

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.B. NO. 2719, S.D. 1, RELATING TO SEXUAL VIOLENCE.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Wednesday, April 4, 2018

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Caron Inagaki, Deputy Attorney General

Chair Nishimoto and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but opposes this measure because of due process concerns.

The purpose of this bill is to amend section 657-1.8 (a) and (b), Hawaii Revised Statutes, to extend the time in which a victim of child sexual abuse can bring a civil claim. The amendment to subsection (a)(1) extends the time in which a civil action can be brought against the person who is alleged to have committed the act of sex abuse from eight years to twenty-two years after the victim's or the perpetrator's eighteenth birthday, whichever comes later, and extends the time in subsection (a)(2) from three years to ten years after the date the minor discovers or should have discovered that a psychological injury was caused by the sexual abuse, whichever comes later. This bill also amends subsection (b) to allow an additional four-year "window" up to July 1, 2022, for otherwise time barred civil claims to be brought. Under subsection (b), claims can be brought not only against the person who is alleged to have committed the act of sex abuse but also against any legal entity that employed the person who is alleged to have committed the act of sex abuse or owed a duty of care to the victim, or if the legal entity had responsibility or control over the activity at issue, regardless of when the abuse may have occurred.

When section 657-1.8 first passed in 2012, victims of childhood sexual assault whose claims may have been untimely due to the applicable statute of limitations at that

time, could have two additional years to bring a civil lawsuit. Indeed, many civil lawsuits alleging acts of sexual assault that occurred many years, sometimes decades, earlier, were filed as a result of the passage of this law. The bill was further amended in 2014, allowing for an additional two-year “window” up to April 24, 2016, for victims of sexual abuse to bring claims regardless of when the abuse occurred.

We oppose the bill’s further extension of time that extends the statute of limitations for as much as forty years after the alleged abuse occurred or ten years after a minor is aware that he or she suffered psychological injury as a result of the abuse. We also oppose yet another opening of the “window” to file claims, which are already time barred, for an additional four years until July 1, 2022, regardless of when the abuse occurred. These extensions raise due process concerns because the bill could severely prejudice the defendants in a lawsuit who may not be just the accused perpetrator but also any entity that may be subject to the law.

With this further extension, someone could theoretically bring a lawsuit more than four decades after the sexual assault. Over the passage of time, memories fade, witnesses move or pass away, and documents are lost or destroyed. Most entities have records retention policies that call for the destruction of documents after a certain period of time.

Just one example where this bill could be misapplied is in the instance of a minor who is a victim of sexual abuse of one of the identified crimes and is taken to a hospital to be treated. A medical care provider who examines the minor is mandated to report the suspected abuse. If no medical care provider reports the suspected abuse but there is a rational reason not to report, and the child is abused again, there may be grounds to file an action against the medical care provider and the hospital. However, because a lawsuit could be filed decades after the alleged assault, there may no longer be any witnesses or documentation that would allow the medical care provider or hospital to defend itself in the lawsuit.

Furthermore, if medical care providers or hospitals can be sued at any time, insurance companies may refuse to issue errors and omissions policies or may raise

their rates to such an extent that physicians could no longer afford to purchase insurance coverage.

Also, any claim against a medical care provider under this bill would be in direct conflict with section 657-7.3, HRS, which sets forth a specific limitation period for actions for medical torts.

We respectfully request that this bill be held.

SB-2719-SD-1

Submitted on: 4/2/2018 2:53:30 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lea Minton	Individual	Support	No

Comments:

Law Office of Mark Gallagher

66 Kaiholu Place
Kailua, HI 96734

Tel. 808-535-1500
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mgallagher@hawaiiantel.net

April 2, 2018

To: Chair Nishimoto, Vice Chair San Buenaventura and Committee Members,
House Committee on the Judiciary

From: Mark Gallagher

Re: Testimony in support of SB 2719, SD1

Relating To Sexual Violence

Thank you for scheduling a hearing providing the opportunity for testimony in support of S.B. No. 2719, SD1, Relating to Sexual Violence.

I submitted testimony to the Senate Committee on the Judiciary and incorporate that by reference with the following brief addition.

