

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
CAROL ANNE PHILIPS

Executive Director
Cathy Betts, JD

Email:
DHS.HSCSW@hawaii.gov
Visit us at:
humanservices.hawaii.gov
/hscsw/

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

March 12, 2013

Testimony in Support of SB 529, SD1, Relating to Parental Rights

To: Honorable Karl Rhoads, Chair
Honorable Sharon Har, Vice-Chair
Members of the House Committee on Judiciary

From: Cathy Betts, Executive Director, Hawai'i State Commission on the Status of Women

Re: Testimony in Support of SB 529, SD1

The Hawai'i State Commission on the Status of Women is in strong support of SB 529, SD1. Several states have already enacted legislation that prevents convicted rapists from attempting to obtain visitation and/or custody of the child borne from a sexual assault.

Rape is a crime of power and control. It is estimated that 1 out of 4 women will be the victim of a completed rape within her lifetime. The vast majority of rapes are committed by someone the victim knows, which makes the resulting legal implications from a pregnancy even more troubling. Under current Hawai'i law, a man who fathers a child through rape has the same legal rights to custody and visitation that any other father of a child does.

While HRS 571-46 allows a court to make a determination of family violence and use that determination as a rebuttable presumption against giving the offender custody, there is nothing specifically limiting a convicted rapist from attempting to gain visitation and/or custody. Victims of a sexual assault should not be re-victimized by seemingly endless custody and visitation battles and numerous court hearings in which they have to see the convicted offender. This bill would require courts to deny custody and visitation to a convicted perpetrator. Additionally, it gives courts the authority to terminate parental rights. The Commission urges the Committee to pass SB 529, SD1.

Thank you for this opportunity to testify.

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



THE SEX ABUSE TREATMENT CENTER

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

Executive Director
Adriana Ramelli

DATE: March 22, 2013

Advisory Board

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

President
Mimi Beams

Vice President
Peter Van Zile

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

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

Marilyn Carlsmith

RE: S.B. 529 S.D. 1
Relating to Parental Rights

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

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 S.B. 529 S.D. 1, which would authorize family courts to prohibit custody and visitation, and to terminate parental rights of a person with regard to a minor child conceived through a rape perpetrated by that person.

Sexual violence remains a major public health issue here in Hawai'i. According to the Attorney General's report, *Crime in Hawai'i*, there were 353 reported forcible rapes in 2011.¹ The impact of sexual violence is significant. Survivors face not only emotional trauma, but very real physical consequences including pregnancy. One study found that approximately five percent of rapes result in pregnancy.² At last estimate, this translated to about 25,000 rape-related pregnancies each year in the United States.³

A number of women who become pregnant through a sexual assault against them choose to carry their pregnancies to term and keep the child. An analysis of the National Women's Study raw data revealed that of thirty-four cases of rape-related pregnancy, the woman kept the infant in 32.3% of the cases.⁴ The majority of rape-related pregnancies involve a known perpetrator, usually a partner or spouse, rather than a stranger.⁵

Presently in Hawai'i, if a child is conceived through an act of sexual assault, the perpetrator of the sexual assault has the same parental rights as any other biological parent. Consequently, the parent who is also now a survivor of sexual assault may be forced to raise a child with the person who raped her or him. The perpetrator is then allowed to assert power and control again over the survivor by using the child.

This bill is narrowly-tailored to only those cases where the perpetrator has been convicted of the assault in a court of competent jurisdiction. It would require family courts to deny custody and visitation to a person who is convicted of a sexual assault

with respect to the child conceived through that assault. Additionally, family courts would also have the authority to terminate the perpetrator's parental rights under the same circumstances.

This bill also recognizes that there may be instances, in which a parent may choose to raise the child with the convicted person or want that person to have parental rights, including custody and visitation. For example, this might happen in situations involving statutory rape. It could be that after conviction and the completion of the person's sentence, the non-offending parent and convicted parent may decide to co-parent. This bill would allow a non-offending parent to petition to allow the convicted parent custody and visitation or to reinstate that person's parental rights.

In addition, this bill makes explicit that it is not intended to affect the obligation of the natural parent to support the minor child. A parent should not have to choose between terminating the parental rights of the person who raped her or him or terminating that person's obligation to support the child conceived through that person's violent act.

We urge you to pass S.B. 529 S.D. 1. It is sound legislation that protects survivors of sexual assault and ensures that a convicted sex offender will not be allowed to further victimize a survivor through a child conceived from the assault.

Thank you for this opportunity to testify.

¹ State of Hawai'i, Attorney General, Crime Prevention & Justice Assistance Division, Research & Statistics Branch, *Crime in Hawai'i: 2011*, at 4 (Nov. 2012), available at http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime_in_Hawaii_2011.pdf.

² Melissa M. Holmes et al., *Rape-related pregnancy: estimates and descriptive characteristics from a national sample of women*, 175(2) *Am. J. Obstet. Gynecol.* 320, 321 (1996).

³ Felicia H. Stewart & James Trussell, *Prevention of Pregnancy Resulting from Rape: A Neglected Preventive Health Measure*, 19(4) *Am. J. Prev. Med.* 228, 228 (2000).

