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Date: March 15, 2018

To: The Honorable John Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
House Committee on Health and Human Services

From: Justin Murakami, Policy Research Associate
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Support of S.B. 1062 S.D. 1
Relating to Parental Rights

Good morning Chair Mizuno, Vice Chair Kobayashi, and members of the House Committee on Health and Human Services:

The Sex Abuse Treatment Center (SATC) supports S.B. 1062 S.D. 1.

Sexual assault remains a major public health issue in Hawai'i. According to the Centers for Disease Control and Prevention's National Intimate Partner and Sexual Violence Survey, based on data collected from 2010 to 2012, it is estimated that there are approximately 78,000 women in Hawai'i who are survivors of completed or attempted rape.

The impact of sexual assault is significant. Survivors face not only emotional trauma, but significant physical consequences, including pregnancy. One study found that approximately five percent of rapes resulted in pregnancy. This would translate to about 32,000 rape-related pregnancies each year in the United States.

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 data revealed that of thirty-four cases of rape-related pregnancy, the woman kept the infant in 32.3% of the cases.

Presently in Hawai'i, even if a child is conceived through an act of sexual assault, a family court may allow the perpetrator to retain parental rights possessed by other parents. In addition to custody and visitation, these can include the authority to consent to decisions concerning the child 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.

S.B. 1062 S.D. 1 would help to protect survivors of sexual assault and their children by requiring family courts to deny parental rights to a person who is found

to have committed sexual assault by clear and convincing evidence with respect to the child conceived as a result of the assault.

SB-1062-SD-1

Submitted on: 3/13/2018 9:46:47 PM

Testimony for HHS on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

In STRONG SUPPORT.

March 14, 2018

TO: Representative John Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the House Committee on Health & Human Services (HHS)

FROM: Joy M.K. Kaopuiki, M.S.

RE: SB 1062, SD1 — RELATING TO PARENTAL RIGHTS
Hearing: Thursday, March 15, 2018 at 10:00 A.M.
Hawai'i State Capitol, Conference Room 329

POSITION: *STRONG SUPPORT*

My name is Joy Kaopuiki; and I am presenting testimony in ***STRONG SUPPORT*** of **SB 1062, SD1**. I am testifying on behalf of myself; my 5-year-old son, Rawlings James; and other victims of sexual assault like us. I want to begin by expressing my sincerest gratitude for this available opportunity to share our thoughts and ideas on legislation—"Thank You!" I would also like to boldly ask for your prompt assistance with getting this SB passed through the legislature and enacted into law as soon as possible.

My main purpose is to secure ***true protections*** for sexual assault survivors **and** our conceived children, all whom are directly affected by areas of concern not addressed in Act 213 (2016). I commend and thank you for your compassion and empathy with what this law intended to do. Now, I **urge** that we tighten up and fine tune the details so rape victims **and** our conceived children truly receive the ***JUSTICE*** and ***FREEDOM*** we are due! Furthermore, the SB ***must include*** the amendments from **HB 1487** to ensure complete coverage.

The primary goal of these measures is to protect the life; safety; and well-being (or, "the best interests") of the Child conceived from a sexual assault. No one truly realizes that the victim-survivors and our children are still being subjected to abuse; harm; and retaliation the longer we are forced by the Family Court to still deal with our rapist/abuser. It is, without a doubt, in the Child's best interests for the assailant to have supervised (at the very least) or prohibited visitation with the Child, until the completion of their criminal trial, because no one can guarantee the Child will be safe from further harm and retaliation. Also, it is practically impossible for the victim-survivor to share custody, once the assailant is criminally indicted, because a "No Contact Order" is issued by the Honolulu Prosecutor and is in effect pending the criminal trial. It would be prudent for the victim-survivor to have **SOLE** legal **and** physical custody of their child pending the criminal trial as well. If not, the assailant misuses their parental rights as leverage and to further exercise their manipulative power-and-control over the victim.

