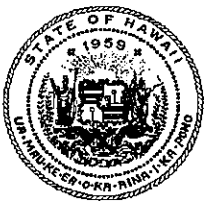


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**From:** Livia.A.Wang@hawaii.gov  
**Sent:** Monday, March 28, 2011 11:03 AM  
**To:** HUSTestimony  
**Cc:** Rep. Rida Cabanilla; William.D.Hoshijo@hawaii.gov  
**Subject:** Hawaii Civil Rights Commission comments on HR 123-HCR141  
**Attachments:** leg 2011 HR 123-HCR141 HCRC comments HHUS 3-28-11.doc

**LATE**  
**Testimony**

Attached please find the Hawaii Civil Rights Commission's comments on HR 123 / HCR 141. We apologize for the late submission. If you have any questions, please contact me at this email or at: 586-8642.



# HAWAII CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 28, 2011  
Conference Rm. 329  
9:00 a.m.

To: The Honorable John Mizuno, Chair  
and Members of the House Committee on Human Services

From: Livia Wang, Acting Chief Counsel  
Bill Hoshijo, Executive Director

Re: HR 123 / HCR 141

The Hawai'i Civil Rights Commission (HCRC) staff submits this memorandum to inform the Committee that the HCRC has not yet taken a position on this measure, HR 123 / HCR 141, because the HCRC Commissioners have not had the opportunity to review and take a position on it. A meeting for Commission review of resolutions was scheduled for March 16, 2011 but was postponed until April 6, 2011, at which time the Commissioners will take a position on this and other resolutions.

HR 123 / HCR141 urges all private organizations, including faith-based organizations to open leadership roles and positions of influence to women. While the HCRC has not yet taken a position on this particular measure, staff notes that Article I, Sec. 5 of the Hawai'i constitution contains the mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry" and that H.R.S. Chapter 387 in general prohibits employment discrimination based on sex. However, under H.R.S. §378-3(5), our state employment discrimination laws do not prohibit or prevent any religious or denominational institution or organization, or any charitable or educational organization that is operated, supervised or controlled by a religious organization, from making a selection calculated to promote the religious principles for which the organization is established or maintained.

The HCRC takes its role and authority to testify and make recommendations to the legislature very seriously, and will do everything possible to assist you in your

consideration of bills that affect HCRC jurisdiction and civil rights. We hope the temporary constraints we face will not cause inconvenience or difficulty for the House Committee on Human Services. Please let us know if we can provide you any further background information or answer any questions. Thank you for your understanding and patience.

# LATE Testimony

Jo-Ann Marie Adams, Esquire  
# 400, 500 Ala Moana Boulevard  
Honolulu, HI 96813-4920  
(808) 528-2100

HR 123/ HCR 141 Relating to Gender Equality; **IN STRONG SUPPORT**

Dear Chair Mizuno,

My name is Jo-Ann Adams, and I am a practicing attorney here in Honolulu, as well as an equality advocate. While we have made great strides in women's rights in the United States, there is still a great gender disparity between the two sexes.

This resolution would request that all organizations, **including religious ones**, provide opportunities of career and leadership advancement regardless of gender. I support equality, which means that women should be allowed into leadership and positions of authority in religious organizations, a feat which many religious organizations have already accomplished.

If religious organizations should choose to discriminate against women in such a manner, government should not afford them the tax exemption status- we should not be giving these tax credits to organizations that are participating in gender discrimination.

Please pass this resolution un-amended. Thank you for this opportunity to testify.

# **LATE Testimony**

Committee on Human Services  
Representative John Mizuno, Chair  
Representative Jo Jordan, Vice Chair

Monday March 28, 2011  
9:00 am  
Support for HR 123/HCR141

Aloha Chair and Vice Chair, my name is Sharon Fergurson-Quick, I am the Executive Director for the State Commission for the Status of Women and I am in support of HR 123 and HCR 141. These resolutions urge Private Organizations, both secular and religious, to ensure gender equality in their leadership positions.

The status of women has greatly improved over the last few decades. Jobs and positions that were previously only occupied by men are now open to women who have excelled when given the opportunity. We are now educating young women that they are capable of doing any job that they wish to hold. However, some secular and religious organizations are still discriminating against women by restricting them from obtaining certain positions in their organization. This practice is old and outdated and needs to be changed. The next step to ensuring gender equality is to inform women that they are capable of doing any job they wish, and ensuring that those jobs are available to them.

This is an important measure for the future of gender equality and the status of women. I urge you to please pass this measure. Thank you.

Sharon Fergurson-Quick

March 28, 2011

# LATE Testimony

Honorable John Mizuno  
Chair, Committee on Human Services  
Hawaii State Capitol, Room 436  
415 South Beretania Street  
Honolulu, Hawaii 96816

## IN SUPPORT OF HR 123

Aloha Chair Mizuno, members of the Human Services Committee.

