dismayed by the recent trend in federal jurisprudence to undermine the rights of citizens and to insulate those who violate those rights from consequence. As all branches of the federal government have entirely acquiesced in their duty to protect the rights of American citizens, it is crucial that the Legislature pass SB 2438.

This measure is common sense, and it is the right thing to do. For the sake of the people of Hawai'i, *please* pass this bill!

SB-2438

Submitted on: 2/2/2026 2:57:16 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Testify
Ann S Freed	Individual	Support	Written Testimony Only

Comments:

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

Aloha, Chair Rhoads, Vice Chair Gabbard and members,

Sadly we live in an era where the Constitution of our democracy is being shredded by the very institutions it was created to protect.

But the better news is that we do have a state constitution which still enshrines the rights of the people of Hawai'i. This bill would further and decisively guarantee that citizens of our ohana, would have redress in the face of "threats, intimidation, and coercion, whether those actions are committed by public officials or private persons."

This bill may be the most important piece of legislation in this session as the federal threat to the rule of law hangs heavy over our hearts every day.

I cannot possibly offer testimony any more effective than that offered by Elizabeth Jubin Fujiwara, Esq. You have her testimony on file. She has eloquently and comprehensively defined the problem and solution, particularly as it relates to our wahine. I am in concurrence with all that she has said. Mahalo for hearing this bill and may become the law of our land.

Bright Blessings.

Ann S. Freed

Co-Chair Hawaii Women's Democratic Caucus

Member AAUW

US Army LTC, (Ret)

LATE

SB-2438

Submitted on: 2/2/2026 3:27:09 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth C Allen	Individual	Support	Written Testimony Only

Comments:

We are facing a constitutional crisis. The federal government—which was created to protect our rights—has become the primary violator of those rights. ICE agents are killing unarmed civilians, tearing families apart, and punishing anyone who speaks out. Hawai'i must act now to give our residents a way to defend themselves when Washington won't. SB 2438 protects our constitutional rights and helps us resist federal overreach.

LATE

SB-2438

Submitted on: 2/2/2026 3:33:10 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
MARILYN JOHNSON	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill aimed at protecting an individual's constitutional rights from Federal aggression. I am grateful that our Hawaii Legislators are taking the necessary steps to pass such laws and I look forward to learning the strongest legal wording possible has been signed into law by our Governor Josh Green.

Marilyn Johnson, Pahoa

LATE

SB-2438

Submitted on: 2/2/2026 3:35:59 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Brian Huffman	Individual	Support	Written Testimony Only

Comments:

Thank you for the opportunity to testify in support of this bill.

At its core, this legislation is about a simple but fundamental promise: that when a person's rights are violated—especially through threats, intimidation, or coercion—there must be a meaningful way to seek justice.

Rights without remedies are not rights at all.

Across many states, people encounter situations where power is abused not through overt violence, but through fear. Threats. Intimidation. Coercion. These tactics are uniquely effective at silencing people, discouraging them from speaking out, and preventing them from asserting their legal rights. When those actions are carried out or enabled by individuals acting under color of law, the harm is magnified—and the imbalance of power is extreme.

Yet under current doctrine, qualified immunity often blocks accountability before a case can even be heard. Victims are told that even if their rights were violated, even if the conduct was clearly wrong, there is no remedy unless an almost identical case has already been decided by a court. That standard does not protect good-faith public servants—it protects misconduct by making it practically immune from consequences.

This bill restores balance.

By creating a clear civil cause of action for violations carried out through threats, intimidation, or coercion, the legislature affirms that abuse of power is not acceptable and that courts—not technical loopholes—should determine whether a violation occurred. It ensures that victims can have their day in court, that facts can be examined, and that justice is not denied at the courthouse door.

Importantly, accountability is not anti-government. It is pro-democracy.

Public trust depends on the belief that no one is above the law and that lawful authority cannot be used as a weapon. When people know there is a path to justice, they are more likely to comply with the law, cooperate with institutions, and believe in the fairness of our system. When they know there is none, fear and disengagement take root.

This bill does not punish honest mistakes. It addresses serious misconduct—intentional acts of intimidation and coercion that undermine constitutional and statutory rights. It creates deterrence where deterrence is needed and accountability where accountability has been missing.

Access to justice should not depend on whether a legal doctrine makes a case procedurally impossible. It should depend on whether a person's rights were violated.

I urge you to support this bill and reaffirm a core principle of our legal system: when rights are violated, there must be a remedy.

Thank you.

Brian Huffman, Esq.

LATE

SB-2438

Submitted on: 2/2/2026 3:43:15 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ashley de Coligny	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and Committee Members, I strongly support SB 2438, which creates a civil cause of action to address interference with constitutional and statutory rights through threats, intimidation, or coercion. This bill ensures meaningful enforcement of our rights and provides essential remedies while protecting free speech. Please pass this important measure. Mahalo.

LATE

SB-2438

Submitted on: 2/2/2026 3:54:24 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Addie Berliner	Individual	Support	Written Testimony Only

Comments:

Thank You for supporting this Bill.

LATE

SB-2438

Submitted on: 2/2/2026 4:35:42 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristen Kelly	Individual	Support	Written Testimony Only

Comments:

This bill ensures that the rights guaranteed to us by Hawai'i state constitution are enforceable.
Please pass this bill

LATE

SB-2438

Submitted on: 2/2/2026 7:17:32 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Maria Welvaert	Individual	Support	Written Testimony Only

Comments:

I support SB2438: The Hawaii Civil Rights Protection Act.

LATE

SB-2438

Submitted on: 2/2/2026 7:28:08 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Brady Welvaert	Individual	Support	Written Testimony Only

Comments:

The executive branch leadership of the United States, oftentimes through ICE, is ignoring rights gauranteed by the US Constitution and Bill of Rights. If we do not stand now, who knows how far they will go.

LATE

SB-2438

Submitted on: 2/2/2026 8:49:35 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Erin Wilmer Patio	Individual	Support	Written Testimony Only

Comments:

I am in full support of this bill.

LATE

SB-2438

Submitted on: 2/2/2026 9:33:51 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Maya Maxym	Individual	Support	Written Testimony Only

Comments:

Apologies for late testimony. I support this bill and appreciate the intent to protect our citizens from infringement of their constitutional rights. Mahalo.

LATE

SB-2438

Submitted on: 2/2/2026 9:51:41 PM
Testimony for JDC on 2/3/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
KALAE PEARCE	Individual	Support	Written Testimony Only

Comments:

I support this bill SB2438