For most of my young son's life, we have personally experienced the harsh repercussions of being a sexual assault victim and the conceived child. To briefly explain our situation—my abusive ex-boyfriend raped me one night, across the street

from my home, after incessantly stalking and harassing me. He and his family wanted nothing to do with me, nor my baby, during my pregnancy. They even demanded I have an abortion numerous times. When my son was almost 4-months-old, my ex filed for paternity and custody; only after he unlawfully hacked into my email account and discovered I tried to get a restraining order against him. ***My rapist took me to court before I could do anything about what he wrongfully did to me.***

By the time I received the assistance I needed from the Sex Abuse Treatment Center of Hawai'i, my case was considered a "delayed reporting." Nevertheless, there was an extensive process in order for the Honolulu Prosecuting Attorney to receive a "true bill" from a Grand Jury—to include a thorough, months-long investigation by a Detective with the Honolulu Police Department, Sex Crimes Division. Despite his criminal indictment and felony charges for sexual assault in the second degree—to all of which my rapist pleaded "*Not Guilty*," of course—my son and I were still being forced by the Family Court into **direct, unsupervised contact** with our attacker and his hostile family. It feels like endless abuse, assault, and "rape" by **multiple assailants** now!

Since last advocating at the State Capitol in March 2017, I had to file for three (3) restraining orders on behalf of my young son, against his abusive father. I have a 20-year Order for Protection granted by the Family Court in June 2013; but, my son was protected for only six (6) months, due to a pending paternity trial initiated by my ex-boyfriend/son's father. Although my son is the conceived result of my first reported incident of sexual assault against my ex, my son is not considered a "victim/witness" in his father's criminal case. Therefore, my son did not receive any immediate "No Contact Order" protection; and has been subjected to **unsupervised visitations**—where his father and paternal grandparents were physically, mentally, emotionally, and sexually abusing him. In June 2017, my ex/son's father tried to attack us as we were leaving a public restroom, with a baseball bat in his hand and threatening to kill us. (I was informed that he is still employed on a full-time basis as a School Counselor with the Hawai'i State Department of Education.)

I am still fighting (and will continue to fight) for the safety and protection of my 5-year-old son. Until this very day, my son and I have not received due process from the Family Court on "*the best interests of the Child*" because my rapist keeps being allowed to exercise his 5th Amendment right to not incriminate himself, and purposely continues our Family Court matters **every time** he continues his criminal trial. My son and I were wrongfully separated from our family for almost 4 years now. Also, my son and I continue to be blocked from educational and career opportunities in the Continental U.S., which would ultimately provide a great life for us. I have been representing myself, *Pro Se*, in the paternity and TRO Courts because these matters keep being unnecessarily delayed; and I cannot afford an attorney. The Family Court **forced** my son and I to live in poverty, just so our abuser could maintain his legal custody right and **unsupervised, 6-hour visitations every other Saturday**. Our paradise home has become an inescapable prison, where my rapist is free to be and still controls me and my child.

My son's conception was not his fault because he is a blessing from God. We will **never** be able to get back all the **years lost**, due to this adverse and **unjust** situation. However, we strive to do our best and stay true to our integrity, our faith, our love, our children, our family, **and** ourselves in order to positively move forward. I am incredibly grateful to my family and the support agencies who were there for me and my son every step of the way. I also want to share my utmost appreciation for Senator Maile Shimabukuro, Representative Cedric Gates, and their staff with the drafting and introduction of these pertinent measures.

What my son and I have personally experienced throughout the years of this legal process is that the criminally-indicted has various ways to manipulate and abuse the judicial system to protect their rights as an accused criminal, while purposely depriving the victims of their rights to live **SAFE AND FREE**. If **SB 1062** and **HB 1487** were enacted into law, then sexual assault victims and their innocent children would have the necessary protections in place, after the criminal indictment and until the completion of the criminal trial. Victims and their innocent children would not have to be unnecessarily subjected to the undue stress, anxiety, and harassment of dealing with the criminal sexual assault case as well as, fighting for protection and safety from their assailant/abuser.

Honorable and distinguished members of this Committee, I humbly ask for your support to **pass and enact SB 1062, SD1—with the vital amendments inserted from HB 1487**. This amended bill will ensure sexual assault victims **and** our conceived children receive total protection; justice; and **TRUE FREEDOM!** I thank you all for your time and attention. If anyone would like to personally address this matter with me, I am more-than-willing and available to speak with you at your convenience. Mahalo!

SB-1062-SD-1

Submitted on: 3/14/2018 9:14:33 AM

Testimony for HHS on 3/15/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments: