



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

Prepared for the Senate Committee on Ways and Means

In Support of HB18 HD1, SD 1
Wednesday, April 3, 2019, at 10:20 a.m. in Room 211

Dear Chair Dela Cruz, Vice Chair Keith-Agaran and Honorable Members,

The Hawai'i State Commission on the Status of Women supports HB18 HD1, SD1, 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 HD1, SD1. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus

HB-18-SD-1

Submitted on: 3/29/2019 6:42:22 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

Aloha Senators,

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

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii



of Hawaii

March 30, 2019

From: Younghee Overly, Public Policy Chair, AAUW Hawaii

To: Hawaii State Senate Committee on Ways and Means

Hearing Date/Time: Wednesday, April 3, 10:20AM

Place: Hawaii State Capitol, Rm. 211

Re: Testimony in SUPPORT of HB18 HD1 SD1

Dear Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the committee,

On behalf of AAUW of Hawaii, I write to you to strongly support HB18 HD1 SD1 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 be "Y. Overly", is written below the "Sincerely," text.



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

March 31, 2019

**The Honorable Dela Cruz, Chair; Keith-Agaran, Vice Chair,
and Members of the Senate Judiciary 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 strongly supports HB18 HD1 SD1. Our children who were raped need their day in court. HB18 HD1 does not convict the accused rapist but rather give the Survivor the opportunity to bring charges in a court of law in hopes that justice will finally occur for them regardless of their age of rape and the subsequent years that have passed before they have the language for this crime.

The stats are correct: Rape is underreported. One population most affected by the underreporting are minors, under the age of 18. Society needs to discuss rape to take the secrecy, mystery and built in threats that the perpetrators use to their advantage. Children are not trained to understand the power they have over their bodies nor the language to express the pain and suffering of rape. It is the responsibility of society to open conversation necessary to empower our minors.

Today there are several reports that sets the stage for justice Now. 1)There's the Pennsylvania Grand Jury Report on the Clergy Sexual Abuse Summer 2018 with over 1,000 rapists and over 3,000 Survivors; 2) The cases at Kamahameha Schools with the school counselor that raped students for decades; 3) the Gymnastic rapes of young women where again the authorities overlooked the rape crimes; 4) the Pennsylvania Football coach who raped minors, groomed them while the authorities prized the Football wins over the pain and suffering of the minors. The list goes on and on.

The time is ripe for Hawai'i to have a State-wide opportunity for minors in all categories to report their Rape whether it's by parents, family members, coaches, teachers, and other people in authority all those decades ago. Rape is not only underreported but a deep dark secret for our minors. We may never know how many minors commit suicide over the rapes that haunted them unto death. It's more important that HB 18 is passed to start a new day for Survivors who believe their oppressors/rapists who threaten them and/or their families. HB 18 isn't a slam-dunk but merely the opportunity for the Survivors to address the crime that has been done to them.

My experience with the harm of rape started in 1989 when Bishop Ferrario was accused of raping David Figueroa in Hawai'i. The story was told on national TV. It was unbelievable because at the time I was a loyal, naïve Roman Catholic. On the heels of that case, came the case from Maui with Fr. Art O'Brien and one minor. Over the years, I have found one of the best research pieces and documentation of the crime of rape within the Roman Catholic Church is www.bishop-accountability.org. This site lists rapists by category; state, diocese, name of rapists. It is a treasure chest of information that backs up the fact that Rape of Minors and others needs to be addressed.

Following is my testimony based on my personal knowledge of one Rapist and his movements in Hawai'i:



