



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES

DATE: Tuesday, January 28, 2014

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 329

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

Chair Carroll and Members of the Committee:

The Department of the Attorney General opposes this bill as it relates to eliminating the statute of limitations for civil actions for certain sexual assault crimes, but does not oppose eliminating the statute of limitations for criminal prosecutions for these crimes.

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 707-733.5 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 have no objection to the amendments proposed in section 2 of the bill that eliminates the statute of limitations as to criminal prosecutions.

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

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
JUDY KERN
MARILYN B. LEE
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH

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

January 28, 2014

To: Representative Mele Carroll, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the House Committee on Human Services

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

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

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank the Committee for hearing this bill and for the opportunity to testify in support of HB 2034, 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. Having worked with sexual assault victims for more than ten years, it is highly common for survivors to wait years before disclosing their abuse. 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.¹ This delay in disclosure means that a child victim may miss the statute of limitations and never have the ability to, at the very least, report the sexual assault or abuse as a potentially prosecutable offense. Adult perpetrators recognize this vulnerability in child victims.

The current statutes of limitation for criminal and civil actions involving sexual violence limit survivors' ability to report and seek justice for the 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.²

This legislation has the potential to encourage more survivors to come forward, it will enhance public safety and it has the ability to hold more perpetrators accountable. There is no reason to believe that this legislation would "open the floodgates". This would not change the burden of proof. This legislation merely allows more survivors of abuse to access the justice system and feel as if they've had their day in court. This is a hugely important step for many survivors to recover from trauma.

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

¹ 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).

² 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).



THE SEX ABUSE TREATMENT CENTER

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

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DATE: January 28, 2014

TO: The Honorable Mele Carroll, Chair
The Honorable Bertrand Kobayashi, Vice Chair
House Committee on Human Services

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

RE: H.B. 2034
Relating to Sexual Assault

Good morning Chair Carroll, Vice Chair Kobayashi and members of the House Committee on Human Services. 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, 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.ⁱ Studies examining latency to disclosure have reported a mean delay from 3–18 years.ⁱⁱ 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 perpetratorⁱⁱⁱ 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.^{iv} These offenders pose a continuing threat to the community. When more survivors are able to come forward, more perpetrators are identified.

We urge you to pass H.B. 2034. The benefit to our communities in eliminating the statute of limitations far outweighs any arguments for keeping it. 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.^v 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.

ⁱ 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).

ⁱⁱ *Id.*

ⁱⁱⁱ 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.

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

^v 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).



January 28, 2014

TO: Representative Mele Carroll, Chair
Representative Bertrand Kobayashi, Vice Chair and
Members of the Committee on Human Services

FROM: Jeanne Y. Ohta, Co-Chair

RE: HB 2034 Relating to Sexual Assault
Hearing: Tuesday, January 28, 2014, 9:30 a.m., Room 329

POSITION: STRONG SUPPORT

The Hawai'i State Democratic Women's Caucus writes in strong support of HB 2034 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.¹ 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.

¹ 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).

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 24, 2014 11:44 AM
To: HUS testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB2034 on Jan 28, 2014 09:30AM*

HB2034

Submitted on: 1/24/2014

Testimony for HUS on Jan 28, 2014 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	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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Jan 26, 2014

To: Chair Mele Carroll
Vice Chair: Bertrand Kobayashi
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 Jan 28 9:30 conference room 329
I Strongly Support HB2034 elimination of the statute of limitations

Honorable Representatives,

I apologize for 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 others may retaliate. I have been testifying now for my 3rd years... trying to convince all of you the need for this bill... I have tried relentlessly to explain the 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 just met a social worker most recently and I told her I admired her for doing that kind of work and that it must be gratifying to help families She agreed and but added "the hardest part is dealing with the children of sexual abuse" (I had not asked about the subject nor told her my history)... This tells 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 the possible root of so much addictions...drugs , alcohol, anger issues etc

Im well into my 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... 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 it appropriately it destroys life's...

