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STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



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February 7, 2014

To: Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice Chair  
Members of the House Committee on Judiciary

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

Re: Testimony in Support, HB 2034 HD1, Relating to Sexual Assault

Thank you for this opportunity to testify in strong support of HB 2034 HD1, which would remove the statute of limitations for criminal and civil actions arising from sexual assault in the first and second degrees and continuous sexual assault of a minor under the age of fourteen.

This bill is necessary for several reasons. It is highly common for survivors to wait years before disclosing any abuse (if they disclose at all). For child victims of abuse and rape, this legislation is even more important because children rarely disclose, with sometimes a 3-18 year delay in disclosure.<sup>1</sup> This delay in disclosure means that victims may miss the crucial time in which they can report the sexual assault and at the very least, have their respective case be investigated by law enforcement as a potentially prosecutable offense. Adult perpetrators recognize this vulnerability in victims and use this to their advantage.

The current statutes of limitation for criminal and civil actions involving sexual violence limit survivors' ability to report and seek justice for the underlying criminal act. Many states have recognized this as an important factor when looking at statutes of limitations. In fact, at least 32 states have no criminal statute of limitations on child sexual abuse or the most aggravated sex crimes.<sup>2</sup> It is doubtful that this legislation would open the floodgates or cause concern for fraudulent claims. Additionally, this legislation does not change the burden of proof nor does it make it easier for sexual assault victims to prove their case. This legislation merely allows more survivors of sexual violence to access the justice system and feel as if they've been heard. This is a hugely important step for many survivors to recover from trauma.

The Commission strongly supports HB 2034, HD1. Thank you for this opportunity to testify.

<sup>1</sup> Ramona Alagia, *An Ecological Analysis of Child Sexual Abuse Disclosure: Considerations for Child and Adolescent Mental Health*, 19(1) J. CAN. ACAD. CHILD. ADOLESC. PSYCHIATRY 32 (Feb. 2010).

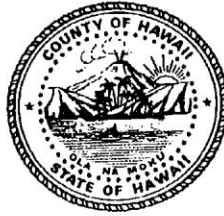
<sup>2</sup> The National Center for Victims of Crime, *Statutes of Limitations for Sexual Assault: A State by State Comparison*, available at <http://victimsofcrime.org/docs/DNA%20Resource%20Center/sol-for-sexual-assault-check-chart---final--copy.pdf?sfvrsn=2> (Aug. 2013).





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**OFFICE OF THE PROSECUTING ATTORNEY**

TESTIMONY IN SUPPORT OF HOUSE BILL 2034 HD1

A BILL FOR AN ACT RELATING TO SEXUAL ASSAULT

HOUSE COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Sharon E. Har, Vice Chair

Friday, February 7, 2014, 2:00 PM  
State Capitol, Conference Room 325

Honorable Chair Rhoads, Vice-Chair Har, and Members of the House Committee on Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 2034 HD1.

The purpose of this measure is to remove the statute of limitations for criminal and civil actions arising from sexual assault in the first and second degrees and continuous sexual assault of a minor under the age of fourteen years old.

Eliminating the statute of limitations on sexual assault sends a strong message that sexual violence will not be tolerated in our community. Reporting a sexual assault is never an easy process and takes tremendous courage and victims may take time to work through many emotions and experiences before being ready to engage with the legal system.

The Office of the Prosecuting Attorney of the County of Hawai'i supports the passage of House Bill No. 2034 HD1. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Roth".

Mitchell D. Roth  
Prosecuting Attorney  
County of Hawai'i

February 7, 2014

Honorable Karl Rhoads, Chair  
Honorable Sharon E. Har, Vice Chair  
House Committee on Judiciary

Re: HB 2034, HD1 – Relating to Sexual Assault – Support  
Friday, February 07, 2014 – 2 p.m. – Conference Room 325

Aloha Chair Rhoads, Vice Chair Har and members of the committee:

My name is Noriko Namiki, Chief Executive Officer of the YWCA of O'ahu, testifying in support for HB 2034, HD1 – Relating to Sexual Assault.

Child sex abuse is a devastating national problem. National estimates show that one in four women and one out of every five men in the country have been sexually abused. Nine out of ten times the abuse never gets reported. For those brave enough to report the abuse, it can take years and even decades to step forward.

Currently, Hawaii's law allows child victims to bring suits up to the age of 26, or three years from the time the victim realizes the abuse caused injury. If passed, this bill removes the statute of limitations for criminal and civil actions arising from sexual assault in the first and second degrees and continuous sexual assault of a minor under the age of 14.

The YWCA of O'ahu has assisted countless girls and women who have been victims of child sex abuse and knows the devastating and lifelong impact this crime has on them. Eliminating the statute of limitations on these crimes does not change the burden of proof or increase the difficulty to provide evidence on both sides. It merely provides victims due access to justice by allowing them the opportunity to move forward in the legal system. For these reasons, we humbly ask the committee to support the passage of this bill.

Since its founding in 1900, the YWCA of O'ahu exists to cultivate opportunities for women's and girls' growth and leadership, to help them create fulfilling lives for themselves and their families, and facilitating social change with positive economic impact for their communities.

Sincerely,



Noriko Namiki  
CEO  
YWCA of O'ahu

for every woman



January 28, 2014

TO: Representative Karl Rhoads, Chair  
Representative Sharon Har, Vice Chair and  
Members of the Committee on Judiciary

FROM: Jeanne Y. Ohta, Co-Chair

RE: HB 2034 HD1 Relating to Sexual Assault  
Hearing: Friday, February 7, 2014, 2:00 p.m., Room 325

POSITION: STRONG SUPPORT

The Hawai'i State Democratic Women's Caucus writes in strong support of HB 2034 HD1 Relating to Sexual Assault, which would remove the statute of limitations for criminal and civil actions arising from sexual assault in the first and second degrees and continuous sexual assault of a minor under the age of fourteen years.

Eliminating the statute of limitations is important because it is common for survivors of sexual assault, both minors and adults to wait some time before telling anyone about a sexual assault. Sexual assault is one of the most underreported crimes. Reporting to law enforcement may not be the first concern of a survivor following an assault or on their journey to healing. Reporting an assault takes tremendous courage and survivors may take time to work through the many emotions and experiences before being ready to engage with the legal system.

At least 32 states have no criminal statute of limitations on either or both child sexual abuse or the most aggravated sex crimes under the state laws.<sup>1</sup> Eliminating the statute of limitations acknowledges that sexual assault is one of the most severe offenses against a person.

Eliminating the statute of limitations does not change the burden of proof or difficulty that both sides face in terms of evidence where there has been a passage of time. It merely improves victims' access to justice by allowing them the opportunity to move forward in the legal system. There are other safeguards set up in the criminal justice system that protect against unreliable evidence and false reporting.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. It is because of this mission, the Women's Caucus supports this measure and urges the committee to pass this important measure.

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<sup>1</sup> The National Center for Victims of Crime, *Statutes of Limitation for Sexual Assault: A State-by-State Comparison*, <http://victimsofcrime.org/docs/DNA%20Resource%20Center/sol-for-sexual-assault-check-chart---final---copy.pdf?sfvrsn=2> (Aug. 2013).



# THE SEX ABUSE TREATMENT CENTER

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

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Adriana Ramelli

*Advisory Board*

*President*  
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*Senator*  
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

*Councilmember*  
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Phyllis Muraoka

Gidget Ruscetta

Joshua A. Wisch

DATE: February 7, 2014

TO: The Honorable Karl Rhoads, Chair  
The Honorable Sharon E. Har, Vice Chair  
House Committee on Judiciary

FROM: Alana Peacott-Ricardos, Policy Research Associate  
The Sex Abuse Treatment Center

RE: H.B. 2034 H.D. 1  
Relating to Sexual Assault

Good afternoon Chair Rhoads, Vice Chair Har and members of the House Committee on Judiciary. My name is Alana Peacott-Ricardos and I am the Policy Research Associate for the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawai'i Pacific Health.

SATC strongly supports H.B. 2034 H.D. 1, which removes the statute of limitations for criminal and civil actions arising from sexual assault in the first and second degrees and continuous sexual assault of a minor under the age of fourteen. Eliminating the statute of limitations on sexual assault sends a strong message that sexual violence will not be tolerated in our community at any time.

It is common for survivors of sexual assault to wait some time before telling anyone about the assault. Some survivors may never tell. A sexual assault is an unexpected intrusion and can create upheaval at home, work, or in social settings. There are many ways that survivors respond to sexual violence: fear, guilt, shock, disbelief, anger, confusion, helplessness, anxiety. Reporting an assault takes tremendous courage and it may not take first priority following an assault. A survivor may need time to work through the many emotions and experiences before they are ready to engage with the legal system.

This is especially true for survivors of child sexual abuse. Many children do not disclose sexual abuse right away. Some studies have estimated that between 60–80% of child survivors withhold disclosure.<sup>i</sup> Studies examining latency to disclosure have reported a mean delay from 3–18 years.<sup>ii</sup> There may be many reasons for this, from the child's stage of cognitive development and their ability to express what happened, to the fact that a majority of survivors know the perpetrator<sup>iii</sup> and may fear the impact on their family or the perpetrator's family. Adult survivors also may not disclose right away because they are scared or concerned that the perpetrator might retaliate; or they may blame themselves; or they are confused by what happened or the feelings they may have for the perpetrator, if for example the perpetrator is an intimate partner.

Eliminating the statute of limitations can encourage more survivors to come forward and hold more perpetrators accountable. Under the current law, both the perpetrator and survivor are assured that the perpetrator will not be prosecuted after a certain amount of time. No matter what the perpetrator has done or the impact they have had on the survivor, the perpetrator can be guaranteed to walk away without penalty. Thus, there may be less incentive to come forward. By knowing that there is a possibility that the perpetrator may face consequences for their actions, more survivors may be motivated to share their story when they are ready. Additionally, this enhances public safety. Studies have found that a number of undetected sex offenders are serial offenders.<sup>iv</sup> These offenders pose a continuing threat to the community. When more survivors are able to come forward, more perpetrators are identified.

In 2012, Hawai'i amended its statute of limitations for civil actions involving child sexual abuse and provided a two-year window allowing survivors who had been previously barred by the statute of limitations to bring a civil action against the perpetrator or against the entity that employed the person accused of committing the abuse. The window is set to close this April. To date, at least ten survivors have come forward with suits directly attributable to the law. While the law has provided survivors with a chance to obtain justice, it has also served to expose the long-hidden abusers and institutions who failed to protect children from abuse. Additionally, at least 32 states have no criminal statute of limitations on either or both child sexual abuse or the most aggravated sex crimes under state laws.<sup>v</sup>

We urge you to pass H.B. 2034 H.D. 1. The benefit to our communities in eliminating the statute of limitations far outweighs any arguments for keeping it. Eliminating the statute of limitations does not change the burden of proof or difficulty that both sides face in terms of evidence where there has been a passage of time. It merely improves survivors' access to justice by allowing them the opportunity to move forward in the legal system.

Thank you for this opportunity to testify.

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<sup>i</sup> Ramona Alagia, *An Ecological Analysis of Child Sexual Abuse Disclosure: Considerations for Child and Adolescent Mental Health*, 19(1) J. CAN. ACAD. CHILD ADOLESC. PSYCHIATRY 32 (Feb. 2010).

<sup>ii</sup> *Id.*

<sup>iii</sup> See, e.g., THE SEX ABUSE TREATMENT CENTER, SEXUAL ASSAULT VICTIMS IN THE CITY AND COUNTY OF HONOLULU: 2001-2010 STATISTICAL PROFILE 1 (2013), available at <http://satchawaii.org/pdf/sexual-assault-victims-2001-2010-statistical-report.pdf>. According to the report, 92.5% of child victims and 80% of adult victims receiving services from SATC knew the perpetrator.

<sup>iv</sup> See, e.g., David Lisak & Paul M. Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17 Violence & Victims 73 (2002).

<sup>v</sup> The National Center for Victims of Crime, *Statutes of Limitation for Sexual Assault: A State-by-State Comparison*, <http://victimsofcrime.org/docs/DNA%20Resource%20Center/sol-for-sexual-assault-check-chart---final---copy.pdf?sfvrsn=2> (Aug. 2013).