In reviewing the testimony submitted to date on this bill and in listening to the oral testimony before the Senate Committee on the Judiciary, it is encouraging to me that voices of organizations one would have thought would speak in opposition were silent. This silence is encouraging as it is a tacit recognition by these organizations that the right thing to do is to stand with the survivors of sexual abuse, rather than to seek to protect the perpetrators. It is also encouraging as it suggests that past claims against perpetrators and the employers responsible for them have made progress in promoting change and enhanced safety, although much work remains to be done. This bill would keep Hawaii moving in the right direction.

Thank you for the opportunity to address this most important matter.

Very truly yours,
Mark F. Gallagher

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

I am a survivor of childhood sex abuse and I support SB 2719 SD1.

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. In the past months, we've seen the affect childhood sex abuse has affected the survivors in the Kamehameha Schools case, ranging from depression, addiction, and suicide. 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 42, 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 SB 2719 SD1, 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. The recent lawsuits in Hollywood and #metoo campaign in social media shows that sex assault affects more people than we could ever know. With this increase in awareness and social acceptability of also being a victim, please show that you acknowledge their suffering and support their recovery by giving them the chance to speak out against the perpetrators and feel whole again. Thank you.

Andre Bisquera

SB-2719-SD-1

Submitted on: 4/2/2018 4:36:54 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

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

Comments:

SB-2719-SD-1

Submitted on: 4/2/2018 4:51:19 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Peter Thoenen	Individual	Oppose	No

Comments:

Respectfully I ask this bill be rejected. On its face it is a hard bill to oppose but I fully concur with the earlier testimony submitted by the State Attorney General.

SB-2719-SD-1

Submitted on: 4/2/2018 7:09:35 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Individual	Support	No

Comments:

Dear Chair Nishimoto, Vice Chair San Buenaventura, and Members of House Committee on Judiciary,

I would like to thank the Committee for the opportunity to testify in SUPPORT of S.B. 2719, which 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.

As a victim of child sexual abuse and a former counselor at a sexual assault services provider, I can assure you that there are thousand "good" reasons why many victims of child sexual abuse withhold disclosure. Many do not disclosure until they reach an adult age when they remember, feel safer, etc. This is how Larry Nassar was able to get away all these years.

According to the National Sexual Violence Resource Center, 1 in 4 girls and 1 in 6 boys in United States will be sexually abused before they turn 18 years old. On Oahu, over half of the survivors of sexual violence that seek services at SATC experienced their victimization at age 17 or younger.

Please extend the period so victims of child abuse could seek justice and potentially prevent others from becoming victims. Thank you for taking time to read my testimony.

SB-2719-SD-1

Submitted on: 4/2/2018 7:49:25 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

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

Comments:

Stand in STRONG SUPPORT of this measure!

SB-2719-SD-1

Submitted on: 4/3/2018 4:14:50 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
colette w	Individual	Support	No

Comments:

IN STRONG SUPPORT

Testimony for Hawaii Legislature April Two Thousand One Eight

I praised with gratitude and humility our dedicated legislative body of Hawaii when my sister told me that they had passed a bill last year (2017) to enable sex abuse victims like myself another opportunity to file a claim and to try to reopen life possibilities. Just two days ago, my attorney who worked for my claim along with others asked if I had the time to write a testimony for this new bill in 2018. SB2719, SD1

I know this can help in some fashion, whether it be a legislative person or a victim who has yet to find the courage and fortitude to come forward to make right the wrong.

I think to be living today, after waiting almost 55 years of my sex abuse incident, I have begun to continue where I left off. I was, I feel, a boy interrupted. Truly, I can say that because I could never tell my priest confessor about what happened, I could never tell my classmates, I could never even tell the horror to both my parents, let alone my own siblings. Very shortly after I finished my first year at Chaminade College, I decided to move off the island to try to make sense of where my life direction was taking me. My journals record that I was in search of my self, my lost self. The journey in California was part "Pinnocchio" and part Dante's Inferno. Dante's Paradise is just beginning for me now, I can share this now truthfully and it would not have reached the Dante's Paradise part had it not been for the judicious and prudent actions by the Hawaii Legislature in 2017. Believe me, I am far from complete recovery, but, true recovery stems from a daily effort every day, every morning and knowing others in authority do care for the sex abuse victims.