We as a society have to make it clear that this is a crime and not acceptable behaviorbut 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...avoiding this ugly subject is not going to make it go away....for the victims its 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 are feeling translate into way worse feelings that carry on though out life...

Please remember that abusers are very good at what they do to keep you from talking (especially if its only for a few yrs (7 right now) its very very rare that a victim can come clean about their experience until way past the statute of limitations is upthis is when it might start to manifest into other parts of their life's... 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 difficultly with coping..

Jan 27, 2014

To: Chair Mele Carroll

Vice Chair: Bertrand Kobayashi

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 Jan 28 9:30 conference room 329

I Strongly Support HB2034 elimination of the statute of limitations

Honorable Representatives,

I Apologize for any inconvenient or confusion ...I submitted a testimony yesterday and failed to add this question ...Please include this question as an attachment...

Would this Bill help victims to get access to Temporary (or life time) Restraining Orders (TRO'S)?

Jan 27, 2014 (part 3)

To: Chair Mele Carroll
Vice Chair: Bertrand Kobayashi
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 Jan 28 9:30 conference room 329
I Strongly Support HB2034 elimination of the statute of limitations

Honorable Representatives,

I'm so sorry to want to make another attachment to my original testimony (now part 3) this after talking to your office and getting a little better understanding of the contents of this bill...

my concern is of 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 14 and some may start at 14 + ...

we need to think about changing the age limitation to "those vulnerable" ...

another reminder of those girls most recently found that were kidnapped (in 3 separate cases that I cant name at the moment) where there were a couple kids that were kidnapped as teenagers and a few at a younger age but all felt helpless even at the age of 21 to stop the abuse even when there were 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..

Dear Chair Carroll, Vice Chair Kobayashi, 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. It places these crimes in the category of murder, which I feel childhood sex abuse belongs. 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 especially 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 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 4th to 6th 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 and sisters. 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

kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 7:26 AM
To: HUS testimony
Cc: cj77701@hotmail.com
Subject: Submitted testimony for HB2034 on Jan 28, 2014 09:30AM

HB2034

Submitted on: 1/27/2014

Testimony for HUS on Jan 28, 2014 09:30AM in Conference Room 329

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

Comments: i wonder why age 14 is the cutoff age?

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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kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 9:28 AM
To: HUS testimony
Cc: cj77701@hotmail.com
Subject: Submitted testimony for HB2034 on Jan 28, 2014 09:30AM

HB2034

Submitted on: 1/27/2014

Testimony for HUS on Jan 28, 2014 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
chris johnson	Individual	Comments Only	No

Comments: i wonder if the word "vulnerable" can be substituted for the age 14 number? So many children/teens/ young adults/adults are vulnerable to predators at all ages especially if the predator drugs or plies the person with alcohol and or is a clergy member, politician, even family member.. the age of consent is so absurd.. and is actually liked by many rapists/sexual predators as some actually wait for that magic number to abuse..?

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kobayashi1-Joni

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 9:20 AM
To: HUSstestimony
Cc: tambry.young@gmail.com
Subject: Submitted testimony for HB2034 on Jan 28, 2014 09:30AM

HB2034

Submitted on: 1/28/2014

Testimony for HUS on Jan 28, 2014 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Tambry Young	Citizens for Equal Rights	Support	No

Comments: Reporting a sexual assault is never an easy process. It may take years before an assault victim is able to cope with what has happened to them. If a crime has been committed the victim should not be limited in the amount of time to report that crime and individuals should be held accountable for that crime. We urge you to pass this bill. Tambry R. Young President - Citizens for Equal Rights

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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Hawaii Women's Coalition

COMMITTEE ON HUMAN SERVICES
Rep. Mele Carroll, Chair
Rep. Bertrand Kobayashi, Vice Chair

DATE: Tuesday, January 28, 2014
TIME: 9:30AM
PLACE: Conference Room 329

STRONG SUPPORT FOR HB 2034 that: Would repeal the Statute of Limitations on the crime of Sex Assault 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.