**HB2034**

Submitted on: 2/4/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimberly Sasaki	Individual	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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**HB2034**

Submitted on: 2/5/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
chris johnson	Individual	Support	No

Comments: Dear Chair Rhoads and Committee Members: My name is Christine Johnson. I am a former Registered Nurse and for the past 30 years am an activist for child sex assault, SOL reform, and human rights. Today, on the news, the UNITED NATIONS published it's scathing report on the sexual assault of children along with other crimes against children by the catholic church/Vatican. It is a historical event.. I hope Hawaii with your help can become part of this global effort to thwart the sexual assaults of children and adults by removing the SOL both criminal and Civil.. please consider that the AG's remarks about taking out civil and the reasons they give, are the same reasons the catholic church gives when they go in to hearings all over the world and try to stop SOL reform.. the burden of proof is always on the victim and their lawyers.. civil suits can't succeed without proof.. so their "concerns" have no merit? Thank you so much for your attention to this bill and all other bills that remove time limits. Time limits only help rapists by giving them a green light.( once a certain date has passed..) lets give them a red light that never ends. Respectfully, Christine Johnson Makaha, Hawaii 96792 808 373-0739

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**HB2034**

Submitted on: 2/4/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Abigail Cutter	Individual	Support	No

Comments:

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**HB2034**

Submitted on: 2/5/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Monk	Individual	Support	No

Comments:

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**HB2034**

Submitted on: 2/6/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kari Benes	Individual	Support	No

Comments:

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**LATE**

**Office of the Public Defender  
State of Hawaii**

**Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Judiciary**

February 7, 2014, 2:00 p.m.

H.B. No. 2034: RELATING TO SEXUAL ASSAULT

Chair Rhoads and Members of the Committee:

This measure would remove the statute of limitations for civil and criminal actions involving sexual assault in the first and second degree and continuous sexual assault of a minor under the age of fourteen.

The Office of the Public Defender opposes H.B. 2034.

Currently, under Sec. 701-108, H.R.S., only the offenses of murder in the first and second degree have no statute of limitations. The removal of the statute of limitations in sexual assault cases will be done so at extreme prejudice of the rights of accused to a fair trial.

The statute of limitation for sexual assault in the first degree is six years, and three years for sexual assault in the second degree. The time period may be extended in the case of DNA evidence but for a period not to exceed ten years from the expiration of the original time limitation. We believe that this time period is sufficient to balance the rights of both the victim and accused in sexual assault cases. Over time, memories fade and witnesses disappear. Physical evidence may deteriorate, be destroyed or lost.

As a trial attorney, I have represented many defendants charged with sexual assault. Several of those cases went to trial. All but one of them resulted in acquittals, not because of a lack of evidence, but because they were falsely accused by complainants who had a motive to make a false claim.

In one case, a minor, age twelve, claimed that her stepfather sexually assaulted her over a period of time. He was charged with sexual assault in the first degree within the statute of limitations. During my trial preparation, I noticed that the minor's allegation seemed mysteriously similar to another

sexual assault case that I was working on. When I compared the minors' statement forms, their allegations were nearly identical. The minors also lived in the same housing complex, and were classmates at school. The minor in the case I was trying claimed that she was assaulted two months after the minor in the first case. We also found the minor's diary, in which she wrote about being sexually active with her fourteen-year-old boyfriend, her anger with her stepfather for being strict about her relationship with her boyfriend and curfew at home. There was no mention in her diary about being sexually assaulted by her stepfather. After trial, we discovered that pages that were ripped out of her diary documented her scheme. Why is this important? The right result occurred, right? What would happen if this charge were brought fifteen years after the alleged offense? What if instead of her anger with her stepfather, the accuser is motivated by greed, and is intent on cutting him out of her mother's estate? How would we be able to discover the existence of another case in order to show that the accuser copied the accusations of her classmate? How would we even be able to find this witness? What of the diary? How would we be able to discover its existence? How do we competently represent a defendant who is charged decades after the alleged offense?

Another sexual assault case that I handled involved a soldier accused of sexually assaulting a sixteen-year-old girl in a hotel room. She reported this to her father when she and her twin sister returned home after spending two days and a night away from home. My client admitted that he and a fellow soldier picked up the girls, and later got a hotel room for the four of them. After they paired off, he felt uncomfortable because his friend began having sex with one of the twins, and made an excuse to leave the room and called a buddy to take him home. He denied sexually assaulting the minor and denied having any sexual relations with her. His fellow soldier confirmed his story, and stated that the jilted twin was upset and crying when it was apparent that my client was not returning to the hotel room. The soldier also reported that while consoling the minor, he had sex with the other sister as well. As unbelievable as this story was, both my client and his fellow soldier took and passed lie detector tests conducted by the police polygraphist. The charges were eventually dismissed, when the girls refused to submit to a polygraph examination. Again, how is this relevant to the argument against the removal of the statute of limitation for sexual assault in the first and second degree? If the allegation is made a decade after the alleged assault, what happens if we cannot find our witness? How do we defend this soldier? As I mentioned in my testimony above, over time,

memories fade and witnesses disappear. Physical evidence may deteriorate, be destroyed or lost.

According to the Innocence Project, since 1989, there have been 312 post-conviction DNA exonerations in the United States. The average length of time served by each exoneree is 13.5 years. In Hawaii, Alvin Jardine was incarcerated for 20 years until he was exonerated by DNA evidence. The victim mistakenly identified Mr. Jardine as her assailant. The removal of a statute of limitation for sexual assault cases will result in more defendants who will be convicted of crimes they did not commit.

The Office of the Public Defender strongly opposes this measure. Thank you for the opportunity to be heard on this matter.





**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2014**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2034, H.D. 1, RELATING TO SEXUAL ASSAULT.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**LATE**

**DATE:** Friday, February 07, 2014

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

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

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill as it relates to eliminating the statute of limitations for civil actions for certain sexual assault crimes. The Department has no constitutional or legal concerns that would prevent the Legislature from eliminating the statute of limitations for crimes involving sexual assault against minors and the disabled. Hawaii has already determined that certain crimes, such as murder, are so heinous and pernicious that the criminals who commit them should not be able to evade prosecution. Perpetrators of sexual assault against minors and the disabled violate the most vulnerable who are often intimidated by threats and unlikely to report the crime until many years later. Society has an interest in ensuring that these predators are caught and brought to justice.

The purpose of this bill is to amend section 657-1.8, Hawaii Revised Statutes (HRS), to create a civil cause of action, with no limitations period, for recovery of damages by persons who are alleged to have suffered psychological or physical injury "arising from" sexual assault in the first or second degrees or continuous sexual assault of a minor under the age of fourteen years. The bill also amends section 701-108, HRS, to allow for the criminal prosecution of these crimes with no limitations period.

The bill is vague and ambiguous in that it does not identify who the civil claim can be brought against and allows a cause of action to be brought, not just against an alleged perpetrator, but against even those who the claimant may believe had some connection, no matter how peripheral, to the assault, without any time limitation.

This raises concerns that the bill violates the due process clause of the state and federal constitutions, because a claim could conceivably be brought against any person or entity at any time, which could prevent or severely impair that person or entity's ability to defend himself, herself, or itself.

The lack of any statute of limitations for a civil action is troubling and unprecedented in the State of Hawaii. Over the passage of time, memories fade, witnesses move or pass away, and documents are lost or destroyed. Most entities have records retention policies that call for the destruction of documents after a certain period of time. This is especially critical when the claim is simply a fabrication. A claimant could conceivably wait to file a lawsuit until the most strategically opportune time to prevent a defendant from defending against the lawsuit.

Just one example where this bill could be misapplied is in the instance of a minor who is a victim of sexual abuse of one of the identified crimes and is taken to a hospital to be treated. A medical care provider who examines the minor is mandated to report the suspected abuse. If no medical care provider reports the suspected abuse and the child is abused again, there may be grounds to file an action against the medical care provider and the hospital. However, because there is no time limitation, a claimant could file a lawsuit decades later when there may no longer be any witnesses or documentation that would allow the medical care provider or hospital to defend itself in the lawsuit.

Also, any claim against a medical care provider under this bill would be in direct conflict with section 657-7.3, HRS, which sets forth a specific limitation period for actions for medical torts.

Furthermore, if medical care providers or hospitals can be sued at any time, insurance companies may refuse to issue errors and omissions policies or may raise their rates to such an extent that physicians could no longer afford to purchase insurance coverage.

The bill is also unclear as to who can make the determination that the conduct constitutes a violation of part V or VI of chapter 707, HRS, in order to allow a cause of action under this bill. The bill, as written, allows civil actions, at any time, even against a person who has been accused, but not proven, to have committed the crime upon which the civil action is based. The bill does not require a conviction or even proof of guilt but merely that injury "arising from" sexual assault occurred. If the alleged perpetrator is arrested but not charged with a crime under

part V or VI because the prosecutor determines that the allegations are unfounded, this bill may still allow a lawsuit to be brought against a wrongfully accused individual, at any time, if the allegations in the lawsuit merely include the elements of a violation of section 707-730, 707-731, or 707-733.6 or any other sexual abuse of a minor that falls within V or VI of chapter 707. Because there is no limitations period, a lawsuit could even be brought after this individual's death against his or her estate and there would be no opportunity for the accused to establish his or her innocence.

We respectfully request that the amendments proposed in section 1 be deleted from this bill or alternatively that this bill be held.

**LATE**

**HB2034**

Submitted on: 2/6/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
david clohessy	SNAP, a non-profit	Support	No

Comments: David Clohessy, Director, SNAP, Survivors Network of those Abused by Priests, (7234 Arsenal Street, St. Louis MO 63143), 314 566 9790 cell ([SNAPclohessy@aol.com](mailto:SNAPclohessy@aol.com)) I strongly support HB 2034 and SB 2687 (though I oppose the 55 year age cap in SB 2687 – more later). By way of background, I've been the director of SNAP for 25 years. Four boys, including me, were molested as kids by the same predator priest. One of them, my younger brother, grew up to become a priest. He is now suspended, because he molested kids as well. When it comes to child sexual abuse, three steps must be taken. We must protect the vulnerable, expose the predators and enablers, and heal the victims. With virtually no added expense, legislation that lifts the statute of limitations achieves all three goals. In a nutshell, this legislation reforms predator-friendly child molestation laws. It removes archaic, arbitrary time limits that keep victims of these horrific crimes trapped in shame, silence and self-blame. It removes the incentive predators and enablers now have to intimidate victims, threaten witnesses, destroy evidence, and 'run out the clock' on their crimes. So eliminating the rigid, dangerously restrictive statute of limitations is the cheapest and best way to protect kids in the future. It's the best because it relies on the open, impartial time-tested American criminal justice system that's been continually refined and reformed for centuries. It's the cheapest because it requires no expensive, fancy new technology, no untested theories, no risky strategies and no massive, revolutionary changes. Just a simple, small procedural change. We're essentially just opening the courthouse doors a tad wider, to accommodate brave but deeply wounded victims of horrific child sex crimes and to expose the compulsive criminals who commit those crimes over and over again. This move, getting rid of the statute of limitations, helps kids now and in the future. When this bill passes, people will know that when it comes to child sexual abuse, Hawaii's is in forefront. There will be some cases in which a victim will be distrustful of the criminal system. There will be some cases in which the police and prosecutors don't have enough evidence. In these cases, the civil remedy will at least give victims an alternative: they can try to expose their perpetrator in civil court, warn others about him and protect others from him. There will be some cases in which a victim will be determined to get a predator locked up. The FBI estimates that 90% of all child molesters are never prosecuted. That's right: 90%. So we have two choices: a) reform the arbitrary, archaic, predator-friendly statute of limitations, or b) spend millions on more cops, better crime labs, and the like. Please ask yourselves: What's more important? A rigid time limit that helps predators? Or the flexible judgment of prosecutors and jurors? And what's more important? The safety of the innocent or the convenience of the accused? In a well-rehearsed manta, the well-funded defense lawyers talk about 'lost evidence, faded memories and dead witnesses.' Yes, these are

problematic, but for us, the victims, not for them, the predators. Remember who has the burden of proof here-the victims. Scam artists who do shoddy roofing work and cause harm can only be discovered and prosecuted after it rains. Surgeons who are reckless and cause harm can only be discovered and exposed after patients recover. And predators who cause harm by molesting kids can only be discovered and exposed after those kids grow up, gain understanding, realize they're hurting, become strong, and find courage. The well-funded defense lawyers also claim 'Victims should come forward sooner.' They're right. Victims should. But the simple truth is that often, victims just can't. How often do you hear of a six year old girl walking to her local police station and reporting that her step father is molesting her? It rarely happens. They were shrewdly but severely wounded as kids. They shouldn't be punished for not being able to understand and act according to someone else's arbitrary schedule. No one says to a grieving widow "You've got 6 weeks to get over your husband's death." If you could have no statute of limitations for just one crime, I suggest you make child molestation that crime. Murders are usually discovered promptly. With murder, there's usually physical evidence. And murderers usually only murder once. Child sex crimes are usually discovered years later. There's often no physical evidence. And child molesters almost always molest again. So today, please tell kids that their safety matters. Please tell child sex abuse victims that their healing matters. And please tell those who would commit and conceal heinous crimes against children that they'll get no special breaks in Hawaii. And finally, I oppose the 55 year "age cap" in the Senate bill. It's arbitrary and will let older but still dangerous predators to go undetected. A now 55 year old woman who was repeatedly raped as a girl by a now retired 68 year old teacher deserves justice as much as anyone. And that teacher might still be molesting his nieces or neighbors today.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



