



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2316, RELATING TO CHILDHOOD SEXUAL ABUSE.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Thursday, January 30, 2020 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 016

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

Chair Rhoads 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).



‘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 Senate Committee on Judiciary

Comments re: SB2316

Thursday, January 30, 2020, at 10:00 a.m. in Room 016

Dear Chair Rhoads, Vice Chair Keohokalole, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports SB2316, 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:

1. 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 SB2316. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus



Executive Director
Cindy Shimomi-Saito

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Date: January 28, 2020

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Senate 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 S.B. 2316
Relating to Childhood Sexual Abuse

Hearing: Thursday, January 30, 2020, 10:00 a.m., Conference Room 016

Good morning Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Judiciary Committee:

The Sex Abuse Treatment Center (SATC) strongly supports S.B. 2316.

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 S.B. 2316 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 appreciate this opportunity to provide testimony.



TO: Senator Karl Rhoads, Chair
and members of the Committee on Judiciary

FROM: Marci Hamilton, CEO & Academic Director, CHILD USA; Robert A. Fox
Professor of Practice, University of Pennsylvania

RE: S.B. 2316, extension of civil statutes of limitations for child sex abuse and S.B.
2109 prompt trial for child sex abuse victims

DATE: January 29, 2020

Mr. Chairman, members of the committee, my name is Professor Marci Hamilton. Thank you for asking me to submit testimony.

I commend you and the Committee for taking up S.B. 2316 and S.B. 2109.

S.B. 2316 would extend the civil statute of limitations and give survivors of child sex abuse more time to file a civil suit. S.B. 2109 would prioritize the speedy resolution of a case involving a child victim of sexual abuse. If passed, this legislation will bring Hawaii closer to being a leader in the fight to protect children's rights.

By way of introduction, I am the Founder, CEO, and Academic Director of CHILD USA, an interdisciplinary think tank dedicated to the prevention of child abuse and neglect at the University of Pennsylvania, where I am the Robert A. Fox Professor of Practice. I am the author of *Justice Denied: What America Must Do to Protect Its Children* (Cambridge University Press 2008, 2012), which makes the case for statute of limitations (SOL) reform in the child sex abuse arena, and the leading expert on the history and constitutionality of SOL reform.

CHILD USA is the leading organization tracking the SOLs for child sex abuse, and provides an analytical overview of statute of limitations reform for child sex abuse, as well as other cutting edge issues related to child protection, at www.childusa.org/law.

S.B. 2316 would allow more victims in Hawaii to access justice

Statutes of limitations or SOLs are judicial housekeeping rules: they set the deadline for pressing criminal charges or filing a civil lawsuit. An SOL is an arbitrary and technical legal rule that has prevented victims from naming their perpetrators publicly for fear of retaliation and from obtaining justice.

There is a worldwide epidemic of child sex abuse, with at least one in four girls and one in six boys sexually assaulted before they turn 18. The vast majority of claims expire before the victims are capable of getting to court. This bill would protect the children of Hawaii by making it



possible for victims to come forward and identify their perpetrators in a court of law. It would also shift the cost of abuse from the victims to the ones who caused it and bring delayed, but still welcome, justice to these victims. SOL reform validates victims and puts perpetrators and institutions on notice that the state stands with the victims.

There are untold numbers of hidden child predators in Hawaii who are preying on one child after another because the existing SOLs provide that opportunity. Current Hawaii law provides that a claim for injury suffered as a result of childhood sexual abuse be commenced within the later of age 26 or 3 years after the victim discovers or reasonably should have discovered that their injury or illness was caused by the abuse. S.B. 2316 would extend the civil SOL, allowing more victims of childhood sexual abuse to come forward when they are ready. By extending the SOL both prospectively and retroactively, access to justice for some past and all future victims will be available; this will also greatly reduce the present danger to Hawaii's children.

There are three compelling public purposes served by child sex abuse statute of limitations reform:

- 1) SOL reform *identifies previously unknown child predators to the public so children will not be abused in the future;***
- 2) It *shifts the cost of abuse from the victims to the predators and those that hid them; and***
- 3) It *educates the public about the prevalence and harm from child sex abuse so that families and the legal system can protect victims more effectively.***

The net result is that society as a whole comes together to support the traumatized victims and to heal itself. This is a vital step in the process toward children's civil rights and human rights overall.

