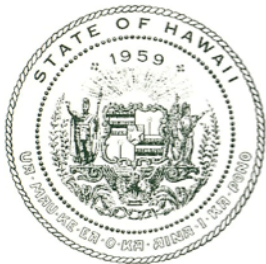


HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

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AMY MONK
LISA ELLEN SMITH

Executive Director
Catherine Betts, JD

Email:
Catherine.a.betts@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 7, 2017

To: Representative Scott Nishimoto, Chair
Representative Joy San Buenaventura, Vice Chair
Members of the House Committee on Judiciary and Labor

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

Re: Testimony in Support, HB 415, Relating to Limitation of Actions for Sexual Assault

Thank you for this opportunity to testify in strong support of HB 415, which would re-open the window of time that childhood sexual abuse victims could file a civil action against their perpetrator or a legal entity.

This legislation is particularly important for survivors of child sexual abuse because many children do not disclose abuse right away. Some studies have estimated that between 60–80% of child sexual abuse survivors withhold disclosure. Studies examining latency to disclosure have reported a mean delay from 3–18 years.

At the time of abuse, a child may not be at the cognitive level to be able to put traumatic memories into words, recall details, remember the frequency, time, or sequence of events, or understand that the acts were “wrong” or illegal. The child may be afraid of the impact on their family or the perpetrator’s family if the abuse is disclosed. The majority of survivors know the perpetrator. In child sexual abuse cases, most studies reflect that 90% of child victims knew their perpetrator. In some cases, the perpetrator may be a family member living in the same home as the survivor or a close family friend.

Additionally, some people do not disclose until well into adulthood. Some adults molested as children may not discover the connection between the sexual abuse and their resulting psychological injury until decades after the abuse. Some may be motivated to pursue claims after they learn that the perpetrator has access to children. Like child survivors, a majority of adult survivors know the perpetrator. Similarly, adult survivors may not disclose right away for many reasons, including fear of retaliation, or feelings of guilt and shame.

At least 32 states have no criminal or civil statute of limitations on child sexual abuse or the most aggravated sex crimes. It is doubtful that this legislation would open the floodgates or cause concern for fraudulent claims. Additionally, this legislation does not change the burden of proof nor does it make it easier for sexual assault victims to prove their case. This legislation merely allows more survivors of sexual violence to access the justice system and feel as if they’ve been heard. This is a hugely important step for many survivors to recover from trauma. The Commission strongly supports HB 415. Thank you for this opportunity to provide testimony on this issue.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 415, RELATING TO LIMITATION OF ACTIONS FOR SEXUAL ASSAULT.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 7, 2017 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Russell A. Suzuki, First Deputy Attorney General

Chair Nishimoto and Members of the Committee:

The Department of the Attorney General provides comments.

The purpose of this bill is to amend section 657-1.8(b), Hawaii Revised Statutes, to extend the time in which a victim of child sexual abuse can bring a civil claim if the victim is barred from filing a claim due to the expiration of the existing statute of limitations. This bill would allow an additional four-year "window" up to April 24, 2020, for otherwise time barred civil claims to be brought. Claims can be brought against the abuser as well as any legal entity that employed the abuser or owed a duty of care to the victim, or if the legal entity had responsibility or control over the activity the victim and abuser were engaged in.

We recommend the Committee bear in mind that within these four years, claims may be brought against the State of Hawaii, its departments, agencies, boards, and commissions regardless of when the alleged sexual abuse occurred. This might increase the State's potential for liability, and because of the passage of time, might curtail the State's ability to defend itself, even against claims which are unsubstantiated.

Thank you for the opportunity to provide comments.



THE SEX ABUSE TREATMENT CENTER

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

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Dennis Dunn

Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Robert H. Pantell, MD

Joshua A. Wisch

Date: February 7, 2017

To: The Honorable Scott Nishimoto, Chair
The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

From: The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Strong Support of H.B. 415
Relating to Limitations of Actions for Sexual Assault

Good morning Chair Nishimoto, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) strongly supports H.B. 415, which would re-establish the window period during which a victim of child sexual abuse may bring an otherwise time-barred civil action against the victim's abuser or an entity with a duty of care.

