



March 3, 2026

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

**To:** Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, Vice Chair  
Members of the Senate Committee on Ways and Means

**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: Thursday, March 5, 2026, 10:15 a.m.  
Conference Room 211, State Capitol

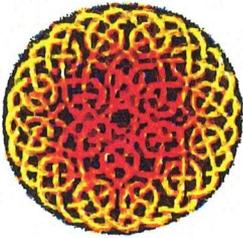
The Hawaii State Commission on the Status of Women is dedicated to advancing equality and protecting the civil and constitutional rights of women and girls across the state. The Commission **supports SB2438 SD1 because it strengthens legal protections against threats, intimidation, or coercion that interfere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

By establishing a clear civil cause of action and authorizing both private individuals and public officials to seek relief, **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. These mechanisms are especially important for women and gender minorities, who may face unique forms of intimidation or coercion in exercising their rights.

The alignment of SB2438 SD1 with best practices in civil rights law supports both public safety and individual liberties. This bill authorizes private rights of action; therefore, **enforcement is driven by individual plaintiffs, not state resources**.

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

Thank you for this opportunity to submit testimony.



## *Fujiwara & Rosenbaum, LLC*

*1100 Alakea Street, FL 20, STE B*

*Honolulu, Hawaii 96813*

### **Senate Committee on Ways and Means**

**Date:** Thursday, March 5, 2026, 10:15 AM, Conf. Rm. 211

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

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

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 the Senate Judiciary Committee unanimously, 5-0, 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. 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.

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

The 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.

### **3. 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.

### **4. 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.**

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

The unanimous 5-0 Judiciary Committee vote, including Republican Senator Awa, 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 the Hawai'i Civil Rights Commission, ACLU of Hawai'i, NAACP Honolulu, Hawaii Coalition for Immigrant Rights, The Legal Clinic, and 36 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**

I respectfully request that the Committee pass SB 2438, S.D. 1 and refer it to the Senate floor for Third Reading. 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.



**TESTIMONY IN SUPPORT OF SB2438, SD1 – RELATING TO  
CIVIL INTERFERENCE WITH CONSTITUTIONAL AND STATUTORY RIGHTS**

**Senate Committee on Ways and Means**

Sen. Donovan Dela Cruz, Chair  
Sen. Sharon Moriwaki, Vice Chair

Hearing Date: March 5, 2026 | Letter Date: March 3, 2026

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

The Legal Clinic (TLC) supports SB2438, SD1 to establish a civil cause of action for individuals whose constitutional or statutory rights are interfered with through threats, intimidation, or coercion.

As a nonprofit organization dedicated to immigrant justice in Hawai'i, and in this era of intensified federal immigration enforcement, we recognize that the communities we serve are acutely vulnerable to intimidation, coercion, and interference with their rights. SB2438, SD1 fills a critical gap in Hawai'i law by providing an accessible civil remedy to deter rights-violating conduct, hold bad actors accountable, and ensure that all individuals can exercise their rights freely and safely.

SB2438, SD1 also expressly safeguards First Amendment rights by clarifying that free speech alone does not constitute a violation unless it rises to the level of a true threat of violence that would cause a reasonable person or group to fear imminent harm. This balance is essential. SB2438, SD1 targets coercive conduct, not disagreement, protest, or other lawful expression. This bill protects civil rights without undermining free speech or political participation.

SB2438, SD1's flexible enforcement structure allows actions to be brought not only by aggrieved individuals but also by the Attorney General, corporation counsel, or county attorneys. Public enforcement authority is especially important in cases involving systemic interference, widespread intimidation, or vulnerable communities, including immigrants, who may fear retaliation if they act alone.

SB2438, SD1 is a thoughtful and balanced measure that strengthens civil rights protections while respecting constitutional boundaries. We urge the Committee to pass this bill.

Sincerely,

Christina Sablan  
Community & Policy Advocate



Committee: Senate Committee on Ways and Means  
Hearing Date/Time: Wednesday, March 5, 2026, 10:15 AM  
Place: Conference Room 211  
Re: ACLU Testimony in SUPPORT of SB 2438, SD1 Relating to Civil Interference with Constitutional and Statutory Rights

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

The American Civil Liberties Union of Hawai'i (ACLU-HI) writes in **support of SB 2438, SD1**, which creates a state remedy for interference with one's constitutional and statutory rights. This bill provides a potential avenue for individuals to seek justice when the government violates their rights.

