



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 18, H.D. 1, RELATING TO CHILDHOOD SEXUAL ABUSE.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, February 27, 2019 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Clare E. Connors, Attorney General, or
Caron Inagaki, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but raises the following concerns.

The purpose of this bill is to amend section 657-1.8 (b), Hawaii Revised Statutes, to eliminate the statute of limitations for a victim of child sexual abuse to bring a civil claim for money damages against any person, not just the person who is alleged to have committed the act of sexual abuse. This bill also eliminates any time limitation based on the discovery rule. Victims have no limitations on when they can bring a civil suit even after they discover that they sustained psychological injury as a result of the sexual abuse. The bill further deletes subsection (b) that opened a window of time for victims to bring a claim if the victim was barred from filing a claim due to the expiration of the statute of limitations that was in effect prior to April 24, 2012.

Under this bill, there also would be no time limitations for bringing claims against 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, 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. As a result, many civil lawsuits alleging acts of sexual assault that occurred years, sometimes decades,

earlier, were filed. The law was further amended in 2014 and 2016, allowing for additional two-year “windows” up to April 24, 2020, for victims of sexual abuse to bring claims regardless of when the abuse occurred.

There are concerns that the lengthy passage of time could severely prejudice the parties in a lawsuit. 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 raises concerns 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 and therefore owes a duty to the minor, making the provider subject to the statute. If no medical care provider reports the suspected abuse because 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.

While we fully sympathize with victims of sexual abuse who may need time before they are ready to file a lawsuit, we have concerns about the absence of any statute of limitations.



Testimony on behalf of the
Hawai'i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the House Committee on Finance

In Support of HB18 HD1

Wednesday, February 27, 2019, at 11:00 a.m. in Room 308

Dear Chair Luke, Vice Chair Cullen, and Honorable Members,

The Hawai'i State Commission on the Status of Women supports HB18, which would repeal statutory limitations on the time period in which a survivor of childhood sexual abuse may file suit.

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.

Accordingly, the Commission strongly supports HB 18. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus

Executive Director
Adriana Ramelli

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Date: February 27, 2019

To: The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair
House Committee on Finance

From: Justin Murakami, Manager, Prevention Education and Public Policy
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Strong Support of H.B. 18 H.D. 1
Relating to Childhood Sexual Abuse

Good morning Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance:

The Sex Abuse Treatment Center (SATC) strongly supports H.B. 18 H.D. 1.

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 through adulthood. According to the National Center for Victims of Crime, self-report studies show that 20% of adult females and 5-10% of adult males in the United States recall a childhood sexual assault or sexual abuse incident.

On Oahu, over half of the survivors of sexual violence that seek services at SATC experienced their victimization at age 17 or younger. Moreover, the Youth Risk Behavior Survey results in 2013, 2015, and 2017 indicated that children and youth in Hawaii experience sexual abuse and assault at higher rates than their peers elsewhere in the United States.

Many survivors of child sexual abuse do not disclose the abuse right away for various reasons. Children can blame themselves or experience intense feelings of fear, disbelief, anger, helplessness, betrayal, and anxiety. They may also not be able to disclose abuse due to their stage of cognitive development, capacity to understand what happened, or the inability to express or communicate 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 that many children who experience sexual abuse delay disclosure until well into adulthood. Even more

troubling, survivors 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 consequence and negative financial and social impacts as a result of the abuse, to both address those issues and be prepared to face their abuser in court.

Hawaii should eliminate the civil statute of limitations for cases of child sexual abuse altogether. In addition to ensuring that many more survivors are afforded a realistic and fair opportunity to seek justice, holding perpetrators accountable in court identifies them and protects future would-be victims. Moreover, our state's experience with eliminating the criminal statute of limitations for child sexual abuse, and with window periods that have allowed older civil cases to be brought in court, demonstrates the viability of these cases and the value to both victims and the wider community in holding abusers accountable, no matter when the abuse occurred.

