



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

---

**ON THE FOLLOWING MEASURE:**

S.B. NO. 2588, RELATING TO LIMITATION OF ACTIONS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Friday, February 3, 2012 **TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Caron Inagaki, Deputy Attorney General

---

Chair Hee and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill and does not oppose the bill, but makes the following comments and recommendations.

The bill contains wording on page 1 of the bill at lines 10 -13 that states, "provided that an action against a person who was a minor at the time the person committed the act of sexual abuse may be commenced when that person reaches the age of majority." We would recommend that this phrase be deleted.

Since the following paragraph already sets forth that the time to commence an action under this section is "eight years of the date the plaintiff or the person who committed the act of sexual abuse attains the age of majority, whichever occurs later," the additional wording is not necessary and it may cause confusion as to when the time actually starts to run.

Also, to avoid any conflict of interest, we would recommend an additional change to subsection (d) relating to the notarized statement of a medical or mental health care professional as follows:

(d) In any civil action filed pursuant to subsection (a) or (b), a certificate of merit shall be filed by the attorney for the plaintiff. The certificate of merit shall include a notarized statement by a:

- (1) Psychologist licensed pursuant to chapter 465;
- (2) Marriage and family therapist licensed pursuant to chapter 451J
- (3) Mental health counselor licensed pursuant to chapter 453D; or
- (4) Clinical social worker licensed pursuant to chapter 467E;

who is knowledgeable in the relevant facts and issues involved in the action  
[~~and~~], who is not a party to the action[- ], and who is not currently treating nor  
had previously treated the plaintiff.

We respectfully request that this bill be amended to include the stated changes.

**From:** [Dara Carlin, M.A.](#)  
**To:** [JDLTestimony](#)  
**Subject:** LATE TESTIMONY! SB2588 to be heard Friday, 02/03/12, at 10:00am in Room 016  
**Date:** Thursday, February 02, 2012 2:35:44 PM

---

TO: Senator Hee, Chair  
Senator Shimabukuro, Vice Chair  
Judiciary & Labor Committee Members

FROM: Dara Carlin, M.A.  
Domestic Violence Survivor Advocate  
881 Akiu Place  
Kailua, HI 96734

DATE: February 03, 2012

RE: Strong Support for SB2588, Relating to Limitations of Actions

Good Morning Senators and thank you for this opportunity to provide testimony on this measure.

Yesterday - February 2, 2012 - a front page top story on the msn webpage announced "**550 sexual abuse claims filed against Milwaukee Archdiocese**". One day earlier - February 1, 2012 - another front page top story on the msn webpage read "**Disgusted beyond belief: Parents shaken by ex-Calif. teacher's molestation charges**".

The **Sandusky/Penn State child sexual abuse case** that was covered by media everywhere made it impossible not to hear the story of how a football coach - and respected member of the community - was observed sexually assaulting a young boy years ago in a shower stall by a teaching assistant. The teaching assistant did the right thing and reported to his superiors, yet the superiors failed to act and the list of victims grew. The victims in this case waited as much as **9 years** before they finally had the strength, courage and resolve to step forward and launch a formal complaint against their abuser.

In the Milwaukee Archdiocese case it was reported that "One priest alone is accused of abusing some 200 boys at a suburban school for deaf students from 1950 to 1974" - **crimes that took place 62 - 38 years ago**. Why didn't these people say something sooner? Bankruptcy attorney (NOT a therapist or child sex abuse expert) James Stang mused "Most people are not willing to come out and publicly say they were masturbated by someone."

Regardless of what reasons child sex abuse victims have for not disclosing sooner, shouldn't they be allowed the option for justice? Who are we to tell people who've been victimized as children "Nope, sorry - times up. You should've said something sooner. Can't help ya - good luck with that therapy thing"? Not every victim-survivor is going to press charges or want to file a suit for damages, but shouldn't they be afforded that option after what they've been through?

