



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
February 25, 2016 at 3:00 p.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 2772 HD1 – RELATING TO THE UNIVERSITY OF HAWAII

Chair Luke, Vice Chair Nishimoto, and Members of the House Committee on Finance:

Thank you for the opportunity to present testimony on HB 2772 HD1 – Relating to the University of Hawaii. While the University of Hawai'i ("University") appreciates the intent of the measure in addressing critical issues relating to sex discrimination and gender violence at the University through the Affirmative Consent Task Force ("Task Force"), we believe it is not appropriate to support HB 2772 HD1 at this time primarily because the final report is not due until June 30, 2017.

Act 222, Session Laws of Hawai'i 2015, established an Affirmative Consent Task Force comprised of University employees representing the University System and all ten campuses, community experts, and University students ("Task Force"). We believe the Legislature was prudent in its decision to allow the Task Force until June 30, 2017 to complete the complex and important task of reviewing the University's policy concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking. The Task Force is in the best position to consider the various initiatives outlined in this bill, and as evidenced by its first Report to the Legislature, has already begun to address all of the considerations identified in HB 2772 HD1. However, the final report is not due until June 30, 2017.

Based on the above, the University respectfully opposes HB 2772 HD1.



UNIVERSITY
of HAWAII®
SYSTEM

Written testimony presented to the House Committee on Finance
February 25, 2016 at 3:00pm
By
Farrah-Marie Gomes, Chair

HB 2772, HD1 – RELATING TO THE UNIVERSITY OF HAWAII

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee,

Thank you for this opportunity to provide testimony on HB 2772, HD1 that proposes to adopt the preliminary recommendations of the affirmative consent task force. I present this testimony as Chair of the University of Hawai'i President's Commission on the Status of Women (UH-CSW) and on behalf of the Commission.

The UH-CSW appreciates the intent of this bill; however, we believe this bill could be counterproductive to the purpose of Act 222 that was signed into law by Governor David Ige on July 10, 2015. Several of our commissioners are appointed members of the Act 222 Task Force as a result of the positions they hold and/or the roles they serve on their respective campuses. These members have been engaged in the Act 222 meetings and have contributed to the aforementioned report. The UH-CSW would like to recognize the hard work of the Office of Institutional Equity and all task force members, those internal and external to the University.

It is just as important to acknowledge that the report included preliminary recommendations. The conversations regarding the University's executive policy concerning sexual harassment, sexual assault, domestic violence, dating violence, and stalking continue. It would be premature at this point to require implementation of the preliminary recommendations without allowing the Task Force the opportunity to complete the work it was tasked to carry out in its entirety. Execution of any recommendations at this point might not be comprehensive in nature.

Formed in 1972 at the UH Manoa campus, the UH-CSW expanded in 1986 to include faculty, staff and students appointed by the President of the University of Hawaii, with representatives from our system offices and 10 campuses across the State. The UH-CSW is committed to supporting the well-being, development, and advancement of all University women. The Commission actively promotes a working and learning environment free of sexism and discrimination through policy, advocacy and education.

This mission is achieved through serving as a conduit for information between the administration and the total University community by making recommendations to the UH President on issues that have particular relevance for women, including, but not limited to safety and security, equity, access, retention, and advancement; fostering an awareness, understanding and recognition of the potential, contributions, special challenges and many roles women play in a University community; and developing alliances with like organizations throughout the community, state, and nation.

In line with our mission, the UH-CSW remains committed to the purpose of the Act 222 Task Force. We are pleased to have multiple members of our commission serving on this task force. We are aware that the second Act 222 Task Force Report is due 20 days before the convening of the Regular Session of 2017. For these reasons, the UH-CSW opposes HB 2772 HD 1 and respectfully asks that the Act 222 Task Force be allowed to carry out its charge in the original timeline provided.

Thank you for this opportunity to submit testimony.