We appreciate this opportunity to testify in strong support of H.B. 18 H.D. 1.



of Hawaii

February 25, 2019

From: Younghee Overly, Public Policy Chair, AAUW Hawaii

To: Hawaii State House Committee on Finance

Hearing Date/Time: Wednesday, February 27, 2019, 11:00AM

Place: Hawaii State Capitol, Rm. 308

Re: Testimony in SUPPORT of HB18 HD1

Dear Chair Luke, Vice-Chair Cullen, and members of the Finance Committee,

On behalf of AAUW of Hawaii, I write to you to strongly support HB18 HD1 which would eliminate the civil statute of limitation in child sexual abuse cases.

About 1/3 of the victims of child sex abuse disclose as children and another 1/3 never disclose. Studies show that the average age to disclose is 52, with the median age 48. The reasons for delay are specific to each individual, but often involve disabilities that result from the trauma such as depression, PTSD, substance abuse, etc. (Source: [ChildUSA](#)) This means most of child sexual abuse victims miss the statute of limitation.

According to The Sex Abuse Treatment Center, over half of the survivors of sexual violence that seek services experienced sexual abuse as a child. The Youth Risk Behavior Survey results in 2013, 2015 and 2017 indicated that children in Hawaii experience sexual violence at equivalent or greater rates than their counterparts elsewhere in the United States. [Studies](#) show that 1 in 5 girls and 1 in 20 boys is victim of child sexual abuse.

Please pass this bill and show that justice has no time limit. Thank you for the opportunity to submit a testimony on this important bill.

The American Association of University Women (AAUW) of Hawaii is a state-wide organization made up of six branches (Hilo, Honolulu, Kauai, Kona, Maui, and Windward Oahu) and includes just over 450 active members with over 1700 supporters statewide. As advocates for gender equity, AAUW of Hawaii promotes the economic, social, and physical well-being of all persons.

Sincerely,

A handwritten signature in blue ink, appearing to read "Y. Overly", is written below the text "Sincerely,".

To: Hawaii State House of Representatives Committee on Finance
Hearing Date/Time: Wed., Feb. 27, 2019, 11:00 a.m.
Place: Hawaii State Capitol, Rm. 308
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support of H.B. 18, HD1, relating to Childhood Sexual Abuse

Dear Chair Luke and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in support of H.B. 18, HD1, which seeks to repeal statutory limitations on the time period in which a survivor of childhood sexual abuse may file suit.

H.B. 18 would eliminate the civil statute of limitations for child sex abuse cases in Hawaii, consistent with the experience of the survivors, who often are unable to seek justice for decades, if they ever disclose the abuse at all.

Child sexual abuse remains a serious and ongoing threat to the safety, health and wellbeing of children in Hawaii. Studies show that 20% of adult females and 5-10% of adult males in the U.S. recall at least one incident of childhood sexual abuse.

Over half of the survivors who receive services from Hawaii sexual assault centers experienced abuse as minors and the Youth Risk Behavior Survey results demonstrate children here experience sexual abuse at higher rates than their mainland peers.

Please pass H.B. 18 and help to ensure that survivors of sexual abuse are given the opportunity to seek the justice they need to recover and heal.

Thank you for this opportunity to testify in support of this important measure.

Sincerely,
Laurie Field
Hawaii State Director



O`ahu County Committee on Legislative Priorities

COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair

DATE: Tuesday, February 27, 2019

TIME: 11:00 p.m.

PLACE: Conference Room 308, State Capitol

RE: HB 18, HD 1, Relating to Childhood Sexual Abuse

To the Honorable Sylvia Luke, Chair; the Honorable Ty J.K. Cullen, Vice Chair; and Members of the Committee on Finance:

I am Melodie Aduja, Chair of the O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i (“DPH”). Mahalo for this opportunity to submit testimony on HB 18, HD 1. The O`ahu County Committee on Legislative Priorities (“OCCLP”) hereby submits its testimony in **SUPPORT of HD 18, HD 1, Relating to Childhood Sexual Abuse.**

HB 18, HD 1, provides: (a) Notwithstanding section 657-7 or any other law to the contrary, [except as provided under subsection (b) an action for recovery of damages based on physical, psychological, or other injury or condition suffered by a minor arising from the sexual abuse of the minor by any person may be commenced at any time, and civil cause of action for the sexual abuse of a minor shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707.

