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STATUS  
OF  
WOMEN



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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

February 22, 2013

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

**To:** Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice-Chair  
Members of the Senate Committee Judiciary and Labor

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

**Re:** Testimony in Support of SB 529

The Hawai'i State Commission on the Status of Women is in strong support of SB 529. 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 their 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.

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: February 22, 2013

Advisory Board

TO: The Honorable Clayton Hee, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

President  
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Vice President  
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Joanne H. Arizumi

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

Mark J. Bennett

Andre Bisquera

RE: S.B. 529  
Relating to Parental Rights

Marilyn Carlsmith

Senator  
Suzanne Chun Oakland

Good afternoon Chair Hee, Vice Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor. 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.

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember  
Carol Fukunaga

SATC strongly supports S.B. 529, 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.

David I. Haverly

Linda Jameson

Michael P. Matsumoto

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.<sup>1</sup> 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.<sup>2</sup> At last estimate, this translated to about 25,000 rape-related pregnancies each year in the United States.<sup>3</sup>

Phyllis Muraoka

Gidget Ruscetta

A number of women who become pregnant through sexual assault 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.<sup>4</sup>

Absent legislation to the contrary, where 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 father. Consequently, a mother, and survivor of sexual assault, may be forced to raise her child with the man who raped her. The perpetrator is then allowed to assert power and control again over the survivor, and now her child. The majority of rape-related pregnancies involve a known perpetrator, usually a boyfriend or husband, rather than a stranger.<sup>5</sup>

This bill 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 is narrowly tailored to only those cases where the perpetrator has been convicted of the assault in a court of competent jurisdiction. The bill ensures that a convicted sex offender will not be allowed to further victimize a survivor and her child.

We urge you to pass S.B. 529. It is sound legislation that protects survivors of sexual assault and the children conceived through such a violent and devastating crime.

Thank you for this opportunity to testify.

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<sup>1</sup> 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](http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime_in_Hawaii_2011.pdf).

<sup>2</sup> 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).

<sup>3</sup> 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).

<sup>4</sup> Holmes et al., *supra* note 2, at 322.

<sup>5</sup> *Id.*

**hee2 - Kathleen**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 20, 2013 7:15 PM  
**To:** JDLTestimony  
**Cc:** pamelapcm@gmail.com  
**Subject:** \*Submitted testimony for SB529 on Feb 22, 2013 11:30AM\*

**SB529**

Submitted on: 2/20/2013

Testimony for JDL on Feb 22, 2013 11:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pamela Williams	Individual	Support	No

Comments:

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