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### TESTIMONY IN SUPPORT OF HB 2034

Honorable Chair and Committee Members:

I support the passage of HB 2034. As an attorney, I have had the privilege to represent a number of persons in bringing claims against individuals who sexually abused them as children, and when appropriate, claims against the persons and entities who facilitated the perpetrator's abuse or provided protection to the abusers so they were free to strike again. Many of these claims were made possible by Hawaii's "window statute", Section 657-1.8, Hawaii Revised Statutes, which was a significant step forward in addressing childhood sex abuse claims, but certainly was not the end of the journey.

Although many of the acts of sex abuse which would be addressed by this bill may have occurred years ago, one of the first things I learned in representing survivors is that the pain and harm of childhood sexual abuse is still very close to the surface, and its impact remains profound. As such, it takes a great amount of courage for a survivor to stand up to power for the child he or she once was and to state "It happened to me, it was wrong, and it was not my fault." Our island culture may increase the reluctance of a survivor to come forward. While claims may be brought under a pseudonym, there still is a fair concern that if one comes forward, friends, relatives, neighbors, co-workers and others in the community will learn of the abuse and deeply personal facts about the survivor. As a result, stepping forward with a claim is something that many persons who have contacted me still are not ready to do, even in the face of the upcoming expiration of the window on April 24, 2014. Some of these people will never reach a point of empowerment where they are able to present claims. However, others will and it is unfair to rush these survivors to action merely to protect the repose of perpetrators in our midst, who have already been too long protected by societal customs making discussion of some topics off limits and organizations which have valued the continued service of the perpetrators over the protection of the children who were victimized.

Thank you for your time and attention to this important matter.

Very truly yours,

Mark Gallagher



92-954 Makakilo Dr. #71 Kapolei, HI 96707 Email: [Rainbowfamily808@gmail.com](mailto:Rainbowfamily808@gmail.com) Phone: 808-779-9078 Fax: 808672-6347

February 6, 2014

RE: - HB2034 **Limitations of Actions**

**In Strong Support**

TO: HOUSE Chair, Vice Chair and members of the HOUSE Judiciary Committee

Aloha Chair, VP and Committee members,

Rainbow Family 808 strongly supports HB2034 for the benefit of all children and families in Hawaii. SB2687 will simply give the survivors and victims of sexual abuse their day in court.

As a social worker and community concerned citizen since 1981, I have seen the harm of that the Statute of Limitations does to the victims of the rape of the children who are not capable of understanding that they have a right to a safe environment until years and decades after their rape.

Please give the children a chance for justice, a chance for their day in court. Children need the time to face the harm done to them. The families need the education that no one, no matter what high position, no matter what place of honor that they hold has a right to rob their children from their sense of innocent or their sense of safety.

Please focus on the needs of the children families and pass HB2034 on Limitation of Actions for the benefit of all our children and their families..

Thank you,

Carolyn Martinez Golojuch, MSW

President – Rainbow Family 808.com

**Required parameters are missing or incorrect.**



Marci A. Hamilton  
Paul R. Verkuil Chair in Public Law

PHONE: 215-353-8984  
FAX: 215-493-1094  
E-MAIL: hamilton.marci@gmail.com

February 6, 2014

**VIA DROPBOX/EMAIL SUBMISSION**

The Honorable Karl Rhoads, Chair  
The Honorable Sharon E. Har, Vice Chair  
Honorable Members  
House Committee on Judiciary  
Hawaii State Capitol, Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

Hearing: Feb. 7, 2014 2PM

RE: Hawaii H.B. 2034 (Eliminates the civil and criminal statutes of limitations for victims of sexual assault in the first and second degree and continuous sexual assault of a minor under the age of fourteen years)[Effective 7/1/2050].

Dear Representative Rhoads, Representative Har & Members of the Committee:

I commend the Committee for taking up H.B. 2034, which would eliminate the civil and criminal statutes of limitation (“SOLs”) for victims of sexual assault in the first and second degree and continuous sexual assault of a minor under the age of 14. This is a valuable addition to Hawaii’s laws to protect children and to identify the perpetrators preying on children in Hawaii. It will shift the balance of power from the perpetrators who now can breathe a sigh of relief when the SOLs end, to the victims, who will have access to justice when they are ready.

By way of introduction, I hold the Paul R. Verkuil Chair in Public Law at the Benjamin N. Cardozo School of Law, Yeshiva University, where I specialize in church/state relations and constitutional law. My book, *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), makes the case for statute of limitations reform in the child sex abuse arena. I am the leading expert on the history and constitutionality of retroactive statutes of limitations with respect to child sex abuse and have advised many child sex abuse victims on



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constitutional issues, and testified in numerous states where SOL reform is being considered. I also track the SOL movement in all 50 states on my website, [www.sol-reform.com](http://www.sol-reform.com).

Statute of limitations reform is the one tried and true means that will identify the many hidden child predators who are grooming children in Hawaii right now. Hawaii put itself at the vanguard of the movement to increase access to justice for victims when it enacted the “window,” which is now open. <http://sol-reform.com/News/hawaii/#news> Hawaii provided child sex abuse victims from many walks of life, who were previously blocked from justice, to be able to seek justice.

The lawsuits filed under the window, which revived previously expired SOLs, have been critical in identifying to the public the abuse and suffering that existed in Hawaii and was until the window appeared, secret. Minnesota followed Hawaii and now also has an open window, and is having the same experience: victims have been freed to seek justice, perpetrators are being named, and those who make the abuse possible are being held to account to the public. <http://sol-reform.com/News/topics/mn-post-window/>

Elimination of SOLs for child sex abuse is ideal, because the vast majority of victims need decades to come forward. There is an extensive and persuasive body of scientific evidence establishing that child sex abuse victims are harmed in a way that makes it extremely difficult to come forward and, therefore, victims typically need decades to do so.<sup>1</sup> On average, victims come forward in their early 40s. If passed, this bill will dramatically improve justice for children who were sexually abused in Hawaii.

Given that most child perpetrators abuse many children over the course of their lives,<sup>2</sup> SOL extension does far more than create justice for today’s victims. It also forestalls future abuse of tomorrow’s children by identifying perpetrators to the public.

The opposition by the Office of the Attorney General is incomprehensible. This is a crime where the victims routinely are incapable of filing charges or a lawsuit for damages until mid-life. The current SOL is configured so that it shuts the vast majority of victims out of the courts, before they can ever get there. That means, as currently configured, Hawaii law protects predators and disables victims. Who pays for that? The public, as opposed to those who caused the abuse.

There is no unfairness to defendants in eliminating the SOL for sexual assault of a child, because the only alteration to the law is the date of filing. The law governing at the time of the offense still governs, and the burdens on the parties remain the same, with the prosecutor or plaintiff bearing

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<sup>1</sup> Rebecca Campbell, Ph.D., “*Neurobiology of Sexual Assault: Explaining Effects on the Brain*,” National Institute of Justice (2012); *R.L. v. Voytac*, 199 N.J. 285, 971 A.2d 1074 (N.J. 2009); Bessel A. van der Kolk M.D., et al., *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (2006).

<sup>2</sup> KENNETH V. LANNING, CHILD MOLESTERS: A BEHAVIORAL ANALYSIS 10, 52 (5<sup>th</sup> ed. 2010) available at [http://www.cybertipline.com/en\\_US/publications/NC70.pdf](http://www.cybertipline.com/en_US/publications/NC70.pdf). (“Except for child prostitution, most sexual-exploitation-of-children cases in the United States involve acquaintance molesters who rarely use physical force on their victims. . . . Although a variety of individuals sexually abuse children, preferential-type sex offenders, and especially pedophiles, are the primary acquaintance sexual exploiters of children. A preferential-acquaintance child molester might molest 10, 50, hundreds, or even thousands of children in a lifetime, depending on the offender and how broadly or narrowly child molestation is defined. Although pedophiles vary greatly, their sexual behavior is repetitive and highly predictable.”)

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the initial burden of proof. If they do not have the evidence to carry their initial burden of proof, the case will be dismissed.

### **There are three compelling public purposes served by SOL Reform, including the removal and/or revival of SOLs for child sexual abuse:**

- (1) It identifies previously unknown child predators to the public so children will not be abused in the future;
- (2) It gives child sex abuse survivors access to justice; and
- (3) It cures the injustice wreaked by the current unfairly short statutes of limitation that protect child predators and silence child sex abuse victims.

I have been involved in statute of limitations reform in numerous states, and it is, without exception, the most effective means for the public to learn who the secret predators are. As Professor Timothy Lytton has documented, civil tort claims have been the only means by which survivors of clergy abuse have been able to obtain any justice. Timothy Lytton, *Holding Bishops Accountable: How Lawsuits Helped the Catholic Church Confront Sexual Abuse* (Harvard University Press, 2008).

Legislative reform for statutes of limitations for child sex abuse victims continues to mount every year. Criminal SOL elimination has become the norm, with Alabama, Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming and the Territory of Guam having already eliminated the criminal SOL for at least some child sex crimes.<sup>3</sup>

Last year, more progress was made in opening up abuse victims' access to justice than at any point in history. Sixteen states introduced bills to increase victims' access to justice by scaling back the SOLs.<sup>4</sup> In 2013 alone, SOL reform was enacted in Arkansas, where the state eliminated the criminal SOL;<sup>5</sup> Illinois, where both the civil and criminal SOLs were eliminated;<sup>6</sup> Vermont, where the SOL was

<sup>3</sup> ALA. CODE § 15-3-1; ALASKA STAT. § 12.10.010, ALASKA STAT. § 11.41.427; ARIZ. REV. STAT. ANN. § 13-107; COLO. REV. STAT. § 16-5-401; CONN. GEN. STAT. § 54-193(a); DEL. CODE ANN. tit. 11 § 205(e); FLA. STAT. ANN. § 775.15(13); GA. CODE ANN. § 17-3-1(d); IDAHO CODE § 19-401; IND. CODE § 35-41-4-2; KY. REV. STAT. ANN. § 500.050; LA. CODE CRIM. PROC. ANN. ART. 571; ME. REV. STAT. ANN. tit. 17-A § 8; *Clark v. State*, 774 A.2d 1136, 1144 n.8 (Md. 2001); MASS. GEN. LAWS CH. 277, § 63; MICH. COMP. LAWS § 767.24(1); MINN. STAT. § 628.26(e)-(f); MISS. CODE ANN. § 15-1-49; MO REV. STAT. § 556.036(1); NEB. REV. ST. § 29-110; N.M. STAT. ANN. § 30-1-8; N.Y. CRIM. PROC. LAW § 30.10(2); *State v. Johnson*, 167 S.E.2d 274, 279 (N.C. 1969) (“In this State no statute of limitations bars the prosecution of a felony”); R.I. GEN. LAWS § 12-12-17(a); S.C. Judicial Dep’t, *Summary Court Judges Bench Book*, CRIMINAL(A)(2) (2000-2013) (“South Carolina does not have a general statute of limitations for criminal actions”), <http://www.judicial.state.sc.us/summaryCourtBenchBook/HTML/CriminalA.htm>; S.D. CODIFIED LAWS § 23A-42-1; TEX. CODE CRIM. PROC. ANN., art. 12.01; UTAH CODE ANN. § 76-1-301; VT. STAT. ANN. tit. 13, § 4501; *Comm. v. Gouge*, 1983 WL 210243, at \*1 (Va. Cir. Ct. Feb. 24, 1983) (noting “the crime charged was a felony for which there was no statute of limitations”); W. VA. CODE § 61-11-9 (felonies other than perjury not mentioned in enumerated list); WIS. STAT. ANN. § 939.74; *Boggs v. State*, 484 P.2d 711, 714 (Wyo. 1971) (“Wyoming has no statute of limitations as to the commencement of criminal proceedings”); GUAM P.L. 31-06 & 31-07.

