



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1062, RELATING TO PARENTAL RIGHTS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Thursday, February 23, 2017      **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Jay K. Goss or Erin L.S. Yamashiro, Deputy Attorneys General

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Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill requires the family court to terminate parental rights if the court determines, by clear and convincing evidence, that the child was conceived during an act of sexual assault by the parent.

The Department of the Attorney General appreciates the intent of this bill and recognizes the sensitivity of its subject matter. We provide concerns about the changes imposed by this bill because as a legal matter it would take away the ability of the family court to consider the best interests of the child when terminating parental rights when a child was born as a result of a sexual assault committed by the parent. Every other provision concerning the termination of parental rights under section 571-61(b), Hawaii Revised Statutes, allows the family court to consider the best interests of the child when terminating parental rights.

If the committee chooses to pass this bill, the Department of the Attorney General recommends the following wording on page 4, lines 12-21, that would require that the family court consider the best interests of the child in terminating parental rights under this section.

- (5) The family courts [~~may~~] shall terminate the parental rights in respect to any child of any natural parent upon a finding by clear and convincing evidence that the natural parent committed sexual assault of the other natural parent, or an equivalent offense under

the laws of another state, territory, possession, or Native American tribe where the offense occurred, and the child was conceived as a result of the sexual assault perpetrated by the parent whose rights are sought to be terminated[;] and that termination of parental rights is in the best interests of the child; provided that:

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Cc:**  
**Subject:** Submitted testimony for SB1062 on Feb 23, 2017 09:00AM  
**Date:** Thursday, February 16, 2017 2:21:38 PM

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**SB1062**

Submitted on: 2/16/2017

Testimony for JDL on Feb 23, 2017 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victor K. Ramos	Maui Police Department	Support	No

Comments: I support the intent of this bill. I would, however, recommend that you include the language from HB1487.

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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**SB1062**

Submitted on: 2/15/2017

Testimony for JDL on Feb 23, 2017 09:00AM in Conference Room 016

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

**Comments:**

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February 23, 2017

To: Senator Gilbert Keith-Agaran, Chair  
Senator Karl Rhoads, Vice Chair and  
Members of the Committee on Judiciary and Labor

From: Jeanne Y. Ohta, Co-Chair

RE: SB 1062 Relating to Parental Rights  
Hearing: Thursday, February 23, 2017, 9:00 a.m., Room 016

POSITION: Strong Support

The Hawai'i State Democratic Women's Caucus writes in strong support of SB 1062 Relating to Parental Rights, preferring the language of HB 1487, which requires family court to terminate parental rights if the court determines, by clear and convincing evidence, that the child was conceived during an act of rape or sexual assault, creating a presumption that termination of parental rights is in the best interest of the child.

In 2016, the legislature passed a measure allowing the court to terminate parental rights by clear and convincing evidence, rather than beyond a reasonable doubt. We are now asking the legislature to require that family court terminate the parental rights if a child is conceived during an act of rape or sexual assault.

Sexual assault is a serious crime. The impact of sexual violence is substantial. Survivors face not only emotional trauma, but significant physical consequences, including pregnancy. One study found that approximately five percent of rapes result in pregnancy. At last estimate, this translated to about 32,000 rape-related pregnancies each year in the United States.

Because of the trauma that is experienced and other issues involved in surviving a horrific attack, including cultural and societal pressures that stigmatize survivors; a survivor of sexual assault may be forced to endure ongoing involvement of her rapist in the upbringing of her child, presenting the opportunity for the perpetrator to further control and harm both the survivor mother and the child.

SB 1062 would require family court to protect survivor mothers and their children by terminating the parental rights of the rapist. We ask that you pass this measure with the language of HB 1487.

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. Thank you for the opportunity to provide testimony.

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**SB1062**

Submitted on: 2/17/2017

Testimony for JDL on Feb 23, 2017 09:00AM in Conference Room 016

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

Comments:

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