



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/17/2026
Time: 09:55 AM
Location: CR 016 & Videoconference
Committee: JDC

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Title of Bill: HB1878, HD2, RELATING TO DISCRIMINATION.

Purpose of Bill: Prohibits discrimination based on: (1) The perception that a person possesses certain characteristics; (2) The perception that a person is associated with a person who possesses, or is perceived to possess, certain characteristics; or (3) The intersection or combination of two or more specified characteristics in relation to a person. Effective 7/1/3000. (HD2)

Department's Position:

The Hawaii State Department of Education (Department) respectfully offers comments and concerns regarding HB 1878 HD 2, which seeks to prohibit discrimination based on: (1) The perception that a person possesses certain characteristics; (2) The perception that a person is associated with a person who possesses, or is perceived to possess, certain characteristics; or (3) The intersection or combination of two or more specified characteristics in relation to a person.

While the Department fully supports the intent of fostering an inclusive and safe learning environment for all students and employees, there may be significant operational and litigation risks arising from the "gray areas" created by the bill's current language. Unlike actual characteristics, discrimination based on "perception" is inherently subjective. The Department would like to ensure a clear understanding of the proposed definitions prior to offering full support on this bill. For example, regarding the prohibition of discrimination based on a person's association with another, what constitutes an "association" as they could range from familial or domestic relationships to professional or social affiliations.

For these reasons, the Department respectfully offers these comments on HB 1878 HD 2 and appreciates the Legislature's continued commitment to equity and inclusion in Hawaii's public education system.

Thank you for the opportunity to provide testimony on HB 1878 HD 2.



Hawai'i State Lesbian, Gay, Bisexual, Transgender, Queer Plus Commission



Advocating for the Hawai'i LGBTQIA+ Community

Mailing Address: LGBTQ+ Commission, c/o The Department of Human Services,
P.O. Box 339, Honolulu, Hawai'i 96809-0339

Email: hawaiistatelgbtqpluscommission@gmail.com
Web: <https://humanservices.hawaii.gov/lgbtq-commission/>

March 15, 2026

Senate's Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Hearing: Tuesday, March 17, 2026 at 9:55 AM

RE: STRONG SUPPORT for House Bill 1878 HD 2

Aloha Chair Rhoads, Vice-Chair Gabbard and fellow committee members,

I am writing in strong support of House Bill 1878 on behalf of the Hawai'i State Lesbian, Gay, Bisexual, Transgender, Queer Plus (LGBTQ+) Commission, which was established by the 2022 Hawai'i State Legislature to

“improve the State's interface with members of the lesbian, gay, bisexual, transgender, queer, plus community; identify the short- and long-range needs of its members; and ensure that there is an effective means of researching, planning, and advocating for the equity of this population in all aspects of state government.”

The **Hawai'i State LGBTQ+ Commission strongly supports House Bill 1878**, which strengthens our state's civil rights protections by explicitly prohibiting discrimination based on perceived characteristics, perceived association with protected classes, and the intersection or combination of multiple protected characteristics.

HB 1878 is a critical and timely measure that reflects the lived realities of many people in Hawai'i, particularly māhū, transgender, nonbinary, LGBTQIA+, Native Hawaiian, Pacific Islander, immigrant, and disabled communities, who routinely experience discrimination not only for who they are, but for who others *think* they are, who they are *associated with*, or how multiple aspects of their identity intersect.

Discrimination is often rooted in assumption and bias, not fact. Individuals are denied housing, employment, healthcare, and public accommodations because of how they look, sound, dress, worship, love, or who they are seen with. For example, a person may be targeted because they are perceived to be transgender, because they accompany a same-gender partner, or because their racial, cultural, gender, and sexual identities intersect in ways that expose them to compounded harm. HB 1878 closes critical gaps by ensuring that such conduct is clearly unlawful.

Proudly established pursuant to Hawai'i Revised Statutes Chapter 369, as enacted through Act 41, Session Laws of Hawai'i 2022

HI State LGBTQ+ Commission Testimony in Support of HB 1878

Importantly, this bill acknowledges intersectionality, the reality that people do not experience discrimination in isolated silos. Māhū and LGBTQIA+ individuals who are also Native Hawaiian, Pacific Islander, immigrants, youth, elders, and/or people with disabilities often face layered and intensified discrimination. Explicitly recognizing intersectional discrimination aligns Hawai'i law with modern civil rights principles and strengthens enforcement by providing clarity to courts, agencies, employers, and the public.

