



# 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

Wednesday, March 18, 2026 2:00 p.m.  
Conference Room 325 & Videoconference  
State Capitol, 415 South Beretania Street

To: [COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS](#)

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

From: Alphonso Braggs, Chair

and Commissioners of the Hawai‘i Civil Rights Commission

**Re: S.B. 2438 SD1 – 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).

Hawai‘i’s foundation is rooted in the ideas of fairness, liberty, and justice. It is our State’s constructional mandate that no person shall be discriminated against in the exercise of their civil rights. *Art. I, Sec. 5.* Hawai‘i has a long-standing dedication to the protection of the civil rights of all people and ensuring that the exercise of these rights is meaningful and enforceable. SB 2438 SD1 would provide a right of action not only to aggrieved individuals, but also gives enforcement authority to the Attorney General and county attorneys, therefore, providing a

remedy for civil interference with constitutional and statutory rights. SD1 incorporates amendments to the bill to include definitions suggested by the Department of the Attorney General, defining the terms “threat”, “intimidation”, and “coercion”. By including definitions, SD1 addresses the concern of vagueness concerning the acts prohibited.

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 SD1 complements the State’s other anti-discrimination statutes because it prohibits interference with rights themselves, not just discriminatory acts. This is critical for safeguarding civil rights in our state for our people. By filling a gap in existing civil rights protections, SB2438 SD1 strengthens Hawai‘i’s commitment to ensuring that intimidation and coercion do not erode fundamental freedoms.

It is a core tenet of nondiscrimination laws that federal law is the floor beneath which rights cannot fall rather than a ceiling above which rights cannot rise. Thus, states can have more expansive protections than the federal minimum. Hawai‘i has always sought to expand, rather than restrict individuals’ civil rights and the exercise of those rights. At a time where there is well-placed doubt as to whether rights will be protected at the federal level and that due process will be followed, SB2438 SD1 would ensure that individuals within our state not only have these protections against the interference of their civil rights, but also provides the mechanism for a remedy for a violation of these rights.

Thank you for the opportunity to provide this testimony in support.



March 17, 2026

Position: **SUPPORT** of **SB2438 SD1**, Relating to Civil Interference with Constitutional and Statutory Rights

**To:** Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair  
Members of the House Committee on Judiciary & Hawaiian Affairs

**From:** Llasmin Chaine, LSW, Executive Director, Hawaii State Commission on the Status of Women

**Re:** Testimony in SUPPORT of SB2438 SD1, Relating to Civil Interference with Constitutional and Statutory Rights

Hearing: Wednesday, March 18, 2026, 2:00 p.m.  
Conference Room 325, State Capitol

The Hawaii State Commission on the Status of Women is dedicated to advancing equality and protecting the civil and constitutional rights of women and girls across the state. The Commission **supports SB2438 SD1 because it strengthens legal protections against threats, intimidation, or coercion that interfere with individuals' constitutional and statutory rights**, which are foundational to gender equity and the safety of women.

**This bill provides essential tools for addressing violations that may otherwise go unremedied.** The inclusion of injunctive and declaratory relief, as well as certain monetary remedies, offers meaningful avenues for redress and deterrence. This is particularly important for survivors of gender-based harassment or discrimination, who often require both immediate and long-term protection. The alignment of SB2438 SD1 with best practices in civil rights law supports both public safety and individual liberties.

We respectfully urge this Committee to **pass SB2438 SD1**, strengthening civil rights protections for all Hawaii residents.

Thank you for this opportunity to submit testimony.

# 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](mailto:kat.caphi@gmail.com)

*Today's Inmate; Tomorrow's Neighbor*



## COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, March 18, 2026

2:00 PM

Room 325 and VIDEOCONFERENCE

## **STRONG SUPPORT FOR SB 2438 SD1 - CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS**

Aloha e Chair Tarnas, Vice Chair Poepoe , 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 bars<sup>1</sup> 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 appreciates this opportunity to lend our **STRONG SUPPORT for SB 2438 SD1** that establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. Authorizes private rights of action. Authorizes actions to be brought by the Attorney General, County Corporation Counsel, or County Attorney. Authorizes injunctive relief, declaratory relief, and certain monetary relief. Includes protections for constitutionally protected speech.

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<sup>1</sup> DCR Weekly Population Report, March 2, 2026

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

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.

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!

SB 2438 SD1, is grounded in Hawai'i's own Constitution, which provides significantly stronger protections than the U.S. Constitution, including an explicit right to privacy, a ratified Equal Rights Amendment, explicit anti-discrimination protections, and the Law of the Splintered Paddle.

