



‘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 Judiciary

Support for HB2177

Thursday, January 30, 2020, at 2:45 p.m. in Room 325

Dear Chair Lee, Vice Chair San Buenaventura, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports HB2177, 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. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, January 30, 2020 **TIME:** 2:45 p.m.

LOCATION: State Capitol, Room 325

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

Chair Lee 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 forty 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 shall not include punitive 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.

We also point out that at page 4, line 8, part of subsection (b) in the existing statute is now designated as subsection (c). The existing statute already contains a subsection (c) as well as a subsection (d). Because the proposed amendment creates a new subsection (c), the current subsections (c) and (d) would need to be re-designated as subsections (d) and (e).



January 28, 2020

House's Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, HI 96813

Hearing: Thursday, January 30, 2019 – 2:45 p.m.

RE: SUPPORT for House Bill 2177 with Requested Amendments

Aloha Chair Lee, Vice Chair San Buenventura and fellow committee members,

I am writing in SUPPORT with requested amendments for House Bill 2177 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 amends statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit. Provides that the monetary relief under this section shall not include punitive damages. Permits the court to order restorative justice measures, if deemed appropriate.

We support the intent of HB 2177 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 12-13:

Current Language:

within forty years of the eighteenth birthday of the minor.

Requested amendment:

within forty 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 shall not include punitive 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 shall not include punitive damages. At its discretion the court may also order restorative justice measures including victim impact panels victim impact classes or community service.

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.

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

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. To even suggest community service as a punishment for raping a kid is an insult to the survivors. 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 SB 2316 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, RELATING TO CHILDHOOD SEXUAL ABUSE

JANUARY 30, 2020 · HOUSE JUDICIARY
COMMITTEE · CHAIR REP. CHRIS LEE

POSITION: Support, with amendments.

RATIONALE: IMUAlliance supports and suggests an amendment for HB 2177, 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, provides that the monetary relief under this section shall not include punitive 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 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.

Executive Director
Cindy Shimomi-Saito

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Date: January 28, 2020

To: The Honorable Chris Lee, Chair
The Honorable Joy San Buenaventura, Vice Chair
Committee on Judiciary

From: Cindy Shimomi-Saito, Executive Director
The Sex Abuse Treatment Center
A Program of Kapi'olani Medical Center for Women & Children

RE: Testimony in Strong Support of H.B. 2177
Relating to Childhood Sexual Abuse

Hearing: Thursday, January 30, 2020, 2:435 p.m., Conference Room 325

Good afternoon Chair Lee, Vice Chair San Buenaventura, and Members of the House Judiciary Committee:

The Sex Abuse Treatment Center (SATC) strongly supports H.B. 2177.

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 be unable 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 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.

The SATC supports H.B. 2177 and its extension of the statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit, and we appreciate this opportunity to provide testimony.

HB-2177

Submitted on: 1/29/2020 11:52:08 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Lee and members,

Although this bill is not in the Hawaii Women's Coalition package this year it has been on our radar for many. I personally support this measure based on the experience and research provided by the Sex Assault Treatment Center. Please pass out of committee.

Mahalo,

Ann S. Freed, Co-Chair Emeritus, Hawaii Women's Coalition

Law Office of Mark Gallagher

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Kailua, HI 96734

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January 30, 2020

To: Chair Lee, Vice Chair San Buenaventura and Committee Members

From: Mark Gallagher

Re: Testimony in support of HB 2177

Relating To Childhood Sexual Abuse

Thank you for scheduling a hearing providing the opportunity for testimony in support of H.B. No. 2177, Relating To Childhood Sexual Abuse.

As a practicing Hawaii attorney, I have had the opportunity to represent numerous survivors of childhood sexual abuse in pursuing justice under Hawaii's prior window statutes which provided temporary relief from the statute of limitations for these claims. While I support a complete elimination of the statute of limitations for such claims, the proposed bill would represent another step forward in protecting children by holding accountable abusers and those responsible for them after the expiration of the current window which is laudable. Many survivors are not ready to act until well into their adult years, so the proposed time limit should provide them with a fair opportunity to seek justice. Coincidentally, this week I am attending depositions in four cases involving adult survivors of childhood sexual abuse. These survivors are able to pursue justice under the current window which expires April 24, 2020. It is noteworthy that 3 of these 4 cases would not have been possible under the proposed bill due to the expiration of the time limit. Thus, while the bill is a step forward it will not help all survivors.