TO: Chair Luke, Vice Chair Nishimoto, and Members of the House Committee on Finance
FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)
DATE/LOCATION: February 25, 2016; 3:00 p.m., Conference Room 308

RE: TESTIMONY IN SUPPORT OF HB 2772, HD1 – RELATING TO THE UNIVERSITY OF HAWAII

I strongly urge you to support HB 2772, HD1 – Relating to the University of Hawaii. In the United States, young women between the ages of 16-24 are at the highest risk of becoming victims of intimate partner violence or sexual assault. College students who indulge themselves in their studies and adult responsibilities could often be too occupied to recognize the signs in an abusive situation. 57% say it is difficult to identify, and 58% are unaware of how to help a victim they know. In order to provide the best and most convenient services to victims experiencing these unfortunate situations, we must educate students and staff to become advocates of campus safety.

The positions of this bill give employees and students the opportunity to become professional interveners of sexual assault. The training and resources they will be provided with supports them in becoming active advocates, both on campus and in their daily surroundings. Students should no longer walk away from an abusive situation with mere suspicions. School personnel should no longer feel hopeless in attempts to help students in need.

It is of crucial importance that we educate our students to not only become successful individuals, but supportive community members embedded with the aloha spirit. It is a noted priority that we ensure a safe learning environment in order for students to achieve success with healthy mindsets and values. With the expansion of awareness and advocacy, we will make great strides to reduce the amount of sexual violence occurrences and families affected by it. We support the passing of this bill.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 18,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 16 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, child and adolescent behavioral health programs, and community building programs.

Thank you for the opportunity to testify in **strong support of HB 2772, HD1**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2016 5:35 PM
To: FINTestimony
Cc: laurie.field@ppvnh.org
Subject: *Submitted testimony for HB2772 on Feb 25, 2016 15:00PM*

HB2772

Submitted on: 2/23/2016

Testimony for FIN on Feb 25, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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THE SEX ABUSE TREATMENT CENTER

A Program of Kapi'olani Medical Center for Women & Children

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Linda Jameson

Michael P. Matsumoto

Robert H. Pantell, MD

Joshua A. Wisch

DATE: February 25, 2016

TO: The Honorable Sylvia Luke, Chair
The Honorable Scott Nishimoto, Vice Chair
House Committee on Finance

FROM: The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Comments Regarding H.B. 2772 H.D. 1
Relating to the University of Hawaii

Good afternoon Chair Choy, Vice Chair Ichiyama, and members of the House Committee on Higher Education.

The Sex Abuse Treatment Center (SATC) submits the following comments regarding H.B. 2772 H.D. 1, which would require the University of Hawai'i (UH) to train employees and students on sexual harassment policies, appoint a campus advocate at each campus for students to discuss incidents of sexual harassment, report sexual assault cases to the police, and conduct a campus climate survey, while further prohibiting romantic relationships between UH students and faculty members.

SATC serves as a member of the UH Affirmative Consent Taskforce which was created under Act 222 (2015) in order to review and provide recommendations concerning UH's executive policy on sexual harassment, sexual assault, domestic violence, dating violence, and stalking (SSDDS). H.B. 2772 H.D. 1 would require UH to enact many of the initial recommendations communicated to the Legislature by the Taskforce's 2015 Report 20 days prior to the convening of the 2016 Legislative Session, with due dates for the implementation of some recommendations.

As a member of the Taskforce, we regularly receive updates from various UH sources, including students, UH faculty and staff, and representatives from Campus and System administration concerning UH's progress in implementing the Taskforce's recommendations.

We note that, under the guidance of the newly-established UH System Office of Institutional Equity, UH has begun taking affirmative steps to establish system wide training programs for all UH employees and students regarding the requirements of Title IX, the Violence Against Women Act, and UH policies concerning SSDDS. UH is also beginning to address other policies that are related to issues of SSDDS, including ones applicable to relationships between students and professors and alcohol consumption. Moreover, campuses are proceeding with the identification and

publication of confidential resources for advocacy, crisis counseling and other services. We agree that these efforts should proceed to completion with all due haste, but defer to the task force Chair, Ms. Jennifer Rose of the UH Office of Institutional Equity, and Vice Chair, Ms. Catherine Betts of the Hawai'i State Commission on the Status of Women, with respect to the establishment of specific time frames and due dates at this time.

We offer the following suggestions for the revision of H.B. 2772 H.D. 1, based on our concern for the safety, health, and well-being of victims as the task force's recommendations are implemented. All of the below-described suggested language for the Committee's consideration is attached with this testimony as Exhibit A.