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 SD1 that demonstrates that Hawaii will protect her people.

This bill is a bright beacon in these dark times. Mahalo for hearing our plea. Hawai'i citizens need these protections now as we witness the dark days looming ahead. Please pass this bill and protect the rights guaranteed in our Constitution.

Community Alliance on Prisons respectfully asks the committee to pass SB 2438 SD1 that demonstrates that Hawaii will protect her people. Mahalo nui!



COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

HEARING:

Wednesday, March 18, 2026 at 2:00 pm

Conference Room 325 and Via Videoconference

TESTIMONY IN SUPPORT OF SB 2438, SD1 - RELATING TO CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS.

Aloha Chair Tarnas, Vice Chair Poepoe, Rep. Cochran of Maui, and Members of the Committee,

My name is Veronica Mendoza, Founding Executive Director of Roots Reborn and a founding coalition member of El Pueblo en Acción (EPA) Maui - *The People in Action Maui*. Roots Reborn **strongly supports SB2438, SD1** 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, SD1 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, SD1**.

Please help us protect the protectors.

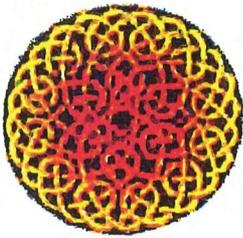
Mahalo nui, and in honor of Renee Good and Alex Pretti,

Sinceramente,

A handwritten signature in black ink, appearing to read 'Veronica Mendoza', is written over a printed name.

Veronica Mendoza

Maui Roots Reborn, *Founding Executive Director*  
El Pueblo en Accion Maui, *Founding Coalition Member*



## ***Fujiwara & Rosenbaum, LLC***

*1100 Alakea Street, FL 20, STE B*

*Honolulu, Hawaii 96813*

### **House Committee on Judiciary & Hawaiian Affairs**

**Date:** Wednesday, March 18, 2026, 2:00 PM, Conf. Rm. 325

**Re:** Fujiwara & Rosenbaum Testimony in **STRONG SUPPORT of SB 2438, S.D. 1 Relating to Civil Interference with Constitutional and Statutory Rights**

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee on Judiciary & Hawaiian Affairs:

Fujiwara & Rosenbaum, LLLC, a civil rights law firm originally established in 1986, submits testimony in **STRONG SUPPORT of SB 2438, S.D. 1, the Hawai'i Civil Rights Protection Act.**

### **Background**

SB 2438, S.D. 1 establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. The bill functions as Hawai'i's parallel to 42 U.S.C. §.1983, the federal civil rights enforcement statute *aka* the Ku Klux Klan Act of 1871. It authorizes private rights of action, empowers the Attorney General and county attorneys to bring enforcement actions, and provides for injunctive relief, declaratory relief, and monetary damages.

The bill passed both the Senate Judiciary Committee and the Senate Ways & Means Committee, unanimously with bipartisan support. The S.D. 1 version incorporates amendments requested by the Department of the Attorney General, including definitions of "threat," "intimidation," "coercion," and "person", a *mens rea* requirement (intentionally or knowingly), particularized pleading standards, and a two-year statute of limitations.

### **Key Points**

#### **1. Hawai'i's Constitutional Protections Require an Enforcement Mechanism**

The **Hawai'i Constitution** provides **protections that exceed federal constitutional minimums**. As Chief Justice Marshall wrote in Marbury v. Madison (1803): "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." **A right without a remedy is merely an aspiration.**

**Hawai'i's Constitution is one of the most protective in the nation.** It includes an explicit right to privacy requiring a "compelling state interest" to overcome, an Equal Rights Amendment prohibiting sex discrimination (ratified in 1972, while the federal ERA was never adopted), explicit anti-discrimination language prohibiting discrimination "because of race, religion, sex, or ancestry," and the Law of the Splintered Paddle (*māmalahoe kānāwai*), which mandates that "every elderly person, woman and child lie by the roadside in safety."

**A detailed comparison of Hawai'i and federal constitutional protections is attached as Appendix A.**

**These guarantees are meaningful only if enforceable. SB 2438, S.D. 1 transforms constitutional rights from words on paper into enforceable protections backed by judicial remedies.**

## **2. This Bill Has No Fiscal Impact on the State**

SB 2438, S.D. 1 creates no new fiscal obligation for the State or counties. The bill authorizes private rights of action, meaning enforcement is driven by individual plaintiffs and their attorneys, not state-funded enforcement. While the Attorney General and county attorneys are authorized to bring actions, they are not required to do so, and any such actions would use existing resources. The bill contains no appropriation, requires no new positions, and takes effect upon approval.