<sup>4</sup> Marci A. Hamilton, 2013: *The Year in Review for Child Sex Abuse Victims' Access to Justice*, JUSTIA (Jan. 9, 2014), <http://verdict.justia.com/2014/01/09/2013-year-review-child-sex-abuse-victims-access-justice>

<sup>5</sup> S.B. 92, 2013 Gen. Assemb., 89th Gen. Assemb. (Ark. 2013) (enacted 2013).

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increased for certain sex crimes against children;<sup>7</sup> Nevada, where the criminal statute of limitations was extended;<sup>8</sup> and Minnesota, which removed its SOL for child sexual abuse and enacted a 3-year retroactive civil “window.”<sup>9</sup> Bills were introduced for at least the second time in Pennsylvania (window; civil and criminal elimination);<sup>10</sup> New Jersey (window and extension of discovery rule);<sup>11</sup> and Massachusetts (civil extension to age 55 with a window).<sup>12</sup> They were also introduced in New York (window; civil and criminal elimination);<sup>13</sup> Missouri (elimination of civil and criminal);<sup>14</sup> Oregon (elimination criminal for certain sex crimes against minors);<sup>15</sup> Washington (extension of criminal to 30);<sup>16</sup> and Wisconsin (elimination of civil with a window).<sup>17</sup>

Opponents argue that Hawaii’s 2-year civil “window” and modest extension in 2012 was sufficient.<sup>18</sup> Once the window closes in several months, Hawaii’s civil SOL will revert to an age that is unreasonably young for most survivors of abuse.

The fact that a window has been in place for nearly two years is no reason to believe that Hawaii has completed the project of protecting its children adequately. The movement is progressing so quickly that many states are realizing that previous bills have been insufficient and are adding further extensions or outright elimination of the statutes of limitation; multiple extensions within a few years’ time are becoming quite common in many states. For example, in 2007, Delaware enacted its Child Victims Act (“CVA”), which (1) eliminated the SOL for civil child-sex-abuse cases, and (2) created a two-year window.<sup>19</sup> Experience taught, however, that the Delaware CVA did not cover health care providers, and so Delaware enacted a new window for health care providers.<sup>20</sup> Further, Illinois had extended its SOL in 2011, only 3 years prior to opting for full elimination last year.<sup>21</sup> Illinois had previously extended its SOL in 2003 as well.<sup>22</sup> California had a civil window open for the calendar year of 2003, yet is already seriously considering further SOL extensions. Already, in 2014,

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<sup>6</sup> H.B. 1063, 98th Gen. Assemb., Reg. Sess. (Ill. 2013); S.B. 1399, 98th Gen. Assemb., Reg. Sess. (Ill. 2013).

<sup>7</sup> S.B. 20, 2013 Gen. Assemb., Reg. Sess. (Vt. 2013) (enacted 2013).

<sup>8</sup> S.B. 103, 2013 Gen. Assemb., Reg. Sess. (Nev. 2013) (enacted 2013).

<sup>9</sup> Minnesota Child Victims Act, 2012 Minn. Stat. § 541.073 (formerly, S.B. 534 & H.B. 681) (Minn. 2013).

<sup>10</sup> H.B. 237, 2013 Gen. Assemb., Reg. Sess. (Pa. 2013); H.B. 238, 2013 Gen. Assemb., Reg. Sess. (Pa. 2013).

<sup>11</sup> S.B. 2281, 215th Leg., 1st Ann. Sess. (N.J. 2012).

<sup>12</sup> H.B. 1455, 188th Gen. Ct., Reg. Sess. (Mass. 2013); S.B. 633, 188th Gen. Ct., Reg. Sess. (Mass. 2013).

<sup>13</sup> Assemb. A01771, 2013 Gen. Assemb., Reg. Sess. (N.Y. 2013).

<sup>14</sup> H.B. 247, 2013 Gen. Assemb., 1st Reg. Sess. (Mo. 2013).

<sup>15</sup> H.B. 3284, 77th Leg. Assemb., Reg. Sess. (Or. 2013).

<sup>16</sup> S.B. 5100, 63rd Leg., Reg. Sess. (Wash. 2013).

<sup>17</sup> S.B. 225, 101st Leg., Reg. Sess. (Wis. 2013).

<sup>18</sup> Hawaii Act 068 (12), formerly S.B. 2588, 2012 Leg. Sess. (Haw. 2012) (enacted April 24, 2012) (extended and tolls statute of limitations for civil actions brought by minor victims of sexual offenses; and reviving via a civil “window” for two (2) years some actions for which the statute of limitations had previously lapsed).

<sup>19</sup> DEL. CODE ANN. 10 § 8145 (a)-(b)

<sup>20</sup> Marci A. Hamilton, *The Progress We’ve Made -- and Haven’t Yet Made -- on Child-Sex-Abuse Statutes of Limitations: 2010, the Year in Review*, FINDLAW (Dec. 30, 2010), <http://writ.news.findlaw.com/hamilton/20101230.html>

<sup>21</sup> See, 735 ILCS 5/13-202.2 (Ill. 2011) (effective 1-1-11 to 1-1-14) (increased the time to bring a civil action from 10 years to 20 years after majority; and increased discovery tolling from 5 years to 20 years).

<sup>22</sup> See, 735 ILCS 5/13-202.2 (Ill. 2003) (effective 7-24-03 to 1-1-11) (increased the time to bring a civil action from 2 years to 10 years after majority; and increased discovery tolling from 2 years to 5 years).

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Sen. Jim Beall has introduced a bill that would again extend the civil and criminal SOL in California.<sup>23</sup> Returning to the inadequacy of Hawaii's civil SOL now, after learning that victims will not have adequate access to justice after the window closes is rational and important.

Other state legislatures are already active on this issue in 2014 as well: Assemblywoman Markey has reintroduced her bill to eliminate the civil SOL; eliminate the criminal SOL for incest and continuing course of conduct crimes (felonies are already exempt); and create a 1-year civil "window" in New York.<sup>24</sup> Iowa is also considering a bill that would extend the statutes of limitation for civil and criminal actions brought by minor victims of sexual offenses to twenty-five (25) years from majority.<sup>25</sup> In addition, SOL reform bills are pending in Pennsylvania, Massachusetts, and New Jersey.

SOL reform has very few detractors in the United States other than the Roman Catholic bishops, who are primarily concerned that the courts will force them to divulge the secrets they still harbor in their Secret Archives. This may well be changing soon, however, as the United Nations this week pressed the Vatican to dramatically improve its policies to protect children from sex abuse, including a strong suggestion to support SOL reform: "(e) Promote the reform of statute of limitations in countries where they impede victims of child sexual abuse from seeking justice and redress" [http://sol-reform.com/Jan2014\\_UN\\_Concluding\\_observations\\_on\\_second\\_periodic\\_report\\_Holy\\_See.pdf](http://sol-reform.com/Jan2014_UN_Concluding_observations_on_second_periodic_report_Holy_See.pdf)

Some detractors claim that as time passes there is a higher risk of false claims and thus they serve an important role in protecting the rights of innocent persons. Yet, there are very few false claims regarding sexual abuse.<sup>26</sup> The plaintiff still bears the initial burden of proof, and if he or she lacks evidence, the case does not go forward. Victims of child sex abuse rarely make false claims, as we learned when windows were open in California and Delaware. In cases brought under California's last window there were a total of about 5 false claims in over 1000, and none to my knowledge in Delaware.

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<sup>23</sup> California Senate Bill 926 and Senate Bill 924, 2013- 2014 Reg. Sess. (Ca. 2014), available at, <http://sol-reform.com/News/california/#pending> . See also, "Senator Beall Calls for Giving Victims More Time to Seek Prosecution or File a Lawsuit," Website of Sen. Jim Beall (D-CA15) (Jan. 29, 2014), <http://sd15.senate.ca.gov/news/2014-01-29-senator-beall-calls-giving-victims-more-time-seek-prosecution-or-file-lawsuit> ("Senate Bill 926 would reform the criminal statute of limitations by raising the age at which an adult survivor of childhood sex abuse can seek prosecution from 28 to 40 years. The bill would affect sex crimes against children including lewd and lascivious acts, continuous sexual abuse of a child, and other offenses. The bill has co-authors from both parties. A second bill, SB 924, proposes to reform the two standards that now govern the statute of limitations for civil lawsuits by:

- Increasing the age deadline to file to 40 years old from 26. This existing deadline is currently used when the victim makes his or her causal connection to their trauma before they reach their 26th birthday.
- Increasing the time from the date of discovery of their trauma to child sex abuse to five years from the current standard of three years. Additionally, it stipulates the five-year period starts when a physician, psychologist, or clinical psychologist first informs the victim of the link between their adult psychological injuries and the abuse").

<sup>24</sup> New York Child Victims Act, Assemb. A01771, 2014 Gen. Assemb., Reg. Sess. (N.Y. 2014), available at <http://sol-reform.com/News/new-york/#pending> .

<sup>25</sup> Iowa Child Victims Act, S.B. 3112, 2014 Gen. Assemb., Reg. Sess. (I.A. 2014), available at <http://sol-reform.com/news/Iowa#pending> .

<sup>26</sup> See, Delphine Collin-Vezina, et al., Lessons Learned from Child Sexual Abuse Research: Prevalence, Outcomes, and Preventive Strategies, CHILD & ADOLESC. PSYCH. & MENTAL HEALTH (2013); Marilyn McDonald, The Myth of Epidemic False Allegations of Sexual Abuse in Divorce Cases, Court Review (Spring 1998), available at <http://www.omsys.com/mmcd/courtrev.htm#Rcr2023>; E. Olafson, et al., Modern History of Child Sexual Abuse Awareness: cycles of Discovery and Suppression, 17 CHILD ABUSE NEGL. 1, 7-24 (1993).

**Required parameters are missing or incorrect.**

The SOL reform Hawaii is spearheading will make Hawaii one of the safest states in the country for children. I applaud you and the Committee for considering this legislation, which will help childhood sexual abuse victims. Hawaii's children deserve the passage of this bill, which would permanently tip the balance toward the victims and away from the predators. This bill represents a huge step forward for Hawaii's children now and in the future.

Please do not hesitate to contact me if you have questions regarding statute of limitations reform, or if I can be of assistance in any other way.

Sincerely,

A handwritten signature in black ink, appearing to read "Marci A. Hamilton", with a long horizontal flourish extending to the right.