DPH is committed to ending the scourge of violence against women [and children] - wherever it occurs – whether in our homes, streets, schools, military, workplace, or elsewhere. DPH will support comprehensive services for survivors and increase prevention efforts in our communities and on our school campuses. DPH will fight to bring an end to sexual assault – wherever it occurs, including on campuses – because everyone deserves a safe environment where they can learn and thrive, and not live in fear. We will provide comprehensive support to survivors and ensure a fair process of all . . . in the criminal [and civil] justice system. We will increase violence prevention education programs that cover issues like consent and bystander intervention *Democratic Party of Hawai`i Platform (2018), p. 15, ln. 21-28.*

For the foregoing reasons, i.e., to end the scourge of violence against children- wherever it occurs – whether in our homes, streets, schools, military, workplace, or elsewhere and to provide comprehensive support for survivors to ensure a fair process in the civil justice system services, OCCLP supports HB 18, HD 1, and urges its passage out of the Committee on Finance.

Mahalo nui loa
Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of
Hawai`i

Ph. (808) 258-8889

Email: legislativepriorities@gmail.com



TO: Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 27, 2019; 11:00 a.m., Conference Room 308

RE: TESTIMONY IN SUPPORT OF HB 18– RELATING TO CHILDHOOD SEXUAL ABUSE

We ask you to support HB 18 which repeals statutory limitations on the time period in which a survivor of childhood sexual abuse may file a suit. We support this bill which encourages survivors of sexual abuse in their quest for peace and healing and holds perpetrators accountable.

The pain and trauma survivors of childhood sexual abuse endure never expires. Statutory limitations protect the wrong people and this bill seeks to remedy that by acknowledging that a survivor's bravery is encouraged no matter how long after an incident has occurred. Survivors deserve justice and those who prey on our innocent children should be held accountable.

The statistics are daunting:

- 1 in 4 girls will be the victim of child sexual abuse by their 18th birthday.
- 1 in 6 boys will be the victim of child sexual abuse by their 18th birthday.
- 1 in 5 youth receive a sexual approach or solicitation over the internet.
- The average age for first abuse is 9.6 years of age.
- Only 12% of child sexual abuse is reported to police. Many victims never disclose their abuse to anyone.
- 29% of forcible rapes occur when the victim was under 11 years of age.
- 44% of sexual abuse victims are under the age of 18.
- 93% of juvenile sexual assault victims know their attacker.
- Our Children's Justice Center supports over a 1,000 children each year. That's about 3 new children every day (which is still a fraction of all those who are impacted by sexual abuse).

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 15,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, and poverty prevention and community building programs.

Thank you for the opportunity to testify in **support of HB 18**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

HB-18-HD-1

Submitted on: 2/25/2019 11:28:23 AM

Testimony for FIN on 2/27/2019 11:00:00 AM

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

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii strongly supports the passage of HB 18 HD 1.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii



92-954 Makakilo Dr. #71, Kapolei, HI 96707 Email: RainbowFamily808@gmail.com Ph: (808) 779-9078 Fax: (808) 672-6347

February 25, 2019

The Honorable Sylvia Luke
and Members of the House Financial Committee

RE: HB18, HD1 Remove the SOL for Survivors of Minors' Rape

STRONG SUPPORT

Aloha Honorable Chair, Vice Chair and Members,

Thank you for hearing HB18,HD1.

Rainbow Family 808 has long supported the Survivors of Sexual Abuse. As President of Rainbow Family 808, I have held the hands of Survivors of Rape. Now is the time to release the Survivors of Underage Rape.

The news story, "Another former Hawaii priest named in massive sex abuse release," from Hawai'i News Now, Oct. 18, 2018 reflects the mode of operation in the Roman Catholic Church. The Washington Diocese Report is a follow-up of the Pennsylvania Grand Jury Investigation of that state's roman catholic church. The October 2018 news story focuses on the **Washington Diocese with it's 30 accused priests**. This news story is a copy of what happens in Dioceses across the country that routinely transfer accused clergy of sexual abuse from one parish to another, one diocese to another, and one state to another. The dioceses hid, protected the accused clergy and thus, condoned their crimes and should be held accountable as accomplices in these crimes. No one is above the law.