At a time when federal protections are being weakened and marginalized communities are increasingly targeted, Hawai'i has both the opportunity and responsibility to reaffirm its commitment to equity, dignity, and aloha for all. HB 1878 reflects Hawai'i's long-standing values of inclusion and fairness and sends a clear message that discrimination, whether based on perception, association, or intersecting identities, has no place in the Aloha state.

For these reasons, the Hawai'i State LGBTQ+ Commission urges the Committee to pass House Bill 1878. Mahalo for the opportunity to provide testimony and for your continued leadership in advancing civil rights in Hawai'i.

If you or any member of your staff has any questions regarding my testimony you can reach me at hawaiistatelgbtqpluscommission@gmail.com.

Mahalo nui loa for your time and consideration,

Sandy Harjo Livingston (he/him/they/them)
Chair
[Hawai'i State LGBTQ+ Commission](#)

[Inclusive LGBTQIA+ Glossary](#)

The [Hawai'i State LGBTQ+ Commission](#) has this webpage and that is dedicated to understanding and being able to use the correct terms when talking about the rainbow community from māhū to LGBTQIA+ to QTPI+ to MVPFAFF+ and beyond. The list found on this page is not an exhaustive list and will be updated as appropriate.



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

Tuesday, March 17, 2026 9:55 a.m.
Conference Room 325 & 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: H.B. 1878 HD2 Relating to Discrimination

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).

H.B. 1878 HD2 amends the statutes prohibiting discrimination in employment, housing, public accommodations, and covered educational programs (Chapter 368D, HRS, over which the HCRC does not have jurisdiction), and 1) clarifies that intersectional claims are protected, 2) expands the prohibition of discriminatory actions based on the perception that an individual is a member of a protected class, as identified in 368-1, HRS, and 3) and expands the prohibition of

discriminatory actions based on the perception that an individual is perceived to associated with a person who is a member of a protected class, as identified in 368-1, HRS. These amendments would strengthen protections for those with intersectional claims by preventing the possible erosion of legal protections in the courts, and broaden the scope of protection for individuals within our state.

Intersectional Claims:

The HCRC has historically recognized and continues to protect individuals with intersectional claims, understanding there are unique challenges many individuals face when there are multiple protected classes involved. The Ninth Circuit Court of Appeals in *Lam v. University of Hawaii*, 40 F.3d 1551 (9th Cir. 1994), recognized that individuals often cannot be neatly boxed into distinct categories when experiencing discriminatory treatment:

As other courts have recognized, where two bases for discrimination exist, they cannot be neatly reduced to distinct components. Rather than aiding the decisional process, **the attempt to bisect a person's identity at the intersection of race and gender often distorts or ignores the particular nature of their experiences.**¹

As examples, an Asian woman may be treated differently in the workplace when compared with an Asian man, just a black woman in the workplace may have a very different experience than a black man. Stereotypes often group multiple characteristics and cannot be easily separated. However, while these protections for intersectional claims exist in practice, there is a real threat that courts may overrule the recognition of these rights. H.B. 1878 HD2 would strengthen these protections by codifying intersectional claims.

¹ *Lam v. U. of Hawai'i*, 40 F.3d 1551, 1562 (9th Cir. 1994), as amended (Nov. 21, 1994), as amended (Dec. 14, 1994) (internal citations omitted) (emphasis added).

“Perceived As” Discrimination:

H.B. 1878 HD2 would also expand protections to prohibit discriminatory practices based on the perception that an individual is of a protected class or has protected characteristics, whether or not the aggrieved individual is actually a part of the class. At the federal level under Title VII, there have been unjust decisions in scenarios where a supervisor getting a stereotype wrong about a protected class left no remedy for the aggrieved employee if the employee was not a member of the stereotyped protected class.² The intent to treat differently based on a protected class may have been undisputed, but the bad actors just placed the stereotypes on the wrong individual. This should not leave the aggrieved individual without remedy. H.B. 1878 HD2 would prohibit adverse actions against an individual based on a perception that the individual is a part of the protected class, even if inaccurate. This is in line with purpose and intent of our State’s nondiscrimination laws, to prohibit discrimination and adverse actions, such as harassment, because of the characteristics of a protected class.

While the laws prohibiting discrimination would be expanded by H.B. 1878 HD2 to include prohibition of discriminatory actions based *on the perception* that an individual is a member of a protected class as identified in 368-1, HRS, the framework for analysis is not new. Discrimination on the basis of disability has always prohibited adverse action taken because an individual is “*regarded as having such an impairment*” or disability.³ Usually this presents as

² “As defendant points out, Title VII protects those persons that belong to a protected class, [] and says nothing about protection of persons who are *perceived* to belong to a protected class” Butler v. Potter, 345 F. Supp. 2d 844, 850 (E.D. Tenn. 2004) (internal citations omitted) (emphasis in original) (employee alleged that he was harassed because his supervisors believed he was Middle Eastern or Arab and questioned him about his prominent nose, however, the employee was Caucasian. Defendant was granted summary judgment).