Marci A. Hamilton  
Paul R. Verkuil Chair in Public Law  
Benjamin N. Cardozo School of Law

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**LATE**

February 7, 2014

TO: The Honorable Chair Karl Rhoads, Vice Chair Sharon E. Har, and member of the House of Representatives Committee on Judiciary  
FROM: Renie Wong Lindley  
RE: HB 2034 HD1

Dear Rep. Karl Rhoads,

I strongly support HB 2034 which removes the statute of limitations for sexual assault in the first and second degrees. I, like many other women, have been raped. I've been raped more than once; once as a minor and twice as an adult. When I was raped as a minor, I never even knew that what was done to me was a criminal act. And as an adult, I never brought charges because, like many other women, I felt it was something I was too ashamed to talk about. Now, later in life, I've come to realize that by not coming forward, I've allowed the perpetrator to think rape is okay and that he can go on raping other women.

I feel that by passing this bill into law, you are sending a message to perpetrators that rape is unacceptable and there are consequences. You can't just wait for six years and then have a clean slate. The person who is the victim lives with the trauma far more years than that.

I know someone else who was gang-raped. Her life fell apart after the rape, and she was never able to trust anyone again. She tried to get justice years later, but couldn't, even though there was evidence to convict, because of the statute of limitations.

Thank you for hearing this bill. Please pass HB 2034.

Mahalo,  
Renie Wong Lindley

January 28, 2014

**LATE**

To: The Honorable Mele Carroll, Chair  
From: Kristin Douglas

RE: HB 2034 Relating to Sexual Assault

Dear Chair Carroll,

As a thirty-year rape survivor it would be a life's dream to know that a woman is free to bring criminal charges against her perpetrator regardless of the time it takes for her to come to terms with the trauma of the event that has changed her life, forever.

Most perpetrators of sexual assault are recidivists. Eliminating the statute of limitations will effectively bring perpetrators to justice and take them off the streets. Hawaii's neighborhoods, school zones, and children will be safer.

Thank you for the opportunity to testify,

Sincerely,  
Kristin Douglas

**LATE**

HB2034

My name is Barbara Service. I am a retired Child Welfare Services social worker, who lives in Representative District 19 and Senate District 8.

I urge your strong support of HB2034 to remove the statute of limitations regarding first and second degree sexual assault and continuous sexual assault of minors under 14.

As someone with 43 years experience in Child Welfare, I am very familiar with the trauma and long-lasting devastating effects of sexual assault, especially on children.

Thank you for the opportunity to provide strong written support of HB2034.

Barbara J. Service

|



**HB2034**

Submitted on: 2/7/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
chris johnson	SNAP	Support	No

Comments: Dear Chair Rhoads and Committee Members. Am posting this for SNAP.. Christine Johnson HI -Testimony backing statute of limitations reform Posted by Barbara Dorris on February 07, 2014 · Flag David Clohessy, Director, SNAP, Survivors Network of those Abused by Priests, (7234 Arsenal Street, St. Louis MO 63143), 314 566 9790 cell. ([SNAPclohessy@aol.com](mailto:SNAPclohessy@aol.com)) (Hearing is Friday, February 7 at 2 p.m. in Hawaii.) I strongly support SB 2687 and HB 2034. By way of background, I have been the director of SNAP for 25 years. Four boys in our family, including me, were molested as kids by the same predator priest. One of the victims, my younger brother, grew up to become a priest. Because he molested kids as well, my brother is now suspended from the priesthood. When it comes to child sexual abuse, three steps must be taken. We must protect the vulnerable, expose the predators and enablers, and heal the victims. With virtually no added expense, legislation that lifts the statute of limitations achieves all three goals. In a nutshell, this legislation reforms predator-friendly child molestation laws. It removes archaic, arbitrary time limits that keep victims of these horrific crimes trapped in shame, silence and self-blame. It removes the incentive predators and enablers now have to intimidate victims, threaten witnesses, destroy evidence, and 'run out the clock' on their crimes. So eliminating the rigid, dangerously restrictive statute of limitations is the cheapest and most effective way to protect kids in the future. It's the best because it relies on the open, impartial time-tested American criminal justice system that's been continually refined and reformed for centuries. It's the cheapest because it requires no expensive, fancy new technology, no untested theories, no risky strategies and no massive, revolutionary changes, just a simple, small procedural change. We're essentially just opening the courthouse doors a tad wider, to accommodate brave but deeply wounded victims of horrific child sex crimes and to expose the compulsive criminals who commit those crimes over and over again. This move, getting rid of the statute of limitations, helps kids now and in the future. When this bill passes, people will know that when it comes to child sexual abuse, Hawaii is in the forefront. There will be some cases in which a victim will be distrustful of the criminal system. There will be some cases in which the police and prosecutors do not have enough evidence. In these cases, the civil remedy will at least give victims an alternative: they can try to expose their perpetrator in civil court, warn others about him, and protect others from him. There will be some cases in which a victim will be determined to get a predator locked up. The FBI estimates that 90% of all child molesters are never prosecuted. That's right: 90%. So we have two choices: 1. reform the arbitrary, archaic, predator-friendly statute of limitations, or 2. spend millions on more cops, better crime labs, and the like. Please ask yourselves: What's more important-a rigid time limit that helps predators- or the flexible judgment of prosecutors

and jurors? What's more important, the safety of the innocent or the convenience of the accused? In a well-rehearsed manta, the well-funded defense lawyers talk about 'lost evidence, faded memories and dead witnesses.' Yes, these are problematic, but for us, the victims, not for them, the predators. Remember who has the burden of proof here- the victims. Scam artists who do shoddy roofing work and cause harm can only be discovered and prosecuted after it rains. Surgeons who are reckless and cause harm can only be discovered and exposed after patients recover. And predators who cause harm by molesting kids can only be discovered and exposed after those kids grow up, gain understanding, realize they're hurting, become strong, and find courage. The well-funded defense lawyers also claim 'Victims should come forward sooner.' They're right. Victims should. But the simple truth is that often, victims simply can't. How often do you hear of a six year old girl walking to her local police station and reporting that her step father is molesting her? It rarely happens. They were shrewdly but severely wounded as kids. They should not be punished for not being able to understand and act according to someone else's arbitrary schedule. No one says to a grieving widow "You've got 6 weeks to get over your husband's death." If you could have no statute of limitations for just one crime, I suggest you make child molestation that crime. Murders are usually discovered promptly. With murder, there's usually physical evidence, and murderers usually only murder once. Child sex crimes are usually discovered years later. There's often no physical evidence. And child molesters almost always molest again. So today, please tell kids that their safety matters. Please tell child sex abuse victims that their healing matters. And please tell those who would commit and conceal heinous crimes against children that they'll get no special breaks in Hawaii.

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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**HB2034**

Submitted on: 2/7/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments: PLEASE PLEASE PLEASE support!!! Help provide access to justice for those who are too afraid or too ashamed to step forward before you today. Thank you and God bless you all.

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**HB2034**

Submitted on: 2/7/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch	Individual	Support	No

Comments: Please protect the victims.

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**HB2034**

Submitted on: 2/7/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Vinessa Carrillo	Individual	Comments Only	No

Comments: Six months ago my five year old twin girls and my three year old son were sexually assaulted by my neighbors ten year old son. He was charged with two counts of first degree sexual assault on my five year old twin girls, and I'm not sure what he was charged with for sexually assaulting my three year old son. Due to the fact that the sexual abuse was extremely traumatic on my three year old and he doesn't yet have the language skills necessary to describe all of the horrific things that happened to him, we still don't know the full extent of the abuse he suffered. Six months have passed since we first went to the police to report the sexual assaults of my children. We continued to live within feet of their abuser for four months. The father of the boy who sexually assaulted my children removed his wife and children from the island last month, and from my point of view a criminal is being allowed to escape justice. Something needs to be done for not just my children, but all of the children who are victims of sexual assault.

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Committee on Judiciary

February 7, 2014 2:00 PM

Testifier: Andre Bisquera

Support of HB 2034- Relating to Sexual Assault

**STATE TESTIMONY**

Dear Chair Rhoads, Vice Chair Har, and committee members:

I am a survivor of childhood sex abuse and I support HB 2034.

Removing the statute of limitations is very important due to the nature of these crimes. Childhood sex abuse is confusing, creates feelings of shame, guilt and anger, and destroys your ability to trust. Your ability to connect with other people is crippled since you feel alone and that the abuse was your fault. Many people's lives have been ruined by sexual assault, with the life-long destructive effects on children, the most damning.

As a survivor, talking about the abuse is hard...as a male survivor, near impossible. Our culture and gender norms make it difficult for men to seek help. It can take many years after the abuse to even admit what happened, let alone seek the medical attention needed to accept and move on. My abuse was from 4<sup>th</sup> to 6<sup>th</sup> grade, yet the first time I told someone was when I was 27. I didn't take my recovery seriously until age 33, when I sought help from the Sex Abuse Treatment Center. Today, at 37, I am grateful that I am full of compassion and love for my 2 month old daughter, rather than the anger and shame that consumed me for so many years.

The current statute of limitations doesn't take into account the severity of the crime and the effects on its victims. I ask the respected committee members today to please consider HB 2034, and to think about the other survivors out there suffering in silence. Their pain is real and debilitating. These survivors are your auntys, uncles, brothers, sisters, sons and daughters. Please show that you care about them and support their recovery by giving them the chance to speak out against their perpetrators and feel whole again. Thank you.

Andre Bisquera

Feb 6, 2014

## LATE TESTIMONY

To: Honorable Chair Karl Rhoads  
Honorable Vice Chair Sharon Har  
And committee members

From: Adult Survivor of Child Sexual Abuse through Proxy Dara Carlin, M.A.  
881 Akiu Place  
Kailua, Hawaii 96734

Re: Bill HB2034 hearing rm 325 Feb 7,2014

**I Strongly Support HB 2034 HD1 on elimination of the statute of limitation**

Honorable Representatives,

I apologize for this being late and doing this by proxy testimony but having the courage to speak the truth is very tough when you fear what the outcome might look like and how one may retaliate. I have been testifying now for my 3<sup>rd</sup> years... trying to convince all of you the need for this bill... my words come from experince of long term ramifications that victims have to endure because of the lack of support (or justices) of our current laws or lack there of...

I met a social worker most recently telling her I admired her for what she does in helping families and communities and that it must be gratifying ....She said it is gratifying but added "the hardest part of her job is dealing with the children of sexual abuse" (I had not asked about the subject nor told her my history).... Her response told me no one is taking this crime seriously and it continues to mess with the emotional state of mind of us victims and seems to be continuing generation to generation...I believe this is got to be one of the possible root of so much addictions (drugs, Alcohol, anger issues etc) in young adults which continues into older adulthood...no one seems to care....

Im in my late 50's and am still living next to my perpetrator with no means of getting him to remove himself and no means for me to do so myself... and still struggle immensely.... I have been have been in counseling for 10 yrs now for PTSD with no relief in sight and now have cancer (a possible result due to the stress)... this is something that plagues your soul if it's not dealt with appropriately... it destroys life's...it destroys families..

We as a society have to make it clear that this is a crime and not acceptable behavior ....but right now we are sending to many mixed messages to both the abusers and the victims...I'm outraged that the abusers have more rights than us in an attempt to get a TRO against him...avoiding this ugly subject is not going to make it go away....for the victims its scary, Humiliating, degrading and intimidation(things I'm feeling right now just having to write this) and it all can be made worse when the abuser is someone in the family (and not being able to distance yourself from the abuser) these feeling translate into worse feelings that carry on though out life...

## LATE TESTIMON

**Please remember** that abusers are very good at what they do to keep you from talking (especially if its only for 7 right now.. its very very rare that a victim can come clean about their experience until way **past the statute of limitations** is up ....this is when it might start to manifest into other parts of their life's...you may not even recognize it... in my case it started with obsessive compulsive disorder ( when he moved back in next door to me) that's what got me into counseling then was diagnosis with the PTSD with no relief in site ...I have tried TRO's against him bringing 5 letters from doctors as my proof of need **only to be rejected** by the courts and left to deal with what is....now it has really made me sick with difficulty with coping.