Aloha Chair Carroll, and committee members,

Rape is a crime like no other. It is not about sex, though many still think so. It is in reality a crime that is about power, a crime that is designed to degrade, humiliate and subjugate its victims. It is a crime whose effects will follow its victims for the rest of their lives. It is a form of torture, is often used in war as a tool of torture and is classified by many international human rights organizations as a crime against humanity.

Consider the following facts:

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. 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 and may fear the impact on their family or the perpetrator's family.

Adult survivors also may not disclose right away because they are afraid 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.

Finally note that 32 states have no criminal statute of limitations on either or both child sexual abuse or the most aggravated sex crimes under state laws. 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 gives survivors' their day in court. That in and of itself can go a long way towards healing grievous wounds.

The Coalition is in strong support of this bill that is part of our regular 2014 Package. Please pass the important bill out of committee.

Mahalo for the opportunity to testify,
Ann S. Freed Co-Chair, Hawai'i Women's Coalition
Contact: annsfree@gmail.com Phone: 808-623-5676



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

TESTIMONY FOR HOUSE BILL 2034, RELATING TO SEXUAL ASSAULT

House Committee on Human Services
Hon. Mele Carroll, Chair
Hon. Bertand Kobayashi, Vice Chair

Tuesday, January 28, 2014, 9:30 PM
State Capitol, Conference Room 329

Honorable Chair Carroll and committee members:

I am Kris Coffield, representing the IMU Alliance, a nonpartisan political advocacy organization that currently boasts over 175 local members. On behalf of our members, we offer this testimony in support of, with proposed amendments for House Bill 2034, relating to sexual assault.

We fully support eliminating 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. As anti-human-trafficking advocates, we engage with victims—some of whom are as young as 11-years-old—who are coerced into prostitution, where they are forced to service multiple customers, or “johns,” every night, often for years on end. Additionally, many minors become sex-trafficking victims after first suffering continuous sexual assault in their private homes, making them more vulnerable to status offenses (running away, breaking curfew) and the tragic normalization of sexual exploitation.

That said, given **we urge the committee to amend the bill to eliminate the statute of limitations for criminal and civil actions arising from promoting prostitution in the first degree under 712-1202**, Hawaii's *de facto* sex trafficking statute, ensuring that crimes committed against sex-trafficking victims who are coerced into sexual servitude or who are children may be prosecuted at any time. This could be accomplished by amending Section 1, subsection (a) of the bill to read: "(a) Notwithstanding any law to the contrary, an action for recovery of damages based on physical, psychological, or other injury or condition suffered by an individual arising from sexual assault in the first and second degrees, continuous sexual assault of a minor under the age of fourteen years, or promoting prostitution in the first degree may be commenced at any time; provided that no action for recovery of damages based on physical, psychological, or other injury or condition suffered by a minor arising from [~~the~~] any other sexual abuse of the minor that constituted or would have constituted a criminal offense under part V or VI of chapter 707 **or part I of chapter 712** by any person shall be commenced against the person who committed the act of sexual abuse more than...," and revising Section 2, subsection (1) to read: "(1) A

prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degrees, criminal conspiracy to commit murder in any degree, [~~and~~] criminal solicitation to commit murder in any degree, sexual assault in the first and second degrees, continuous sexual assault of a minor under the age of fourteen years, and promoting prostitution in the first degree may be commenced at any time."

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Legislative Director

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

January 28, 2014

TO: The Honorable Mele Carroll, Chair
House of Representatives, Committee on Human Services
FROM: Renie Wong Lindley
RE: HB 2034

Dear Rep. Mele Carroll,

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. I never brought charges because, again, 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

Roland Kaschan
P.O. Box 1418
Honolulu, HI 96744
808/291-7723
rolandkaschan@yahoo.com

I strongly support the criminal and civil part of the bill 2034, because unconvicted sexual offender are there for years to stay in children's lives.