Additionally, there is no reason to prohibit the imposition of punitive damages to such claims when they are appropriate, so I respectfully request that language be deleted from the bill.

The standard for the imposition of punitive damages in Hawaii cases is already high. Punitive damages are awarded only when “plaintiff(s) have proved by clear and convincing evidence that the particular defendant acted intentionally, willfully, wantonly, oppressively or with gross negligence. Punitive damages may not be awarded for mere inadvertence, mistake or errors of judgment.” Hawaii Civil Jury Instruction No. 8.12. “The purposes of punitive damages are to punish the wrongdoer and to serve as an example or warning to the wrongdoer and others not to engage in such conduct.” *Id.* A jury and judge are in the best position to determine whether the imposition of punitive damages is appropriate in a particular case. A blanket legislative prohibition applicable to all cases would serve only to protect individuals who sexually assaulted children without benefit to anyone other than the sexual perpetrators and those responsible for them

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

Very truly yours,
Mark F. Gallagher

LATE TESTIMONY

CAROLYN MARTINEZ GOLOJUCH, MSW
92-954 Makakilo Dr. #71
Kapolei, HI 96707
808-779-9078

To: House Judiciary Committee
FROM: Rainbow Family 808
RE: HB2177 Childhood Sexual Abuse DISAPPROVAL

Rainbow Family 808 strongly disapproves HB2177:

1. Does not serve the childhood survivors nor the victims who die as a result of this heinous crime;
2. HB2177 only serves the criminal who rapes children;
3. HB2177 only serves the organizations which condone rape of children by their silence, their condoning of these crimes by inaction and denying this heinous crime ever existed.
4. HB2177 protects the person or persons, or churches, schools and other organizations from their responsibilities for the safety and protect of underage children.

HB 2177 presents itself on a silver tray with a large red bow for the Honolulu Roman Catholic Church and schools, and Mormon Church, and the National Boy Scouts, King Kamemeha Schools and other persons and organizations.

This bill harms the most At Risk Population and thus Rainbow Family 808 strongly HB2177 in favor of HB18 that passed in 2019 and was promised by the Majourity Leader, Representative Della Au Bellatti in 2018 on the last day of the 2019 Legislative Session.

We want Justice for our children!

Sincerely,
Carolyn
Advocate for Families



HB-2177

Submitted on: 1/28/2020 4:00:26 PM

Testimony for JUD on 1/30/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
R Laree McGuire	Individual	Support	No

Comments:

HB-2177

Submitted on: 1/29/2020 5:48:10 PM

Testimony for JUD on 1/30/2020 2:45:00 PM



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

Comments:

HB-2177

Submitted on: 1/30/2020 6:58:27 AM

Testimony for JUD on 1/30/2020 2:45:00 PM

LATE

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

Comments:

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



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

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, baseball coach, priest 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 but with reservations that the statute of limitations be eliminated and the "Monetary relief for claims brought under this section not include punitive damages" section removed. Ideally, HB18 HD1 SD1 would be revived and passed, or the language from that bill be used for HB 2177. Thank you.

Andre Bisquera

HB-2177

Submitted on: 1/30/2020 1:47:46 PM

Testimony for JUD on 1/30/2020 2:45:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Sheryl L hauk	Individual	Support	Yes

Comments:

I am testifying for HB2177, although with reservations. 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. The man who held physical, physiological, financial, and mental control of me ALL of my childhood . HB18 would have eliminated 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.

Law 98 allowed me to have accountability and atonement. That law has expired and there are only 7 years after 18 on the books. My sister who is 13 months younger than me can not nor will. Not under HB2711 ind atonement. There must be a better affirmation of the State Hawaii supporting victims with no other recourse. This can be 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 a bill that would help victims heal and this horrifying crime by not limiting time to pass before atonement can be found.

Mahalo,

Sheryl Hauk
2258 Shore Hill Dr
West Bloomfield, MI 48323 248-935-7721

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