³ See HAR § 12-46-182, definitions “Being regarded as having such an impairment”.

someone treating an individual differently because they believe that the individual has physical or mental limitations based on assumptions and/or stereotypes, whether or not that individual has a disability.⁴ An example of this would be an employer who refuses to hire an applicant because of skin graft scars, believing that the applicant has higher medical needs and would likely request more accommodations at work is considered as “regarded as” discrimination.

In a similar vein, the analysis for *perceived as* part of a protected class or having protected characteristics would involve statements or other evidence of stereotypes or assumptions of characteristics of a protected class and adverse actions taken because of those stereotypes or assumptions, whether or not the perception is accurate.

“Perceived to associate” with a protected group discrimination:

While H.B. 1878 HD2’s prohibition of discrimination based on the perception that an individual associates with individuals of a protected group as listed in HRS § 368-1 would expand protections (similar to “perceived as” discrimination) the analytical framework already exists. Under HRS § 378-2, regarding discriminatory practices prohibited in employment, it is unlawful for any covered entity to discriminate against an individual “because of the known disability of an individual with whom the qualified individual is known to *have a relationship or association.*” Additionally, under HAR §§ 12-46-1, 12-46-171, and 12-46-302, prohibited discrimination based on ancestry includes taking adverse action based on an individual’s

- (1) Marriage to **or association** with persons of an ancestral group;
- (2) Membership in **or association** with an organization identified with or seeking to promote the interests of an ancestral group;
- (3) **Attendance or participation** in schools, churches, temples, or mosques, generally used by persons of an ancestral group; or

⁴ Generally speaking, disability is defined as a mental or physical impairment that substantially limits one or more life activities.

(4) Because an individual's name or spouse's name is **associated** with an ancestral group.
(Emphasis added).

For both disability and ancestry, unlawful discriminatory practices based on the individual's association with individuals or organizations of the protected class is prohibited, whether by marriage, familial ties, or membership in a cultural group. H.B. 1878 HD2 would expand these protected beyond disability and ancestry so that association with individuals or organizations of all the protected classes enumerated in HRS § 368-1, and the perceived association with protected individuals and groups, would be protected.

Mahalo for the opportunity to testify in support of H.B. 1878 HD2.

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, March 17, 2026

9:55 AM

Room 016 and VIDEOCONFERENCE

STRONG SUPPORT for HB 1878 HD2 - DISCRIMINATION

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 almost three decades. This testimony is respectfully offered on behalf of the 3,646 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation on March 2, 2026. We are always mindful that 797 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 **STRONGLY SUPPORTS HB 1878 HD2** that prohibits discrimination based on: (1) The perception that a person possesses certain characteristics; (2) The perception that a person is associated with a person who possesses, or is perceived to possess, certain characteristics; or (3) The intersection or combination of two or more specified characteristics in relation to a person. This framework recognizes what practitioners have long understood: discrimination is often multifaceted and is not necessarily founded on a single characteristic or basis.

¹ DCR Weekly Population Report, March 2, 2026

[Pop-Reports-Weekly-2026-03-02.pdf](#)

This bill strengthens Hawai'i's discrimination statute and it is especially needed as we see the federal government working to make America a white Christian nation when our history has shown that Queen Lili'uokalani attended churches of all denominations. One of the wonderful things about Hawai'i nei is the welcoming spirit that is so prevalent here.

Article I, Section 3 of the Hawai'i Constitution provides: "Equality of rights under the law shall not be denied or abridged by the State on account of sex." Hawai'i's equal protection guarantee goes even further. Article I, Section 5 explicitly prohibits denying any person "the equal protection of the laws, nor be denied the enjoyment of the person's civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry."

Unlike the federal constitution, Hawai'i's equal protection clause expressly enumerates protected categories, a deliberate choice to provide heightened protection. The Hawai'i Supreme Court has applied strict scrutiny to sex-based classifications under our state ERA, requiring the government to demonstrate compelling state interests and narrow tailoring to justify any sex-based distinctions. This is a more rigorous standard than federal intermediate scrutiny. Hawai'i courts have explicitly recognized their authority to provide greater protections under the state constitution than the federal constitution requires.