1. With regard to H.B. 2772 H.D. 1's Section 2 addition of Hawai'i Revised Statutes (HRS) § 304A – (a)(6), we ask that the Committee please consider adding language excepting mandated reports of child and vulnerable adult abuse from the confidentiality granted to students communications with confidential advocates.

If, during discussions with a confidential advocate, a university student, employee or other affiliated person discloses information which may cause the confidential advocate to believe that child abuse or neglect, as defined in HRS Chapter 350, or vulnerable adult abuse, as defined in Chapter 346, is occurring, and if that resource is required by law based on their profession, licensure/certification, employment or other role to report that abuse to appropriate authorities under HRS Chapters 350 and 346, the abuse should be reported to protect the child or vulnerable adult.

2. With regard to H.B. 2772 H.D. 1's Section 2 addition of HRS § 304A – (a)(7), we ask that the Committee please consider also including language that UH should publicize confidential advocate information in written and electronic materials and trainings, in addition to campus websites.

As noted in the Taskforce's 2015 Report, not all members of the University System community are necessarily web-savvy, and so important information, such as where to access confidential advocacy, should be conveyed through as many different means as practicable.

We appreciate the Committee's consideration of these comments.

EXHIBIT A

HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

H.B. NO. 2772
H.D. 1

A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the affirmative consent task force, established by Act 222, Session Laws of Hawaii 2015, reviewed and made preliminary recommendations on the University of Hawaii executive policy regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

The legislature finds that this issue is a matter of statewide concern that falls under its purview pursuant to article X, section 6, of the Hawaii State Constitution.

The purpose of this Act is to adopt the preliminary recommendations of the affirmative consent task force.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to subpart A of part I to be appropriately designated and to read as follows:

"§304A- Campus safety and accountability. (a) The University of Hawaii shall:

- (1) Train all University of Hawaii students and employees, including security personnel, Title IX coordinators, and residential advisors, on:

 - (A) Public Law 92-318, Title IX of the federal Education Amendments of 1972, as amended;
 - (B) The Violence Against Women Act of 1994, as amended; and
 - (C) University of Hawaii executive policies on sexual harassment, sexual assault, domestic violence, dating violence, and stalking;
- (2) Provide all existing University of Hawaii employees with the training described in paragraph (1) by December 31, 2016, and every two years thereafter;
- (3) Provide all new University of Hawaii employees with the training described in paragraph (1) no later than thirty days after the date of first employment;
- (4) Provide all students with the training described in paragraph (1) annually;
- (5) Prohibit any student who does not complete the training described in paragraph (1), as required by paragraph (4), from registering for classes the next semester and from graduating;
- (6) At each campus of the University of Hawaii system, designate a confidential advocate for students to confidentially

discuss incidents of, and obtain information on,
sexual harassment, sexual assault, domestic violence,
dating violence, stalking, and related issues,
PROVIDED THAT CONFIDENTIAL ADVOCATES AND
COMMUNICATIONS RECEIVED BY THE CONFIDENTIAL ADVOCATES
SHALL NOT BE EXEMPT FROM ANY OTHERWISE APPLICABLE
MANDATORY REPORTING REQUIREMENTS FOR CHILD AND
VULNERABLE ADULT NEGLECT AND ABUSE AS PROVIDED BY THE
HAWAII REVISED STATUTES CHAPTERS 350 AND 346;

(7) Publicize the name, location, phone number, and email
address of the confidential advocate on the website of
each respective campus, AND IN WRITTEN AND ELECTRONIC
MATERIALS AND TRAININGS CONCERNING TITLE IX, THE
VIOLENCE AGAINST WOMEN ACT, OR UH POLICIES CONCERNING
SEXUAL HARASSMENT, DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT AND STALKING; and

(8) Inform victims in writing of the right to file a police
report with the appropriate county police department
for investigation and assist victims in submitting the
police report.

(b) All University of Hawaii faculty members are designated as
"responsible employees" under Public Law 92-318, Title IX of the
federal Education Amendments of 1972, as amended, and shall

report any violations of University of Hawaii executive policies regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking to the Title IX coordinator of the faculty member's campus; provided that any faculty member designated as a confidential advocate pursuant to subsection (a) (6) shall not be a "responsible employee"; provided further that the confidential advocate shall provide general statistics to the Title IX coordinator on an annual basis about the number and type of incidents received by the confidential advocate.