Ironically, this 10-18-18-news story labels the 30 priests as massive whereas, the July 2018 Report from the Jeff Anderson, Mark Gallagher Offices list **58 Accused clergy in the Honolulu Diocese**. These facts used to break my heart, hurt me as a betrayal of the church of my youth. I've grown up to think for myself and believe the adults who have shared their horrific circumstances of rape at the hands of priests, brothers, Deacons, bishops, higher-ranking clergy, and family members, teachers, coaches and the list goes on. No one is above the law and Hawai'i needs for the sake of our little ones, our families and our society to be held accountable.

Read more on another former Hawaii priest named in massive sex abuse release at <http://www.hawaiinewsnow.com/2018/10/16/another-former-hawaii-priest-named-massive-sex-abuse-release/> <http://archives.starbulletin.com/2002/07/28/news/perez.html> "Church let pedophile priest strike again on Maui.

Now the people of Hawai'i need what Pennsylvania and 14 other states have investigated. Hawai'i needs to bring justice for our keiki who were raped as minors. Please pass HB18, HD1 as soon May 1, 2019. Justice delayed is Justice Denied. Thank you for your consideration for the benefit of the children of the past, of today, and the future.

Mahalo for your support"

Sincerely,

**Carolyn Martinez Golojuch
President and Co-Founder, Rainbow Family 808**

HB-18-HD-1

Submitted on: 2/25/2019 11:50:09 PM

Testimony for FIN on 2/27/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Rainbow Family 808	Support	No

Comments:

As a board member and Secretary for Rainbow Family 808, I strongly support HB18, HD1. It can take individuals decades before they are able to face the reality of what happened to them as a child. There should be no statute of limitations. The one change in the bill is to make HB18 measure effective when signed by the Governor. Thank you for letting me express my comments concerning HB18.

Mike Golojuch, Sr., Board Member-Rainbow Family 808

Law Office of Mark Gallagher

66 Kaiholu Place
Kailua, HI 96734

Tel. 808-535-1500
Fax 888-806-1531
mgallagher@hawaiiantel.net

February 25, 2019

To: Chair Luke, Vice Chair Cullen and Committee on Finance Members

From: Mark Gallagher

Re: Testimony in support of HB 18, HD1

Relating To Childhood Sexual Abuse

Thank you for the opportunity to provide testimony in support of HB 18, HD1 Relating to Childhood Sexual Abuse.

HB No. 18, HD1 would provide additional protection for Hawaii's children and assist survivors of childhood sexual abuse to obtain justice and closure.

Children who are abused often feel that they have no one to turn to. The abuse is held as a terrible secret between the victim and the abuser, and too often another responsible party who does nothing. The child, feeling powerless, tells no one and keeps the secret and the damage cascades through the years. As a result, even when an option to pursue justice as an adult is presented, it takes a survivor a significant amount of courage and time to seize the opportunity. The current statute of limitations rewards perpetrators who terrified their victims so much that the secrets remain buried even many years later. It is fundamentally unfair to rush these survivors merely to protect the repose of perpetrators in our midst.

In recent sessions the Hawaii Legislature has seen fit to provide survivors of childhood sexual abuse with limited relief from the statute of limitations. Windows of opportunity were provided to permit survivors to file suit without regard to the date of the offense in 2012, 2104 and 2016. During hearings on each of those bills, the Office of the Attorney General opposed the measures arguing that the cases would be too difficult to litigate and perhaps due to a fear of excessive claims. I have represented dozens of survivors in claims brought under the window statutes. Based upon our experience with these cases, none of these con-

cerns have been born out. The statute (HRS 657-1.8) provides limitations such as the need to prove gross negligence and to obtain a certificate of merit from a professional counselor or psychologist. It will continue to do so. These prerequisites have been an effective screening mechanism. As a result, the number of claims has not been excessive and very few have been filed against the State. Nonetheless, these cases have importantly provided a voice to survivors and a way to protect children today. If the Office of the Attorney General or other opponents raise these old concerns they have been proven incorrect by experience and should be discounted.

