



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

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Tuesday, April 7, 2026 2:00 p.m.
Conference Room 325 & Videoconference
State Capitol, 415 South Beretania Street

To:

[COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS](#)

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, 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 & companion 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 & companion 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.¹

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

¹ 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.

artificial intelligence (AI) discrimination in the workplace).² With the increasing reliance upon AI 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 & companion 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.

² 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.



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Apr 7, 2026

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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.

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The Honorable David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs
The [Number of Legislature] 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) submits testimony **in strong support of HCR192**, requesting the Hawaii Civil Rights Commission (HCRC) to examine the applicability of existing state anti-discrimination laws to algorithmic and automated decision systems. AILH is a Center for Independent Living serving people with all types of disabilities statewide, grounded in the Independent Living philosophy that disabled people must be able to make their own choices and direct their own lives in the community, including in employment, housing, and civic participation.

From a civil rights and justice perspective, algorithmic tools now influence decisions in employment screening, tenant selection, credit determinations, and public benefits eligibility—domains that are traditionally protected under Hawaii’s anti-discrimination laws and that this committee regularly considers. Research and national experience show that these systems can replicate or conceal discrimination, especially when they rely on biased data, opaque modeling, or lack oversight, and disabled people are particularly vulnerable when gaps in work history, medical debt, assistive technology use, or communication differences are misread as “risk.” Ensuring that existing civil rights protections remain effective in the face of



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these technologies is central to maintaining public confidence in both the justice system and government.

AILH respectfully urges JHA to pass HCR192 and to emphasize that using an algorithm does not shield employers, landlords, lenders, or agencies from liability for disability discrimination under current law. We support HCRC's examination of jurisdictional and evidentiary challenges, the feasibility of an accessible complaint pathway for people who may not even know an algorithm was used, and whether further legislative action is needed to keep Hawaii's anti-discrimination protections meaningful. Mahalo for the opportunity to testify in support of HCR192 and for your commitment to ensuring that emerging technologies do not undermine the civil rights of disabled people in Hawaii.

Thank you for the opportunity to testify.

Mahalo,

Roxanne Bolden
Executive Director