## **3. The State and Counties Have No Litigation Exposure**

The Senate Judiciary Committee specifically amended the bill to protect government entities from liability. The definition of "person" explicitly excludes "the State, any county, or any department, agency, board, commission, officer, or employee of the State or any county acting with the scope of official duties." The committee report confirms this language was added "to clarify the scope of covered defendants and immunity to ensure that a civil action is not brought against the State, any county, or agency, or any officer or employee of the State or any county acting within the scope of official duties." This means the State and counties face zero exposure to litigation costs or damages awards as potential defendants.

## **4. The Bill Includes Robust Safeguards Against Frivolous Claims**

The S.D. 1 version incorporates multiple procedural safeguards that protect against meritless litigation. First, plaintiffs must prove defendants acted "intentionally or knowingly," not merely negligently. Second, complaints must "state with particularity the facts" establishing the specific protected right, the threatening conduct, and the defendant's state of mind. This heightened pleading standard, similar to fraud pleading requirements, allows courts to dismiss vague or conclusory complaints at the outset. Third, the bill includes a two-year statute of limitations. Fourth, speech alone is not actionable unless it constitutes a true threat of violence and the threatened person reasonably fears imminent harm. These provisions ensure the bill provides remedies for genuine violations while protecting against abuse of the legal process.

## **5. The Bill Is Ready to Move Without Extensive Deliberation**

The unanimous 5-0 Judiciary Committee vote, including Republican Senator Awa, as well as the unanimous 13-0 Ways & Means vote with no amendments demonstrates broad support. The S.D. 1 amendments address the substantive concerns raised by the Attorney General, who testified in support. The bill also received supporting testimony from, *inter alia*, the Hawai'i Civil Rights Commission, ACLU of Hawai'i, AAUW-Hawai'i, NAACP Honolulu, Hawaii Coalition for Immigrant Rights, The Legal Clinic, and numerous individuals. Given the comprehensive amendments already incorporated and the absence of fiscal impact, the bill should not require extensive committee deliberation.

### **Request to the Committee**

We respectfully request that the Committee pass SB 2438, S.D. 1 and refer it to the House floor. This measure provides Hawai'i residents with a state-level remedy for civil rights violations, ensures that the protections guaranteed by our Hawai'i Constitution are enforceable, and does so without any cost to the State or counties. Mahalo for the opportunity to testify.

## APPENDIX A

Provision/Right	U.S. Constitution	Hawai'i Constitution	Why Hawai'i's Provision Is Stronger
Right to Privacy	Fourth Amendment: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." (privacy right is implied, not explicit)	Article I, Section 6: "The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest."	Hawai'i provides an explicit, textual right to privacy requiring the highest level of scrutiny (compelling state interest), not an implied right. This is broader than the Fourth Amendment's protection against unreasonable searches and applies to all privacy invasions, not just government searches.
Sex Discrimination	Fourteenth Amendment Equal Protection Clause (intermediate scrutiny for sex-based classifications; federal ERA never ratified)	Article I, Section 3: "Equality of rights under the law shall not be denied or abridged by the State on account of sex."	Hawai'i ratified an Equal Rights Amendment in 1972. The federal ERA was never adopted. Hawai'i's ERA provides explicit constitutional protection against sex discrimination with the highest level of scrutiny.
Anti-Discrimination Protections	Fourteenth Amendment Equal Protection Clause (prohibits denial of equal protection; specific protected classes not enumerated)	Article I, Section 5: Prohibits discrimination "because of race, religion, sex, or ancestry."	Hawai'i's Constitution explicitly enumerates protected classes, providing clearer and more direct protection than the federal Equal Protection Clause's general language.
Search and Seizure / Privacy	Fourth Amendment: Protects against "unreasonable searches and seizures"	Article I, Section 7: Protects against "unreasonable searches, seizures and invasions of privacy."	Hawai'i's language is broader, explicitly including "invasions of privacy" beyond searches and seizures. Hawai'i courts have interpreted this to reject federal exceptions like the "good faith" doctrine.