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

Very truly yours,
Mark F. Gallagher

HB-18-HD-1

Submitted on: 2/25/2019 12:34:44 PM

Testimony for FIN on 2/27/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Onderko	Individual	Support	No

Comments:

HB-18-HD-1

Submitted on: 2/25/2019 7:20:40 PM

Testimony for FIN on 2/27/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Individual	Support	No

Comments:

Continue to support, except for the effective date that should be earlier. Previous testimony still stands, "The introduction to the bill states, "The legislature finds that survivors of childhood sexual abuse often do not divulge the truth about their experiences until they reach adulthood because they experience feelings of fear, disbelief, anger, helplessness, anxiety, embarrassment, or other feelings that are not their fault." This statement is ever so true. I know from personal family experience that youngsters and young adults feel intimidated expressing sexual abuse, and that it is usually in adulthood that they might reveal their awful experience. Therefore, I urge full support of this bill."

SHERYL HAUK

248-935-7721
shauk62@aim.com

2258 Shore Hill Dr
West Bloomfield, MI
48323

February 26, 2019

My name is Sheryl Hauk. I am a product of our beautiful Hawaii and a father who abused me for 18 years. Bill HB18 allows victims who have no voice, to be given time to have their voice. It brings accountability to the pedophiles who have little to fear under current laws. I strongly urge you to consider approving this bill.

THIS IS MY STORY

Last year I traveled to Hawaii and testified for bill SB2719 to the House judiciary committee. Representative Thielen took notice that I had come from Michigan, home base to the Nassar case. It took me 52 years to step forward and four years to settle my civil case, made possible by a 2 year window granted through your legislation. This window is not enough. HB18 repeals the statute of limitations for other adults who experience the trauma of sexual abuse as a child. It says to the world the Hawaii recognizes the damage this childhood trauma causes and will stand against it.

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 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. Other adults witnessed this and did nothing, My pastor was confided in several times and did nothing.

I am a 56 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 haunt me. They are the demons that hear 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 a man who held physical, physiological, financial, and mental control of me ALL of my childhood and much of my adulthood.

I left Hawaii as soon as I turned 18, although I loved my home of my heart. Nor could I even consider it as he controlled me even 3000 miles away. Four years ago I returned to 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 the card of a lawyer that might help and went home to Michigan.

HB415 allowed me accountability and atonement, On Yom Kippur, the day of atonement in September, of a settlement of \$750,000 . This is the beginning of healing. I now have resources for care and support of myself and others like me. I wear a Royal Hawaiian bracelet with the word Kalahala, atonement, to remind me everyday there is hope and a future for so many others . Thousands of victims are suffering with these memories and experiences and are simply not emotionally ready to come forward and share. Please pass HB18 and acknowledge this horrifying crime by not limiting time to pass before atonement can be found. I am available for any information to support this bill, including traveling and testifying.

Mahalo,

Sheryl Hauk

LATE

HB-18-HD-1

Submitted on: 2/26/2019 6:30:05 PM

Testimony for FIN on 2/27/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
chris johnson	Individual	Support	No

Comments:

Aloha Legislators!

In 2011 a bill i proposed and that made it to the Governors desk would have removed the timelimits retroactively on civil and criminal child sex abuse cases.(included 2 year window)

Under pressure of the Catholic Church and its Lobby and the AG,, Governor Abercrombie vetoed my bill.

He sent me a letter that came directly from the Catholic Church playbook on why the veto.

I don't think he even read the bill.

A year later he did sign the first two year look back civil window bill.

In 2014 the criminal time limits were removed on most rape. for adults and children.. (now deceased Representative Mele Carroll was the force to bring that to pass!!

Last July, the third two year window was signed by Governor Ige. .

It would be awesome if Hawaii removed the SOL on civil suits retroactively...

It would complete the process begun decades ago when legislators tried to remove the time limits because of the atrocity of Bishop Ferrario and the Catholic church hiding behind the SOL in order to deny help to Ferrario's victim David Figueroa , who was raped by several catholic priests (including Ferrario) beginning as a 5 year old boy in Hawaii.. David evetually became a prostitute, homeless and died of hiv aids..

I would love to see Hb18 signed into law.. in his honor.

It will show the world that no one is above the law and that the church can no longer hide behind time limits in Hawaii..

Mahalo for all your attention to this matter.

Sincerely, respectfully,.

Christine Johnson

(former Registered Nurse and current activist for SOL Child sex abuse reform, and justice for indigenous and natives abused by church and state.)..