It is estimated that in the United States, 1 in 5 girls and 1 in 20 boys is a victim of child sexual abuse.ⁱ This is supported by self-report studies showing that 20% of adult females and 5-10% of adult males recall a childhood sexual assault or sexual abuse incident. On O'ahu, SATC notes that over half of the survivors of sexual violence that we see experienced the abuse before the age of 18.

We note that it is common for even adult survivors of sexual assault to wait some time before telling anyone about their victimization, and that some may never tell. A sexual assault is an unexpected violation and can create upheaval at home, school, work, in social settings and in relationships. There are many ways that survivors respond to sexual violence: in addition to physical injuries from the abuse, survivors may experience feelings of fear, guilt, shock, disbelief, anger, confusion, helplessness, betrayal and anxiety, often with long term psychological consequences. Reporting an assault takes tremendous courage, and it may not take first priority. A survivor may need time to work through many emotions, thoughts and experiences before they are ready to engage with the legal system.

This is especially true of survivors of sexual abuse in childhood. Many children do not disclose sexual abuse right away. Some studies have estimated that between 60% and 80% of child survivors withhold disclosure, and there is general consensus in the literature that many children who experience sexual abuse delay disclosure until adulthood.^{ii, iii} Of these, the average latency—the delay until the survivor is able to

disclose their victimization—has been found to be approximately 20 years, with some survivors delaying up to 50 years.^{iv, v} As children are most vulnerable to sexual abuse between the ages of 7 and 13, this places the average age of delayed disclosure in adulthood at approximately 27 to 33 years old.

There may be many reasons that a child would delay disclosing sexual abuse, from their stage of cognitive development, capacity to understand what happened, and ability to express their complaint, to the fact that a majority of survivors know the perpetrator and may fear the impact on their family or community. Like adult survivors, children can also be scared that the perpetrator might retaliate, or they may blame themselves or be confused by what happened or the feelings they may have for the perpetrator.

Even more troubling is that many past survivors of sexual violence in childhood who did disclose the abuse were subjected to negative, silencing, and re-traumatizing reactions by the recipients of the disclosure. Survivors report that they were faced with, on the part of the disclosure recipients, shock and disbelief, blame or accusations that the survivor was lying, ignoring or minimizing of the disclosure, anger, rejection, punishment and avoidance of further discussion. Therefore, the fact that a survivor may have disclosed their abuse does not mean they had a meaningful opportunity to seek justice in the past.

In 2012, Hawai'i amended its statute of limitations for civil actions involving child sexual abuse and provided a window allowing survivors who had been previously time-barred to bring a civil action against the perpetrator or against the entity that employed the person accused of committing the abuse and had a duty of care to the child. That window closed in April of 2016, but before it did a number of survivors came forward with suits directly attributable to the law. Since its closure, others who would be interested in bringing suit have come forward and asked that it be reopened.

Re-establishing the window provides survivors the opportunity to seek justice for themselves and to hold more perpetrators accountable, consistent with the realities of disclosing child sexual abuse. Under the current law, without the window, survivors are only permitted to bring suit until the age of 26 (the age of majority plus 8 years), with the exception of under specific, special circumstances, and those whose past civil and criminal statutes of limitations expired are unable to seek justice. For these survivors, without the relief offered by H.B. 415, no matter what the perpetrator did to them or the harm they experienced, the perpetrator will be guaranteed to walk away without any accountability.

Additionally, allowing for survivors to bring their cases to court enhances public safety. Studies have found that a number of child sexual abusers are serial perpetrators.^{vi} These offenders pose an ongoing and continual threat to the community. When more survivors are able to come forward in a manner that respects the enormous bravery that an act of disclosure represents, more perpetrators are identified and are barred from benefiting from the heinous, silencing nature of their crimes.

Therefore, we respectfully urge you to pass H.B. 415.

ⁱ The National Center for Victims of Crime, *Child Sexual Abuse Statistics*, available online: <https://victimsofcrime.org/media/reporting-on-child-sexual-abuse/child-sexual-abuse-statistics> (accessed February 6, 2017).

ⁱⁱ 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).

ⁱⁱⁱ Catherine Esposito, *Child Sexual Abuse and Disclosure: What does the Research Tell Us?*, available online: https://www.facs.nsw.gov.au/_data/assets/file/0003/306426/Literature_Review_How_Children_Disclose_Sexual_Abuse.pdf (accessed February 6, 2017).

^{iv} Id.