## APPENDIX A

Public Safety and Protection of Vulnerable Persons	No federal analog	Article IX, Section 10: Enshrines the Law of the Splintered Paddle (māmalahoe kānāwai) as "a unique and living symbol of the State's concern for public safety," mandating that "every elderly person, woman and child lie by the roadside in safety."	This provision, based on Kamehameha I's 1797 decree, has no federal equivalent. It creates an affirmative constitutional mandate to protect vulnerable persons and has been recognized by the Hawai'i Supreme Court as requiring "equality before the law" and protection of all people's common humanity.
Environmental Rights	No federal constitutional right to a clean environment	Article XI, Section 9: Guarantees a right to a clean and healthful environment.	Hawai'i provides an explicit constitutional environmental right that does not exist in the federal Constitution, allowing enforcement through state courts.
Native Hawaiian Traditional and Customary Rights	No federal analog	Article XII, Section 7: Protects the traditional and customary rights of Native Hawaiians.	These indigenous rights protections have no federal constitutional equivalent and can only be enforced through state law mechanisms like SB 2438, S.D. 1.



March 18, 2026

**House Committee on Judiciary & Hawaiian Affairs**

Hearing Date/Time: Wednesday, March 18, 2026/2:00 PM

Place: Hawaii State Capitol, Conference Room 325

Re: Testimony in **STRONG SUPPORT** of **S.B. No. 2438, S.D.1.**

Dear Chair Tarnas, Vice-Chair Poepoe and Members of the Committee:

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of S.B. No. 2438, S.D.1 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, S.D.1 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, S.D.1 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 SD1 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.

As importantly for the State and the Counties, this bill has **no fiscal impact on either the state or the counties**. Also there is **no litigation exposure** for the State and the Counties.

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@auw.net](mailto:publicpolicy-hi@auw.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 to the House Committee on Judiciary & Hawaiian Affairs  
Representative David A. Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair**

**Wednesday, March 18, 2026, at 2:00PM  
Conference Room 325 & Videoconference**

**RE: SB2438 SD1 Relating to Civil Interference with Constitutional and Statutory Rights**

Aloha e Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

My name is Sherry Menor, President and CEO of the Chamber of Commerce Hawaii ("The Chamber"). The Chamber Opposes Senate Bill 2438 Senate Draft 1 (SB2438 SD1), which establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. Authorizes private rights of action. Authorizes actions to be brought by the Attorney General, County Corporation Counsel, or County Attorney. Authorizes injunctive relief, declaratory relief, and certain monetary relief. Includes protections for constitutionally protected speech.

While the Chamber appreciates the intent to strengthen workplace protections, this legislation introduces substantial legal and operational challenges for employers. From a practical standpoint, the measure creates a dual-track enforcement environment that is highly inefficient and costly. Employees may pursue administrative remedies through the Hawaii Civil Rights Commission for discrimination claims while simultaneously filing civil litigation under the Act based on the same underlying facts. This parallel structure significantly increases defense costs, expands discovery obligations, and introduces the risk of inconsistent findings or duplicative liability across forums. For employers—particularly small and mid-sized businesses—this creates an unpredictable and resource-intensive compliance landscape.

Of particular concern is the potential for individual liability. As included in the bills language defining a "Person", supervisors and managers could be named personally for alleged acts of intimidation or coercion. This raises complex indemnification issues, complicates internal governance, and may deter qualified individuals from taking on leadership roles due to heightened personal risk.

The Chamber of Commerce Hawaii is the state's leading business advocacy organization, dedicated to improving Hawaii's economy and securing Hawaii's future for growth and opportunity. Our mission is to foster a vibrant economic climate. As such, we support initiatives and policies that align with the 2030 Blueprint for Hawaii that create opportunities to strengthen overall competitiveness, improve the quantity and skills of available workforce, diversify the economy, and build greater local wealth.

We respectfully ask to defer Senate Bill 2438 Senate Draft 1. Thank you for the opportunity to testify.

**SB-2438-SD-1**

Submitted on: 3/16/2026 6:10:08 PM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

I support SB 2438. It would create Hawai‘i’s own civil rights enforcement mechanism, parallel to the federal Section 1983. This would give residents a state-level remedy when their constitutional and statutory rights are violated through threats, intimidation, or coercion. As federal civil rights enforcement becomes increasingly unreliable, this bill ensures that Hawai‘i’s constitutional guarantees are more than words on paper.

It is important to note:

- No fiscal impact. The bill authorizes private rights of action. Enforcement is driven by individual plaintiffs, not state resources. No appropriation, no new positions.
- Government entities and employees acting within the scope of their official duties are explicitly excluded from the definition of covered defendants.

Thank you for your consideration of my testimony.