My dream is that my daughter's case will be studied, investigated revisited and the offender to be convicted.

I am a father of Frances Kaschan. 30+ year old Reef C. Doolittle started dating my daughter at age 14. According to my daughter the police confiscated from Mr. Doolittle child pornography tape. According to my daughter some police officers are friends of Mr., Doolittle and he grows marijuana for them. When I learned that my daughter has been statutory raped I went to the Kona police. Officer Lorenzo refused to take statutory rape contact, because lack of evidence. The evidence could be obtained daily within 7 next month period every day when my child was statutory raped. (The cameras in the police complaint rooms would be really helpful)
I took the restraining order what Mr. Doolittle violated daily. Family court took the no contact order for my child what my child violated daily. My daughter's probation officer said that she has no confirmed reports that child lives with Mr. Doolittle. (in movies probation officers visiting clients to find out where they live) My daughter's probation officer came up with an idea that my daughter and Mr. Doolittle should date in controlled atmosphere. (Cameras at children's probation officer's room would be really helpful.) Last two years being legally child) my daughter has been living with Mr. Doolittle (who has a bipolar disorder. Mr Doolittle became sole custodial "parent" of my daughter. (I have a documents what supports this claim). We do not live in Yemen, where children are bought and sold. I hope that The Committee agrees that child should not raised by "parent" who gives her drugs has a sex with a child. My daughter is now marijuana addict (obtained marijuana permit) to help increase sales and profit of Mr. Doolittle's marijuana farm. According to my daughter selling marijuana is Mr. Doolittle's only income. My daughter works in restoran to support Mr. Doolittle. My daughter is now adult. The abuse of her continues.

Please pass the bill. Please give me the opportunity to provide all the documents about my child sexual assault case and mr. Doolittle having illegal custody of child.

Sincerely



Roland Kaschan

June 15 B3C

STATE OF HAWAII FAMILY COURT THIRD CIRCUIT	PROBATION OFFICER'S REPORT	CASE NUMBER FC-J NO. 0073314
SUBJECT'S NAME FRANCES KASCHAN		BIRTHDATE 07/30/90
ADDRESS P. O. Box 383781, Waikoloa, HI 96738		PHONE NO. 883-1047
FATHER'S NAME: Roland Kaschan		REPORT DATE May 10, 2007
MOTHER'S NAME: Signe Kaschan		PROBATION OFFICER Mary Andaya

CLASSIFICATION: REVIEW HEARING

REFERRAL HISTORY: Please refer to legal docket.

SUMMARY: On December 15, 2006, the minor admitted to Runaway and a social study was ordered. At a Disposition hearing on February 16, 2007, the minor was placed on Protective Supervision to the Family Court until further order of the Court with the following special conditions:

1. Minor shall attend outpatient substance abuse treatment until clinically discharged.

The minor successfully completed Outpatient Treatment at Lokahi Treatment Center in Waikoloa on March 6, 2007.
2. Minor shall not use any alcoholic beverage or illegal or nonprescription drugs.

The minor denies any recent use of alcohol or illegal substances.
3. The minor shall submit to random urinalysis for alcohol and drugs as directed by your probation officer and produce an untampered urine specimen. The minor and her parents shall be responsible for the costs associated with the drug tests.

An in-office drug screen conducted on March 5, 2007, was positive for Opiates. The minor requested a confirmation test of the specimen. Upon discussing the types of medication that would result in a positive for Opiates on a drug test, the minor advised that she had eaten 1/2 of a Costco poppy seed muffin that morning. The minor's mother confirmed that the minor had the muffin for breakfast. The confirmation test confirmed that the minor's specimen was positive for Opiates (morphine) at an amount of 1030 ng/mL. The probation officer discussed the positive results with the minor and her parents. The minor's parents advised that they do not have any evidence that would make them suspect that the minor had been using Opiates. The probation officer believed the minor's denial of Opiate use and researched the matter. Attached, please find an article Seeded Results from Snopes.com which is an urban legend reference website. According to the article, "Opiates (morphine and codeine) can be detected in urine for at least 48 hours after one eats food containing

poppy seeds." The probation officer recommended that the minor not consume any poppy seeds for the duration of her Court involvement as future drug tests positive for Opiates will be considered as noncompliance to her Protective Supervision conditions.

