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March 13, 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 Support, SB 2223, Relating to Change of Name

Thank you for this opportunity to testify in strong support of SB 2223, which would allow a family court to change the name of a minor child in a divorce proceeding if the child was the victim of sexual abuse by either parent, or if the court determines that a name change is in the best interest of the child.

I have worked with child sex abuse victims in different capacities over the last decade. Allowing child victims this sense of ownership over their bodies, identities and lives is hugely important. The impact that childhood sexual abuse has on an individual cannot be understated. To continue to live with the perpetrator's name is not fair or just.

This bill would allow a family court to change a child's name in only two circumstances: one, in instances when either parent has been convicted of child sexual abuse, or in instances when the court determines that a change of name is in the best interest of the child. It takes a good deal of evidence and information for a family court judge to make a finding and it is far fetched to imagine that a court would make such a finding without sound information and solid evidence that childhood sexual abuse occurred.

Absent legislation like this, even a parent with sole physical and legal custody of a child would have to petition the Lieutenant Governor's office. Even then, the other parent would still have to provide consent for a name change. Not only does that put the survivors in direct contact with the perpetrator, it places them in a precarious position where they are reliant on the perpetrator's consent to name change.

The Commission strongly supports this measure and respectfully urges this Committee to pass SB 2223. Thank you for this opportunity to testify in support.



THE SEX ABUSE TREATMENT CENTER

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

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DATE: March 13, 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: S.B. 2223
Relating to Change of Name

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 supports S.B. 2223, allowing a family court to change the name of a minor child in a divorce proceeding of the parents if either parent has been convicted of sexual abuse against the child or if the court determines that the name change is in the best interests of the child when there has been no conviction of the parent for sexual abuse.

It is alarming to realize that children and youth consistently comprise the majority of sexual assault survivors seen through SATC. From 2001 to 2010, 58.2% of survivors receiving services from SATC were minors.ⁱ Of those minors, 42.8% were abused by a family member.ⁱⁱ In some cases, that family member was their own parent.

Child sexual abuse can have long-term impacts. Survivors may experience emotions such as fear, guilt, anger, and confusion well after the abuse. They may also experience a loss of self-esteem or depression and anxiety, and are at increased risk for suicide, eating disorders, substance abuse, and relationship difficulties.

In cases of intrafamilial sexual abuse, the effects can be even more pervasive as the abuse was perpetrated by someone who should have been a caretaker, a protector, a defender, but instead that person hurt, violated, and exploited the child. Sharing the same name as a perpetrator can serve as a constant reminder of the abuse.

We urge you to pass S.B. 2223. This bill reflects a victim-sensitive approach and takes into consideration the potential for lasting trauma suffered by survivors of child sexual abuse perpetrated by a parent. Thank you for this opportunity to testify.

ⁱ 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>.

ⁱⁱ *Id.*

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March 13, 2014

TO: Representative Mele Carroll, Chair
Representative Bertrand Kobayashi, Vice-Chair
Committee on Human Services

FROM: Dyan K Mitsuyama
E-Mail: dyan@mitsuyamaandrebman.com
Phone: 545-7035

HEARING DATE: March 13, 2014 at 11:30 a.m.

RE: Testimony in Opposition to SB2223 Relating to Change of Name

Dear Chair Carroll & Vice Chair Kobayashi and fellow committee members:

My name is Dyan K. Mitsuyama, a licensed attorney here in the State of Hawaii. I have practiced here in Hawaii for about 15 years now mostly concentrating in Family Law matters.

Today I not only speak for myself, but for the Family Law Section (FLS) of the Hawaii State Bar Association, which is comprised of approximately 136 licensed attorneys statewide all practicing or expressing an interest in practicing family law. I serve as the current Legislative Committee Chair as well as Treasurer of FLS

We are in opposition to this measure mainly because the proposed modification to the existing statute (HRS 574-5) is unnecessary and merely would increase conflict between divorcing spouses, which would not be in the child's best interest.

The bill first proposes to insert language to change a child's name if a parent has been convicted of child sexual abuse. This seems well-intended, but it is unclear if the parent is allowed basic due process rights as to notice and/or to oppose it.

Second, the bill proposes to insert language to change a child's name regardless if there is a conviction so long as the court determines that the change is in the child's best interest. Again, this seems well-intended as there may be appropriate situations to change a child's name, but

more often than not, there are divorcing spouses who make false allegations about the other in an effort to gain leverage (and ultimately succeed) in a battle over custody and/or visitation.

The Court already has tools to ensure the child's safety, including but not limited to barring/limiting visitation; not awarding physical/legal custody; and/or, terminating a parent's rights.

Too often people make allegations regarding abuse and most times the allegations are untrue. As such, it would be patently unfair to remove a child's middle or last name at the discretion of the Court particular at a "best interest" standard.

If the purpose is to protect the child's identity, then it seems to miss the mark as the other party will be notified of a motion to change the child's name. The party will eventually know what the child's new name is either at the actual court hearing and/or later through court records as divorce files are considered public record.

Lastly, there are children born out of wedlock and this is not addressed by this bill. Divorcing parties would be afforded an opportunity to change the child's name that other parents are not afforded.

Thank you for your time.

NOTE: The comments and recommendations submitted reflect the position/viewpoint of the Family Law Section of the HSBA. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors, and is not being endorsed by the Hawaii State Bar Association.