Sometimes my friends would ask how does it feel to stand up for yourself and go through the litigation procedures. It was not easy. Nothing in life is easy unless you see others believing in you and giving you encouragement all the way. I recall that in the final court session with the attorneys, I remember clearly that I am not afraid to stand up and be a voice for the many others who did not have my bravery to do so. That was the driving force throughout the difficult litigation. It is not easy to go through questioning. It was extremely uncomfortable and definitely out of my comfort zone. But, I kept the image of the persecuted Christ on his way to the cross and his death. When Pilate asked Him, "What is Truth?" I just took it from this moment of His Suffering and tried to see other faces who remain hidden away in their own fears and doubts.

I do know the State Legislation will be doing what is right. I am confident I will be rejoicing with the passing of the Bill, SB2719, SD1 on 4 April 2018 @2pm.

Mahalo and Aloha Nui Loa

John Roe 55

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Joshua A. Wisch

Date: April 4, 2018

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

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

RE: Testimony in Strong Support of S.B. 2719 S.D. 1
Relating to Sexual Violence

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

The Sex Abuse Treatment Center (SATC) strongly supports S.B. 2719 S.D. 1, and respectfully asks that the Legislature pass this measure to extend the current civil statute of limitations for child sexual abuse cases and re-open a window period for survivors to bring previously time-barred cases to court.

Child sexual abuse remains a serious and ongoing threat to the safety, health, and wellbeing of children and young people, and often has profound consequences for victims that continue throughout adulthood. According to the National Sexual Violence Resource Center, in the United States approximately 1 in 4 girls and 1 in 6 boys will be sexually abused before they turn 18 years old. On Oahu, over half of the survivors of sexual violence that seek services at SATC experienced their victimization at age 17 or younger.

Extending the Civil Statute of Limitations for Child Sexual Abuse Cases

Many survivors of child sexual abuse do not disclose the abuse right away, and there are numerous reasons that a child might delay disclosing abuse. Children can blame themselves or be prevented from reporting due to intense feelings of fear, disbelief, anger, helplessness, betrayal, and anxiety. Children may also not disclose abuse due to their stage of cognitive development, capacity to understand what happened, and ability to express their complaint. Finally, the majority of survivors know their perpetrator, who may be a family member, friend, or acquaintance, and may be afraid of retaliation or the potential for a negative impact on their family or community.

Some studies have estimated that between 60% and 80% of child sexual abuse survivors withhold disclosure, and there is a general consensus in the literature that many children who experience sexual abuse delay disclosure until adulthood. Of these, the average latency – the delay until the survivor is able to disclose their victimization – is approximately 20 years, with some survivors delaying up to 50 years. 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.

Even more troubling, survivors of child sexual abuse who do disclose abuse are sometimes subjected to silencing and re-traumatizing reactions by the recipients of their disclosures. Survivors have reported that adults they told about their experiences with abuse sometimes blamed them, accused them of lying, minimized their disclosure, or subjected them to punishment or retaliation. Therefore, the fact that a survivor may have told someone that they were abused does not mean they had a meaningful opportunity to seek justice in the past.

Under the current civil statute of limitations in Hawaii, most child sexual abuse cases would expire upon the victim's reaching the age of 26 years. This denies the ability to seek justice through the civil court system to the majority of child sexual abuse victims who disclose their abuse in adulthood.

We further recognize that the current civil statute of limitations also provides that a victim who discovers, in adulthood, that they have been injured as a result of child sexual abuse, has only 3 years to bring a civil suit. We note that this affords very little time for a survivor, who may be suffering significant physical and mental health consequences in adulthood as a result of the abuse, to both address those issues and prepared to face their abuser in court.

S.B. 2719 extends the civil statute of limitations for child sexual abuse to 40 years of age, or, for victims who discover injury in adulthood, 10 years from the time of discovery. This ensures that many more survivors of child sexual abuse are afforded a realistic and fair opportunity to seek justice.