(c) Romantic relationships:

(1) Between a University of Hawaii student and a University of Hawaii faculty member;

(2) Between a University of Hawaii graduate student assistant and a University of Hawaii faculty member; and

(3) Between a University of Hawaii graduate student assistant and a University of Hawaii staff member,

are prohibited.

(d) Any student who reports an incident of sexual assault, including incidents in which the student making the report is under the age of twenty-one and has consumed alcohol, shall not be subject to disciplinary action by the University of Hawaii for acts evidenced by information provided by the student or

information obtained based upon information provided by the student.

(e) Starting no later than December 31, 2016, the University of Hawaii shall conduct a campus climate survey of all students every two years. The University of Hawaii shall submit a report to the legislature no later than twenty days before the convening of each regular session that shall include:

- (1) A summary of the most recent campus climate survey results;
- (2) Information on the number of sexual assaults that occurred on a University of Hawaii system campus within the past five years; and
- (3) Recommendations and efforts to improve campus safety and accountability.

(f) The University of Hawaii shall establish policies and procedures to effectuate this section."

SECTION 3. (a) No later than December 31, 2016, the University of Hawaii shall revise, as necessary, all University of Hawaii executive policies regarding:

- (1) Student conduct;
- (2) Nondiscrimination;
- (3) Complaint procedures;
- (4) Campus security;
- (5) Alcohol consumption;

(6) Housing; and

(7) Workplace nonviolence,

that conflict with any University of Hawaii executive policy regarding sexual harassment, sexual assault, domestic violence, dating violence, and stalking, including University of Hawaii executive policy number 1.204.

(b) The University of Hawaii shall enter into memoranda of understanding with all county police departments by December 31, 2016, to govern communications and procedures for addressing sexual assaults that occur on University of Hawaii system campuses.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2525.

Report Title:

Affirmative Consent Task Force; Campus Safety; Sexual Assault

Description:

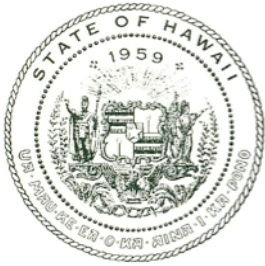
Requires UH to train employees and students on sexual harassment policies, appoint a campus advocate at each campus for students to discuss incidents of sexual harassment, report sexual assault cases to the police, and conduct a campus climate survey.

Prohibits romantic relationships between, among others, a UH student and a UH faculty member. (HB2772 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

LATE

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STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



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February 24, 2016

To: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Members of the House Committee on Finance

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony Supporting Intent Re: HB 2772, HD1, Relating to the
University of Hawaii, With Comments

As Co-Chair of the Act 222 Affirmative Consent Task Force (“Task Force”), I appreciate the the language set forth in HB 2772 and the great work undertaken to support victims of violence on college campuses. Since Act 222 was signed into law by Governor Ige, the Commission has actively taken a role on the Task Force by working with University representatives, community advocates, and victim service providers to develop preliminary recommendations regarding campus sexual violence, sexual harassment, dating violence, and stalking, while also highlighting the mandates found in Title IX, the Violence Against Women Act (VAWA), the Clery Act, and various other intersecting federal and state laws.

As our Task Force has an additional year to research, develop, and compile it’s final recommendations to the Hawaii State Legislature, we ask for patience and time in order to fulfill the mandates of Act 222, which are specific, victim centered, and crafted within a framework of a “culture shift” on all University of Hawaii campuses across the state.

The Commission can and will continue to work with the Task Force to develop language which will prohibit relationships between faculty and students, *especially* in situations where a power imbalance or supervisory relationship exists. The Commission will also commit to working with the Task Force to develop language and policy based on national best practices that center on a victim centered approach while also respecting the due process rights of all parties involved. While the Commission applauds this Committee for its commitment to campus safety, we ask that our Task Force be given more time to continue its work under the legal mandates of Act 222, recognizing that it is comprised of vigilant advocates who also desire an educational environment free of violence and discrimination and who wish to expedite changes across the University system as well.