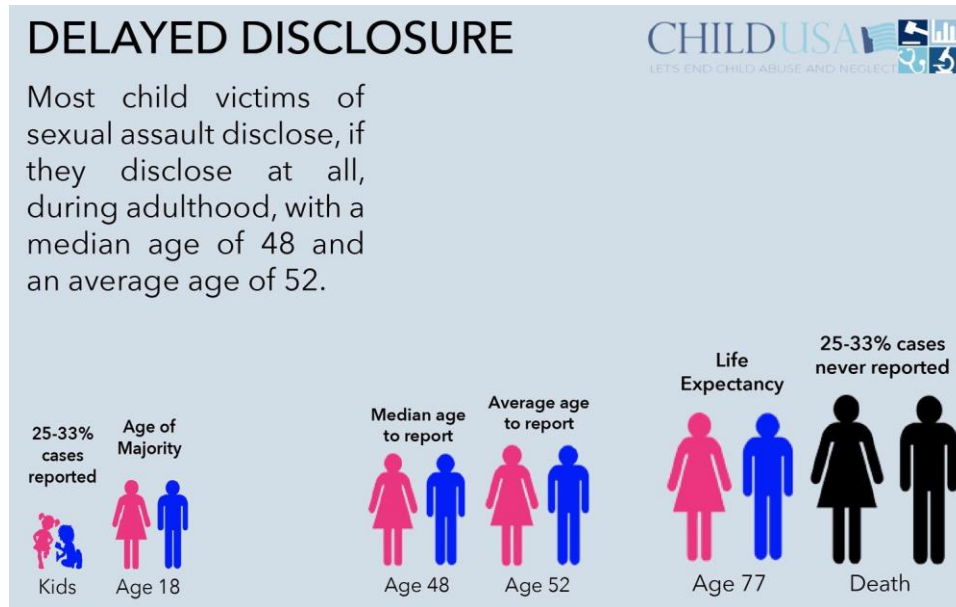
Historically, a wall of ignorance and secrecy has been constructed around child sex abuse, which has been reinforced by short SOLs that kept victims out of the legal system. Perpetrators and institutions have benefitted from short SOLs and until recently, most states have shut down most cases. That is a major reason we knew so little about the epidemic of sex abuse.

It is a medical fact that victims of child sex abuse often need decades to come forward. They are traumatized from the abuse, incapable of processing what happened to them, and often dependent on the adults who perpetrated or caused the abuse. Extending the civil SOLs for child sex abuse ensures that justice will be made available to more victims. Short SOLs for child sex abuse play into the hands of the perpetrators and the institutions that cover up for them, and disable victims' voices and empowerment.

Based on the best science, age 52 is the average age of disclosure for victims of child sex abuse.¹ Yet, until recently, many states blocked criminal charges and civil lawsuits well before age 52. By the time most victims were ready to come forward, the courthouse doors were locked, shutting victims out of justice.

¹ Delayed discovery studies available at *Delayed Disclosure of Child Sex Abuse*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/delayed-disclosure.

As the following graphic demonstrates, the average age for disclosure of child sex abuse is age 52 and the median age is 48. Extending the statutes of limitations for child sexual abuse, which is a growing national trend, makes justice more accessible to many more residents. While the proposed extension of the civil to age 58 is an improvement, the best way to ensure justice for all victims is to prospectively eliminate the civil statutes of limitation. Ten states already have no civil statute of limitations for child sex abuse for at least some claims, having eliminated the civil SOLs prospectively.²



Studies establish that child sex abuse survivors have an inherently difficult time coming forward. Yet, it is in society's interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready.

Because of its lifelong effect on health and well-being that can erect high barriers to disclosure and the fact that many perpetrators pursue and assault children even in their elder years, childhood sexual abuse needs to be added to the list of laws that should not be subject to an SOL, like kidnapping, fraud and embezzlement, war crimes, treason, and murder in the United States.

There is a national and global movement for SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil SOLs. At this point, 10 states have eliminated civil SOLs and 14 states have extended civil SOLs past 50 years of age. For an analysis of the SOL reform movement from 2002 through 2019, see CHILD USA's 2019 SOL Report.³ 2019 was a banner year for SOL reform with 23 states and Washington D.C. improving

² AK, CT, DE, FL, IL, ME, MN, NE, UT, and VT. For more information of civil SOL elimination, visit *Statute of Limitation (SOL) Reform by Jurisdiction: Who Has Done the Most for Victims of Child Sex Abuse?*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/best-sols.