Re-Establishing a Window Period for Previously Time-Barred Cases

In 2012, Hawaii opened a window period during which survivors of child sexual abuse were able to bring previously time-barred civil actions. That window closed in April of 2016, but, before it did, a number of significant survivors came forward with suits directly attributable to the law. Since its closure, others who would be able to bring civil lawsuits against their abusers have come forward and asked that the window period be reopened.

S.B. 2719 re-establishes a four-year window, providing survivors the opportunity to seek justice for themselves while meaningfully contributing to public safety. Studies, as well as widely reported, high profile cases both in Hawaii and across the United States, have confirmed that many child sexual abusers are serial perpetrators. These offenders pose an ongoing and continual threat to the community, and can do so for decades and across generations.

When more survivors are able to come forward in a manner that respects the enormous bravery that an act of disclosure represents, perpetrators are identified and are barred from benefiting from the heinous, silencing nature of their crimes.

Thank you for this opportunity to testify in strong support of S.B. 2719 S.D. 1.

SB-2719-SD-1

Submitted on: 4/3/2018 10:29:04 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bridgit Bales	Individual	Support	No

Comments:

I strongly support this bill.

Date: April 4, 2018 at 2pm

To: House Committee on Judiciary

From: Lisa Kimura, Executive Director,
Healthy Mothers Healthy Babies Coalition of Hawaii



healthy mothers
healthy babies
COALITION OF HAWAII

RE: Testimony in Strong Support of S.B. 2719 S.D. 1 - Relating to Sexual Violence

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

Healthy Mothers Healthy Babies Coalition of Hawaii (HMHB) strongly supports S.B. 2719 S.D. 1, and respectfully asks that the Legislature pass this measure to extend the current civil statute of limitations for child sexual abuse cases and re-open a window period for survivors to bring previously time-barred cases to court.

Child sexual abuse remains a serious and ongoing threat to the safety, health, and well-being of children and young people, and often has profound consequences for victims that continue throughout adulthood. According to the National Sexual Violence Resource Center, in the United States approximately 1 in 4 girls and 1 in 6 boys will be sexually abused before they turn 18 years old.

On Oahu, over half of the survivors of sexual violence that seek services experienced their victimization at age 17 or younger. Additionally the State Department of Health's Youth Risk Behavior Survey showed that 8.8% of high school students in Hawaii have been raped in their lifetimes, significantly higher than the national average of 6.7%, with Maui County and Hawaii Island reporting even higher incidences of lifetime experience of rape than the statewide average.

Extending the Civil Statute of Limitations for Child Sexual Abuse Cases

Many survivors of child sexual abuse do not disclose the abuse right away, and there are numerous reasons that a child might delay disclosing abuse. Children can blame themselves or be prevented from reporting due to intense feelings of fear, disbelief, anger, helplessness, betrayal, and anxiety. Children may also not disclose abuse due to their stage of cognitive development, capacity to understand what happened, and ability to express their complaint. Finally, the majority of survivors know their perpetrator, who may be a family member, friend, or acquaintance, and may be afraid of retaliation or the potential for a negative impact on their family or community.

Some studies have estimated that between 60% and 80% of child sexual abuse survivors withhold disclosure, and there is a general consensus in the literature that many children who experience sexual abuse delay disclosure until adulthood. Of these, the average latency – the delay until the survivor is able to disclose their victimization – is approximately 20 years, with some survivors delaying up to 50 years. 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.

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that a survivor may have told someone that they were abused does not mean they had a meaningful opportunity to seek justice in the past.

Under the current civil statute of limitations in Hawaii, most child sexual abuse cases would expire upon the victim's reaching the age of 26 years. This denies the ability to seek justice through the civil court system to the majority of child sexual abuse victims who disclose their abuse in adulthood.

We further recognize that the current civil statute of limitations also provides that a victim who discovers, in adulthood, that they have been injured as a result of child sexual abuse, has only 3 years to bring a civil suit. We note that this affords very little time for a survivor, who may be suffering significant physical and mental health consequences in adulthood as a result of the abuse, to both address those issues and prepared to face their abuser in court.