H.B. No. 1878, H.D. 1 honors this constitutional tradition by ensuring that Hawai'i's statutory protections are as forward-looking as our foundational constitution demands.

In *Lam v. University of Hawai'i*, 40 F.3d 1551 (9th Cir. 1994), the Ninth Circuit held that when a person claims multiple bases for discrimination or harassment, it may be necessary to determine whether the discrimination or harassment occurred on the basis of a combination of those factors, not just on any one protected characteristic by itself. This decision has been the bedrock of intersectional discrimination analysis in our jurisdiction for over thirty years.

Time and again, *Lam* has provided the legal foundation to explain to factfinders that discrimination targeting someone because of the combination of their protected characteristics is real, harmful, and unlawful. Without this framework, countless meritorious claims could fail, not because discrimination didn't occur, but because a legal system refused to acknowledge how it actually manifests. The practical difference is profound. A jury that understands intersectional discrimination can recognize that a supervisor who makes comments about "old ladies" is not engaged in simple age or sex discrimination, but in discrimination

that targets the specific intersection of age and sex. That clarity produces just outcomes.

H.B. No. 1878, H.D. 1 codifies Lam's holding into Hawai'i state law, extending it beyond federal employment discrimination to cover state-law protections in employment, housing, public accommodations, and educational programs. Discrimination in Hawai'i can occur not only on the basis of a single protected characteristic but also through the combination or intersection of multiple characteristics, as recognized in Hawai'i case law. This bill transforms judicial precedent into statutory certainty, ensuring that Hawai'i residents have explicit, durable protections regardless of shifts in federal interpretation.

This bill recognizes the reality of experiences that employers may face. It affirms that discrimination based on being an older Asian woman, a disabled Native Hawai'ian man, or a young Filipina with a perceived accent is not beyond the law's reach simply because it involves more than one protected characteristic. The bill provides protection that reflects how discrimination actually functions in workplaces, housing, and public life.

We are proud of Hawai'i's anti-discrimination law and HB 1878 HD2 strengthens our statute to be inclusive of all people while helping employers clearly understand what anti-discrimination is and how to protect the workplace and their employees.

We are sadly witnessing an unprecedented rollback of federal civil rights protections. Federal agencies are reinterpreting longstanding precedents, and reliance on federal law alone has become a precarious foundation for protecting Hawai'i's workers and residents. State codification is not merely duplicative; it is a necessary safeguard against federal uncertainty. Given Hawai'i's distinctive constitutional protections, including our state ERA and explicit equal protection guarantees, we have an obligation to ensure our statutory framework fully implements these constitutional commitments. Our Hawai'i State Constitution demands more than the federal floor. H.B. No. 1878, H.D. 1 ensures our statutes meet that higher standard.

Community Alliance on Prisons respectfully requests that you insert a near-term effective date to ensure that all Hawai'i residents are respected and protected.

Mahalo for this chance for us to express our passion for a safe environment for all Hawai'i residents!



Senate Judiciary Committee
Senator Rhoads, Chair
Senator Gabbard, Vice Chair
Members of the Committee

9:55 AM, March 17, 2026

RE: HB 1878, HD2, Relating to Discrimination

Aloha Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

Society of Human Resource Management – Hawaii (“SHRM Hawaii”) respectfully opposes HB 1878, HD2, relating to discrimination.

SHRM Hawai'i members are responsible for ensuring compliance with federal, state, and local employment laws while fostering fair, inclusive, and productive workplaces. Our members represent employers of all sizes across Hawai'i and are committed to preventing unlawful discrimination.

While we support the goal of protecting employees from discrimination, we have concerns that this measure may create legal uncertainty and unintended consequences. Hawai'i employers are already subject to comprehensive anti-discrimination laws, including Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and existing state statutes. As drafted, this bill may overlap with or conflict with these established legal frameworks.

The bill's expansion of liability to include perceived characteristics, perceived associations, and the intersection or combination of characteristics is broad and undefined. Without clear statutory standards, employers may face increased litigation risk based on subjective interpretations rather than clear evidence of discriminatory conduct. This ambiguity could make routine employment decisions more legally complex and difficult to administer consistently.

Additionally, expanded compliance obligations may disproportionately impact small and mid-sized employers who already navigate a challenging and evolving regulatory environment. Clear, consistent, and predictable standards are essential for HR professionals to effectively implement fair workplace policies. SHRM Hawai'i respectfully urges the Legislature to carefully consider whether additional clarification is needed.

