



THE SEX ABUSE TREATMENT CENTER

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

Executive Director
Adriana Ramelli

DATE: February 26, 2015

Advisory Board

TO: The Honorable Karl Rhoads, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

President
Mimi Beams

Vice President
Peter Van Zile

FROM: Adriana Ramelli, Executive Director
The Sex Abuse Treatment Center

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

RE: Testimony in Support of House Bill 1248
Relating to Sexual Assault

Marilyn Carlsmith

Senator
Suzanne Chun Oakland

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center (the SATC), a program of Kapi'olani Medical Center for Women & Children, in support of House Bill 1248 (H.B. 1248). We further respectfully request your consideration of our additional comments concerning this measure.

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember
Carol Fukunaga

H.B. 1248 would mandate that a family court terminate the parental rights to any child of a natural parent if that parent is convicted of rape or sexual assault, and that offense resulted in the conception of the child.

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Sexual violence remains a major public health issue 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 significant 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

Phyllis Muraoka

Gidget Ruscetta

A number of women who become pregnant as a result of 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.⁴

Presently in Hawai'i, if a child is conceived through an act of sexual assault, the convicted perpetrator of the sexual assault will not be permitted custody of, or visitation with, the child. However, a family court may allow the perpetrator to retain the remaining parental rights possessed by other parents. These may include the authority to consent to decisions concerning the minor of substantial legal significance such as marriage; enlistment in armed forces; medical, psychiatric, and surgical treatment; representation of the minor in legal actions; and adoption of the minor.

Consequently, a survivor of sexual assault may be forced to include her rapist in decisions concerning the upbringing of her child, presenting the opportunity for the perpetrator to further control and harm the survivor and her child.

H.B. 1248 would protect survivors of sexual assault and their children by requiring family courts to deny the remaining parental rights that a person who is convicted of a sexual assault is currently permitted to retain with respect to the child conceived as a result of the offense.

The SATC also has the following comments concerning H.B. 1248 that we respectfully submit for your consideration:

- The SATC believes that H.B. 1248's required termination of remaining parental rights would strongly benefit the survivor of sexual assault and her child in nearly all cases. However, there may be rare instances in which a mother may wish to allow the perpetrator parental rights. Under Haw. Rev. Stat. § 571-61(b)(5), both currently and with H.B. 1248's proposed amendment, a mother may petition the court to restore the perpetrator's rights. However, the court may, at its discretion, decline the mother's request.

A more survivor-centered approach would be to respect the survivor's choice and allow her decision to grant parental rights to be outcome determinative.

- The SATC notes that Haw. Rev. Stat. § 571-61(b)(5), both currently and with H.B. 1248's proposed amendment, holds the perpetrator of a sexual assault to his obligations to support the child conceived as a result of the offense, notwithstanding the termination of all other parental rights. However, the statute remains silent with respect to the child's possible entitlement to potential inheritance from the perpetrator.

We suggest that the legislature might consider preserving the child's right of inheritance, while still taking care to bar any chance that a perpetrator might be able to inherit anything from the child.

By ensuring that convicted perpetrators of sexual assault will not be allowed to further victimize survivors by exercising parental rights over children resulting from their offenses, your support of H.B. 1248 sends a profound message that the State of Hawai'i cares about protecting its citizens from the lasting aftereffects of violent crime.

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.

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

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Arvid Tadao Youngquist	Individual	Support	No

Comments: Chair, JUD Committee Vice Chair, JUD Committee Right Honorable Committee Members Support HB 1248 Relating to Sexual Assault. I thank the co-sponsors Representatives HAR, ITO, JORDAN, KAWAKAMI, KONG, OSHIRO, SAY, TOKIOKA, Aquino, & Onishi. Recommend approval and a strong committee report to your fellow House colleagues. Thank you for offering this important legislation at the capitol. It is necessary for the government and the courts to take this protective measure to protect the victim(s). Mahalo nui loa, Arvid Tadao Youngquist Oahu Voter & Resident [Resident 1974-2015: Aiea, Downtown, Wahiawa, Makiki, Kaimuki, Salt Lake, Kalihi Valley, Kalihi-Palama, Liliha, and University]

LATE

Jeanne Y. Ohta

February 26, 2015

To: Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair and
Members of the Committee on Judiciary

RE: HB 1248 Relating Sexual Assault
Hearing: Thursday, February 26, 2015, 2:00 p.m., Room 325

Position: Support

I am writing in support of HB 1248 which would mandate a family court to terminate the parental rights to any child of a natural parent if the natural parent is convicted of rape or sexual assault and the rape or sexual assault resulted in the conception of the child.

It is cruel to require a survivor of sexual assault to maintain contact with the perpetrator of the assault through a child; and maintaining parental rights allows the perpetrator to have substantial continuing control over the victim. It is for these reasons that I support this measure and ask you to pass it out.

Thank you for the opportunity to provide testimony.