S.B. 2719 extends the civil statute of limitations for child sexual abuse to 40 years of age, or, for victims who discover injury in adulthood, 10 years from the time of discovery. This ensures that many more survivors of child sexual abuse are afforded a realistic and fair opportunity to seek justice.

Re-Establishing a Window Period for Previously Time-Barred Cases

In 2012, Hawaii opened a window period during which survivors of child sexual abuse were able to bring previously time-barred civil actions. That window closed in April of 2016, but, before it did, a number of significant survivors came forward with suits directly attributable to the law. Since its closure, others who would be able to bring civil lawsuits against their abusers have come forward and asked that the window period be reopened. S.B. 2719 re-establishes a four-year window, providing survivors the opportunity to seek justice for themselves while meaningfully contributing to public safety.

Studies have confirmed that many child sexual abusers are serial perpetrators. These offenders pose an ongoing and continual threat to the community, and can do so for decades and across generations. When more survivors are able to come forward in a manner that respects the enormous bravery that an act of disclosure represents, perpetrators are identified and are barred from benefiting from the heinous, silencing nature of their crimes.

Thank you for this opportunity to testify in strong support of S.B. 2719 S.D. 1.

Brian Mackintosh, J.D., Ph.D.

Attorney and Lecturer at Law

April 3, 2018

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

Re: SB2719 / HB2180 Relating to Sexual Violence

To The Committee on Judiciary:


I write in strong support of Senate Bill 41 and its companion House Bill 2189., 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 over 40 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 did not begin to address the nature and extent of their injuries until they had children that were roughly the same age they were when the abuse began. 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.”) People 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 just expired. 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 the degree of injury.

I strongly support passage of SB 2719/HB 2180 to provide access to justice for Hawaii’s injured children.

Very Truly Yours,



Brian K. Mackintosh, JD, PhD

SB-2719-SD-1

Submitted on: 4/3/2018 1:36:26 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	the Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Scott Y. Nishimoto, Chair; the Honorable Joy A. San Buenaventura, Vice Chair, and Members of the Committee on Judiciary:

Good afternoon. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2719 SD1** relating to Sexual Abuse; Civil Action; and Statute of Limitation.

The OCC on Legislative Priorities is in favor of **SB2719 SD1** and supports its passage.

SB2719 SD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it extends the amount of time from the date an act of child sexual abuse occurred for a victim to bring a civil cause of action, effective 7/1/2035.

The DPH Platform states that "[w]e must protect our children, our future, from violence and neglect and provide them with a safe and healthy environment in which to grow and thrive.(Platform of the DPH, P. 4, Lines 186-187 (2016)).

Given that **SB2719 SD1** extends the amount of time from the date an act of child sexual abuse occurred for a victim to bring a civil cause of action, effective 7/1/2035, it is the position of the OCC on Legislative Priorities to support this measure.

Thank you very much for your kind consideration.
Sincerely yours,

/s/ Melodie Aduja
Melodie Aduja, Chair, OCC on Legislative Priorities

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



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LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
MARILYN LEE
JUDY KERN
AMY MONK
LISA ELLEN SMITH

Executive Director
Khara Jabola-Carolus

Email: kjabola-carolus@dhs.hawaii.gov

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

April 3, 2018

To: Rep. Nishimoto, Chair
Rep. San Buenaventura, Vice Chair
Honorable Members of the H. Committee on Judiciary

From: Khara Jabola-Carolus
Executive Director
Hawai'i State Commission on the Status of Women

Re: Testimony in Support, SB2719 Relating to Sexual Violence

Thank you for this opportunity to testify in strong support of SB2719 which would extend the civil statute of limitation for childhood sexual abuse victims and 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 SB2719. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus

LATE

LATE

SB-2719-SD-1

Submitted on: 4/3/2018 3:51:25 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

LATE

SB-2719-SD-1

Submitted on: 4/3/2018 5:17:31 PM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brandon Chang	Individual	Support	No

Comments:



COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

DATE: Wednesday, April 4, 2018
TIME: 2 p.m.
PLACE: Conference Room 325

STRONG SUPPORT FOR SB2719 Relating to Sexual Violence,

Aloha Chair Nishimoto, Vice Chair San Buenaventura and members,

The Coalition strongly supports this measure to extend the Civil Statute of Limitations for Child Sexual Abuse Cases. Some studies have estimated that between **60% and 80% of child sexual abuse** survivors withhold disclosure, and there is general consensus in the literature that many children who experience sexual abuse delay disclosure until adulthood. Of these, the average latency—the delay **until the survivor is able to disclose their victimization—is approximately 20 years**, with some survivors delaying up to 50.