Ellen Godbey Carson

**SB-2438-SD-1**

Submitted on: 3/16/2026 11:43:37 PM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Robert Justice, M.D.	Individual	Support	Written Testimony Only

Comments:

Aloha Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee on Judiciary & Hawaiian Affairs

I am a resident of Kapolei and a member of the Indivisible Hawaii Statewide Network. I am writing to provide testimony in strong support of SB2438 SB1. The Bill establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. It authorizes private rights of action and actions to be brought by the Attorney General, County Corporation Counsel, or County Attorney. It also authorizes injunctive relief, declaratory relief, and certain monetary relief. Finally, it includes protections for constitutionally protected speech.

Mahalo for providing the opportunity to testify in favor of this bill.

Respectfully,

Robert L. Justice, M.D.

**SB-2438-SD-1**

Submitted on: 3/17/2026 12:40:43 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brodie Lockard	Individual	Support	Written Testimony Only

Comments:

I support this bill.

**SB-2438-SD-1**

Submitted on: 3/17/2026 5:14:12 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Younghee Overly	Individual	Support	Written Testimony Only

Comments:

Thank you for this opportunity to support SB2438 which establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion.

A member of Indivisible Hawaii

**SB-2438-SD-1**

Submitted on: 3/17/2026 6:04:53 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jeannine Johnson	Individual	Support	Written Testimony Only

Comments:

We are in a grave constitutional crisis. Hawai'i must step up to protect its citizens. The federal government cannot be allowed to continue its lawlessness against us. You must pass SB 2438.

**SB-2438-SD-1**

Submitted on: 3/17/2026 6:09:24 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Belinda Pate	Individual	Support	Written Testimony Only

Comments:

Esteemed legislative members,

It is with a heavy heart that I, as a citizen without legal preparation, am driven to this point. A point where we must all be informed and protect our laws and constitution with furoosity that knows what precious freedoms we have to lose We should have never arrived at this jucture in time. SB2438 is a necessary step to safeguard what should already be safe. No one is above the law, including the Attorney General. No one should be intimidated by these authorities.

**SB-2438-SD-1**

Submitted on: 3/17/2026 8:27:46 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kathleen Dickson	Individual	Support	Written Testimony Only

Comments:

I am writing in strong support of SB2438.

This bill establishes a civil cause of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. Authorizes private rights of action. Authorizes actions to be brought by the Attorney General, County Corporation Counsel, or County Attorney. Authorizes injunctive relief, declaratory relief, and certain monetary relief. Includes protections for constitutionally protected speech. (SD1)

Given the recent multiple illegal actions of federal agencies ICE and CBP, it is necessary to protect first amendment rights of the people of Hawai'i. Please pass this bill.

Kate Dickson, Waikiki

**SB-2438-SD-1**

Submitted on: 3/17/2026 9:20:00 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cynthia J. Goto	Individual	Support	Written Testimony Only

Comments:

support

**SB-2438-SD-1**

Submitted on: 3/17/2026 11:13:22 AM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
James E Raymond	Individual	Support	Written Testimony Only

Comments:

Thank you. I am a member of Indivisible Windward.

**SB-2438-SD-1**

Submitted on: 3/17/2026 12:02:24 PM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Deborah Ward	Individual	Support	Written Testimony Only

Comments:

I support this legislation US government cannot be trusted to protect our rights guranteed under the US constitution in this current administration. I usrge you to vote in favor. Mahalo! Deborah J Ward

Clayton A. Kamida  
959 Kailiu Pl.  
Honolulu, HI 96825

**Re: SB2438 SD1**

Dear Chair Tarnas, Vice-Chair Poepoe, and JHA Committee Members:

I am writing as a concerned citizen and retired attorney in **strong opposition** to SB2438 SD1. Although I am appalled and disgusted by the Trump Administration's incursions on and violations of the civil and constitutional rights of the American public, this bill is clearly not the proper means of addressing the harm being inflicted by the federal government. It undermines carefully created statutory enforcement mechanisms, will lead to frivolous litigation, and will clog our courts, although ultimately it will likely be struck down by the courts because it is facially defective.

**I. SB 2438 Eviscerates Enforcement Mechanisms Created by Statute**

The primary problem with SB2438 is that it allows, at Section 3, private individuals and entities to sue for any intentional and knowing interference with "the exercise or enjoyment of any right secured by . . . the laws of the United States, . . . or laws of the State." In other words, persons may sue, in state Circuit Court, for any violation of undefined federal or state "rights." SB2438 **does not identify what state or federal rights are at issue**. Because SB2438 broadly applies to any "right" created by state or federal law, it circumvents enforcement mechanisms carefully created by the Hawai'i Legislature and by Congress.