^v Betty Chan and Andrew Ngai, *Latency of Child Sexual Abuse Claims: Presented to the Actuaries Institute General Insurance Seminar*, available online: <http://www.actuaries.asn.au/Library/Events/GIS/2014/GIS2014ChanNgaiSexualAbusePaper.pdf> (accessed February 6, 2017).

^{vi} See, e.g., Department of Justice Office of Justice Programs, *Sex Offender Management Assessment and Planning Initiative*, “Chapter 5: Adult Sex Offender Recidivism,” available online: https://www.smart.gov/SOMAPI/sec1/ch5_recidivism.html (accessed February 6, 2017).



Hawaii Women's Coalition

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

DATE: Tuesday, February 7, 2017

TIME: 2:00 pm

PLACE: Conference Room 325

STRONG SUPPORT FOR

Aloha Chair Nishimoto, Vice Chair San Buenaventura and members,

The Coalition is in strong support of HB415 that extends the period during which a victim of child sexual abuse may bring an otherwise time-barred civil action against the victim's abuser or an entity with a duty of care.

Studies have shown that survivors of child sexual abuse often delay seeking justice against their attackers sometimes for decades. In many cases, the survivor may not recall that they were sexual abused or discover that abuse resulted in injuries for many years due to psychological trauma that is often accompanied by repression of the memory of abuse. Even if they do remember the abuse, survivors of sexual violence face significant societal and cultural biases and are inhibited by feelings of shame or guilt. In addition, seeking justice can create upheaval at home, work or in social settings. All these factors conspire to make it difficult for victims to come forward.

Unfortunately, Hawai'i only allows survivors to file suit until age 26, or they must file suit within 3 years of discovering psychological injury or illness caused by the abuse. This is not enough time, given that the average times for disclosing abuse are 20 - 30 years (most child sexual abuse occurs between ages 7 and 13). There is no reason that people who sexually abuse children should be granted a reprieve from justice simply because their victims face real and significant barriers to disclosure. Victims of this most heinous of crimes at the very least deserve their day in court. This action would give them that opportunity.

Please pass this important bill out of committee.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition

Contact: annsfreed@gmail.com Phone: 808-623-5676

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 1:49 PM
To: JUDtestimony
Cc: laurie.field@ppvnh.org
Subject: *Submitted testimony for HB415 on Feb 7, 2017 14:00PM*

Categories: Blue Category

HB415

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

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LATE

February 6, 2017

Hon. Rep. Scott Nishimoto, Chair
Hon. Rep. Joy San Buenaventura, Vice Chair
House Committee on Judiciary
State Capitol
Conference Room 325
415 South Beretania Street
Honolulu, HI 96813-2425

RE: Hearing Before Committee on H.B. 415 Relating to Limitations for Actions for Sexual Assault (February 7, 2017)

Dear Representatives Nishimoto and San Buenaventura:

I commend you and the Committee for taking up H.B. 415 which would extend the revival of expired statutes of limitations for sexual assault until April 24, 2020. **If passed, it will put Hawaii in the forefront of child protection once again.**

In 2012, the state of Hawaii joined the leading states on child protection by enacting a 2-year window that would permit those child sex abuse victims whose claims had expired to sue for civil damages. The result was that unknown child predators like Jay Ram and a variety of institutions that harbored child abusers were held accountable in the courts. Yet, the number of cases was modest and there was no avalanche of claims that would clog the courts. Following the expiration of that 2-year window, Hawaii enacted a second window, which expired in 2016, and which once again identified unknown child predators and new institutions that had protected child abusers rather than children. Again, the number of cases has been modest and the effect on the court system manageable. This bill would give the victims who have not yet been ready or able to come forward three more years.

This bill is a sunshine law for children. There is an epidemic of child sex abuse around the world. At least one in four girls is sexually abused and at least one in five boys. Sadly, 90% never go to the authorities and the vast majority of claims expire before the victims are capable of getting to court. Most victims are abused by family or family acquaintances. This bill would protect the children of Hawaii by making it possible for victims to come forward and identify their perpetrators in a court of law. It would also bring delayed, but still welcome, justice to these victims.

By way of introduction, I am the Founder, CEO, and Academic Advisor to CHILD USA, which is an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where I am also a Distinguished Scholar in the Program for Research on Religion. I am also the

www.childusa.org

author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations reform in the child sex abuse arena, and the leading expert on the history and constitutionality of retroactive statutes of limitations with respect to child sex abuse and have advised many child sex abuse victims on constitutional issues.