³ 2019 SOL Report, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/sol-report-2019.

their SOLs for child sex abuse.⁴ In January of 2020 alone, 19 states are already considering SOL reform.⁵

Hawaii has positioned itself as a leader in the SOL reform movement, by enacting the longest civil revival window, during which survivors of child sex abuse were and still are able (until April 24, 2020) to file civil claims for past abuse that would have otherwise been time-barred. That being said, Hawaii's current civil SOL which expires at age 26 or 3 years after discovery of the abuse is relatively short in comparison to the rest of the states.⁶ This proposed civil SOL extension to age 58 is in line with the recent trend eliminate the civil SOL and to give victims into their 50's to come forward in accordance with the delayed disclosure of abuse science.

S.B. 2109 reflects the interests of federal law and Hawaii to protect children from traumatic court experiences

Child protection is one of the most critical interests and responsibilities of government.⁷ “There is also no doubt that[] ‘[t]he sexual abuse of a child is a most serious crime and an act repugnant to the moral instincts of a decent people.’”⁸ Courts widely accept that children are often retraumatized by exposure to court proceedings relating to the traumatizing event of their own abuse.⁹ In recognition of this fact, state courts across the nation, including Hawaii, have established laws designed to protect child victims of sexual abuse in court proceedings.¹⁰ S.B. 2109 would protect child sex abuse victims by prioritizing the speedy resolution of cases relating to their abuse. This legislation is an important step forward in recognizing children's rights and the value of protecting child sex abuse victims in traumatic legal proceedings.

Once again, I commend you for supporting this legislation which is desperately needed to help victims of childhood sexual abuse, and for taking up the cause of child sex abuse victims.

⁴ For more information on SOL reform in 2019, visit *2019 Summary of Child Sexual Abuse Statutes of Limitations (SOLs): Introduced, Signed into Law and State Laws by Category*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/2019sol.

⁵ For the latest updates on the current landscape of SOL reform in 2020, see *2020 SOL Reform Activity*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/2020sol; *Current Laws for Child Protection*, CHILDUSA.ORG (last visited Jan. 28, 2020), available at www.childusa.org/law.

⁶ The majority of states give victims up to at least age 35 to file civil lawsuits. CHILD USA’s 2019 SOL Report, available at www.childusa.org/sol-report-2019.

⁷ See *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607 (1982); *Ashcroft v. Free Speech Coal*, 535 U.S. 234, 263 (2002) (O’Connor, J., concurring); *N. Y. v. Ferber*, 458 U.S. 747, 761 (1982). See also *Rights of Child Victims*, US Dept. of Jus. (last visited Jan. 29, 2020), available at <https://www.justice.gov/criminal-ceos/rights-child-victims>.

⁸ *Packingham v. North Carolina*, 137 S. Ct. 1730, 1736 (2017) (citing *Ashcroft*, 535 U.S. at 244).

⁹ See generally Myrna S. Raeder, *Enhancing the Legal Profession’s Response to Victims of Child Abuse*, 24 Crim. Just. 12 (2009); Lisa Conradi, *Supporting the Mental Health of Trauma-Exposed Children in the Welfare System*, 34 ABA CHILD L. PRACTICE 1 (Jan. 2015); Naila S. Awan, *Balancing a Child’s Right to be Heard with Protective Measures Undertaken in “the Best Interests of the Child”*: Does the International Criminal Court Get it Right?, 35 CHILD. LEGAL RTS. 98, 103 (2015).

¹⁰ HAW. REV. STAT. § 626-1; see also 18 U.S.C. § 3509; ALASKA STAT. ANN. § 12.45.046 (West 1994); ARIZ. REV. STAT. ANN. § 13-4253 (1985); CAL. PENAL CODE § 1346; MONT. CODE ANN. § 46-15-320 (West 2019); OR. REV. STAT. ANN. § 44.545 (West 1991); WASH. REV. CODE ANN. § 10.52.100 (West 1992); ALA. CODE § 15-1-2; LA. STAT. ANN. § 15:283.

Hawaii's children deserve SOL reform and court reform to protect children today and into the future. Extending the civil SOL is a positive step for Hawaii's children and families.

Please do not hesitate to contact me if you have questions regarding SOL reform or if I can be of assistance in any way on other child protection issues.

Sincerely,

A handwritten signature in black ink that reads "Marci A. Hamilton". The signature is written in a cursive style with a long horizontal line extending to the right.

Marci A. Hamilton
Founder, CEO & Academic Director
CHILD USA

3508 Market St. #210
Philadelphia, PA 19104



February 5, 2020

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

Hearing: Thursday, February 6, 2020 – 10:00 a.m.