Section 4 of SB2438 allows individuals to file private suits. Section 5 of SB2438 provides for venue in the Circuit Courts. Section 6(b) of the bill states "**[t]he remedies provided by this chapter shall be cumulative and independent of any other remedy available under law.**" This language clearly states that even if there is pre-existing remedy for a violation of state law, persons may avoid that remedial scheme created by the Legislature and sue in court under this proposed law.

To give just one example, state occupational safety and health regulations relating to the workplace are enforced by the Hawaii Occupational Safety and Health (HIOSH) division of DLIR. HIOSH is staffed with industrial safety experts who are well-versed in state and federal workplace safety regulations (relating, for example, to electrical hazards, chemical hazards, crane operations, fire safety, etc.) as well as in the best means to prevent and address those hazards. SB2438 would appear to allow employees to directly sue their employers for safety hazards under HRS 396-6(a), which states "[e]very employer shall furnish to each of the employer's employees employment and a place of employment which are safe as well as free from recognized hazards." The Legislature, in HRS 396-4 conferred upon the DLIR responsibility for administering workplace safety and health standards, but SB2438 would circumvent that enforcement scheme and allow private individuals to sue employers for violation of workplace safety standards.

To give another example, HRS 393-31 provides that enforcement of the Hawaii Prepaid Healthcare Act (requiring employers to provide defined "full-time" employees with health insurance) is by the Director of DLIR. SB2438 would appear to give employees a private right of action to sue their

employers as well as health insurers directly if they are harmed or “threatened” to be harmed by a violation of the Hawaii Prepaid Healthcare Act, rather than, as in the current scheme, requiring enforcement by the DLIR Director.

One final example -- under HRS 604-10.5, a person seeking a temporary restraining order (against a neighbor, or ex-husband, for example) for harassment must file the request in state District Court. Assuming that HRS 604-10.5 creates a “right” to obtain an injunction against harassment, SB2438 would allow persons to file for a TRO in Circuit Court, because it provides for a remedy “independent of any other remedy available under law.” Thus the already over-worked Circuit Courts would need to deal with the thousands of TRO complaints filed each year. Here again, SB2438 circumvents a carefully constructed statutory enforcement mechanism.

## **II. There Are Much Better Ways to Protect Constitutional and Civil Rights**

The proponents of SB2438 fail to identify any state which has passed a law authorizing a private right of action for enforcement of each and every state or federal law creating a statutory “right.” I suspect no other state has passed a similar law, because of the chaos it would create.

If the intent of SB2438 is to remedy violations of civil rights by federal law enforcement, **which I fully support**, there are better and more narrowly-tailored means. For example, in 2025, Illinois passed the Illinois Bivens Act, HB1312, which allows civil suits against federal law enforcement and officials who violate constitutional rights during any immigration enforcement action. See <https://www.isacoil.org/News/13045/Illinois-Bivens-Act-and-Immigrant-Access-Protections-Passed-by-General-Assembly/news-detail/> Similarly, the Minnesota Legislature is currently considering S.F.4176, which likewise creates a private right of action for violations of constitutional rights in the course of “civil immigration enforcement.” <https://www.billtrack50.com/billdetail/1984964>

I strongly support holding federal officials and federal law enforcement, particularly ICE and CBP, liable for violations of state and federal constitutional rights. I strongly oppose SB2438, because it “Trumps” pre-existing enforcement mechanisms and remedies carefully structured by the Hawaii Legislature. If SB2438 is passed, the reference to enforcement of “rights secured by state law” in Section 3 should be stricken, and Section 6(b) should be amended to provide that “the remedies provided by this chapter are **not** cumulative, and shall **not** apply if a statutory scheme already provides a remedy for the violation of the statutory right in question.”

Mahalo for the opportunity to testify.

Clayton A. Kamida

**SB-2438-SD-1**

Submitted on: 3/17/2026 12:56:32 PM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gail Morrison	Individual	Support	Written Testimony Only

Comments:

I support this bill.

Gail Morrison, Honolulu

**SB-2438-SD-1**

Submitted on: 3/17/2026 1:49:27 PM

Testimony for JHA on 3/18/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Melanie Lau MD	Individual	Support	Written Testimony Only

Comments:

Aloha Rep. Tarnas, Rep. Poepoe, and JHA Committee Members,

I strongly support **SB 2438, SD1**, 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