Hawaii State Legislature
House Committee on Finance

February 27, 2019

Filed via electronic testimony submission system

RE: HB 18, HD 1; Child Sexual Abuse; Civil Action; Statute of Limitations – NAMIC’s written testimony

Dear Representative Luke, Chair; Representative Cullen, Vice-Chair; and honorable committee members:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to your committee for the February 27, 2019, public hearing. Unfortunately, I will not be able to attend the public hearing, because of a previously scheduled professional obligation. NAMIC’s written comments need not be read into the record, so long as they are referenced as a formal submission and are provided to the committee for consideration.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 84 members who write property/casualty/workers’ compensation in the State of Hawaii, which represents 28% of the insurance marketplace.

NAMIC and its member companies share the bill sponsors’ desire to protect innocent victims of childhood sexual abuse. We support criminal laws that *severely punish* evil souls, who prey upon minors and inflict serious harm to the lives of children and their families. Although we support the noble intentions of this legislation, we have to look beyond our hurt and anger about the subject matter of the bill and consider the broad public policy implications of the proposed changes to the civil statute of limitation. Specifically, we are concerned about the erosion of a well-established legal doctrine that is intended to promote a fundamental tenant of due process of law, i.e. that civil claims be asserted in a timely manner so that BOTH parties have ample opportunity to gather evidence, locate witnesses and appropriately develop their legal case.

The legal process needs to be fair and balanced for BOTH parties, even when we as a society absolutely deplore the alleged behavior of one of the parties to the case. The true test of our commitment to fairness in the eyes of the law, is whether we afford procedural fairness to those we



most want punished. The proposed change to the statute of limitation is concerning as a matter of jurisprudence.

NAMIC appreciates the need to protect children and provide them with a reasonable statute of limitations to assert legal claims against alleged sexual predators, but this proposed language, which may be emotionally satisfying, is rife with unacceptable due process implications which are bad for society in the aggregate. Moreover, the proposed statute of limitations would likely create a problem for the judicial system, which could become inundated with legal cases plagued by serious evidentiary problems resulting from the assertion of very old claims where the recollection of witnesses is in question and access to necessary evidence is limited.

In addition to our legal and public policy concerns with the proposed legislation, NAMIC is also concerned that the proposed changes to the statute of limitations will adversely impact commercial liability insurance rating and underwriting practices. HB 18, HD 1 will make it extremely difficult for commercial liability insurers to properly and accurately rate risk of loss exposure for their consumers, because the proposed statute of limitations will hinder insurers in their ability to evaluate an insurance applicant's current risks of loss exposure. Insurance premiums are based upon experience (claims) and claims are ordinarily barred after a set period of time has passed from the alleged incident; this rating and underwriting approach adds stability to an insurer's rate and premium structure. If a state were to allow certain civil claims to be asserted at a date way off in the future, it could lead to commercial liability insurance pricing instability and/or premium increases for small businesses.

NAMIC appreciates that some may wonder – don't commercial liability carriers exclude coverage for criminal acts or intentional torts of the alleged sexual perpetrator? The answer is yes; however, these civil claims against the alleged criminal frequently also include claims and cross-claims against the accused perpetrator's employer for alleged negligent hiring, negligent supervision, and other "respondeat superior" based civil claims, which are covered by commercial liability policies. Often times, these claims against the employer, the party with insurance coverage, "deeper financial pockets" for civil judgment collections, and a professional reputation to protect are the primary focus of the civil legal action. These employer-parties are not sexual predators or social villains, so they shouldn't be denied any of their due process rights and placed into a legal position of having to defend against an emotionally charged twenty-one or more years old claim where the evidence may be tainted or non-existent as a result of the excessive passage of time.

Yes, *victims of sexual abuse should definitely receive their justice*, no one disputes this basic notion of fairness, but so too should innocent employers and associations, who deserve the right to tender an effective defense to a claim that is still fairly recent in time to the alleged incident.



For the aforementioned reasons, NAMIC respectfully requests a **NO VOTE on HB 18, HD 1**, because this well-intended and heart-centered legislative proposal is rife with due process of law concerns that will adversely impact the overall integrity and effectiveness of the law.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,

Christian John Rataj, Esq.
NAMIC Senior Regional Vice President
State Government Affairs, Western Region