There are three compelling public purposes served by window legislation:

- (1) It identifies previously unknown child predators to the public so children will not be abused in the future;**
- (2) It gives child sex abuse survivors a fair chance at justice; and**
- (3) It educates the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively.**

Hawaii is not the only jurisdiction to revisit window legislation. Guam's bill removing the statute of limitations and creating a two-year window was signed into law by Governor Calvo on March 10, 2011. No survivor came forward under that window, leading Guam to enact a law that indefinitely revives child sex abuse SOLs on September 23, 2016. With more public information, this new Guam window has disclosed abuse previously unknown and led a number of victims to come forward, although the numbers remain modest compared to the population of sexually abused children.

The following states have permitted revival of expired civil statutes of limitations for child sex abuse victims:

- California (1 year)
- Connecticut (all victims under the age of 48)
- Delaware (2 years)
- Georgia (2 years)
- Massachusetts (all victims under the age of 53)
- Minnesota (3 years)
- Utah (all victims under age 50; any age for 2 years)

The universal experience in these states is that window legislation does identify hidden child predators; it provides an outlet for justice for some survivors; but it produces at most a modest set of claims. This is not a law that yields anything close to an avalanche of claims. It is my view, based upon studying all states that have revived expired SOLs, Hawaii has followed a prudent but groundbreaking path: it has tried a window, extended it, seen the modest but real benefits both times, and is now considering a further extension. Nothing in Hawaii's experience argues against this next extension.

SOL reform has very few detractors other than the Catholic bishops, who have misleadingly argued that window legislation is unconstitutional on the theory that it "targets" the Church. As Hawaii's experience proves, window legislation does not target any particular perpetrator or organization and has been held constitutional in Hawaii and elsewhere. Roe v. Ram, No. CV 14-00397 HG-RLP, 2014 WL 10474393 (D. Haw. Nov. 26, 2014); Melanie H. v. Defendant Doe, No. 04-1596-WQH-(WMc), slip op. (S.D. Cal. Dec. 20, 2005); Sliney v. Previte, 473 Mass 283, 41 N.E.3d 732 (Mass. 2015); Doe v. Hartford Roman Catholic Diocesan Corp., 317 Conn. 357, 419-420 (2015); Sheehan v. Oblates of St. Francis de Sales, 15 A.3d 1247 (Del. 2011).

Once again, I applaud you for introducing legislation intended to help childhood sexual abuse victims, and the Committee for taking up the cause of child sex abuse victims in this way. Hawaii's children deserve the passage of statutes of limitations reform to protect children today and in the future, and to achieve justice for the many victims still suffering in silence. This bill creates a further window of opportunity for Hawaii's child sex

abuse victims who were locked out of the courthouse by unfairly short limitations periods and who were not ready to come forward when the initial windows were in place.

Please do not hesitate to contact me if you have questions regarding window legislation or if I can be of assistance in any other way.

Sincerely,

Marci A. Hamilton
CEO and Academic Director
CHILD USA
(215) 746-4165 (office)
(215) 353-8984 (cell)
215-493-1094 (facsimile)



childusa.thinktank@gmail.com
www.facebook.com/childusathinktank/

www.childusa.org

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 4:02 PM
To: JUDtestimony
Cc: mlopes@hscadv.org
Subject: Submitted testimony for HB476 on Feb 7, 2017 14:00PM

Categories: Blue Category

HB476

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Marci Lopes	Hawaii State Coalition Against Domestic Violence	Support	No

Comments: Thank you for your ongoing efforts to improve the criminal justice system for domestic violence victims.

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LATE



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

**TESTIMONY FOR HOUSE BILL 415, RELATING TO LIMITATION OF ACTIONS
FOR SEXUAL ASSAULT**

**House Committee on Judiciary
Hon. Scott Y. Nishimoto, Chair
Hon. Joy A. San Buenaventura, Vice Chair**

**Tuesday, February 7, 2017, 2:00 PM
State Capitol, Conference Room 325**

Honorable Chair Nishimoto and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 350 members. On behalf of our members, we offer this testimony in support of House Bill 415, relating to limitation of actions for sexual assault.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided direct intervention services to 130 victims, successfully emancipating them from slavery and assisting in their restoration. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily bonded to her pimp that while under his grasp, she couldn't remember her own name.

