



# HAWAI‘I CIVIL RIGHTS COMMISSION

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

Tuesday, February 8, 2022, 1:00 p.m.  
Via Videoconference

To: The Honorable Clarence K. Nishihara, Chair  
The Honorable Lynn DeCoite, Vice Chair  
Members of the Senate Committee on Public Safety, Intergovernmental, and Military  
Affairs

From: Liann Ebesugawa, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 2420

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The 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.

S.B. No. 2420, would amend Title 17, Motor and Other Vehicles, Hawai‘i Revised Statutes (H.R.S.) to require that all “*qualified applicants* (for a driver’s license or instruction permit) ... shall be registered with the United States Selective Service System in compliance with 50 U.S.C. § 3803. The bill amends the definition of “qualified applicants” to include *all* driver’s license and instruction permit applicants who are U.S. citizens or immigrants between the ages of 18-26 years old, without regard to sex (deleting “male” from the definition).

**The HCRC opposes S.B. No. 2420, for two reasons:**

1. The bill attempts to address an exclusively federal matter. The states cannot amend or overrule the federal Military Selective Service Act, 50 U.S.C. § 3802(a).

50 U.S.C. § 3802 (a) states:

Except as otherwise provided in this chapter it shall be the duty of *every male citizen* of the United States, and *every other male person* residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present *himself* for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under [section 1101\(a\)\(15\) of title 8](#), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

This measure, if passed, would be preempted by federal law, void, or ineffective. Federal law takes precedence over state law, based on the supremacy clause, Article VI, paragraph 2, U.S. Constitution. The male-only Selective Service registration requirements are the subject of debate in Congress and in academia, but remain squarely within federal, not state, purview.

And,

2. The bill requires all "qualified applicants (for a driver's license or instruction permit) ... **shall** be registered with the United States Selective Service System in compliance with ... 50 U.S.C. § 3802," and defines "qualified applicant" as all (*not just male*) U.S. citizens and immigrants 18-26 years of age. This creates an impossible state statutory mandate, that all driver's license or instruction permit applicants (male and female) who are U.S. citizens or immigrants 18-26 years of age, **shall** be registered for Selective Service, but females **cannot** be registered under federal law.

In summary, the HCRC does not disagree with the basic proposition and principle that sex discrimination should not be imported and codified by into state law. However, state legislation cannot trump the federal law in this instance. That is a matter for Congress.

**The HCRC opposes S.B. No. 2420.**

**TESTIMONY IN OPPOSITION TO SB 2420**

Relating to Military

**COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY  
AFFAIRS**

**Senator Clarence K. Nishihara, Chair**  
**Senator Lynn DeCoite, Vice-Chair**

Date: February 8, 2022      Location: By Video Conference

Chair Nishihara, Vice-Chair DeCoite, and Members of the Committee,

I respectfully submit testimony in **Opposition** to SB 2420 which would require women seeking state identification, between the ages of eighteen and twenty-six, to register with the federal Selective Service. Matters of war and national security are the exclusive province of the federal government and not the states. As such, states have no legal authority to amend, supplant, or interfere with the requirements of the federal Military Selective Service Act.

Section 50 U.S.C. §3802 (a) provides that only those persons determined by proclamation of the President and by the rules and regulations prescribed in federal law are required to “present himself for and submit to registration.” *Id.* More specifically, the statute provides that only male persons residing in the United States, between the ages of eighteen and twenty-six are currently required to register. *Id.*

Currently there are no bills moving in Congress to amend Section 50 U.S.C 3802 (a) or any pending cases before the United States Supreme Court challenging the law. More specifically, in December 2021, Congress removed legislation from the National Defense Authorization Act that would have required women to register under the Selective Service Act.<sup>1</sup> And in June 2021, the United States Supreme Court declined to hear a challenge to the federal law that requires only men to register for the military draft.<sup>2</sup>

Thank you for the opportunity to testify on SB 2420,

Pat McManaman

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<sup>1</sup> USA Today, Lawmakers Kill Measure that Required Women to Register for the Draft, <https://www.usatoday.com/story/news/politics/2021/12/08/lawmakers-kill-provision-requiring-women-register-draft/6433960001/>, accessed 2/5/2022.

<sup>2</sup> New York Times, Supreme Court Won’t Hear Case on Limiting Military Draft to Men, <https://www.nytimes.com/2021/06/07/us/supreme-court-draft.html>, accessed 2/5/2022.



**LATE**

**SB-2420**

Submitted on: 2/7/2022 3:37:42 PM

Testimony for PSM on 2/8/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Dara Carlin, M.A.	Individual	Oppose	No

Comments:

Don't agree with this.