I have a concern about the cut off age of 14 in this bill being 15 yrs is the age of consent... I am very concern for young youths 15..16..17 + also .... please consider those being dragged into the sex trade here in Hawaii... think of the ages of boys in the Penn state case....those being abused by priest... teachers... strangers....neighbors...older relatives or siblings etc many of these circumstances don't stop at the age of 14 and some may start at 14 + ...as suggested by another victim maybe rather than an age word it as "those vulnerable" ...

another reminder of the 3 girls whom most recently escaped from their kidnapper (along with the Elizabeth Smarts cases) were they were kidnapped as teenagers and found helpless in their early 20s...they were afraid to escape despite a few actual windows of opportunity for rescue....please understand every circumstances and age is different ....

I understand that the use of the word consent was meant to be used with kids of similar ages....please don't exempt victims of circumstances..

**And one last hope ...Would this Bill help victims to get access to Temporary (or life time) Restraining Orders (TRO'S)?**



**LATE**

**HB2034**

Submitted on: 2/6/2014

Testimony for JUD on Feb 7, 2014 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
david clohessy	SNAP, a non-profit	Support	No

Comments: David Clohessy, Director, SNAP, Survivors Network of those Abused by Priests, (7234 Arsenal Street, St. Louis MO 63143), 314 566 9790 cell ([SNAPclohessy@aol.com](mailto:SNAPclohessy@aol.com)) I strongly support HB 2034 and SB 2687 (though I oppose the 55 year age cap in SB 2687 – more later). By way of background, I've been the director of SNAP for 25 years. Four boys, including me, were molested as kids by the same predator priest. One of them, my younger brother, grew up to become a priest. He is now suspended, because he molested kids as well. When it comes to child sexual abuse, three steps must be taken. We must protect the vulnerable, expose the predators and enablers, and heal the victims. With virtually no added expense, legislation that lifts the statute of limitations achieves all three goals. In a nutshell, this legislation reforms predator-friendly child molestation laws. It removes archaic, arbitrary time limits that keep victims of these horrific crimes trapped in shame, silence and self-blame. It removes the incentive predators and enablers now have to intimidate victims, threaten witnesses, destroy evidence, and 'run out the clock' on their crimes. So eliminating the rigid, dangerously restrictive statute of limitations is the cheapest and best way to protect kids in the future. It's the best because it relies on the open, impartial time-tested American criminal justice system that's been continually refined and reformed for centuries. It's the cheapest because it requires no expensive, fancy new technology, no untested theories, no risky strategies and no massive, revolutionary changes. Just a simple, small procedural change. We're essentially just opening the courthouse doors a tad wider, to accommodate brave but deeply wounded victims of horrific child sex crimes and to expose the compulsive criminals who commit those crimes over and over again. This move, getting rid of the statute of limitations, helps kids now and in the future. When this bill passes, people will know that when it comes to child sexual abuse, Hawaii's is in forefront. There will be some cases in which a victim will be distrustful of the criminal system. There will be some cases in which the police and prosecutors don't have enough evidence. In these cases, the civil remedy will at least give victims an alternative: they can try to expose their perpetrator in civil court, warn others about him and protect others from him. There will be some cases in which a victim will be determined to get a predator locked up. The FBI estimates that 90% of all child molesters are never prosecuted. That's right: 90%. So we have two choices: a) reform the arbitrary, archaic, predator-friendly statute of limitations, or b) spend millions on more cops, better crime labs, and the like. Please ask yourselves: What's more important? A rigid time limit that helps predators? Or the flexible judgment of prosecutors and jurors? And what's more important? The safety of the innocent or the convenience of the accused? In a well-rehearsed manta, the well-funded defense lawyers talk about 'lost evidence, faded memories and dead witnesses.' Yes, these are

problematic, but for us, the victims, not for them, the predators. Remember who has the burden of proof here-the victims. Scam artists who do shoddy roofing work and cause harm can only be discovered and prosecuted after it rains. Surgeons who are reckless and cause harm can only be discovered and exposed after patients recover. And predators who cause harm by molesting kids can only be discovered and exposed after those kids grow up, gain understanding, realize they're hurting, become strong, and find courage. The well-funded defense lawyers also claim 'Victims should come forward sooner.' They're right. Victims should. But the simple truth is that often, victims just can't. How often do you hear of a six year old girl walking to her local police station and reporting that her step father is molesting her? It rarely happens. They were shrewdly but severely wounded as kids. They shouldn't be punished for not being able to understand and act according to someone else's arbitrary schedule. No one says to a grieving widow "You've got 6 weeks to get over your husband's death." If you could have no statute of limitations for just one crime, I suggest you make child molestation that crime. Murders are usually discovered promptly. With murder, there's usually physical evidence. And murderers usually only murder once. Child sex crimes are usually discovered years later. There's often no physical evidence. And child molesters almost always molest again. So today, please tell kids that their safety matters. Please tell child sex abuse victims that their healing matters. And please tell those who would commit and conceal heinous crimes against children that they'll get no special breaks in Hawaii. And finally, I oppose the 55 year "age cap" in the Senate bill. It's arbitrary and will let older but still dangerous predators to go undetected. A now 55 year old woman who was repeatedly raped as a girl by a now retired 68 year old teacher deserves justice as much as anyone. And that teacher might still be molesting his nieces or neighbors today.

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**LATE**

**Office of the Public Defender  
State of Hawaii**

**Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,  
State of Hawaii to the House Committee on Judiciary**

February 7, 2014, 2:00 p.m.

H.B. No. 2034: RELATING TO SEXUAL ASSAULT

Chair Rhoads and Members of the Committee:

This measure would remove the statute of limitations for civil and criminal actions involving sexual assault in the first and second degree and continuous sexual assault of a minor under the age of fourteen.

The Office of the Public Defender opposes H.B. 2034.

Currently, under Sec. 701-108, H.R.S., only the offenses of murder in the first and second degree have no statute of limitations. The removal of the statute of limitations in sexual assault cases will be done so at extreme prejudice of the rights of accused to a fair trial.

The statute of limitation for sexual assault in the first degree is six years, and three years for sexual assault in the second degree. The time period may be extended in the case of DNA evidence but for a period not to exceed ten years from the expiration of the original time limitation. We believe that this time period is sufficient to balance the rights of both the victim and accused in sexual assault cases. Over time, memories fade and witnesses disappear. Physical evidence may deteriorate, be destroyed or lost.

As a trial attorney, I have represented many defendants charged with sexual assault. Several of those cases went to trial. All but one of them resulted in acquittals, not because of a lack of evidence, but because they were falsely accused by complainants who had a motive to make a false claim.

In one case, a minor, age twelve, claimed that her stepfather sexually assaulted her over a period of time. He was charged with sexual assault in the first degree within the statute of limitations. During my trial preparation, I noticed that the minor's allegation seemed mysteriously similar to another

sexual assault case that I was working on. When I compared the minors' statement forms, their allegations were nearly identical. The minors also lived in the same housing complex, and were classmates at school. The minor in the case I was trying claimed that she was assaulted two months after the minor in the first case. We also found the minor's diary, in which she wrote about being sexually active with her fourteen-year-old boyfriend, her anger with her stepfather for being strict about her relationship with her boyfriend and curfew at home. There was no mention in her diary about being sexually assaulted by her stepfather. After trial, we discovered that pages that were ripped out of her diary documented her scheme. Why is this important? The right result occurred, right? What would happen if this charge were brought fifteen years after the alleged offense? What if instead of her anger with her stepfather, the accuser is motivated by greed, and is intent on cutting him out of her mother's estate? How would we be able to discover the existence of another case in order to show that the accuser copied the accusations of her classmate? How would we even be able to find this witness? What of the diary? How would we be able to discover its existence? How do we competently represent a defendant who is charged decades after the alleged offense?

Another sexual assault case that I handled involved a soldier accused of sexually assaulting a sixteen-year-old girl in a hotel room. She reported this to her father when she and her twin sister returned home after spending two days and a night away from home. My client admitted that he and a fellow soldier picked up the girls, and later got a hotel room for the four of them. After they paired off, he felt uncomfortable because his friend began having sex with one of the twins, and made an excuse to leave the room and called a buddy to take him home. He denied sexually assaulting the minor and denied having any sexual relations with her. His fellow soldier confirmed his story, and stated that the jilted twin was upset and crying when it was apparent that my client was not returning to the hotel room. The soldier also reported that while consoling the minor, he had sex with the other sister as well. As unbelievable as this story was, both my client and his fellow soldier took and passed lie detector tests conducted by the police polygraphist. The charges were eventually dismissed, when the girls refused to submit to a polygraph examination. Again, how is this relevant to the argument against the removal of the statute of limitation for sexual assault in the first and second degree? If the allegation is made a decade after the alleged assault, what happens if we cannot find our witness? How do we defend this soldier? As I mentioned in my testimony above, over time,

memories fade and witnesses disappear. Physical evidence may deteriorate, be destroyed or lost.

According to the Innocence Project, since 1989, there have been 312 post-conviction DNA exonerations in the United States. The average length of time served by each exoneree is 13.5 years. In Hawaii, Alvin Jardine was incarcerated for 20 years until he was exonerated by DNA evidence. The victim mistakenly identified Mr. Jardine as her assailant. The removal of a statute of limitation for sexual assault cases will result in more defendants who will be convicted of crimes they did not commit.

The Office of the Public Defender strongly opposes this measure. Thank you for the opportunity to be heard on this matter.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2014**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2034, H.D. 1, RELATING TO SEXUAL ASSAULT.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**LATE**

**DATE:** Friday, February 07, 2014

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

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

---

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) opposes this bill as it relates to eliminating the statute of limitations for civil actions for certain sexual assault crimes. The Department has no constitutional or legal concerns that would prevent the Legislature from eliminating the statute of limitations for crimes involving sexual assault against minors and the disabled. Hawaii has already determined that certain crimes, such as murder, are so heinous and pernicious that the criminals who commit them should not be able to evade prosecution. Perpetrators of sexual assault against minors and the disabled violate the most vulnerable who are often intimidated by threats and unlikely to report the crime until many years later. Society has an interest in ensuring that these predators are caught and brought to justice.

The purpose of this bill is to amend section 657-1.8, Hawaii Revised Statutes (HRS), to create a civil cause of action, with no limitations period, for recovery of damages by persons who are alleged to have suffered psychological or physical injury "arising from" sexual assault in the first or second degrees or continuous sexual assault of a minor under the age of fourteen years. The bill also amends section 701-108, HRS, to allow for the criminal prosecution of these crimes with no limitations period.

The bill is vague and ambiguous in that it does not identify who the civil claim can be brought against and allows a cause of action to be brought, not just against an alleged perpetrator, but against even those who the claimant may believe had some connection, no matter how peripheral, to the assault, without any time limitation.

This raises concerns that the bill violates the due process clause of the state and federal constitutions, because a claim could conceivably be brought against any person or entity at any time, which could prevent or severely impair that person or entity's ability to defend himself, herself, or itself.

The lack of any statute of limitations for a civil action is troubling and unprecedented in the State of Hawaii. Over the passage of time, memories fade, witnesses move or pass away, and documents are lost or destroyed. Most entities have records retention policies that call for the destruction of documents after a certain period of time. This is especially critical when the claim is simply a fabrication. A claimant could conceivably wait to file a lawsuit until the most strategically opportune time to prevent a defendant from defending against the lawsuit.

Just one example where this bill could be misapplied is in the instance of a minor who is a victim of sexual abuse of one of the identified crimes and is taken to a hospital to be treated. A medical care provider who examines the minor is mandated to report the suspected abuse. If no medical care provider reports the suspected abuse and the child is abused again, there may be grounds to file an action against the medical care provider and the hospital. However, because there is no time limitation, a claimant could file a lawsuit decades later when there may no longer be any witnesses or documentation that would allow the medical care provider or hospital to defend itself in the lawsuit.

Also, any claim against a medical care provider under this bill would be in direct conflict with section 657-7.3, HRS, which sets forth a specific limitation period for actions for medical torts.

Furthermore, if medical care providers or hospitals can be sued at any time, insurance companies may refuse to issue errors and omissions policies or may raise their rates to such an extent that physicians could no longer afford to purchase insurance coverage.