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- 1) From the front page of the Honolulu Star Bulletin upon the conviction of Arthur J. O'Brien came the Rob Perez' article on July 28, 2002, page 19. O'Brien was known in Hawai'i as a rapist of children from this article and others like it. In reality, I spoke to a DC Mother who first reported O'Brien to police. When the police came to interview O'Brien, he had left minutes before for his re-assignment to a Church and Parish in Daphne, AL. This fits the mode of operation that keeps rapists on the run from one parish to another, one state to another. This cycle of reassignment is documented in Jason Berry's book "Lead Us Not Into Temptation." The DC mother's son was one of O'Brien's Survivors who ran away from home. She found me as O'Brien's case was documented in Hawai'i. Others would contact me in the 1990's looking for other priests who had raped their children and fled the state. An attorney from Philadelphia was looking for the rapist of his son. Unfortunately, that priest was not listed in the Hawai'i Directory for the Honolulu Diocese nor was he known as a 'visiting' priest.
- 2) <http://archives.starbulletin.com/2002/07/28/news/perez.html> "Church let pedophile priest strike again on Maui." Unfortunately, not all minors have educated or understanding parents on the harm of rape. The harm comes with psychological, emotional, physical problems for the minor. The minors believe like the perpetrator that they will be beaten for telling such a horrible lie about the rapist, for the priest holds a high seat in the hierarchical place in church and the community. Some adults just don't know the facts about rape of minors or any other age group. The survivor from Maui was 10 years old. The Director of Religion at St. Rita's on Maui told me there were 10 other Survivors but the families accepted \$40,000.00 per family for therapy and signed a Non-Disclosure agreement with the Honolulu Diocese. This is also a Cookie Cuter model for the Roman Catholic Church around the world to silence the Survivors and thus open the next assignment up to future minor's rapes. It is criminal that the Non-Disclosure agreement shields the rapist and opens the door in their next assignment for new rapes.
- 3) I was employed by the Diocese of the Honolulu Roman Catholic in the offices on the premises of St. Stephen's Seminary in the 1990's. I was advised upon employment not to discuss any 'Court proceedings regarding O'Brien' by the administrative staff/Coffee women. This Diocese and others have done an excellent job of covering up, protecting the rapists over what is best for our children.
- 4) The Diocese was in charge of O'Brien after he was convicted of rape of the one young 10 year old. He pleaded "No Contest to spare the children a trial." Thus his sentence was cut to 5 years probation with no contact of children or families. Unfortunately O'Brien was assigned to a variety of Oah'u parishes on weekends to stand in for a pastor when they were on leave.
- 5) I became involved when he was assigned to Our Resurrection of the Lord Parish in Waipio for a weekend. The alarm signal told me that according to Catholic Doctrine that I would be committing a Sin of Omission if I didn't bring this information to the Prosecutor's Office that O'Brien was violating the terms of his Probation. 5) Simone Polak, the Maui Prosecutor for the O'Brien case was called. I called her office to report the violation to O'Brien's probation, as he was not to have any contact with children. I was asked for my name and was told that if I didn't give my name, they would not accept my complaint. I was afraid that there would be complications as a Catholic. All I wanted was for the Probation Officer to check on him as was required by law.
- 6) I spoke to my husband, Mike Golojuch, Sr. to update him after the conversation with the Maui Prosecutor. He said, "You have to do what you have to do." I knew if I did give my name, the church



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would see this as a disloyal act, not to keep their secret. From Mike's 23 years as a USAF Officer, I knew the motto for spouses would play in this situation as well, "You can't help your spouse but you can hurt him." But I didn't want it on my conscious if Arthur J. O'Brien raped another child when I didn't speak up.

7) The next day, a second call to the Prosecutor of Polak, I gave my name and asked for anonymity. I was told that people would think I had something against the RCC. I gave my name but nothing was ever done about the violation to O'Brien's probation to my knowledge. All I wanted was for the Probation Officer to check on O'Brien as was the purview in the terms of Probation.

This whole situation has weighed on me for all these years. My childhood church betrayed me on so many levels. I have counseled Survivors as a Masters Level Social Worker. I have found that some when they are old enough and able move to the mainland to get away from the rapist, do so. Yet some still fear for their safety, the safety of their families and later in life, fear for any subsequent family members. Some change their name as they are continued to be caught up in this cycle of fear.

I have read a variety of books on Rape with chapters on Hawai'i. Subsequent to this 1990's, I have "Sex Priests and Power" A.W. Richard Sipe and "Spot Light" the Docu-Drama and the book on the Boston Clergy Sex Abuse/Rape expose. Plus I've attended conference for the Survivors of Clergy Rape in Wisconsin. As a Therapist, I know some of the pain and suffering of the Survivors, their families and friends. Other states have addressed the social injustice of the Statutes of Limitation that protects the rapist over the protection and prevention of the harm suffered by the children into adulthood. Please pass HB 18 HD1 SD1 quickly for the mental health, physical and emotional health of our children upon passage of this vehicle.

Please protect the children, please pass HB 18, HD1 SD1 so that we can hold the adults accountable for the safety of the children: past, present and in the future. HB 18 HD1 SD1 is a clear, concise and valid request removing the Statutes of Limitations for the sake of the children.