Sex trafficking is a profoundly violent crime. Victims of sex trafficking are often made more vulnerable to being exploited because of prior sexual trauma, particularly sexual assault during childhood. The Average age of entry into commercial sexual exploitation is 13-years-old, with 60 percent of sex trafficked children being under the age of 16. Approximately 150 high-risk sex trafficking establishments are operational in Hawai'i. An estimated 1,500-2,500 women and children are victimized by sex traffickers in our state annually. Over 110,000 advertisements for Hawai'i-based prostitution are posted online each year, a number that has *not* decreased with the recent shuttering of Backpage.com's "adult services" section. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home.

With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent of report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence as such. As one underage victim—now a survivor—told IMUAlliance prior to being rescued, “I can’t be raped. Only good girls can be raped. I’m a bad girl. If I *want* to be raped, I have to *earn* it.”

Court cases require personal security, confidence, and courage. Rehabilitating and restoring victims of sex trafficking can take years, but ultimately result in empowerment to pursue causes of action against criminals who prey on our children. When you extend the period during which a victim of child sexual abuse may bring a civil action against an abuser, then, you advance access to justice for victims of sexual slavery. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

Dear Legislator,

Please support HB415. Here is a small portion of my story and HB415 impact on my life.

I have been told by my mother, that my father planned everything before I was born. I was to be "his girl" and that was in every way possible. Hawaii would be the paradise to make that happen. The laws held no accountability.

I am a 54 year old mother of 4 and grandmother of 2 , which for a bystander, looks successful and happy. However, each morning I wake up to battle my demons. These are the childhood memories that want me to end my life everyday. These are they plans of how I will end my life. They are the demons that see every nasty word and gesture of those around, altering perspectives, every experience , and every moment due to hyper vigilance from PTSD. I get little sleep, for night-terrors wake me screaming on a regular basis. These are demons that relive the horror of 18 years of childhood physiological, physical, sexual, and mental abuse, down to the last detail. I AM a victim of sexual abuse from my father. A man who held physical, physiological, financial, and mental control of me ALL of my childhood and much of my adulthood.

I remember sitting in the bathroom at school, in vaginal pain day after day. I remember being smothered with a pillow until I couldn't breath, in order to subdue the fight in me. I remember a sweaty body on top of me and closing my eyes to imagine some place different. I was not abused once or twice, but several times every week for 18 years. I live with the long term mental and physical results of massive amounts of cortisol , the stress hormone, running through my body. Migraines for 26 days, RLS, Raynaud's syndrome remind me constantly through indiscriminate pain, of the horror of my childhood.

My own father threatened to kill me if I told anyone. I was told it would be a painful death. But I did tell. I remember telling my best friend, with a "you are lying" response. I have learned recently adults knew and did nothing, although my behavior cried out for help constantly. I have learned my pastor was told and did nothing.

I left Hawaii as soon as turned 18. My mother divorced my father, but he found a new wife in a 18 year old Philippine woman who had an infant girl. I was fearful for the child and called immigration. They scoffed and told me I was once again lying.

There was, and to this point, no accountability for a man who sexually abused not only me and my sister, but possibly others. He would continue to do what he had done for years, abuse and control.

Two and half years ago I came back Hawaii to bring my mentally ill brother back from a visit in Michigan. As I got him settled at the State Mental facility in Kaneohe, his support team shared they knew my story. In fact they had had lunch with my father before my brother's trip and my Father had bragged about what he had done to me. They let me know about a small window of time which a victim of child sexual abuse may bring an otherwise time-barred civil action against the victim's abuser or an entity with a duty of care. I took a card of a lawyer that might help and went home to Michigan.

This crime is often referred to as a "silent crime" because victims have difficulty coming forward. Non-offending adults are often complicit in not reporting the abuse, and perpetrators—who are often trusted by the child or known in the community—can manipulate situations so that they can continue the abuse. In addition, the abuse is often not physically apparent; rather, the evidence of abuse may manifest itself in behavioral and psychological changes that can be misidentified as moodiness or disobedience. Reporting on child sexual abuse (CSA) presents a number of challenges. The victims—children from birth to 17 years of age—are often traumatized by the experience and afraid to come forward.