In recent times, we have witnessed alarming incidents where federal actors have trampled over the rule of law and violated basic human and constitutional rights. ICE agents have shot civilians,<sup>1</sup> incarcerated children,<sup>2</sup> and disrupted families. SB 2438, SD1 serves as a potential shield against this federal overreach, allowing individuals to take their grievances to Hawai'i state courts when faced with unlawful actions from federal agents. Without this legislation, victims may find themselves without recourse, as federal courts have severely limited access to remedies for constitutional violations by federal officials.<sup>3</sup>

This bill creates a new civil remedy when threats, intimidation, or coercion occur. This is especially important as our state constitution offers stronger protections than the U.S. Constitution, including explicit rights to privacy,<sup>4</sup> equal rights,<sup>5</sup> and environmental

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

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

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

<sup>4</sup> Haw. State Const. Article I, Section 6.

<sup>5</sup> Haw. State Const. Article I, Section 3.

protections.<sup>6</sup> These rights deserve meaningful enforcement, and similar laws have been passed in states like California,<sup>7</sup> New Jersey,<sup>8</sup> Maine,<sup>9</sup> and Massachusetts.<sup>10</sup>

**For the above reasons, we respectfully urge your committee to support this measure.**

Mahalo for the opportunity to testify.

Sincerely,



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

*With more than 4,000 Hawaii-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.*

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<sup>6</sup> Haw. State Const. Article XI, Section 9.

<sup>7</sup> Cal. Civ. Code § 52.1

<sup>8</sup> N.J. Stat. Ann. § 10:6-2(c)

<sup>9</sup> Me. Stat. tit. 5, § 46821-A

<sup>10</sup> Mass. Gen. Laws ch. 12, § 11I

**SB-2438-SD-1**

Submitted on: 3/3/2026 10:19:45 AM

Testimony for WAM on 3/5/2026 10:15:00 AM

<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 this bill that helps provide a private cause of action for constitutional violations. Similar to "Section 1983" private rights of action, this bill would enable those injured from constitutional violations to have a clear right of action for injuries suffered. This helps create an incentive for all governmental agents to comply with constitutional protections for our residents.

**SB-2438-SD-1**

Submitted on: 3/3/2026 1:27:12 PM

Testimony for WAM on 3/5/2026 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nandita Sharma	Individual	Support	Written Testimony Only

Comments:

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

I am writing in STRONG SUPPORT of SB 2438, S.D. 1, the Hawai‘i Civil Rights Protection Act. This Bill gives the rights enshrined in Hawai‘i's own Constitution an enforcement mechanism. This is crucial if Hawai‘i's constitutional guarantees are to be more than symbolic and, instead, have teeth.

As you know, this bill has no fiscal impact on the State or counties. Enforcement is driven by private plaintiffs. The State and counties are explicitly excluded from liability. There is no appropriation, and no new positions are required.

**SB-2438-SD-1**

Submitted on: 3/3/2026 4:58:37 PM

Testimony for WAM on 3/5/2026 10:15:00 AM

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

Comments:

Support

Senate Committee on Ways and Means  
SB2386 Hearing on March 5, 2026 at 10:15 am  
Conference Room 211 and videoconference

## SUPPORT

My name is John Kawamoto, and I support this bill.

Our nation is experiencing a Constitutional crisis. The federal government is committing civil rights abuses instead of protecting people from them. It is alarming that these abuses have become more serious and more widespread. ICE agents are now killing citizens in public who pose no threat.

This bill strengthens safeguards against civil rights abuses carried out by individuals, including those acting under the authority of government.

Hawaii has a proud history of protecting civil rights. In light of recent civil rights abuses by the federal government, this bill is the next logical step.

I urge the committee to pass this bill.

**SB-2438-SD-1**

Submitted on: 3/3/2026 10:47:31 PM

Testimony for WAM on 3/5/2026 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Francis Nakamoto	Individual	Support	Written Testimony Only

Comments:

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

My name is Francis Nakamoto and I support SB2438 SD1.

SB2438, SD 1 establishes a civil course of action for interference with constitutional and statutory rights through threats, intimidation, or coercion. In essence, it creates a private cause of action in state court, where such judicial remedy may not be available in federal court under current interpretations of constitutional law by the federal judiciary.

The bill assures that constitutional rights created and established by the State of Hawaii Constitution shall be enforceable in state courts at the same time similar rights under the United States Constitution, as interpreted by the current Supreme Court, may have been rendered unenforceable.

To be specific, the recent decisions by the US Supreme Court, allowing the consideration of race in determining whether federal immigration officers may have probable cause to detain and arrest and, in effect, violate the constitutional rights of US citizens and immigrants alike against racial discrimination, would not be allowed to deny those same rights in the State of Hawaii. Victims of such race-based enforcement action would have redress against immigration agents, not otherwise available currently.

Similarly, the violation of the constitutional right against unreasonable searches and seizures by immigration, officers relying upon extra-legal administrative warrants to arrest and detain and invade the property of Hawaii residents, would be deterred by the availability of right of action to against abusive Federal agents.