Keep in mind that children are confused by adults who abuse them. All the more so, because a majority know their perpetrator who is often a trusted teacher, coach or family member.

Please have a heart and redress the suffering the continues throughout our society.

Mahalo for the opportunity to testify,

Ann S. Freed Co-Chair, Hawai'i Women's Coalition
Contact: annsfreed@gmail.com Phone: 808-623-5676

LATE

SB-2719-SD-1

Submitted on: 4/4/2018 9:02:16 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Gascon	Individual	Support	No

Comments:

For over 25 years a child predator by the name of Dr. Robert M. Browne preyed on children who not only attended Kamehameha School, but also at St. Francis Hospital. There is also documentation that this same doctor of psychiatry had provided services to Catholic priests in Hawaii who had been caught abusing children. They were sent for psychiatric treatment to be "cured" of their pedophilia problem. The acts of this single individual has poisoned our state. His poison has impacted in particular the Native Hawaiian community across multiple generations.

It is because of the SB2588/Act 68 which was signed into law on 4/24/12 by former Governor Neil Abercrombie, that many of the abused could come forward and seek some type of justice. For some it is the start of their healing and path to peace. SB2719 and HB2189 extends the statute of limitations (SOL) for civil actions brought by persons subjected to sexual offenses as a minor against the person who committed the act. Since first enacted in 2012, many survivors of childhood trauma have come forward. Some have sought restitution, but many others will never have that opportunity if the SOL is not extended. There has been testimony that our state's government agencies and large entities like Kamehameha School and the Catholic Churches of Hawaii fear the repercussions from the extension of the SOL. These entities need to remember that the fear these children felt at the time and the suffering that has continued throughout their adulthood, can not be compared to their fears of financial restitution to these men and women.

I strongly support SB2719 and its companion bill HB2189 and urge the Judiciary Committees in both the Senate and House to pass these bills before the end of this legislative session.

LATE

SB-2719-SD-1

Submitted on: 4/4/2018 10:07:56 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Young	Individual	Support	No

Comments:

April 4, 2018

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

From: Mandy Finlay, Director of Public Policy
Hawaii Children's Action Network

Re: **SB 2719, SD1 – Relating to Sexual Violence – SUPPORT**
Hawaii State Capitol, Room 325, April 4, 2018, 2:00 PM

On behalf of Hawaii Children's Action Network (HCAN), we are writing to support SB 2719, SD1 which would extend the current civil statute of limitations for child sexual abuse cases and re-open a window period for survivors to bring previous time-barred cases.

Experiencing sexual violence or abuse at a young age can cause serious trauma, and significantly increases the likelihood that the child will experience negative health and well-being outcomes throughout their lifetime. Studies have found that child sexual abuse survivors often do not disclose their abuse. When survivors do report their abuse, the disclosure often occurs after they reach adulthood. The average amount of time between childhood sexual abuse and disclosure is approximately twenty (20) years, with some victims delaying fifty (50) years.

Unfortunately, under current Hawaii law, the civil statute of limitations for most child sexual abuse cases would expire when the victim reaches age 26. For those who discover their childhood sexual abuse after reaching adulthood, they only have a three-year window to bring a civil action. This measure would provide an extended period of time in which victims of childhood sexual abuse could seek justice through the civil court system to 40 years of age, and allow survivors who discover their abuse after reaching adulthood up to 10 years to take legal action. This measure would also re-open a window period for survivors to bring previous time-barred cases to allow survivors for whom the civil statute of limitations has already expired a chance to seek justice.

For these reasons, HCAN respectfully requests your Committee to support this measure.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education.