⁴ Holmes et al., *supra* note 2, at 322.

⁵ *Id.*

Kyle Sleppy

March 22, 2013 @ 1400 hours

JUD- 325

SB529

I fully support SB529 in its amendment to Hawaii Revised Statutes, 571-46, which will not allow the natural father of a child conceived by sexual assault or rape that the father committed against the mother to have rights a father would have to the child, as specified in the bill. This amendment will definitely add a substantial amount of punishment to the father, who is also the criminal who raped or sexually assaulted the mother who then conceived the baby from such actions. This amendment to Hawaii Revised Statutes, 571-46, also adds emotional protection and allows emotional stability for the mother of the child she conceived through her rape or sexual assault.

I recommend when looking at this bill, each Representative imagines themselves as a mother of a child conceived from a sexual assault or rape, and then has no protection for themselves or their child from the father and sexual predator, disgusting criminal who did such actions, from having privileges other fathers enjoy and rightfully have with their voluntarily, legally conceived child.

Sincerely,

Kyle Sleppy

SB529

Submitted on: 3/20/2013

Testimony for JUD on Mar 22, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle K. Ching	Individual	Support	No

Comments: I strongly support SB 529 SDI. The passage of the bill will protect the rights of women against their rapist. This bill provides justice to these women and allows our state to firmly stand against rape. With this bill, women are given the right to decide their futures without interference from their assailants. The women who are impregnated through rape and who decide to have that child should not be subjected into binding their lives around the very person that violated their bodies and stole their dignity. Rapists, convicted or not, should not be rewarded for an absolute moral wrong. Because of their horrific and revolting act, rapists do not deserve any child custody or visitation rights. Women should not be forced into facing their perpetrators in a child custody battle and be reminded of the brutalities they have suffered. To ensure women may be given the space to heal their bodies and minds from a nightmare unduly forced onto them, this bill must be passed. These women have been through enough already. This bill gives them the ability and freedoms to hopefully one day find inner peace within themselves. It allows them to live a better life and build a future that is above all, without fear.

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

March 21, 2013

Testimony in Support of SB 529, SD1, Relating to Parental Rights

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

From: Mika Haberlin

Re: Testimony in SUPPORT of SB 529, SD1

I strongly SUPPORT SB 529, SD1. This bill will authorize family courts to terminate parental rights of a person with regard to a minor child conceived as a result of rape.

Recently, there has been national coverage on the prevalence and risk of rape in the United States. Hawai'i is not immune from this problem and suffers as a result from this social issue. An estimated one in every seven adult women, about 67,000 women, in our islands is a victim of forcible rape. The majority of raped women are members of a vulnerable population, including Hawaiian or part-Hawaiian. These estimates are higher than the national average of rape among adult women and are not inclusive of unreported incidents, which we know are overwhelming.

Under current Hawai'i law, if a child is conceived through a rape, the perpetrator has the same parental rights as any biological father. This means that the perpetrator can assert his parental rights over the child, thereby forcing the survivor-mother to co-parent the child with the person who raped her. The psychological effects on a woman who experiences rape is devastating, even without the additional trauma of giving birth to a child resulting from that rape.

The purpose of the bill is to protect survivor parents and children from continued contact with the attacker. The bill does this by giving the family courts the power to deny custody and visitation, and terminate parental rights of a natural parent who has conceived the child as a result of rape or sexual assault. The bill is worded to target perpetrators who have been convicted of the sexual assault that resulted in the minor's conception. On the same note, the bill is not so overly stringent as to automatically terminate the perpetrator's rights in situations where the survivor-parent and perpetrator decide to co-parent.

This bill is important to me and the entire community because of the huge effect it has on individuals who experience sexual violence. The risk of becoming a victim of sexual violence is outrageous and failure to acknowledge the longstanding impact on women is inexcusable. As it is, the law often fails to hold these perpetrators accountable and there is a clear need for policy change; this bill is only the first step. Please allow the testimony from the community weigh heavily upon you and reflect on how you would like you sister, mother, or friends to be treated if they became a victim of violence.

Thank you for the opportunity to testify. We strongly urge you to pass SB 529, SD1.

Mika Haberlin

SB529

Submitted on: 3/21/2013

Testimony for JUD on Mar 22, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Colleen Zaremba	Individual	Support	No

Comments: I am strongly in support of this bill

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

This bill is important to me because rape is something that terrorizes women to such a great degree here in the State of Hawaii. Rape is a violent, forceful action done to an individual, and it is *incredibly* traumatizing. To allow the perpetrator of such a violent crime to receive the benefits of parental rights that result from the same crime, without the survivor's consent, is further continuation of the original violation done to the individual. To give a convicted rapists this right, without the consent of the survivor, is unbelievable.

This bill targets only those perpetrators who have been convicted and who are natural parents of the children who were conceived as a result of rape. This bill is not overly broad and allows decisions about parental rights to be made not based on speculation. I urge Hawaii to take this first step against sexual violence. Children deserve to live in a world free from sexual violence.