Mahalo for the opportunity to provide testimony,
Erin Kogen and Maggie Batangan
Co-chairs, SHRM Legislative Affairs Committee



SHRM Hawaii, P. O. Box 3175, Honolulu, Hawaii (808) 447-1840



To: Senate Judiciary Committee

Re: Testimony in STRONG SUPPORT of HB 1878, HD2

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

Members of AAUW of Hawai'i thank you for this opportunity to testify in strong support of HB 1878, HD2, which prohibits discrimination based on: (1) the perception that a person possesses certain characteristics; (2) the perception that a person is associated with a person who possesses, or is perceived to possess, certain characteristics; or (3) the intersection or combination of two or more specified characteristics in relation to a person.

HB 1878, HD2 is critically important because it seeks to expand anti-discrimination protections at the state-level during a time when there are rollbacks in federal protections. Specifically, HB 1878, HD2 recognizes that discrimination can happen based on a combination of protected characteristics (i.e., intersectionality) and not based on just a single protected basis (i.e., race, sex, age, marital status, disability, etc.).

HB 1878, HD2 will affirm longstanding federal caselaw Lam v. Univ. of Hawaii, 40 F.3d 1551 (9th Cir. 1994), which found that discrimination may be based on a combination of protected categories and not just on a single protected category. In Lam v. Univ. of Hawaii, plaintiff was not hired for a law professor position because she did not fit the stereotype of a meek, subservient Asian woman. Still, the defendant argued that there was no discrimination given that the law school employed both Asians and women. However, the court found that race and sex could not be separated in this discriminatory hiring context, giving rise to the legal concept of intersectional discrimination.

HB 1878, HD2 understands that in the real world discrimination often does not occur in isolation and is not a single basis-claim. HB 1878, HD2 will help people seeking justice and hold discriminatory actors accountable.

With a shifting federal landscape, HB 1878, HD2 will provide certainty for both employers seeking to maintain compliant practices and employees relying on established protections without having to guess about possibly changing federal protections under the current federal administration and evolving federal courts.

AAUW of Hawai'i again thanks you for hearing HB 1878, HD2 and urges you to pass HB 1878, HD2 out of your Committee.

Sincerely,

Sandy Ma, Esq.

AAUW of Hawai'i Public Policy Committee

The American Association of University Women (AAUW) of Hawai'i is an all-volunteer, statewide chapter of a national organization with close to 4,000 members and supporters across all four counties - Hawai'i, Honolulu, Kaua'i, and Maui. AAUW has state chapters in all 50 states and our mission is to advance gender equity through education and advocacy. Economic security for women is our goal.



March 15, 2026

House's Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Hearing: Tuesday, March 17, 2026 at 9:55 AM

RE: **STRONG SUPPORT for House Bill 1878 HD 2**

Aloha Chair Rhoads, Vice-Chair Gabbard and fellow committee members,

Pride at Work – Hawai'i is an official chapter of [Pride at Work](#) which is a national nonprofit organization that represents LGBTQIA+ union members and their allies. We are an officially recognized constituency group of the AFL-CIO that organizes mutual support between the organized Labor Movement and the LGBTQIA+ Community to further social and economic justice. We write in **strong support of House Bill 1878 House Draft 2**.

Pride at Work – Hawai'i strongly supports House Bill 1878, which modernizes and strengthens Hawai'i's anti-discrimination laws by explicitly prohibiting discrimination based on perceived characteristics, perceived association with protected classes, and the intersection of multiple protected characteristics.

As a labor organization committed to advancing the rights, safety, and dignity of LGBTQIA+ workers, we know that discrimination in the workplace is rarely limited to a single identity or based solely on fact. Workers are often disciplined, denied promotions, harassed, or terminated because of assumptions about who they are, who they love, how they express their gender, or who they are seen with—rather than their actual job performance. HB 1878 directly addresses these realities.

Perception-based discrimination is especially prevalent in employment settings. LGBTQIA+ workers, māhū workers, and gender nonconforming workers are frequently targeted because they are *perceived* to be transgender or queer, regardless of their actual identity. Similarly, workers may face retaliation or harassment simply for supporting māhū or LGBTQIA+ coworkers, having same-gender partners, or being associated with communities that are marginalized. These harms undermine worker morale, economic stability, and workplace safety.

HB 1878's explicit recognition of intersectional discrimination is also critical for working people in Hawai'i. Many workers hold multiple identities—such as being Native Hawaiian, Pacific Islander, immigrant, disabled, or women—while also being māhū or LGBTQIA+. These intersecting identities often expose workers to compounded discrimination that current law does not always adequately address. By naming and prohibiting intersectional discrimination, this bill provides clarity for employers and stronger protections for workers.