A testifier on the House companion bill (HB1933) pointed out that this measure has "no teeth" and does "not allow victims to access third party discovery, depositions and proof that will show the actions and crimes of their abusers" - perhaps such language could be adopted in?

Child sexual abuse is a bigger problem then you might think. In an article entitled "Sexual Abuse of Children" from the *American Academy of Experts in Traumatic Stress (AAETS)*. The following alarming statistics and facts are laid out:

- In the United States **one out of three females and one out of five males have been victims of sexual abuse before the age of 18 years.**
- A report released by the National Institute of Justice in 1997 revealed that of the **22.3 million children between the ages of 12 and 17 years in the United States, 1.8 million were victims of a serious sexual assault/abuse.**
- Evidence suggests that **the negative psychological impact of child sexual abuse persists over time, often into adulthood.**
- It is estimated that approximately **one third of child sexual abuse victims experience PTSD as adult survivors.**
- It is rare for a child to speak directly about sexual abuse.
- **In most cases of sexual abuse, there are no physical indicators of the crime.**
- It is rare to actually have positive medical findings upon medical examination.
- The legal process can be especially intimidating, confusing, and frightening for children. Many aspects of the process (such as providing testimony and multiple interviews) can be overwhelming for children.
- It is estimated that **the average number of interviews a child victim whose case is going through the court system undergoes is eleven.**
- It is often said that during this time, a child can potentially be “re-traumatized.” The pre-trial phase can be more distressful for the child than the disclosure phase because the pre-trial phase often involves **ongoing investigation, multiple interviews, and protracted fear of perpetrator retaliation.**

Who would want to go through ANY of this as a child? By the time these children are willing and able enough to come forward to seek justice it's often too late for anything to be done. Our laws are supposed to strenuously protect our most vulnerable and the majority NOT the place a perpetrator's rights to be protected from justice above and before this. **Justice is supposed to right the wrongs or provide vindication for crimes that have occurred, its primary purpose is not to assist a perpetrator in averting charges and prosecution for his/her crimes; our statutes should reflect this.** Please support this measure to allow justice to be an option for those who might want to seek it.

Respectfully,

Dara Carlin, M.A.

Domestic Violence Survivor Advocate

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [ypeia01@yahoo.com](mailto:ypeia01@yahoo.com)  
**Subject:** Testimony for SB2588 on 2/3/2012 10:00:00 AM  
**Date:** Thursday, February 02, 2012 2:25:36 PM

---

Testimony for JDL 2/3/2012 10:00:00 AM SB2588

Conference room: 016  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: christine johnson  
Organization: Individual  
E-mail: [ypeia01@yahoo.com](mailto:ypeia01@yahoo.com)  
Submitted on: 2/2/2012

Comments:

These bills (according to legal authorities who looked them over ) do not remove the statutes of limitations child sexual abuse going forward (which is the main purpose of child sexual abuse statutes of limitations reform.. (ie to help ALL child sexual abuse victims not just a few who may fit into a window bill).

Am not a lawyer but was informed by those who read your bills that these bills are more predator friendly than victim friendly and in fact are a slap in the face to victims of child sexual abuse...

People all over the world are watching this.. some very intelligent professional people who are aware of the demise of SB217 last year. which passed unanimously to the governor who vetoed it using the same words as the catholic church lobby who tried successfully to influence stopping the bill and who apparently stopped the legislators from over riding the veto and not fighting for the bill.

Please do not shame yourselves any more then you already have.. by pushing a window bill that apparently is only window dressing..