Under the Supreme Court case of *Egbert v. Boule*, the right to sue Federal immigration agents for violating the constitutional rights of citizens and immigrants alike was severely limited. The court allowed only administrative remedies afforded by the same agency that caused the harm in the first place. This bill would maintain the right sue federal immigration agents For violating the constitutional rights of our residence in state court. Otherwise, there is a little deterrent under existing law to bring the excesses of ICE and CBP under control.

For these reasons, please support SB2438 SD 1 to protect our citizens in the dangerous days ahead.



**SB-2438-SD-1**

Submitted on: 3/3/2026 10:48:40 PM

Testimony for WAM on 3/5/2026 10:15:00 AM

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

Comments:

Aloha Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

I strongly **SUPPORT** SB 2438, S.D. 1, the Hawai‘i Civil Rights Protection Act. This bill is primarily 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. SB 2438 gives these rights an enforcement mechanism, ensuring that Hawai‘i's constitutional guarantees are more than aspirational.

As a Ways and Means matter: this bill has **no fiscal impact** on the State or counties. Enforcement is driven by private plaintiffs. The State and counties are explicitly excluded from liability. There is no appropriation, and no new positions are required.

We respectfully urge the Committee to pass SB 2438, S.D. 1 and refer it to the Senate floor for Third Reading.

Mahalo,

Melanie Lau, MD

**SB-2438-SD-1**

Submitted on: 3/3/2026 11:21:51 PM

Testimony for WAM on 3/5/2026 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gaye Chan	Individual	Support	Written Testimony Only

Comments:

I am writing in support of SB 2438, 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.

**SB-2438-SD-1**

Submitted on: 3/4/2026 12:34:49 AM

Testimony for WAM on 3/5/2026 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
HSDWC	Testifying for Hawai`i State Democratic Women`s Caucus	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice Chair Moriwaki and members,

As stated in previous testimony, the Caucus is in strong support of this measure which will add teeth to our existing civil rights laws, by allowing civil suits and - by giving our Attorney General and County Attorneys the right to seek penalties for violations up to and including monetary damages.

What is most relevant to the Ways and Means Committee is that this law if passed would have no fiscal impact on the state.

Mahalo for your attention to this matter at a critical time, a time when the very foundations of our democracy - liberty and justice for all - are threatened.

Mahalo for you attention,

Ann S. Freed, Co-Chair, Hawai`i Democratic Party Women's Caucus



March 5, 2026

Senate Committee on Ways and Means  
Hearing Date/Time: Thursday, March 5, 2026/10:15AM  
Place: Hawaii State Capitol, Conference Room 211  
Re: Testimony in **STRONG SUPPORT** of S.B. No. 2438, S.D.1.

Dear Chair Dela Cruz, Vice-Chair Moriwaki 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 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.*



# 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

Thursday, March 5, 2026 10:15 a.m.  
Conference Room 211 & Videoconference  
State Capitol, 415 South Beretania Street

To: [COMMITTEE ON WAYS AND MEANS](#)

Senator Donovan M. Dela Cruz, Chair  
Senator Sharon Y. Moriwaki, 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 constitutional 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 tenant 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 even less hope 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.

**SB-2438-SD-1**

Submitted on: 3/4/2026 11:48:59 AM

Testimony for WAM on 3/5/2026 12:04:00 PM

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

Comments:

I'm in strong support of SB2438. Please pass this important bill.

**SB-2438-SD-1**

Submitted on: 3/4/2026 12:42:46 PM

Testimony for WAM on 3/5/2026 12:04:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Annette Barr	Individual	Support	Written Testimony Only

Comments:

I am in support of this bill

**SB-2438-SD-1**

Submitted on: 3/4/2026 1:27:43 PM

Testimony for WAM on 3/5/2026 12:04:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
David Cuthbert	Individual	Support	Written Testimony Only

Comments:

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

I -- David Cuthbert -- submit my testimony in **STRONG SUPPORT** of SB 2438, S.D. 1, the Hawai'i Civil Rights Protection Act. This bill is primarily grounded in the Hawai'i 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. To back up these protections with action SB 2438 gives these rights an enforcement mechanism, ensuring that Hawai'i's constitutional guarantees are enforceable.

As a Ways and Means matter: this bill has no fiscal impact on the State or counties because enforcement is driven by private plaintiffs. The State and counties are explicitly excluded from liability. There is no appropriation, and no new positions are required.

I respectfully urge the Committee to pass SB 2438, S.D. 1 and refer it to the Senate floor for Third Reading.

Mahalo for the opportunity to testify.

**LATE**

**SB-2438-SD-1**

Submitted on: 3/4/2026 9:05:00 PM

Testimony for WAM on 3/5/2026 12:04:00 PM

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

Comments:

I support this bill. This needs to apply to all of our rights. This includes the 2nd amendment as which our local officials don't like.