Pride at Work – Hawai'i's Testimony in STRONG SUPPORT of Re: HB 1878 HD 2

Strong anti-discrimination laws are essential to ensuring fair wages, safe workplaces, and equal opportunity. They also promote labor stability by reducing turnover, improving productivity, and fostering workplaces where all workers can show up as their full selves without fear. HB 1878 supports these goals while aligning Hawai'i law with the realities of today's workforce.

At a time when māhū, LGBTQIA+, and gender non-conforming workers are facing increased hostility and rollbacks of protections at the federal level, Hawai'i must continue to lead by affirming that discrimination, whether based on perception, association, or intersecting identities, will not be tolerated.

For these reasons, Pride at Work – Hawai'i urges the Committee to pass House Bill 1878 HD 2.

Mahalo for the opportunity to testify and for your commitment to protecting workers and advancing equity in Hawai'i.

In Solidarity,

Michael Golojuch, Jr. (he/him)

President

[Pride at Work – Hawai'i](#)



www.AlohaILHawaii.org

Mar 17, 2026

MISSION

Aloha Independent Living Hawaii (AILH) dedicated to providing independent living programs and services for persons with disabilities in Hawaii.

We work together with the community and consumers to improve the quality of life through individual choices and access to services.

EXECUTIVE DIRECTOR

Roxanne U. Bolden

BOARD OF DIRECTORS

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Jennifer Hartssock

The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary
The Thirty-Third Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

SUBJECT: HB1878 HD2 – Relating to Discrimination

Chair and Members of the Committee:

Aloha Independent Living Hawaii (AILH) submits this testimony **in strong support of HB1878 HD2**. AILH is a cross-disability, consumer-controlled Center for Independent Living (CIL) serving people with all types of disabilities across the state. Our mission is rooted in the Independent Living philosophy: that people with disabilities have the right to self-determination, equal access, and full participation in community life—on their own terms.

Disability Law Already Knows This Framework – It is Time to Extend It

AILH supports this bill in part because the disability community has long understood its core principle. Under existing Hawaii law and the Americans with Disabilities Act, it is already unlawful to discriminate against a person because they are “regarded as” having a disability—even if they do not. An employer who refuses to hire someone because of a visible scar, assuming the person has high medical needs, has engaged in unlawful “regarded as” discrimination.

HB1878 HD2 takes this same logic—already embedded in disability civil rights law—and applies it consistently across all protected classes. It is a natural and long-overdue extension of a principle Hawaii has already accepted. AILH urges the Committee to recognize that what the disability community has relied upon for decades should be available to everyone.



www.AlohaILHawaii.org

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People with Disabilities Do Not Experience the World in One Dimension

Independent Living philosophy requires us to see and serve the whole person. The consumers AILH serves are not only disabled. They are Native Hawaiian, Pacific Islander, elderly, LGBTQ+, immigrant, and more. They do not experience discrimination in silos—and neither does the law need to address it that way.

A Native Hawaiian woman with a physical disability denied housing is not discriminated against simply because she is disabled, or simply because she is a woman, or simply because of her ancestry. She may be discriminated against precisely because of who she is at the intersection of all three. Current single-axis frameworks can fail her at exactly that intersection. HB1878 HD2 closes that gap by codifying what the Ninth Circuit recognized in *Lam v. University of Hawaii*, 40 F.3d 1551 (9th Cir. 1994): that discrimination based on a combination of protected characteristics must be addressed as such.

For the disability community specifically, intersectional discrimination is not theoretical. Nationally, 52.6% of housing discrimination complaints are disability-related—the largest single category. In Hawaii, where the housing crisis is severe and the disability community disproportionately relies on limited rental stock and accessible units, removing barriers to filing intersectional claims is a matter of basic access to justice.

This Bill Strengthens Housing Protections That Matter to Our Consumers

AILH draws the Committee's attention to Section 6 of this bill, which amends HRS § 515-3, Hawaii's fair housing statute. The amended language explicitly adds perception-based discrimination and intersectional discrimination as prohibited practices in real estate transactions. This directly protects our consumers.

People with disabilities who are also perceived to have mental illness, or who are associated with a family member with a disability, or who face discrimination at the intersection of disability and race or ancestry, will have a clearer legal path to challenge those practices. Independent Living



www.AlohaILHawaii.org

MISSION

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We work together with the community and consumers to improve the quality of life through individual choices and access to services.

EXECUTIVE DIRECTOR

Roxanne U. Bolden

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Member

Scott Suzuki
Sheila Castaneda
Jennifer Hartsock

cannot be realized if accessible and affordable housing remains inaccessible due to discrimination that the law does not fully reach.