RE: **SUPPORT for Senate Bill 2316 with Requested Amendments**

Aloha Chair Rhoads, Vice Chair Keohokalole and fellow committee members,

I am writing in SUPPORT with requested amendments for Senate Bill 2316 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization. SB 2316 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 SB 2316 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 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 Senate Bill 2316 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.

Without access to punitive damages survivors of childhood sexual abuse will probably not have the means to seek justice.

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



LAW OFFICE OF BRIAN K. MACKINTOSH, JD, PHD

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January 28, 2020

COMMITTEE ON JUDICIARY

Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

Re: SB2316 Relating to Childhood Sexual Abuse

To the Committee on Judiciary:

I write in strong support of Senate Bill 2316, which provides access to justice for adults who are victims of childhood sexual abuse. As a practicing attorney, I have seen first-hand how difficult it is for survivors who were abused as children to come forward during the currently authorized statute of limitations. I represent or have represented over 40 abuse survivors who have brought suit under the current "window law," HRS § 157-1.8.

Almost to a person, each one of my clients did not begin to address the nature and extent of their injuries until they had children that were roughly the same age they were when the abuse began. As I researched this anecdotal experience, I found that this delayed reporting is the norm rather than the exception. People just don't address childhood sexual abuse before the age of 26, the most common statute of limitations under the current law.

In speaking with defense counsel in this context, attorneys remarked that the defense bar expected a wave of frivolous lawsuits to arise out of the statute of limitations extension that just expired. While they did encounter a wave of litigation, they found that little or none of it was frivolous. In fact, they found the victims continued to under-report the number of incidents and the degree of injury.

I strongly support passage of Senate Bill 2316 to provide access to justice for a vulnerable population who struggles, through no fault of their own, to find their voice in time to ask for help.

Very Truly Yours,

Brian K. Mackintosh, JD, PhD

Law Office of Mark Gallagher

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January 28, 2020

To: Chair Rhoads, Vice Chair Keohokalole and Committee Members

From: Mark Gallagher

Re: Testimony in support of SB 2316

Relating To Childhood Sexual Abuse

Thank you for scheduling a hearing providing the opportunity for testimony in support of S.B. No. 2316, 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. 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. However, 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 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 re SB 2316

Submitting party: Rosenberg McKay Hoffman, Attorneys at Law, 737 Bishop Street, Suite 2350, Honolulu, Hawaii 96813. The Rosenberg McKay Hoffman law firm represents victims of childhood sexual abuse and is familiar with the intent and reach of HRS 657-1.8. SB 2316 seeks to modify HRS 657-1.8.

Hearing: **January 30, 2020**
10:00 a.m.
Conference Room 016
Committee: JDC

The following is submitted to support the general concept of extending the civil limitations period for survivors of childhood sexual abuse in SB 2316. However, we respectfully suggest modifications to avoid unintended results caused by some of the proposed changes in HRS 657-1.8. Unintended and inappropriate results will be caused by the new, proposed limitations period of “40 years after age 18” and by the prohibition against asserting any punitive damages claims.

DISCUSSION

The original purpose of HRS 657-1.8 was to provide victims of child sexual abuse an extended time period within which to seek civil compensation for horrific events experienced as children.

As the legislature correctly notes, child sexual abuse is grossly under-reported. Victims are often ashamed and embarrassed, even though the abuse was not their fault. As a result of the shame and embarrassment, victims need time to build the courage to come forward to identify what happened and to assert their claims. HRS 657-1.8 recognized this, and created an extended limitations period within which “older” child abuse claims could be brought. That extension was not limited to the age of the victim or the date at which the sexual abuse occurred. Under the current version of HRS 657-1.8, the “window” within which childhood sexual abuse claims may be brought will expire on April 24, 2020.

SB 2316, as currently drafted, would extend that “window” within which childhood abuse victims may assert claims. This is an important objective which we adamantly support. Since 2012, when HRS 657-1.8 was enacted, hundreds of victims of child sexual abuse committed in the 1950s, 1960s, 1970s (as well as survivors of abuses committed more recently) have come forward to seek appropriate redress.

More time, beyond April, 2020, is still needed if other survivors are to achieve justice. SB 2316 proposes additional time. However, SB 2316 also adds other modifications to HRS 657-1.8 which have unintended and inappropriate effects.