I certainly was scared and the feelings of hopelessness perpetuates my thoughts. It was a very hard decision to finally try to make this man accountable , months later I contacted a lawyer and explained that my purpose for suing was not for money, but to bring light on the sexual abuse in Hawaii that had been allowed to continue with no accountability for 50 years. HB415 had allowed me to begin this journey for accountability, that is still continuing to date. However, there are thousands of victims suffering with these memories and experiences, that do not know about this law and/or are simply emotionally unable to come forward within the current statute of limitations.

There is no excuse for this crime, and note I believe there should be no statute of limitations criminally, My greatest wish is to stand before you and plead with you to push this legislation through, but to go further and consider SB523 and HB685 . You have the ability to allow victims like me to hold these criminals accountable. HB415 is only the beginning of making an undeniable wrong, right with Aloha for our Ohana.

Mahalo,

Sheryl Hauk
2258 Shore Hill Dr
West Bloomfield, MI 48323
248-935-7721
shauk62@aim.com

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 7:12 PM
To: JUDtestimony
Cc: mlopes@hscadv.org
Subject: *Submitted testimony for HB415 on Feb 7, 2017 14:00PM*

Categories: Blue Category

HB415

Submitted on: 2/3/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Marci Lopes	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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To: JUDtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB415 on Feb 7, 2017 14:00PM*

Categories: Blue Category

HB415

Submitted on: 2/3/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 3:46 PM
To: JUDtestimony
Cc: joyamarshall0416@gmail.com
Subject: *Submitted testimony for HB415 on Feb 7, 2017 14:00PM*

Categories: Green Category

HB415

Submitted on: 2/6/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

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Dear Chair Nishimoto, Vice Chair Buanaventura, and committee members:

I am a survivor of childhood sex abuse and I support HB 415.

Extending the window legislation for civil action is very important due to the nature of childhood sex abuse. 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 since you feel alone and that the abuse was your fault. Many people's lives have been ruined by sex abuse, with the life-long destructive effects on children, the most damning.

As a 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 40, I am grateful that I am full of compassion and love for my 2 children, rather than the anger and shame that consumed me for so many years.

I ask the respected committee members today to please consider HB 415, 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, sisters, sons and daughters. Please show that you acknowledge their suffering and support their recovery by giving them the chance to speak out against their perpetrators and feel whole again. Thank you.

Andre Bisquera

BRIAN K. MACKINTOSH, J.D., PH.D.

ATTORNEY AND LECTURER AT LAW

LATE

February 6, 2017

COMMITTEE ON JUDICIARY
Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

Re: *House Bill 415 - Relating to Limitation of Actions for Sexual Assault*

To The Committee on Judiciary:

I write in support of House Bill 415, which provides access to justice for adults who are victims of childhood sexual abuse. As a practicing attorney, I have seen first hand how difficult it is for survivors who were abused as children to come forward during the currently authorized statute of limitations. I represent or have represented 37 abuse survivors who have brought suit under the current “window law,” HRS § 157-1.8. I have met with several more who hoped to bring their abusers to court, but approached me just days after the window shut on April 24, 2016. Without an extension, they will be forever barred.

Almost to a person, each one of my clients began to address the nature and extent of their injuries when they had children that were roughly the same age they were when the abuse began. It made them realize how young and vulnerable they were when the abuse happened, and how they were not to blame in the abuse they suffered. As I researched this anecdotal experience, I found that this delayed reporting is the norm rather than the exception. *See* R. McElvaney, *Disclosure of Child Sexual Abuse: Delays, Non-disclosure and Partial Disclosure. What the Research Tells Us and Implications for Practice*, 24 *Child Abuse Rev.* 159, 159 (“Findings from large-scale national probability studies highlight the prevalence of both non-disclosure and delays in disclosure, while findings from small-scale qualitative studies portray the complexity, diversity and individuality of experiences.”) Victims just don’t address childhood sexual abuse before the age of 26, the most common statute of limitations under the current law.

In speaking with defense counsel in this context, I have heard it remarked the defense bar expected a wave of frivolous lawsuits to arise out of the statute of limitations extension that expired on April 24, 2016. While they did encounter a wave of litigation, they found that little or none of it was frivolous. In fact, they found the victims continued to under-report the number of incidents and degree of injury.

