



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

H.B. NO. 2177, H.D. 1, RELATING TO CHILDHOOD SEXUAL ABUSE.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Tuesday, February 25, 2020 **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, Hawaii Revised Statutes, to extend the statute of limitations for a victim of child sexual abuse to bring a civil claim for money damages against any person within fifty years of the eighteenth birthday of the minor regardless of when the incident occurred and regardless of when the minor discovers that they sustained psychological injury as a result of the sexual abuse. The bill similarly extends the 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.

The bill further amends subsection (b) to delete the wording 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.

In addition, the bill provides that the monetary relief may include punitive damages up to two times the amount of compensatory damages and permits the court to order restorative justice measures if deemed appropriate.

Because the contemplated amendment will extend the statute of limitations for many decades, there are concerns that the lengthy passage of time could prejudice the

parties in a lawsuit. 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 raise these concerns for the reasons stated above.



‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
Hawai‘i State Commission on the Status of Women

Prepared for the House Committee on Finance

Support for HB2177 HD1
February 25, 2020, 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 HB2177 HD1, which would amend the statutory limitations on the time period in which a survivor of childhood sexual abuse may file suit. The bill, if passed, would also preclude punitive damages.

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.

Recommended Amendment:

Eliminate the civil statute of limitations for cases of child sexual abuse altogether.

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 HB2177 HD1. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus



HB 2177, HD1, RELATING TO CHILDHOOD SEXUAL ABUSE

FEBRUARY 25, 2020 · HOUSE FINANCE
COMMITTEE · CHAIR REP. SYLVIA LUKE

POSITION: Support, with amendments.

RATIONALE: IMUAlliance supports and suggests an amendment for HB 2177, HD1, relating to childhood sexual abuse, which amends statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit, allows punitive damages up to two times the amount of compensatory damages, and permits the court to order restorative justice measures, if deemed appropriate.

IMUAlliance is one of the state's largest victim service providers for survivors of sex trafficking. Over the past 10 years, we have provided comprehensive direct intervention (victim rescue) services to 150 victims, successfully emancipating them from slavery and assisting in their restoration, while providing a range of targeted services to over 1,000 victims and individuals at risk of sexual exploitation. Each of the victims we have assisted has suffered from complex and overlapping trauma, including post-traumatic stress disorder, depression and anxiety, dissociation, parasuicidal behavior, and substance abuse. Trafficking-related trauma can lead to a complete loss of identity. A victim we cared for in 2016, for example, had become so heavily trauma bonded to her pimp that while under his grasp, she couldn't remember her own name. Yet, sadly, many of the victims with whom we work are misidentified as so-called "voluntary prostitutes" and are subsequently arrested and incarcerated, with no financial resources from which to pay for their release.

Sex trafficking is a profoundly violent crime. The average age of entry into commercial sexual exploitation in Hawai'i may be as low as 14-years-old, with 60 percent of trafficked children being under the age of 16. Based on regular outreach and monitoring, we estimate that approximately 150 high-risk sex trafficking establishments operate in Hawai'i. In a recent report conducted by the State Commission on the Status of Women, researchers from Arizona State University found that 1 in every 11 adult males living in our state buys sex online. When visitors are also counted, that number worsens to 1 in every 7 men walking the streets of our island home and a daily online sex buyer market of 18,614 for O'ahu and a total sex buyer population for the island of 74,362, including both tourists and residents.

ASU's findings are grim, but not surprising to local organizations that provide services to survivors of sex trafficking. IMUAlliance, for example, has trained volunteers to perform outreach to victims in high-risk locations, like strip clubs, massage parlors, and hostess bars. More than 80 percent of runaway youth report being approached for sexual exploitation while on the run, over 30 percent of whom are targeted within the first 48 hours of leaving home. With regard to mental health, sex trafficking victims are twice as likely to suffer from PTSD as a soldier in a war zone. Greater than 80 percent of victims report being repeatedly raped and 95 percent report being physically assaulted, numbers that are underreported, according to the United States Department of State and numerous trauma specialists, because of the inability of many victims to recognize sexual violence. As one underage survivor told IMUAlliance prior to being rescued, "I can't be raped. Only good girls can be raped. I'm a bad girl. If I *want* to be raped, I have to *earn* it."

Accordingly, we support measures to advance our state's ability to crack down on sexual slavery, including this measure's extension of the statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit. According to the National Center for Victims of Crime, self-report studies show that 20 percent of adult females and 5-10 percent of adult males in the U.S recall a childhood sexual assault or sexual abuse incident. Over 50 percent of the sex trafficking victim population we serve experienced childhood sexual trauma. According to peer reviewed psychiatric research, **between 60 and 80 percent of childhood sexual abuse victims withhold disclosure, often because of limited access to quality psychological care and social attitudes that induce shame about victimization.** We must allow these survivors as

much time as possible to speak out and receive justice, so that they do not spend the rest of their lives suffering in silence.

That said, we **urge the committee to allow unlimited punitive damages to remain a possible outcome of civil actions arising from childhood sexual abuse.** Given the severity of the trauma inflicted by perpetrators of childhood sexual violence, we believe that it is entirely appropriate for punitive damages to be assessed in the process of making a victim whole, especially since, as the #MeToo movement has demonstrated, so many serial offenders have escaped the law for decades, without ever facing legal consequences for the pain that they've inflicted.