As a society, we need to talk about Rape and we need to do something for the justice of our Survivors. Please break the cycle of rape in Hawai'i. Do this with HB 18 HD1 SD1 for the keiki! **Mahalo for your support.**

Sincerely,

Carolyn M. Golojuch, MSW
President – Co-Founder
Rainbow Family 808

HB-18-SD-1

Submitted on: 4/1/2019 12:04:55 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

HB-18-SD-1

Submitted on: 4/1/2019 8:06:35 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Midwives Alliance of Hawaii	Testifying for Midwives Alliance of Hawaii	Support	No

Comments:

We strongly support this bill and request WAM to pass HB18 HD1 SD1.

HB-18-SD-1

Submitted on: 4/2/2019 2:01:56 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Testifying for Hawaii Women's Coalition	Support	No

Comments:

Executive Director
Adriana Ramelli

ADVISORY BOARD

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Lindsay Norcross Mist

Nadine Tenn Salle, M.D.

Joshua A. Wisch

Date: April 3, 2019

To: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

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 S.D. 1
Relating to Childhood Sexual Abuse

Good morning Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Committee on Ways and Means:

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

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and committee members:

I am a survivor of childhood sex abuse and I support HB 18 HD1 SD1.

Repealing the civil statute of limitations is very important due to the nature of childhood sex Abuse (CSA). CSA 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; destructive effects include depression, addiction, and suicide.

As a survivor, talking about the abuse is hard...as a male survivor, near impossible. Our culture and toxic masculinity 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. I was abused from 4th to 6th grade by my half-brother, yet the first time I told someone was when I was 27. I buried the abuse deep inside and tried to be a normal person. The communication lines with my first-generation Filipino parents were non-existent, and I was expected to be seen and not heard. I imagine that many people of my generation in Hawaii experienced the same style of parenting and suspect there are many more survivors suffering in silence.

I ask the respected committee members today to please consider HB 18 HD1 SD1 and eliminate the civil statute of limitations. Please show that you support survivors and their recovery by giving them the chance to speak out against their perpetrators and feel whole again. Justice for survivors shouldn't have an expiration date. Thank you.

Andre Bisquera

HB-18-SD-1

Submitted on: 3/29/2019 7:18:57 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

HB-18-SD-1

Submitted on: 3/29/2019 9:00:57 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments:

I strongly support passage of HB18. Children should always have the opportunity to have justice for the abuse they suffered as a child. Hawaii should eliminate the civil statute of limitations for cases of child sexual abuse.

Please pass HB18. Thank you.

Mike Golojuch, Sr.

HB-18-SD-1

Submitted on: 3/30/2019 5:23:42 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nako'olani Warrington	Individual	Support	No

Comments:

In STRONG SUPPORT of HB18. Mahalo for this bill!

HB-18-SD-1

Submitted on: 3/30/2019 6:42:58 AM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Smith	Individual	Support	No

Comments:

HB-18-SD-1

Submitted on: 3/30/2019 11:19:56 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Kay	Individual	Oppose	No

Comments:

I urge you to **oppose** HB 18 to remove the statute of limitations on childhood sexual abuse. If someone can't figure out by the age of 25 that they were abused as a child, then they need to grow up and move on with their life.

SHERYL HAUK

248-935-7721
shauk62@aim.com

2258 Shore Hill Dr
West Bloomfield, MI
48323

Dear Honorable Senators,

It took me 52 years to step forward and four years to settle my civil case, made possible by 2 year window granted through your legislation. 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. IA man who held physical, physiological, financial, and mental control of me ALL of my childhood and much of my adulthood. The window until 2020 is not enough. HB18 repeals the statute of limitations for other adults who experience the trauma of sexual abuse 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.

HB415 allowed me to have accountability and atonement. This is the beginning of healing. I wear a Royal Hawaiian bracelet with the word Kalahala, atonement, to remind me everyday there is hope and a future. However, there are thousands of victims suffering with these memories and experiences, that are not simply 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.

Mahalo,

Sheryl Hauk

To: Hawaii State Senate Committee on Judiciary and Senate
Committee on Ways and Means
Hearing Date/Time: April 3, 2019 (10:00 am)
Place: Hawaii State Capitol, Rm. 211
Re: Testimony in support of HB1192 (relating to equal pay)

Dear Senator Karl Rhoads (Chair), Senator Donovan M. Dela Cruz (Chair)
Senator Glenn Wakai (Vice Chair), Senator Gilbert S.C. Keith-Agaran and
Committee Members,

I am grateful for this opportunity to testify in **strong support of H.B. 18**, relating to
childhood sexual abuse.

My testimony is informed by many years of work in the field of domestic violence, and
research conducted with survivors of intimate partner violence and sexual abuse.
Currently, I teach SOC/WS 446 “Gender Violence Over the Lifecycle,” and ANTH/WS.
“Anthropology of Sexuality” at the University of Hawaii – Manoa online campus. In the
past, when I lived in New Zealand, I managed a 24-hour, 7-days/week domestic violence
hotline, and I also trained hotline Advocates to respond skillfully and empathetically to
survivors of violence. I provided extensive education to Advocates for Women, and also
worked with police, courts, and other service agencies on behalf of survivors.

Based on these experiences, I argue that passage of H.B. 18 is important. The bill
provides a clear rationale for Judiciary Committee approval. Not only does it have
potential for childhood sexual abuse survivors to gain some redress from their abusers, it
also has potential to remove abusers from further contact with children, as their offenses
become public.

In conclusion, passage of H.B. 18 is an important step in improving the lives of adults
dealing with childhood sexual abuse. Thank you for the opportunity to testify.

Sincerely

Susan J. Wurtzburg

Susan J. Wurtzburg, Ph.D.

HB-18-SD-1

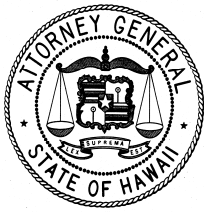
Submitted on: 4/1/2019 8:06:10 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

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

Comments:

I strongly support this bill and request WAM to pass HB18 HD1 SD1.



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

LATE

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, April 3, 2019

TIME: 10:20 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call
Caron M. Inagaki, Deputy Attorney General, at 586-1494

Chair Dela Cruz 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, 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, which means Victims have no limitations on when they can bring a civil suit, 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.

This bill, also removes any 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 was first enacted in 2012, victims of childhood sexual assault whose claims may have been untimely due to the applicable statute of limitations at that time, had 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 prejudice the parties in a lawsuit because, 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, which also creates evidentiary challenges.

Although we appreciate that victims of sexual abuse may need additional time before they are ready to file a lawsuit, we wanted to raise these concerns.

LATE

HB-18-SD-1

Submitted on: 4/2/2019 1:38:13 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Liz M	Individual	Support	No

Comments:

I strongly support this House Bill 18.

LATE

HB-18-SD-1

Submitted on: 4/2/2019 3:30:50 PM

Testimony for WAM on 4/3/2019 10:20:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Monk	Individual	Support	No

Comments:



O'ahu County Democrats
oahudemocrats.org



Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee on Ways and Means,

RE: HB18 HD1 SD1, Relating to Childhood Sexual Abuse.

LATE

The O'ahu County Democrats write in support of House Bill 18, House Draft 1, Senate Draft 1. This measure would repeal statutory limitations on the during in which a survivor of childhood sexual abuse may file a suit.

This measure appears to be in accord with the values and well-being of our tens of thousands of O'ahu Democrats and their families. Notably, the LGBT Caucus of the Democratic Party of Hawai'i has already stated its support. We are proud to add our voice. Our Platform does not explicitly mention this particular issue, but is consistent with the ethos of this bill, such as providing health services to the victims of rape, and creating a society free from violence.¹

For many survivors of childhood abuse, it is a deep need to be able to confront the incalculable evil that affected them, which comes by naming it and seeking justice. The change in statute is not only for crime deterrence. This is for the victims' ability to integrate trauma into lives, which can then have greater possibility and psychological freedom. The culture of shame inflicted on the victims of violence does great damage. Child abusers rely on the statute of limitations to protect them from accountability. Victims often spend decades searching for life meaning of their trauma—not for the material facts of the abuse, but to make sense of how to live with those face, as a survivor.

This proposed statute change will not make unsubstantiated claims become suddenly robust. Plaintiffs must still clear the same evidentiary hurdles in place. Nor is obtaining valid evidence easier with the passage of time. Merely, this law gives the victims the ability to seek redress without an arbitrary time limit.

Further, often these changes to statute trigger arguments about excessive litigation. For the potential liability of organizations, please be aware that Hawai'i Revised Statutes §657-1.8 already places the burden of the proof on the plaintiff to demonstrate gross negligence. Additionally, the plaintiff must obtain a certificate of merit, from a professional counselor or psychologist.

We hope that this bill will both help the victims of childhood sexual abuse and while so doing, prevent sexual violence against our children in the future. Please vote in support of HB18 HD1 SD1.

Mahalo,

DYLAN P. ARMSTRONG, VICE CHAIR
O'AHU COUNTY COMMITTEE, O'AHU COUNTY DEMOCRATS

1. Platform of the O'ahu County Democrats. <https://www.oahudemocrats.org/oahuplatform.htm>