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [ypeia01@yahoo.com](mailto:ypeia01@yahoo.com)  
**Subject:** Testimony for SB2588 on 2/3/2012 10:00:00 AM  
**Date:** Thursday, February 02, 2012 10:30:01 PM

---

Testimony for JDL 2/3/2012 10:00:00 AM SB2588

Conference room: 016  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: christine johnson  
Organization: Individual  
E-mail: [ypeia01@yahoo.com](mailto:ypeia01@yahoo.com)  
Submitted on: 2/2/2012

Comments:

: tina (cj)  
TO: sen chun oakland  
CC: [repkeithagaran@capitol.hawaii.gov](mailto:repkeithagaran@capitol.hawaii.gov)  
BCC: [gomama808@gmail.com](mailto:gomama808@gmail.com)

Message flagged

Thursday, February 2, 2012 10:14 PM

Dear Senator Chun Oakland and Representative Gilbert Keith Agaran:

Last session you kindly passed SB217 which removed the statutes of liitations child sexual abuse civil suits going forward and opened a 2 year window for some previously time barred suits.. you made adjustments that would help to make any false accusations be paid for by the person who made them..There was also some reference to having the victims see a therapist and or other mandated reporters..

It was a super bill and you all passed it unanimously to the governor. who vetoed it.

The attorney general said the state has a tort in place that exempts it from being sued for the acts of some of its employees. and that was a main reason the gov vetoed the bill..

I hoped and thought that after talking with you in your office with Carolyn in the summer, Sen chun Oakland that any new bill would also eliminate the SOL because that is the most important part of the bill because it helps all child sex abuse victims past present and future. not just a few victims who may be ready to sue thru a window and their attorneys.

I was in California and an activist when the one year window bill passed.. i even got signatures for the bill and helped it get passed.. but found out after the fact that other than hundreds of victims of priests few other victims (of the millions of victims in california) used the window.. they werent ready, they didnt know about it and most of all the lawyers were just making big bucks off the priest victims..When god moved me to Hawaii. i began to meet people in hawaii who were abused by priests and others in california..and they never heard about the window.

the window is closed and none of those people can easily or ever sue again..

This left a bad taste in me and hurt me deeply.. i do not think that catholics should be able to manipulate our laws and go in and create laws so their people can get hundreds of millions of dollars that often goes back to the church that abused them while the majority of american child abuse survivors dont even know about or can or are ready to use a window bill. I also was present when Rico Rackeeteering lawsuit was filed against cardinal mahoney and the archdiocese of losangeles this was before the window.. what appears to have happened is the fancy lawyers buried the bill if the cardinal paid money over 600 million dollars to the catholic victims.. this deal was made this enabled the cardinal and catholic church to buy their way out of criminal trial and arrests. and allowed many predators to continue their rampage thru caliofrnia and elsewhere..

am not saying i dont approve of a window but a window alone is not just and fair for the majority of victims especially victims of poor families or people who have nothing to give.. removing the sol at least for civil sends a message to predators to STOP because they will be held accountable.. something they do not have to worry about or have had to worry about..

most victims do not remember or get the connection between the abuse and the mess their lives are until they are way into their 40's 50's and i met men in their 70's and 80s who told me that when they saw my article in the paper they remembered and everything came pouring out.. some of them approached me in the streets crying telling me they never told anyone or they told and were not believed or they were told not to tell..

when i approached my legislator last year and proposed the bills which turned into SB217 i proposed the removal of the statutes of limitations child sexual abuse criminal and civil and a 2 year window..

since i was told by her last session that she was not in favor of this legislation and since the gov vetoed it.. i went to visit sen chun oakland to discuss the proposal..

i hope this can help get Hawaii's kids a good bill and let them know that someone or many care about ALL of them not just a few who can make lawyers money..

Even for those who will not be able to use a window.. just passing a removal of sol bill would be something they can present to the perpetrator in person or thru a lawyer or social services and empower them to make the predator pay for therapy and or other needs..

i guess that's it..

I hope you have a good session.. i hope you can add the sol par to the bill.

i cant and wont support just a window because it tells me that people do not care about the majority of victims..

thank you

blessings to you

christine johnson

makaha

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [breaking-the-silence@hotmail.com](mailto:breaking-the-silence@hotmail.com)  
**Subject:** Testimony for SB2588 on 2/3/2012 10:00:00 AM  
**Date:** Thursday, February 02, 2012 9:59:49 PM

---

Testimony for JDL 2/3/2012 10:00:00 AM SB2588

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Adult Survivor of Child Sexual Abuse  
Organization: Individual  
E-mail: [breaking-the-silence@hotmail.com](mailto:breaking-the-silence@hotmail.com)  
Submitted on: 2/2/2012

Comments:  
Honorable Representatives,

I apologize for the anonymity of this testimony but having the courage to speak the truth is very tough because you fear what the outcome is going to look like. I don't feel strong enough yet to stand before you but I do feel strongly enough about this bill to talk about what has and IS happening to me. I'm not HAPPY AT ALL having to hang my dirty laundry out in public like this but this is that important to me and I know other victims would agree...

What happened at Penn State and the MN Archdiocese recently is a perfect example of why we need SB2588. If you noticed the victims' disclosures about their abuse came out way later, YEARS later, then it actually happened and after one victim stepped forward so did another and another and another. I would like to see the whole statue of limitations eliminated all together and to ask to be able to take actions against a perpetrator that was not quite an adult (say 15 -17 not yet an adult but should have known better) when the crime took place.

Child sexual abuse and incest are silent crimes that are HUMILATING, DEGRADING, AND INTIMIDATING for the victims (things that I'm feeling right now as I'm writing this) and it's made all the worse when the abuser is someone from your own family.

I am also angry, enraged really, about the fact that I have to DEFEND why we need this bill that should already exist. Because this bill has not been put into law, my abuser has been able to get away with all he's done to me and he knows he's untouchable! Can you imagine how that feels to a victim!?

As a victim I had a mother who didn't care and who lead me to believe (and later told me) that the sexual abuse was my fault. I didn't know if my father knew about it but I feared that speaking up (as a teenager through adulthood) would have ruined his reputation since he was very well known and loved in the community. I also loved my father and didn't want to hurt him with the truth so I accepted and lived with the attitude that "it was my fault". I've struggled my entire life with the consequences of my silence and abuse until the day my abuser moved in next door to me and the trigger was pulled.

I became mad at everything, had nightmares mixed with insomnia every night and decades after the abuse, I was recommended to psychologists. They tried their best to "change my mindset" that was "conflicting with my reality" but no matter how hard I tried, it wasn't working for me and I only developed more symptoms. The symptoms then became physical and because my dad passed, I finally "broke my silence" but doing so cost me my whole family. When I protested my abuser's proximity to me, I was told I have no recourse and this is the anger that's given me the strength to speak out.

I believe we, as a community, are sending way too many mixed messages as to whether incest and sexual abuse are crimes or not. The passage of time affords the abuser a window to manipulate, threaten or charm victims into submission until the statute of limitations are up. These abusers are very good at their game and as a victim you have great fears for your survival. Coming forward is not as



easy as one might think: what if no one believes me? Suppose disclosing your abuse ends up destroying your relationships with your family? So you've been abused AND you lose your family support for it while the abuser is welcomed at family functions? And even to move in next door?

There should be some kind of fairness or justice for victims. It's extremely hurtful and embarrassing to the victim when others don't take this crime SERIOUSLY. It's made worse by judgmental put downs, a total dismissal of your feelings, giving you no validity to your experience. People questioning my sanity when they should be questioning my abuser, and having no recourse for crimes committed against me.

Please don't let what's happened to me happen to any other victim of child sexual abuse. Please give us an avenue to recoup expenses spent on my mental health recovery and/or in my case, the extra expense of dental work due to grinding my teeth down to the core as well as financing a move away from my abuser if SB2588 doesn't pass. My husband and I spent all of our money to build our home that my abuser decided after the fact to move in next door. If not in justice, just in the name of FAIRNESS – shouldn't he have to move for the crimes he committed against me rather than my husband and me having to walk away from the home we built?

Please give victims the option for justice when they're ready to ask for it, don't leave abusers with the power to wag a statute of limitations in a victim's face as they're able to do now.