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 25, 2020; 11:00 a.m., Conference Room 308

RE: TESTIMONY IN SUPPORT OF HB 2217 HD 1– RELATING TO CHILDHOOD SEXUAL ABUSE

We ask you to support HB 2217 HD 1 which amends statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit, allows punitive damages up to two times the amount of compensatory damages, and permits the court to order restorative justice measures, if deemed appropriate. We support this bill which encourages survivors 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 when they are ready to come forth, which is typically decades after the abuse occurred. We support survivors being given the chance to seek justice in their own time and, ideally, would like to see the statutory limitations repealed completely. At least 32 states have no criminal or civil state of limitations on childhood sexual abuse crimes.

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.
- 60-80% of childhood sexual abuse 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 2177 HD 1**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

HB-2177-HD-1

Submitted on: 2/21/2020 4:32:14 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	aaup of hawaii	Support	No

Comments:



February 21, 2020

House's Committee on Finance
Hawaii State Capitol
415 South Beretania Street, Room 308
Honolulu, HI 96813

Hearing: Tuesday, February 25, 2019 – 11:00 a.m.

RE: **SUPPORT for House Bill 2177 HD 1 with Requested Amendments**

Aloha Chair Luke, Vice Chair Cullen and fellow committee members,

I am writing in SUPPORT with requested amendments for House Bill 2177 House Draft 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization. HB 2177 HD 1 amends statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit. Allows punitive damages up to two times the amount of compensatory damages. Permits the court to order restorative justice measures, if deemed appropriate.

We support the intent of HB 2177 HD 1 to help ensure that survivors of childhood sexual abuse but with the time limit for a survivor to be able to come to terms with having their childhood destroyed by a sexual predator and then rewarding the sexual predator and their protectors by not allowing for punitive damages we cannot submit testimony in strong support.

The LGBT Caucus requests the following amendments:

Page 3; Line 14-15:

Current Language:

within fifty years of the eighteenth birthday of the minor.

Requested amendment:

~~within fifty years of the eighteenth birthday of the minor~~ at any time.

Page 4; Line 4-7:

Current language:

Monetary relief for claims brought under this section may include punitive damages up to two times the amount of compensatory damages. At its discretion, the court may order restorative justice measures, including victim impact panels, victim impact classes, or community service.

Requested amendments:

Monetary relief for claims brought under this section may include punitive damages up to ~~two~~ ten times the amount of compensatory damages. At its discretion, the court may order restorative justice measures, including victim impact panels, victim impact classes, or community service.

LGBT Caucus Testimony is Support of House Bill 2177 with Requested Amendments

The reason these amendments are needed are twofold. First is to ensure survivors of childhood sexual abuse can have justice no matter when they are able to face or remember their childhood trauma.

Second as for punitive damages, we have seen the Catholic Church has systematically allowed the raping of kids by their priests and they protected their priests rather than protect the keiki that are in their care, as was exposed by Spotlight, The Boston's Globe investigative reporting arm. They are not alone in protecting sexual predators – The Boy Scouts of America, the Mormon Church, and almost every other major religion has been found guilty of covering up these atrocities. As for the other restorative justice measures we believe that by listing options creates limits instead of opening options for the courts.

For all these reasons the LGBT Caucus asks that you support these requested amendments to HB 2177 HD 1 as it is the right thing to do for the survivors of childhood sexual abuse.

Mahalo nui loa for your time and consideration,

Michael Golojuch, Jr.
Chair
LGBT Caucus of the Democratic Party of Hawai'i

HB-2177-HD-1

Submitted on: 2/23/2020 5:32:46 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Doris Matsunaga	Save Medicaid Hawaii	Support	No

Comments:

HB-2177-HD-1

Submitted on: 2/23/2020 2:12:42 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Tada	Individual	Support	Yes

Comments:

Dear Chair Luke, Vice Chair Cullen, and committee members:

I am a survivor of childhood sex abuse and I support HB 2177 HD1.

Extending 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. Imagine if the perpetrator was a trusted Boy Scout leader, school psychologist like at Kamehameha, member of the clergy or a famous Kumu Hula like Chinky Mahoe. How do you confront the powerful Catholic Church or In Mahoe's case, how could a boy even think about coming forward when the community is lauding his achievements and telling you how lucky you are to be taught by him?

Our culture is improving and addressing mental health is becoming more acceptable. But it can still take many years, even decades after the abuse for men 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. In the men's survival peer support group that I helped establish, participant's ages range from their mid-twenties to mid-seventies. For most of them, this is the first time they have been in a room with other survivors. The ability to connect with other men that know exactly what you've gone through is cathartic and healing. But even with individual therapy and the support of other survivors, moving forward with a civil suit can still take many years.

I ask the respected committee members today to please support HB 2177 HD1 but with reservations that the statute of limitations be eliminated completely and the "Monetary relief for claims brought under this section may include punitive damages up to two times the amount of compensatory damages" section removed. Ideally, HB18 HD1 SD1 would be revived and passed, or the language from that bill be used for HB 2177 HD1. Thank you.

Andre Bisquera

HB-2177-HD-1

Submitted on: 2/24/2020 4:24:11 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Justin Salisbury	Individual	Support	No

Comments:

LATE

HB-2177-HD-1

Submitted on: 2/25/2020 10:37:23 AM
Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rayne	Individual	Support	No

Comments: