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## HOUSE RESOLUTION

CONVENING A TASK FORCE TO ADDRESS IMPLEMENTATION OF HAWAII'S  
STATE LAW COROLLARY TO TITLE IX IN LIGHT OF ANTICIPATED  
CHANGES TO FEDERAL TITLE IX REGULATIONS.

1           WHEREAS, Title IX of the federal Education Amendments of  
2 1972, renamed in 2002 as the Patsy T. Mink Equal Opportunity in  
3 Education Act in honor of its principal author, former Hawaii  
4 Congresswoman Patsy Takemoto Mink, states that "[n]o person in  
5 the United States shall, on the basis of sex, be excluded from  
6 participation in, be denied the benefits of, or be subjected to  
7 discrimination under any education program or activity receiving  
8 Federal financial assistance"; and  
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10           WHEREAS, the Office for Civil Rights (OCR) within the  
11 United States Department of Education (USDOE) enforces Title IX  
12 by, among other things, investigating complaints and issuing  
13 informal guidance to educational programs; and  
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15           WHEREAS, in 2011, OCR issued a nineteen-page "Dear  
16 Colleague" letter clarifying that Title IX prohibits sexual  
17 harassment as well as sexual violence and setting out in detail  
18 the key requirements that must be followed by educational  
19 programs in response to complaints of sexual harassment and  
20 sexual violence; and  
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22           WHEREAS, in 2014, as a follow-up to the 2011 "Dear  
23 Colleague" letter, OCR issued a Question and Answer document  
24 further clarifying a school's obligation to respond to sexual  
25 violence under Title IX procedural requirements; and  
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27           WHEREAS, both the 2011 "Dear Colleague" letter and the 2014  
28 Question and Answer document were disseminated in response to  
29 growing awareness of the issue of campus sexual assault and the  
30 intentional failure of institutions of higher education to  
31 respond; and  
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1 WHEREAS, in January 2017, a new president took office, and  
2 the following month, the federal government withdrew guidance  
3 documents that had extended Title IX protections to transgender  
4 students. In September 2017, USDOE also withdrew the 2011 "Dear  
5 Colleague" letter and 2014 Question and Answer document issued  
6 by OCR under the prior federal administration. At the same  
7 time, USDOE announced its intent to engage in new rulemaking on  
8 Title IX; and

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10 WHEREAS, on November 29, 2018, USDOE issued a notice of  
11 proposed rulemaking that would significantly amend existing  
12 Title IX regulations and create new regulations. Among other  
13 things, the proposed regulations would reduce the number of  
14 complaints involving sexual harassment and other forms of sexual  
15 misconduct that currently fall within the purview of Title IX.  
16 The proposed regulations would also limit the scope of  
17 educational institutions' liability for complaints of sexual  
18 harassment; and

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20 WHEREAS, the proposed regulations have been publicly  
21 criticized by victim advocates as "devastating" for survivors of  
22 sexual harassment and sexual assault. More specifically,  
23 commenters anticipate that the proposed regulations would have  
24 the effect of discouraging the reporting of sexual harassment  
25 and sexual assault. Further, the proposed rules have been  
26 characterized as protecting schools above all, and not  
27 protecting students, accused or otherwise; and

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29 WHEREAS, since January 2019, USDOE has been reviewing more  
30 than one hundred thousand comments on the proposed regulations,  
31 in preparation for finalizing the Title IX regulations, which  
32 are expected to be announced in early 2020; and

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34 WHEREAS, in response to the intended policy changes  
35 announced by USDOE on the scope of Title IX's application, the  
36 Hawaii Legislature passed House Bill No. 1489, House Draft 1,  
37 Senate Draft 2, Conference Draft 1, which ultimately became Act  
38 110, Session Laws of Hawaii 2018 (Act 110). Act 110 established  
39 a state law corollary to Title IX that prohibits sex-based  
40 discrimination in state-administered or state-funded educational  
41 programs or activities, including discrimination based on sexual  
42 orientation, gender identity, and gender expression; and



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2 WHEREAS, Act 110 also requested the Legislative Reference  
3 Bureau to study and report on the status of Title IX enforcement  
4 nationally and in other jurisdictions, and to make  
5 recommendations relevant to implementation of the state law  
6 corollary; now, therefore,  
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8 BE IT RESOLVED by the House of Representatives of the  
9 Thirtieth Legislature of the State of Hawaii, Regular Session of  
10 2020, that an Act 110 Implementation Task Force be convened to  
11 address implementation of Hawaii's state law corollary to Title  
12 IX, in light of anticipated changes to federal Title IX  
13 regulations; and  
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15 BE IT FURTHER RESOLVED that the Act 110 Implementation Task  
16 Force is requested to recommend amendments to Hawaii's state law  
17 corollary for the purpose of addressing potential conflicts  
18 between Hawaii's law and the federal government's anticipated  
19 changes to the Title IX regulations, and to recommend a  
20 meaningful enforcement framework for Hawaii's state law  
21 corollary to Title IX; and  
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23 BE IT FURTHER RESOLVED that the membership of the Act 110  
24 Implementation Task Force consist of one representative from  
25 each of the following entities, and that upon convening, the  
26 members elect a chairperson from among themselves:  
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- 28 (1) The Office of Institutional Equity of the University  
29 of Hawaii System;  
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31 (2) The Hawaii Civil Rights Commission;  
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33 (3) The Civil Rights Compliance Branch of the Department  
34 of Education;  
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36 (4) The Department of the Attorney General;  
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38 (5) The Hawaii State Commission on the Status of Women;  
39 and  
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41 (6) The American Association of University Women of  
42 Hawaii, which shall be invited to participate.



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BE IT FURTHER RESOLVED that the members of the Act 110 Implementation Task Force serve without compensation; and

BE IT FURTHER RESOLVED that the Act 110 Implementation Task Force is requested to submit a report of its findings and recommendations, including any proposed legislation, no later than twenty days prior to the convening of the Regular Session of 2021; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Governor; Attorney General; Executive Director of the Hawaii Civil Rights Commission; President of the University of Hawaii System; Superintendent of Education; Executive Director of the Hawaii State Commission on the Status of Women; and the Board President of the American Association of University Women of Hawaii.

OFFERED BY: 

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