A drug screen taken at Lokahi Treatment Center on March 6, 2007, was negative for all substances. In-office drug screens conducted on March 27, and April 20, 2007, were negative for all substances.

- 4. That the minor contact her probation officer on a monthly basis and appear for office visits as directed; further, that this condition may be modified if deemed appropriate.

The minor contacted and met with the probation officer as directed.

- 5. Minor shall participate in individual and family therapy as directed by your probation officer until clinically discharged. Both parents shall participate in family therapy.

On May 8, 2007, Therapist Tiffany Freitas reported that the minor and her parents have been meeting with her regularly since March 2007. She has conducted individual therapy with the minor on three occasions and has conducted family therapy on three occasions. She advised that the main issue they are having difficulty with concerns the minor's relationship with Reef Doolittle. She explained that the minor and her father are very staunch in their opposing positions regarding this issue and even with continued therapy, they may not be able to arrive at a resolution.

- 6. The minor shall remain away from and have no contact with Reef Doolittle.

There have been no confirmed reports of contact between the minor and Reef Doolittle.

- 7. Parents shall participate in parenting classes to completion.

On March 26, 2007, the minor's father completed an eight-session parenting class through Personal Parenting & Assessment Services. The minor's mother began attending the classes once Mr. Kaschan completed his and as of May 8, 2007, she completed five of eight classes.

- 8. Minor shall participate in a pro-social activity or obtain part-time employment. The activity or employment must be approved by the probation officer.

The minor started working as a Hostess at Big Island Steak House on March 25, 2007, on a part-time basis. On April 20, 2007, the minor advised the probation officer that she obtained employment as a Hostess at a more upscale restaurant in Waikoloa and would be quitting her job at Big Island Steak House. The minor advised the probation officer of the name of the new employer, but wanted the name to be held in confidence as she did not want her father to know where she worked.

FRANCES KASCHAN, FC-J NO. 73314**PAGE 3**

At this time, there are two areas of concern regarding the minor. First, the minor tested positive for Opiates on a drug screen conducted on March 5, 2007. It is hoped that the positive screen was a result of eating poppy seeds rather than drug use. Two subsequent drug screens were clean for all substances. The minor has been forewarned that any future positives for Opiates constitute noncompliance to her Protective Supervision conditions. Second, it is the belief of the minor's father and the probation officer that the minor remains in a romantic relationship with Mr. Doolittle. The minor and her father are attempting to find a resolution to their opposing opinions about this relationship through therapy. As there are no confirmed reports of the minor being in contact with Mr. Doolittle, there are no grounds to prove that she is in violation of the condition prohibiting their contact.

The minor is in complete compliance with her remaining Court-ordered conditions. She contacts the probation officer as directed, completed substance abuse treatment, participates in individual and family therapy, and has maintained employment.

after allegedly becoming involved in a verbal altercation with her father. Mr. Kaschan felt that the minor would become physical, contacted the police and requested the minor be removed from the home. The minor remained at KIH for one day and then was called in as a Runaway by KIH staff after allegedly failing to be at the pick-up site at Kealakehe High School as had been previously arranged.

FAMILY SITUATION:

The minor was born in the Republic of Estonia and the family moved to the United States when she was a toddler. The minor is classified as a Legal Permanent Resident. The family resides in a two-bedroom, one-bathroom apartment in Waikoloa. Currently living the family home are the minor, her parents and her brother. Mr. Kaschan maintains a residence in California, but stays with the family when on the Island of Hawaii. The minor's parents were married in 1993 and divorced in 1994. Mr. Kaschan admits that the children were privy to their parents' verbal altercations until about 2002 when he and their mother were no longer romantically involved. Mr. Kaschan advised that he is now the "visitor" in the family home and Ms. Kaschan is the "boss." Ms. Kaschan is reported to have a boyfriend in Kona and spends time with him on the weekends.