The bill is also unclear as to who can make the determination that the conduct constitutes a violation of part V or VI of chapter 707, HRS, in order to allow a cause of action under this bill. The bill, as written, allows civil actions, at any time, even against a person who has been accused, but not proven, to have committed the crime upon which the civil action is based. The bill does not require a conviction or even proof of guilt but merely that injury "arising from" sexual assault occurred. If the alleged perpetrator is arrested but not charged with a crime under

part V or VI because the prosecutor determines that the allegations are unfounded, this bill may still allow a lawsuit to be brought against a wrongfully accused individual, at any time, if the allegations in the lawsuit merely include the elements of a violation of section 707-730, 707-731, or 707-733.6 or any other sexual abuse of a minor that falls within V or VI of chapter 707. Because there is no limitations period, a lawsuit could even be brought after this individual's death against his or her estate and there would be no opportunity for the accused to establish his or her innocence.

We respectfully request that the amendments proposed in section 1 be deleted from this bill or alternatively that this bill be held.



**Required parameters are missing or incorrect.**



Marci A. Hamilton  
Paul R. Verkuil Chair in Public Law

PHONE: 215-353-8984  
FAX: 215-493-1094  
E-MAIL: hamilton.marci@gmail.com

February 6, 2014

**VIA DROPBOX/EMAIL SUBMISSION**

The Honorable Karl Rhoads, Chair  
The Honorable Sharon E. Har, Vice Chair  
Honorable Members  
House Committee on Judiciary  
Hawaii State Capitol, Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

Hearing: Feb. 7, 2014 2PM

RE: Hawaii H.B. 2034 (Eliminates the civil and criminal statutes of limitations for victims of sexual assault in the first and second degree and continuous sexual assault of a minor under the age of fourteen years)[Effective 7/1/2050].

Dear Representative Rhoads, Representative Har & Members of the Committee:

I commend the Committee for taking up H.B. 2034, which would eliminate the civil and criminal statutes of limitation (“SOLs”) for victims of sexual assault in the first and second degree and continuous sexual assault of a minor under the age of 14. This is a valuable addition to Hawaii’s laws to protect children and to identify the perpetrators preying on children in Hawaii. It will shift the balance of power from the perpetrators who now can breathe a sigh of relief when the SOLs end, to the victims, who will have access to justice when they are ready.

By way of introduction, I hold the Paul R. Verkuil Chair in Public Law at the Benjamin N. Cardozo School of Law, Yeshiva University, where I specialize in church/state relations and constitutional law. My book, *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), makes the case for statute of limitations reform in the child sex abuse arena. I am the leading expert on the history and constitutionality of retroactive statutes of limitations with respect to child sex abuse and have advised many child sex abuse victims on

## Required parameters are missing or incorrect.

constitutional issues, and testified in numerous states where SOL reform is being considered. I also track the SOL movement in all 50 states on my website, [www.sol-reform.com](http://www.sol-reform.com).

Statute of limitations reform is the one tried and true means that will identify the many hidden child predators who are grooming children in Hawaii right now. Hawaii put itself at the vanguard of the movement to increase access to justice for victims when it enacted the “window,” which is now open. <http://sol-reform.com/News/hawaii/#news> Hawaii provided child sex abuse victims from many walks of life, who were previously blocked from justice, to be able to seek justice.

The lawsuits filed under the window, which revived previously expired SOLs, have been critical in identifying to the public the abuse and suffering that existed in Hawaii and was until the window appeared, secret. Minnesota followed Hawaii and now also has an open window, and is having the same experience: victims have been freed to seek justice, perpetrators are being named, and those who make the abuse possible are being held to account to the public. <http://sol-reform.com/News/topics/mn-post-window/>

Elimination of SOLs for child sex abuse is ideal, because the vast majority of victims need decades to come forward. There is an extensive and persuasive body of scientific evidence establishing that child sex abuse victims are harmed in a way that makes it extremely difficult to come forward and, therefore, victims typically need decades to do so.<sup>1</sup> On average, victims come forward in their early 40s. If passed, this bill will dramatically improve justice for children who were sexually abused in Hawaii.

Given that most child perpetrators abuse many children over the course of their lives,<sup>2</sup> SOL extension does far more than create justice for today’s victims. It also forestalls future abuse of tomorrow’s children by identifying perpetrators to the public.

The opposition by the Office of the Attorney General is incomprehensible. This is a crime where the victims routinely are incapable of filing charges or a lawsuit for damages until mid-life. The current SOL is configured so that it shuts the vast majority of victims out of the courts, before they can ever get there. That means, as currently configured, Hawaii law protects predators and disables victims. Who pays for that? The public, as opposed to those who caused the abuse.

There is no unfairness to defendants in eliminating the SOL for sexual assault of a child, because the only alteration to the law is the date of filing. The law governing at the time of the offense still governs, and the burdens on the parties remain the same, with the prosecutor or plaintiff bearing

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<sup>1</sup> Rebecca Campbell, Ph.D., “*Neurobiology of Sexual Assault: Explaining Effects on the Brain*,” National Institute of Justice (2012); *R.L. v. Voytac*, 199 N.J. 285, 971 A.2d 1074 (N.J. 2009); Bessel A. van der Kolk M.D., et al., *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (2006).

<sup>2</sup> KENNETH V. LANNING, CHILD MOLESTERS: A BEHAVIORAL ANALYSIS 10, 52 (5<sup>th</sup> ed. 2010) available at [http://www.cybertipline.com/en\\_US/publications/NC70.pdf](http://www.cybertipline.com/en_US/publications/NC70.pdf). (“Except for child prostitution, most sexual-exploitation-of-children cases in the United States involve acquaintance molesters who rarely use physical force on their victims. . . . Although a variety of individuals sexually abuse children, preferential-type sex offenders, and especially pedophiles, are the primary acquaintance sexual exploiters of children. A preferential-acquaintance child molester might molest 10, 50, hundreds, or even thousands of children in a lifetime, depending on the offender and how broadly or narrowly child molestation is defined. Although pedophiles vary greatly, their sexual behavior is repetitive and highly predictable.”)

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the initial burden of proof. If they do not have the evidence to carry their initial burden of proof, the case will be dismissed.

**There are three compelling public purposes served by SOL Reform, including the removal and/or revival of SOLs for child sexual abuse:**

- (1) It identifies previously unknown child predators to the public so children will not be abused in the future;
- (2) It gives child sex abuse survivors access to justice; and
- (3) It cures the injustice wreaked by the current unfairly short statutes of limitation that protect child predators and silence child sex abuse victims.

I have been involved in statute of limitations reform in numerous states, and it is, without exception, the most effective means for the public to learn who the secret predators are. As Professor Timothy Lytton has documented, civil tort claims have been the only means by which survivors of clergy abuse have been able to obtain any justice. Timothy Lytton, *Holding Bishops Accountable: How Lawsuits Helped the Catholic Church Confront Sexual Abuse* (Harvard University Press, 2008).

Legislative reform for statutes of limitations for child sex abuse victims continues to mount every year. Criminal SOL elimination has become the norm, with Alabama, Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, Wyoming and the Territory of Guam having already eliminated the criminal SOL for at least some child sex crimes.<sup>3</sup>

Last year, more progress was made in opening up abuse victims' access to justice than at any point in history. Sixteen states introduced bills to increase victims' access to justice by scaling back the SOLs.<sup>4</sup> In 2013 alone, SOL reform was enacted in Arkansas, where the state eliminated the criminal SOL;<sup>5</sup> Illinois, where both the civil and criminal SOLs were eliminated;<sup>6</sup> Vermont, where the SOL was

<sup>3</sup> ALA. CODE § 15-3-1; ALASKA STAT. § 12.10.010, ALASKA STAT. §11.41.427; ARIZ. REV. STAT. ANN. § 13-107; COLO. REV. STAT. §16-5-401; CONN. GEN. STAT. § 54-193(a); DEL. CODE ANN. tit. 11 § 205(e); FLA. STAT. ANN. § 775.15(13); GA. CODE ANN. §17-3-1(d); IDAHO CODE §19-401; IND. CODE § 35-41-4-2; KY. REV. STAT. ANN. § 500.050; LA. CODE CRIM. PROC. ANN. ART. 571; ME. REV. STAT. ANN. tit. 17-A § 8; *Clark v. State*, 774 A.2d 1136, 1144 n.8 (Md. 2001); MASS. GEN. LAWS CH. 277, § 63; MICH. COMP. LAWS § 767.24(1); MINN. STAT. § 628.26(e)-(f); MISS. CODE ANN. § 15-1-49; MO REV. STAT. § 556.036(1); NEB. REV. ST. § 29-110; N.M. STAT. ANN. § 30-1-8; N.Y. CRIM. PROC. LAW § 30.10(2); *State v. Johnson*, 167 S.E.2d 274, 279 (N.C. 1969) (“In this State no statute of limitations bars the prosecution of a felony”); R.I. GEN. LAWS § 12-12-17(a); S.C. Judicial Dep’t, *Summary Court Judges Bench Book*, CRIMINAL(A)(2) (2000-2013) (“South Carolina does not have a general statute of limitations for criminal actions”), <http://www.judicial.state.sc.us/summaryCourtBenchBook/HTML/CriminalA.htm>; S.D. CODIFIED LAWS § 23A-42-1; TEX. CODE CRIM. PROC. ANN., art. 12.01; UTAH CODE ANN. § 76-1-301; VT. STAT. ANN. tit. 13, § 4501; *Comm. v. Gouge*, 1983 WL 210243, at \*1 (Va. Cir. Ct. Feb. 24, 1983) (noting “the crime charged was a felony for which there was no statute of limitations”); W. VA. CODE § 61-11-9 (felonies other than perjury not mentioned in enumerated list); WIS. STAT. ANN. § 939.74; *Boggs v. State*, 484 P.2d 711, 714 (Wyo. 1971) (“Wyoming has no statute of limitations as to the commencement of criminal proceedings”); GUAM P.L. 31-06 & 31-07.

<sup>4</sup> Marci A. Hamilton, 2013: *The Year in Review for Child Sex Abuse Victims' Access to Justice*, JUSTIA (Jan. 9, 2014), <http://verdict.justia.com/2014/01/09/2013-year-review-child-sex-abuse-victims-access-justice>

<sup>5</sup> S.B. 92, 2013 Gen. Assemb., 89th Gen. Assemb. (Ark. 2013) (enacted 2013).

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increased for certain sex crimes against children;<sup>7</sup> Nevada, where the criminal statute of limitations was extended;<sup>8</sup> and Minnesota, which removed its SOL for child sexual abuse and enacted a 3-year retroactive civil “window.”<sup>9</sup> Bills were introduced for at least the second time in Pennsylvania (window; civil and criminal elimination);<sup>10</sup> New Jersey (window and extension of discovery rule);<sup>11</sup> and Massachusetts (civil extension to age 55 with a window).<sup>12</sup> They were also introduced in New York (window; civil and criminal elimination);<sup>13</sup> Missouri (elimination of civil and criminal);<sup>14</sup> Oregon (elimination criminal for certain sex crimes against minors);<sup>15</sup> Washington (extension of criminal to 30);<sup>16</sup> and Wisconsin (elimination of civil with a window).<sup>17</sup>

Opponents argue that Hawaii’s 2-year civil “window” and modest extension in 2012 was sufficient.<sup>18</sup> Once the window closes in several months, Hawaii’s civil SOL will revert to an age that is unreasonably young for most survivors of abuse.

The fact that a window has been in place for nearly two years is no reason to believe that Hawaii has completed the project of protecting its children adequately. The movement is progressing so quickly that many states are realizing that previous bills have been insufficient and are adding further extensions or outright elimination of the statutes of limitation; multiple extensions within a few years’ time are becoming quite common in many states. For example, in 2007, Delaware enacted its Child Victims Act (“CVA”), which (1) eliminated the SOL for civil child-sex-abuse cases, and (2) created a two-year window.<sup>19</sup> Experience taught, however, that the Delaware CVA did not cover health care providers, and so Delaware enacted a new window for health care providers.<sup>20</sup> Further, Illinois had extended its SOL in 2011, only 3 years prior to opting for full elimination last year.<sup>21</sup> Illinois had previously extended its SOL in 2003 as well.<sup>22</sup> California had a civil window open for the calendar year of 2003, yet is already seriously considering further SOL extensions. Already, in 2014,

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<sup>6</sup> H.B. 1063, 98th Gen. Assemb., Reg. Sess. (Ill. 2013); S.B. 1399, 98th Gen. Assemb., Reg. Sess. (Ill. 2013).