The Effective Date Must Be Changed

AILH joins others in calling attention to Section 9, which currently sets the effective date as July 1, 3000. We understand this is a legislative placeholder, but it means the bill cannot actually take effect until the Senate sets a real date. Given the documented rollback of federal civil rights protections, AILH respectfully urges the Committee to establish an immediate or near-term effective date. People with disabilities in Hawaii cannot wait nearly a thousand years for this protection.

Conclusion

Independent Living is built on the belief that people with disabilities are the best experts on their own lives and their own needs. Our consumers navigate complex systems of housing, employment, and public accommodations every day—often while holding identities that make them vulnerable to layered, intersectional discrimination. HB1878 HD2 brings Hawaii's anti-discrimination statutes closer to the reality our consumers live.

AILH respectfully urges the Committee to pass HB1878 HD2 with an immediate or near-term effective date.

Thank you for the opportunity to testify.

Aloha,

Roxanne Bolden
Executive Director



Committee: Judiciary
Hearing Date/Time: Tuesday, March 17, 2026, at 9:55am
Place: Conference Room 013 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of HB1878 HD2 Relating to Discrimination**

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

The ACLU of Hawai'i **strongly supports HB1878 HD2**, which prohibits discrimination based on (1) the perception that a person possesses certain characteristics; (2) the perception that a person is associated with a person who possesses, or is perceived to possess, certain characteristics; or (3) the intersection or combination of two or more specified characteristics in relation to a person.

The ACLU has a long history of standing up against discrimination in our state and in our country. In such an ethnic and culturally diverse place as Hawaii, this is especially important.

As the bill highlights, the Ninth Circuit ruling in *Lam v. University of Hawaii* indicated that people cannot neatly be put into distinctly identifiable boxes. Individuals are complex and have complex backgrounds, racial and ethnic roots. Similarly, gender identify and sexual orientation cannot be easily parsed.¹

The state must combat discrimination as completely as possible while acknowledging that perception is also complex. The law must reflect this complexity and include mechanisms to respond accordingly.

HB1878 HD2 does exactly that by declaring:

“that the practice of discrimination based on a perception that a person possesses any particular characteristic or characteristics listed [...] or that the person is associated with a person who possesses, or is perceived to possess, any particular characteristic or characteristics listed [...] is against public policy.”

As the complex diversity of Hawaii changes, so too must our laws. This bill is significant and timely.

¹ *Lam v. University of Hawaii*, 40 F.3d 1551 (9th Cir. 1994). <https://law.justia.com/cases/federal/appellate-courts/F3/40/1551/507676/>

Adopting HB1878 HD2 will help ensure people are treated equitably and fairly and will strengthen our anti-discrimination laws.

Mahalo,

Josh Frost

Josh Frost

Policy Assistant

ACLU of Hawai'i

jfrost@acluhawaii.org

With more than 4,000 Hawai'i-based members, the mission of the American Civil Liberties Union of Hawai'i is to protect the fundamental freedoms enshrined in the United States and Hawai'i State Constitutions through legislative, litigation, and public education work. 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 our communities in Hawai'i for over 60 years.

HB-1878-HD-2

Submitted on: 3/12/2026 9:00:35 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

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

Comments:

I oppose this bill. Preception is upto the individual and highly subjective. Just enforce our current laws.

HB-1878-HD-2

Submitted on: 3/12/2026 9:33:29 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I'm in strong support of HB1878. Please pass this important anti-discrimination bill. Thank you.

Hearing Date: Tuesday, March 17, 2026 9:55 AM, Room 016

To: Senate Committee on Judiciary
Chair, Senator Karl Rhoads
Vice Chair, Senator Mike Gabbard

From: Jean Evans, (Individual)

**Re: TESTIMONY IN SUPPORT OF HB 1878, HD2 RELATING TO
DISCRIMINATION**

My name is Jean Evans. I retired after 40 years holding executive positions in Hawaii non-profit agencies. I am also a member of AAUW Hawaii.

I am in support of HB 1878, HD2 Relating to Discrimination

HB 1878 extends anti-discrimination protections in employment, housing, education, and public accommodations to cover a combination of characteristics and not just a single protected category.

In Hawaii we have a very diverse population, where many individuals fall into more than one protected category including race, age and gender. In 1994 the federal 9th Circuit case, Lam v. Univ. of Hawaii, 40 F.3d 1551, found that discrimination may be based on a combination of protected categories and not just a single protected category. HB 1878, HD2 will codify this ruling into our State Laws.

Let Hawaii continue its leadership in preventing discrimination by passing this measure.