House Bill 415 seeks to reopen the window until April 24, 2020. Other bills (Senate Bill 523 and House Bill 685) would permanently rescind the statute of limitations for civil suits. The

current law closes the window on justice before victims have even found their voice. I urge you to support House Bill 415.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Brian K. Mackintosh". The signature is written in a cursive style with a prominent initial "B" and a long horizontal stroke at the end.

Brian K. Mackintosh, JD, PhD

LATE

Testimony in Support of the Bill to Extend the Period During Which a Victim of Child Sexual Abuse May Bring an Civil Action Against the Victim's Abuser Or An Entity

When a minor is being sexually exploited, she or he may not know at the time of its harmful consequences both physically and emotionally. The abuse the victims had experienced often could not be processed until much later in life. As an adult, it is possible a victim has the strength to bring back memories of the harm that had been wrongfully forced onto their young body and mind. Those are the lucky ones, the survivors. For those who were deeply disturbed, some has chosen to end their life or to live on but in constant pain, anger and confusion. Some of them suffers PTSD but never linked it to their abuse from the past. As a survivor myself, I know how I had to push down those memories in order to smile and walk in the day light. I had to psych myself in the darkness into a belief that those had not happened and those events were not that bad and serious. But in my sleep, I was frightened. Those memories had transformed into nightmares. Only until I was a mid-aged adult, I was able to look back and face the wrongful and unjust doings of those abusers.

When I learned that there is Statue of Limitation on how much the time a vicim of child sexual abuse has in order to bring an civil action against his or her abuser I thought that was wrong. The time in which each of those victims needed in order to process the abuse is different. It is dependent upon their own personal aptitude and disposition. For some, they may be able to process the injury within the given Statue of Limitation; for others, if they could not process their pain in time, they may lose the opportunity forever to bring a civil suite against their abuser. The later case seems adding icy frost to their snow.

The abusers should be punished. The law and justice system is designed to prosecute the wrong doings. Therefor, I support this effort in assisting victims bringing their abusers to court. The law is just, there should not be a limitation on when can a victim could pursue an action against their abusers.

From: \
Sent: Monday, February 6, 2017 6:33 PM
To: JUDtestimony
Subject: Anonymous Testimony (would you please blackout my email address- thank you)

To: Representative Scott Nishimoto, Chair
Representative Joy San Buenaventura, Vice Chair

Date: Feb 7, 2017
Time: 2:00 pm
Place: Conference Room 325

From: An Anonymous Survivor

RE: Testimony in Strong Support of H.B. 415
RELATING TO LIMITATION OF ACTIONS FOR SEXUAL ASSAULT. Extending the period during which a victim of child sexual abuse may bring an otherwise time-barred civil action against the victim's abuser or an entity with a duty of care.

Good morning Chair Nishimoto and Vice Chair San Buenaventura and the members of the House Committee on Judiciary:

I am a victim of Child Sexual abuse and strongly supports HB415. I have been dealing with my sex abuse trauma for what feels like my entire life despite the actual abuse taking place from the ages of 7 to 10 years old. It has been impossible to escape these feeling since my perpetrator (a family member) lives next door to me. I live with the pain and constant reminder of what has happened to me on a daily basis. Seeking financial compensation is way of seeking justice that I have been denied with the absence of being able to press criminal charges. One of the reasons financial compensation could give me some sense of peace is that it will allow me to be able to seek independence with the possibility of being able to separate myself from him (he chose to moved next door 15 years ago and will not leave despite my plead to do so). It could provide a sense of closure and hopefully will allow me to finally heal. I have been in therapy for all of those 15 years because of my past trauma and the need of support in coping with him next door. It is unfair that I'm constantly having to be in therapy for something that was done to me that was beyond my control. I feel the perpetrator lives with no consequences yet I am triggered by his presence on a constant basis. The trauma has affected me physically and emotionally for the last 50 + years of my life now. In supporting this bill i might have the wherewithal to make positive changes in my life.

Therefore, I Respectfully urge you to support HB 415

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 2:18 PM
To: JUDtestimony
Cc: victor.ramos@mpd.net
Subject: *Submitted testimony for HB415 on Feb 7, 2017 14:00PM*

LATE

Follow Up Flag: Follow up
Flag Status: Flagged

HB415

Submitted on: 2/7/2017

Testimony for JUD on Feb 7, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	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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