<sup>7</sup> S.B. 20, 2013 Gen. Assemb., Reg. Sess. (Vt. 2013) (enacted 2013).

<sup>8</sup> S.B. 103, 2013 Gen. Assemb., Reg. Sess. (Nev. 2013) (enacted 2013).

<sup>9</sup> Minnesota Child Victims Act, 2012 Minn. Stat. § 541.073 (formerly, S.B. 534 & H.B. 681) (Minn. 2013).

<sup>10</sup> H.B. 237, 2013 Gen. Assemb., Reg. Sess. (Pa. 2013); H.B. 238, 2013 Gen. Assemb., Reg. Sess. (Pa. 2013).

<sup>11</sup> S.B. 2281, 215th Leg., 1st Ann. Sess. (N.J. 2012).

<sup>12</sup> H.B. 1455, 188th Gen. Ct., Reg. Sess. (Mass. 2013); S.B. 633, 188th Gen. Ct., Reg. Sess. (Mass. 2013).

<sup>13</sup> Assemb. A01771, 2013 Gen. Assemb., Reg. Sess. (N.Y. 2013).

<sup>14</sup> H.B. 247, 2013 Gen. Assemb., 1st Reg. Sess. (Mo. 2013).

<sup>15</sup> H.B. 3284, 77th Leg. Assemb., Reg. Sess. (Or. 2013).

<sup>16</sup> S.B. 5100, 63rd Leg., Reg. Sess. (Wash. 2013).

<sup>17</sup> S.B. 225, 101st Leg., Reg. Sess. (Wis. 2013).

<sup>18</sup> Hawaii Act 068 (12), formerly S.B. 2588, 2012 Leg. Sess. (Haw. 2012) (enacted April 24, 2012) (extended and tolls statute of limitations for civil actions brought by minor victims of sexual offenses; and reviving via a civil “window” for two (2) years some actions for which the statute of limitations had previously lapsed).

<sup>19</sup> DEL. CODE ANN. 10 § 8145 (a)-(b)

<sup>20</sup> Marci A. Hamilton, *The Progress We’ve Made -- and Haven’t Yet Made -- on Child-Sex-Abuse Statutes of Limitations: 2010, the Year in Review*, FINDLAW (Dec. 30, 2010), <http://writ.news.findlaw.com/hamilton/20101230.html>

<sup>21</sup> See, 735 ILCS 5/13-202.2 (Ill. 2011) (effective 1-1-11 to 1-1-14) (increased the time to bring a civil action from 10 years to 20 years after majority; and increased discovery tolling from 5 years to 20 years).

<sup>22</sup> See, 735 ILCS 5/13-202.2 (Ill. 2003) (effective 7-24-03 to 1-1-11) (increased the time to bring a civil action from 2 years to 10 years after majority; and increased discovery tolling from 2 years to 5 years).

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Sen. Jim Beall has introduced a bill that would again extend the civil and criminal SOL in California.<sup>23</sup> Returning to the inadequacy of Hawaii's civil SOL now, after learning that victims will not have adequate access to justice after the window closes is rational and important.

Other state legislatures are already active on this issue in 2014 as well: Assemblywoman Markey has reintroduced her bill to eliminate the civil SOL; eliminate the criminal SOL for incest and continuing course of conduct crimes (felonies are already exempt); and create a 1-year civil "window" in New York.<sup>24</sup> Iowa is also considering a bill that would extend the statutes of limitation for civil and criminal actions brought by minor victims of sexual offenses to twenty-five (25) years from majority.<sup>25</sup> In addition, SOL reform bills are pending in Pennsylvania, Massachusetts, and New Jersey.

SOL reform has very few detractors in the United States other than the Roman Catholic bishops, who are primarily concerned that the courts will force them to divulge the secrets they still harbor in their Secret Archives. This may well be changing soon, however, as the United Nations this week pressed the Vatican to dramatically improve its policies to protect children from sex abuse, including a strong suggestion to support SOL reform: "(e) Promote the reform of statute of limitations in countries where they impede victims of child sexual abuse from seeking justice and redress" [http://sol-reform.com/Jan2014\\_UN\\_Concluding\\_observations\\_on\\_second\\_periodic\\_report\\_Holy\\_See.pdf](http://sol-reform.com/Jan2014_UN_Concluding_observations_on_second_periodic_report_Holy_See.pdf)

Some detractors claim that as time passes there is a higher risk of false claims and thus they serve an important role in protecting the rights of innocent persons. Yet, there are very few false claims regarding sexual abuse.<sup>26</sup> The plaintiff still bears the initial burden of proof, and if he or she lacks evidence, the case does not go forward. Victims of child sex abuse rarely make false claims, as we learned when windows were open in California and Delaware. In cases brought under California's last window there were a total of about 5 false claims in over 1000, and none to my knowledge in Delaware.

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<sup>23</sup> California Senate Bill 926 and Senate Bill 924, 2013- 2014 Reg. Sess. (Ca. 2014), available at, <http://sol-reform.com/News/california/#pending>. See also, "Senator Beall Calls for Giving Victims More Time to Seek Prosecution or File a Lawsuit," Website of Sen. Jim Beall (D-CA15) (Jan. 29, 2014), <http://sd15.senate.ca.gov/news/2014-01-29-senator-beall-calls-giving-victims-more-time-seek-prosecution-or-file-lawsuit> ("Senate Bill 926 would reform the criminal statute of limitations by raising the age at which an adult survivor of childhood sex abuse can seek prosecution from 28 to 40 years. The bill would affect sex crimes against children including lewd and lascivious acts, continuous sexual abuse of a child, and other offenses. The bill has co-authors from both parties. A second bill, SB 924, proposes to reform the two standards that now govern the statute of limitations for civil lawsuits by:

- Increasing the age deadline to file to 40 years old from 26. This existing deadline is currently used when the victim makes his or her causal connection to their trauma before they reach their 26th birthday.
- Increasing the time from the date of discovery of their trauma to child sex abuse to five years from the current standard of three years. Additionally, it stipulates the five-year period starts when a physician, psychologist, or clinical psychologist first informs the victim of the link between their adult psychological injuries and the abuse").

<sup>24</sup> New York Child Victims Act, Assemb. A01771, 2014 Gen. Assemb., Reg. Sess. (N.Y. 2014), available at <http://sol-reform.com/News/new-york/#pending>.

<sup>25</sup> Iowa Child Victims Act, S.B. 3112, 2014 Gen. Assemb., Reg. Sess. (I.A. 2014), available at <http://sol-reform.com/news/Iowa#pending>.

<sup>26</sup> See, Delphine Collin-Vezina, et al., Lessons Learned from Child Sexual Abuse Research: Prevalence, Outcomes, and Preventive Strategies, CHILD & ADOLESC. PSYCH. & MENTAL HEALTH (2013); Marilyn McDonald, The Myth of Epidemic False Allegations of Sexual Abuse in Divorce Cases, Court Review (Spring 1998), available at <http://www.omsys.com/mmcd/courtrev.htm#Rcr2023>; E. Olafson, et al., Modern History of Child Sexual Abuse Awareness: cycles of Discovery and Suppression, 17 CHILD ABUSE NEGL. 1, 7-24 (1993).

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The SOL reform Hawaii is spearheading will make Hawaii one of the safest states in the country for children. I applaud you and the Committee for considering this legislation, which will help childhood sexual abuse victims. Hawaii's children deserve the passage of this bill, which would permanently tip the balance toward the victims and away from the predators. This bill represents a huge step forward for Hawaii's children now and in the future.

Please do not hesitate to contact me if you have questions regarding statute of limitations reform, or if I can be of assistance in any other way.

Sincerely,

A handwritten signature in cursive script that reads "Marci A. Hamilton". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Marci A. Hamilton  
Paul R. Verkuil Chair in Public Law  
Benjamin N. Cardozo School of Law

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February 7, 2014

TO: The Honorable Chair Karl Rhoads, Vice Chair Sharon E. Har, and member of the House of Representatives Committee on Judiciary  
FROM: Renie Wong Lindley  
RE: HB 2034 HD1

Dear Rep. Karl Rhoads,

I strongly support HB 2034 which removes the statute of limitations for sexual assault in the first and second degrees. I, like many other women, have been raped. I've been raped more than once; once as a minor and twice as an adult. When I was raped as a minor, I never even knew that what was done to me was a criminal act. And as an adult, I never brought charges because, like many other women, I felt it was something I was too ashamed to talk about. Now, later in life, I've come to realize that by not coming forward, I've allowed the perpetrator to think rape is okay and that he can go on raping other women.

I feel that by passing this bill into law, you are sending a message to perpetrators that rape is unacceptable and there are consequences. You can't just wait for six years and then have a clean slate. The person who is the victim lives with the trauma far more years than that.

I know someone else who was gang-raped. Her life fell apart after the rape, and she was never able to trust anyone again. She tried to get justice years later, but couldn't, even though there was evidence to convict, because of the statute of limitations.

Thank you for hearing this bill. Please pass HB 2034.

Mahalo,  
Renie Wong Lindley

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## TESTIMONY IN SUPPORT OF HB 2034

Honorable Chair and Committee Members:

I support the passage of HB 2034. As an attorney, I have had the privilege to represent a number of persons in bringing claims against individuals who sexually abused them as children, and when appropriate, claims against the persons and entities who facilitated the perpetrator's abuse or provided protection to the abusers so they were free to strike again. Many of these claims were made possible by Hawaii's "window statute", Section 657-1.8, Hawaii Revised Statutes, which was a significant step forward in addressing childhood sex abuse claims, but certainly was not the end of the journey.

Although many of the acts of sex abuse which would be addressed by this bill may have occurred years ago, one of the first things I learned in representing survivors is that the pain and harm of childhood sexual abuse is still very close to the surface, and its impact remains profound. As such, it takes a great amount of courage for a survivor to stand up to power for the child he or she once was and to state "It happened to me, it was wrong, and it was not my fault." Our island culture may increase the reluctance of a survivor to come forward. While claims may be brought under a pseudonym, there still is a fair concern that if one comes forward, friends, relatives, neighbors, co-workers and others in the community will learn of the abuse and deeply personal facts about the survivor. As a result, stepping forward with a claim is something that many persons who have contacted me still are not ready to do, even in the face of the upcoming expiration of the window on April 24, 2014. Some of these people will never reach a point of empowerment where they are able to present claims. However, others will and it is unfair to rush these survivors to action merely to protect the repose of perpetrators in our midst, who have already been too long protected by societal customs making discussion of some topics off limits and organizations which have valued the continued service of the perpetrators over the protection of the children who were victimized.

Thank you for your time and attention to this important matter.

Very truly yours,

Mark Gallagher



January 28, 2014

To: The Honorable Mele Carroll, Chair

From: Kristin Douglas

RE: HB 2034 Relating to Sexual Assault

Dear Chair Carroll,

As a thirty-year rape survivor it would be a life's dream to know that a woman is free to bring criminal charges against her perpetrator regardless of the time it takes for her to come to terms with the trauma of the event that has changed her life, forever.

Most perpetrators of sexual assault are recidivists. Eliminating the statute of limitations will effectively bring perpetrators to justice and take them off the streets. Hawaii's neighborhoods, school zones, and children will be safer.

Thank you for the opportunity to testify,

Sincerely,  
Kristin Douglas

HB2034

My name is Barbara Service. I am a retired Child Welfare Services social worker, who lives in Representative District 19 and Senate District 8.

I urge your strong support of HB2034 to remove the statute of limitations regarding first and second degree sexual assault and continuous sexual assault of minors under 14.

As someone with 43 years experience in Child Welfare, I am very familiar with the trauma and long-lasting devastating effects of sexual assault, especially on children.

Thank you for the opportunity to provide strong written support of HB2034.

Barbara J. Service

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