Mahalo for allowing me to submit my testimony today.

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

HEARING:

Tuesday, March 17, 2026 at 9:55 am
Conference Room 016 & Videoconference

TESTIMONY IN SUPPORT OF HB 1878, HD2 - RELATING TO DISCRIMINATION.

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

My name is Christine Andrews and I am a long-term resident of Wailuku, Maui and an attorney licensed in Hawai'i for over 25 years. I write to you today in **strong support of HB 1878, HD2**, Relating to Discrimination, which prohibits discrimination based on: (1) The perception that a person possesses certain characteristics; (2) The perception that a person is associated with a person who possesses, or is perceived to possess, certain characteristics; or (3) The intersection or combination of two or more specified characteristics in relation to a person.

House Bill 1878, HD2 recognizes that discrimination can happen based on an intersection or combination of protected characteristics, and codifies that discrimination may be based on a combination of protected categories and not just a single protected category. There is currently a considerable amount of uncertainty as the result of the current U.S. Supreme Court issuing decisions that reject what had formerly been established law, such as overruling Roe v Wade in 2022, and, more recently in September, overturning established precedent to allow the use of racial profiling as cause for detention by federal immigration agents. Due to the uncertainty resulting from the U.S. Supreme Court, many states are codifying rights as a protective measure, which is why SB 2871 is an important measure at this critical time to reaffirm Hawaii's anti-discrimination protections.

House Bill 1878, HD2 will provide certainty for both employers seeking to maintain compliant practices and employees relying on established protections without having to guess about possibly changing federal protections under the current federal administration and evolving federal courts. I humbly request that the Committee protect Hawai'i antidiscrimination law through your **support of HB 1878, HD2**.

Mahalo,

Christine Andrews, JD
Wailuku, Maui

HB-1878-HD-2

Submitted on: 3/14/2026 2:38:58 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

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

Comments:

It is important that Hawaii reaffirm it's commitment to anti-discrimination protections, especially given the every evolving rules at the federal level.

HB-1878-HD-2

Submitted on: 3/14/2026 3:04:36 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

Submitted By	Organization	Testifier Position	Testify
Younghee Overly	Individual	Support	Written Testimony Only

Comments:

Thank you for this opportunity to submit a testimony in strong support of HB1878 HD2 which would expand anti-discrimination in education, housing, employment, etc.

A member of AAUW of Hawai'i

HB-1878-HD-2

Submitted on: 3/14/2026 4:31:48 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

Submitted By	Organization	Testifier Position	Testify
Erika Cabell	Individual	Support	Written Testimony Only

Comments:

Thank you

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary

From: Veronica Moore, Individual Citizen

Date: March 15, 2026

RE: House Bill 1878 HD2
Measure Title: RELATING TO DISCRIMINATION.
Report Title: Anti-discrimination; Prohibitions; Certain Characteristics;
Intersectionality

To All Concerned,

My name is Veronica Moore and I support House Bill 1878 HD2. Thank you for your consideration.

Sincerely,

Veronica M. Moore

HB-1878-HD-2

Submitted on: 3/15/2026 1:48:10 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

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

Comments:

HB 1878

This bill will strengthen Hawaii’s anti-discrimination protections by affirming federal case law that discrimination can happen based on an intersection or combination of protected characteristics.

- The bill will provide certainty for both employers seeking to maintain compliant practices and employees relying on established protections.
- Passage of this bill may provide protection from the rollbacks of federal precedent by the current federal administration.
- This legislation is both timely and needed and I support its passage.

Thank you for the opportunity to express my support

Janet Morse, Kaneohe, Oahu Member of AAUW Hawaii

LATE

HB-1878-HD-2

Submitted on: 3/16/2026 3:27:12 PM

Testimony for JDC on 3/17/2026 9:55:00 AM

Submitted By	Organization	Testifier Position	Testify
Mariana Monasi	Individual	Support	Written Testimony Only

Comments:

Aloha, I am writing today in strong support of HB 1878 HD2. This bill is an incredible jump ahead in keeping our communities safe from fascist federal overreach and blatant discrimination. The Department of Homeland Security has been directing its so called agents (masked, unidentifiable, felons) to discriminately stop and kidnap people solely based on their appearance and assumptions of the agent. This means that anyone with any ethnic descent, and now anyone who an agent believes to be transgender, can be kidnapped and trafficked by the federal government. State rights still exist and this is a perfect example of how at a local level we can prevent our neighbors from being attacked based on a violent white supremacist agent's perceptions. Please support this bill and ensure that enforcement of the law goes into effect as well. Mahalo, Mariana