The minor advised she and her mother get along really well. She explained that as long as she follows the rules at home, she is allowed a lot of freedom. Rules at home for the minor include a curfew of 8:30 p.m. on school nights and 10:15 p.m. on weekends. The minor does not have set chores, but instead her mother writes down a list of things to do around the home and the minor completes the assignments on the list. The minor advised that she and her father used to have a really good relationship until she became involved with her current boyfriend Reef Doolittle. She advised that since then, her father has made her life a "living hell." The minor stated that her relationship with Mr. Doolittle is the only thing she and her father disagree upon. Mr. Kaschan does not approve of his daughter dating Mr. Doolittle primarily due to his age, ~32 years old. Mr. Kaschan filed for a Temporary Restraining Order (TRO) in order to prevent contact between the minor and Mr. Doolittle. On December 21, 2005, a TRO was granted and it was ordered to remain in effect for a period of three years. The minor advised that she and Mr. Doolittle have been a couple for about 1 ½ years. She advised that they love each other. She explained that they can sit on the couch all day and do nothing and be happy.

SCHOOL RECORD:

The minor is currently a junior at Kealakehe High School. She is a regular education student. Her 1st quarter report card consisted of three A's and three B's. Her 2nd quarter report card consisted of one A, one B, and two C's. Her current classes include AP US History, English 11 Honors and Biology 1 Honors. The minor's current school year grades are a vast improvement over her grades of the last school year when one quarter's grades consisted of one A, two D's, and three F's. The minor attributed her poor grades to having been in a "partying stage." The minor stated she completes her homework either at home or at Mr. Doolittle's home. The minor was suspended from school on January 18, 2007. According to the minor's father, someone spilled milk on the



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Bright Idea: [Add more detail to you

- Inbox**
- Saved**
- Sent**
- Trash**
- Bulletin**
- Address Book**
- Friend Requests**
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To:



smokeme

Date: Nov 26, 2005 12:14 AM

Subject: RE: RE: RE: RE: RE: damn this sux....

i will....just had the strangest convo with ny cousin ever!

----- Original Message -----

From: smokeme
Date: Nov 25, 2005 10:48 PM

as much as u want to give me....call soon

----- Original Message -----

From: ?Frances
Date: Nov 25, 2005 4:41 PM

don't really follow that.....but yes i love Hawaii!
how much viciodin do you want? Like how many pills? I thin
can get a refill and give u the whole bottle if i feel that i don

Body:

----- Original Message -----

From: smokeme
Date: Nov 25, 2005 3:32 AM

hawaii is the shit though

----- Original Message -----

From: ?Frances
Date: Nov 24, 2005 10:55 PM

boo hoo! i'm lonely too.

----- Bulletin Message -----

From: smokeme
Date: Nov 23, 2005 10:19 PM

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-  **Bulletin**
-  **Address Book**
-  **Friend Requests**
-  **Pending Requests**
-  **Event Invites**

To:



*** margaritas and stoned LoVe***

Date:

Dec 24, 2005 1:08 AM

Subject:

RE: haterzzz

Lauren, you have no idea how sorry i feel for u :(

----- Bulletin Message -----

From: * margaritas and stoned LoVe*
Date: Dec 22, 2005 5:04 PM

Body:

i hate peoples who talk about their friends in a bad way beh
backs.....i hate the people who do stupid stuff so they can tr
hate people who sleep with 30-year old guys.....i hate peop
their pain killers for acid.....and last but not least i hate pec
theyre pretty and think theyre the best, but are really ugly r
suckers,these haterz need to shut their mouths....

:(

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