My name is Brie, and I am a 3<sup>rd</sup> year Women's Studies major at the University of Hawaii. One of my projects this semester is to write about a bill that is related to gender studies, but that I felt strongly about.

This resolution hits it on the nail. Although many people feel that women are in a "good place" as far as equal rights are concerned, there are still instances where women are treated unfairly. In many religious organizations women are still not allowed to be ordained, let alone be allowed positions of authority. These organizations should follow the lead of many other organizations that have adopted an open policy towards women.

I believe this resolution if passed, would not interfere with the first amendment. It would however encourage and suggest to some of our local religious organizations to expand opportunities even further to the women that are in their group.

Thank you for this opportunity to testify, and please pass this measure.

  
Gabrielle Wertzbaugher



HAWAII CATHOLIC CONFERENCE  
6301 Pali Highway  
Kaneohe, HI 96744-5224

# LATE Testimony

Email to: [HUSTestimony@Capitol.hawaii.gov](mailto:HUSTestimony@Capitol.hawaii.gov)  
Hearing on: March 28, 2011 (Monday) @ 9:00 a.m.  
Conference Room # 329

**DATE:** March 25, 2011

**TO:** House Committee on Human Services  
Representative John Mizuno, Chair  
Representative Jo Jordon, Vice Chair

**FROM:** Walter Yoshimitsu, Executive Director

**RE:** **STRONG OPPOSITION TO HCR 141, URGING PRIVATE ORGANIZATIONS, BOTH SECULAR AND RELIGIOUS, TO ENSURE GENDER EQUALITY IN THEIR LEADERSHIP POSITIONS**

Mahalo for the opportunity to testify on this resolution. I am Walter Yoshimitsu, representing the Hawaii Catholic Conference. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii under the leadership of Bishop Larry Silva. We strongly oppose this resolution for the following reasons:

**The resolution seeks to dictate how religious organizations must select their clergy, and is an impermissible violation of the separation of church and state.** This resolution states, among other things, that “for the continued progress and stability of our society, equality must be instilled in all private institutions, and women should be allowed to assume both secular and religious leadership roles,” and continues by stating that “it is crucial for the development of positive self esteem for young women that they perceive that all career options are available to them, whether it be in the secular world or to become ordained as a minister, priest of reverend within the religious world.” The resolution further provides that certified copies shall be presented to certain organizations and government agencies, including the American Civil Liberties Union and the Hawaii Civil Rights Commission.

By this resolution, the Legislature is seeking to dictate who may serve as ministers, priests and reverends in religious organizations, and that gender restrictions violate public policy. However, the fundamental wall of separation between church and state under the First Amendment’s Establishment and Free Exercise clauses prohibits the government from seeking to control religious institutions.

**The resolution puts a chilling effect on the fundamental right of religious institutions to choose their clergy in accordance with their beliefs.** This resolution sends a clear message to religious institutions that they could be subject to court suits for gender discrimination from organizations such as the ACLU, or government prosecution by the Civil Rights Commission, if they do not allow women to serve as ministers, priests or pastors. In the case of the Catholic Church, we believe that priests can only be men in accordance with Biblical teaching and long Church tradition. A substantial number of other churches, temples, synagogues and Muslim faith groups similarly have gender restrictions on who may serve as ministers, rabbis or imams. This resolution now declares that such restrictions violate government requirements and public policy regarding gender equality, and signals that such beliefs may subject religious institutions to private litigation and governmental prosecution.

PAGE TWO  
SCR

The resolution violates the First Amendment and longstanding federal court decisions holding that it is unconstitutional for government to dictate who may serve as clergy. In 1952, the U. S. Supreme Court held that “[f]reedom to select the clergy . . . must . . . be said to have federal constitutional protection as a part of the free exercise of religion against state interference.” Kedroff v. St. Nicholas Cathedral, 344 U.S. 94, 116 (1952). And as stated by the Ninth Circuit Court of Appeals (whose jurisdiction includes Hawaii):

A church must retain unfettered freedom in its choice of ministers because ministers represent the church to the people . . . . Indeed, the ministerial relationship lies so close to the heart of the church that it would offend the Free Exercise Clause simply to require the church to articulate a religious justification for its personnel decisions.

Bollard v. California Province of the Society of Jesus, 196 F.3d 940, 946 (9<sup>th</sup> Cir. 1999). This resolution violates the fundamental First Amendment right of churches and other religious organizations to decide who shall be their ministers.

In summary, this is a very bad and offensive piece of legislation that seeks to stigmatize religious institutions that believe, in conformance with their religious traditions, that gender is a fundamental consideration in who shall serve as clergy. We accordingly urge that the Committee indefinitely defer action on this resolution.

Mahalo for the opportunity to testify.