



# **HAWAI‘I CIVIL RIGHTS COMMISSION** **KOMIKINA PONO KIWILA O HAWAI‘I**

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Wednesday, April 1, 2026 9:30 a.m.  
Conference Room 423 & Videoconference  
State Capitol, 415 South Beretania Street

To: [COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY](#)

Rep. Greggor Ilagan, Chair

Rep. Ikaika Hussey, Vice Chair

From: Marcus L. Kawatachi, Executive Director of the Hawai‘i Civil Rights Commission  
and HCRC Staff

## **Re: HCR192/HR182 & Companion SCR184**

### **HCRC Staff Comments**

**While the Commission has not yet had the opportunity to meet and take an official position on HCR192/HR182 and companion SCR184, the Hawai‘i Civil Rights Commission (HCRC) staff provides following comments:**

HCR192/HR182/SCR184 would require the HCRC to examine the applicability of existing state anti-discrimination laws to algorithmic and automated decision systems by (1) assessing existing state laws with regard to algorithmic and automated decision making; (2) identifying potential jurisdictional or evidentiary challenges; (3) evaluating whether guidance or rulemaking will assist individuals and entities in understanding obligations and rights; (4) consideration of complaint pathways under existing state law; and (5) recommendations for legislative action.

HCR192/HR182/SCR184 would require the HCRC to submit a report of its findings to the legislature prior to the convening of the Regular Session of 2027.

As background, the HCRC carries out the Hawai'i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5. 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).

As technological advances continue to increase and as technology increasingly becomes an essential part of every day life for many individuals and industries, looking critically at how artificial intelligence and algorithmic and automated decisionmaking is being used currently and will be used in the foreseeable future becomes necessary. Algorithmic or automated systems used to screen out applicants for housing or employment may superficially appear to take the human bias or discriminatory motive out of the decisionmaking process. However, research has shown these systems may continue or exacerbate historic discriminatory practices, as learning models use existing information (that may be based on past discriminatory practices) in recommendations.<sup>1</sup>

A few jurisdictions and states have recently enacted or introduced laws to regulate and combat algorithmic discrimination, including Colorado, California, and New York City (regulating artificial intelligence (AI) discrimination in the workplace).<sup>2</sup> With the increasing reliance upon AI

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<sup>1</sup> Ghasemaghaei, Maryam, and Nima Kordzadeh, *Understanding how algorithmic injustice leads to making discriminatory decisions: An obedience to authority perspective*, Science Direct, <https://www.sciencedirect.com/science/article/pii/S037872062400003X>, last accessed on March 30, 2026.

Sombetzki, Pia, *How and Why Algorithms Discriminate*, Algorithm Watch, <https://algorithmwatch.org/en/how-and-why-algorithms-discriminate/>, last accessed on March 30, 2026.

<sup>2</sup> States Passing Laws to Prevent AI Discrimination in Workplace, March 25, 2025, LexisNexis, <https://www.lexisnexis.com/community/insights/legal/capitol-journal/b/state-net/posts/states-passing-laws-to-prevent-ai-discrimination-in-workplace>, last accessed on March 30, 2026.

in our society and the increasing integration of algorithmic decisionmaking in industries, it is extremely likely that more states and local jurisdictions will seek to regulate this industry.

HCR192/HR182/SCR184 is incredibly timely in this regard. It is highly unlikely that AI and algorithmic decisionmaking will disappear from society. This concurrent resolution addresses the reality that algorithmic decisionmaking will continue to be a part of decisions made in employment, housing, and other areas in life, and requires the HCRC to take a critical look at existing law and anticipate problems before they arise.

The HCRC is the agency that is tasked to handle these types of discriminatory complaints in employment, housing, public accommodations, and access to state and state-funded activities. While all cases are fact-specific, the HCRC would currently take complaints alleging discriminatory practices by AI or algorithmic decisionmaking systems that fall under our jurisdiction. The HCRC staff believes that the report that will be generated from this concurrent resolution will provide critical insight into the sufficiency of existing state law in handling algorithmic discrimination, and whether future legislation may be necessary.

Mahalo for the opportunity to provide these comments.



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Apr 1, 2026

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The Honorable Greggor Ilagan, Chair  
House Committee on Economic Development & Technology  
The Thirty-Third Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

**SUBJECT:** HCR192 – Requesting the Hawaii Civil Rights Commission to Examine the Applicability of Existing State Anti-Discrimination Laws to Algorithmic and Automated Decision Systems

Chair and Members of the Committee:

Aloha Independent Living Hawaii (AILH) is a Center for Independent Living serving people with all types of disabilities statewide. Our mission is grounded in the Independent Living philosophy: disabled people must be able to make their own choices and direct their own lives in the community, including in the workforce and local economy. Our staff and consumers live and work across every county, in both urban and rural communities.

AILH **supports the intent of HCR192** and appreciates the Committee's attention to the civil rights implications of algorithmic and automated decision systems as Hawaii's economy becomes more technology-driven. Tools that use artificial intelligence and automation are increasingly embedded in hiring, tenant screening, credit decisions, and access to public services—systems that directly affect whether disabled people can participate in and contribute to Hawaii's economy.

#### **Economic and workforce relevance**

The resolution recognizes that algorithmic and automated decision systems, including artificial intelligence tools, are increasingly used in employment screening, tenant selection, credit determinations, and public benefits eligibility determinations in areas traditionally protected by



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anti-discrimination laws. These tools are also being marketed as ways to increase efficiency, reduce costs, and support economic development.

From an economic development perspective, it is essential that the benefits of innovation not come at the expense of equal opportunity for people with disabilities, who represent a significant portion of Hawaii's potential workforce, entrepreneurs, and consumers. When automated tools exclude disabled applicants or misjudge their "risk," Hawaii's economy loses talent, innovation, and purchasing power.

For example, automated hiring systems can screen our candidates with nontraditional work histories, gaps related to disability or caregiving, or different communication styles, even when those candidates are fully qualified. Tenant and credit scoring algorithms can label disabled applicants as higher risk because of medical debt or reliance on disability income, undermining housing stability and financial inclusion that are necessary for workforce participation. These harms do not only affect individuals; they also reduce labor force participation and economic resilience statewide.

## Aligning innovation with civil rights

HCR192 notes that algorithmic and automated decision systems may replicate, amplify, or obscure patterns of discrimination, particularly when built on biased data or opaque modeling practices or when they lack sufficient oversight. For Hawaii's economic and technology policy, this means that:

- Businesses and agencies may unknowingly adopt tools that embed bias against disabled people and other protected groups.
- Lack of transparency makes it difficult for legitimate employers, landlords, and lenders to understand and manage the legal risks associated with the tools they purchase.
- If discrimination goes unaddressed, public confidence in both technology and government erodes, which can slow responsible innovation.



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The resolution further acknowledges that discrimination arising from algorithmic and automated decision systems may present novel jurisdictional, evidentiary, and enforcement questions under existing civil rights statutes. Clarifying these questions through the Hawaii Civil Rights Commission (HCRC) can help create a more predictable environment for responsible businesses while ensuring protections for disabled residents.

### Disability-specific priorities for the HCRC examination

HCR192 requests that the HCRC assess the adequacy of existing state law, identify jurisdictional and evidentiary challenges, evaluate the need for guidance or rulemaking, consider an intake or complaint pathway, and make recommendations, including potential legislation. From a cross-disability Independent Living perspective, AILH respectfully urges that the HCRC's work include:

- 1. Clear recognition of that algorithmic disability discrimination is covered.**

The examination should affirm that using an algorithm or automated tool does not shield employers, landlords, lenders, or public agencies from liability for disability discrimination under current law.

Regulated entities remain responsible for ensuring that technology they adopt complies with civil rights obligations.

- 2. Integration of accessibility and accommodation into automated systems.**

- Digital application portals, screening tools, and interfaces must be accessible to people using screen readers, alternative input devices, captioning, and other assistive technologies.
- There should be clear, practical mechanisms for applicants, tenants, job seekers, and beneficiaries to request reasonable accommodations or alternative, non-automated review when technology becomes a barrier.



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### 3. An accessible, practical intake or complaint pathway.

HCR192 references the feasibility of establishing an intake or complaint pathway for alleged algorithmic or automated discrimination. For this pathway to work for disabled people—and to provide usable information to businesses and policymakers—it should:

- Use plain language to describe how algorithmic discrimination might appear in everyday situations, rather than technical jargon.
- Be available in multiple accessible formats and communication modes.
- Allow complaints even when the individual does not know that an algorithm was used, but experiences repeated and unexplained adverse decisions.

### 4. Reasonable evidentiary expectations and documentation by entities

Disabled complainants rarely have access to the internal design, data, or testing of automated tools. The HCRC's analysis should consider how to ensure that:

- Entities that deploy automated decision tools are expected to maintain documentation about those tools, including any testing for disparate impacts on protected classes such as disability.
- The lack of transparency in proprietary systems does not become a barrier to investigating credible complaints.

### 5. Encouragement of proactive bias as good business practice.



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HCR192 acknowledges that these systems may replicate or amplify discrimination when built on biased data or opaque practices or lack oversight. Encouraging entities or test for disability-related disparities—such as impacts on people using assistive technology, those with nonstandard work or housing histories, or those reliant on disability benefits—can:

- Reduce legal risk.
- Expand access to untapped talent pools.
- Support a reputation for ethical, inclusive innovation in Hawaii's technology and business sectors.

## Independent Living and economic participation

Independent Living is about having real choices in employment, housing, and community life. When automated systems deny jobs, housing, or benefits without transparency or an opportunity for accommodation, disabled people lose those choices, and Hawaii loses the benefit of their work, entrepreneurship, and community leadership.

A disability-inclusive approach to algorithmic civil rights will:

- Support a more inclusive labor market, helping employers address workforce shortages by not inadvertently screening out qualified disabled candidates.
- Promote stable housing and financial access for disabled residents, which are foundational for sustained employment and local spending.
- Build trust that innovation and economic development in Hawaii will not leave disabled people behind.

HCR192's goal of ensuring that civil rights protections remain effective in the face of evolving technologies aligns with the Committee's focus on



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economic development and technology by fostering a business environment where fair, inclusive innovation can thrive.

## Closing

AILH thanks the Committee on Economic Development and Technology for considering the intersection of civil rights and emerging technologies in HCR192. We respectfully request that disability rights, accessibility, and reasonable accommodation be explicit priorities in the Hawaii Civil Rights Commission's examination and any resulting guidance or recommendations.

Thank you for the opportunity to testify. Mahalo for your consideration and for your commitment to a technology-enabled economy that includes disabled people as full participants in Hawaii's workforce and communities.

Mahalo,

Roxanne Bolden

Executive Director