SB 2316 creates an “age 58 deadline.” This is arbitrary and bars many survivor claims, contrary to the purpose of HRS 657-1.8

SB 2316, as currently drafted, would create a new restriction against childhood sexual abuse claims which does not exist under current law.¹ This new restriction would be an “age 58 deadline,” under

¹ HRS 657-1.8 has no restrictions tied to the age of the victim or the date at which the sexual abuse occurred. Instead, HRS 657-1.8 created a “window” during which time any victim of childhood sexual abuse could bring a civil

which a survivor may bring a claim within 40 years after reaching age 18. Although 40 years may, at first blush, sound like a long time period, the actual, practical effect of this proposed modification is that any survivor older than age 58 would be completely barred from seeking justice as envisioned under HRS 657-1.8. An “age 58” deadline, if implemented in 2020, would have the practical effect of barring victims born after 1962. This is an arbitrary “cut-off” and has great potential for inconsistent and unfair results.

For example, a claim based on repeated sexual attacks committed by a predator in 1971 against an 11-year old born in 1961 would be barred. But a similar series of 1971 sexual abuses against an 8-year old born in 1963 committed ***by the same pedophile, based on the same patterns of predation and within the same institution*** would be allowed.

SB 2316 would create immunity against civil liability (protecting the predator and the institution which harbored him) based on the happenstance of the age of the victim. We do not believe this was or should be the intended result. We do not think the legislature would have intended that a child rape in 1971 against an 8-year old would be actionable, but a rape by the same pedophile in 1971 against an 11-year old should be immune from any civil liability. **The appropriate issues should be the predator’s abuse and the gross negligence of the predator’s institution or employer --- not the birthdate of the victim.**

There are already balanced protections in HRS 657-1.8 to guard against fabricated claims or demands based on allegations which are “too old.” There is no need for a new “age 58” deadline or other additional protection for defendants. Survivors still have the burden of proof under HRS 657-1.8 and it is still the survivor’s obligation to show what happened and who bears responsibility. The addition of a birthdate-related deadline will prohibit many victims from seeking any justice. This would be contrary to the underlying purpose of HRS 657-1.8, which was to allow survivors to assert civil claims where the victims could meet the required evidentiary burdens. Approximately 30-40% of the clients we’ve represented thus far would have been disqualified under the age limits proposed in SB 2316.

Punitive damages encourage the potential for frank and effective resolution

SB 2316 proposes to delete the assertion of punitive damages in all survivors’ claims.

Under current law in HRS 657-1.8, an allegation of punitive behavior is allowed. It is the victim’s obligation to demonstrate that a punitive award is justified against the perpetrator, or against the perpetrator’s employer or institution where the predator and victim were involved in an activity over which the institution had responsibility or control.

Punitive damages are not “automatic” under HRS 657-1.8. They can be alleged, but the grounds for a punitive award must still be proven by the survivor through appropriate evidence. The standard of proof required for a punitive award is high and remains so under HRS 657-1.8. The high evidentiary threshold for punitive damages provides the needed safeguards and “protection” for potential defendants.

claim, subject to various protections built-into the statute to guard against spurious or unfounded claims. Those protections and the high standard of proof required for “grossly negligent” claims against institutions are not changed under proposed SB 2316.

Two factors potentially come into play in a punitive damages evaluation. First, punitive damages serve an important societal and educational purpose. When the factual circumstances show grotesque, repeated predation, and purposeful concealment or “conscious blindness” by the perpetrator’s employer or institution, then punitive or exemplary damages should be imposed --- just as they are in other cases of outrageous conduct. Such damages educate and discourage any similar future egregious behavior.

Second, many institutions presented with an opportunity to “do the right thing” fail to do so. Instead, they need “encouragement” to actually take action. Encouragement can take the form of a financial consequence for outrageous and wanton behavior. Unfortunately, we have seen institutions which find it financially beneficial to do little or nothing for the protection of victims. The potential for a punitive award creates incentives to be more vigilant and to take protective, pro-active action for the benefit of children under their custody, care or control.

The potential for a punitive award also causes claims to be taken seriously and in a timely manner by parties and insurers. This reduces dilatory litigation, stalling and other improper tactics and gamesmanship.

In cases where there is no outrageous or egregious basis for a punitive award, the defendants need not fear such a result. But in cases in which the defendants’ acts and omissions were purposeful, wanton or grossly negligent, there is no reason to pre-absolve them of all punitive liability by completely barring even the **assertion** of a punitive damages claim.

The decision on whether or not a punitive award is merited in a particular case should rest with the Court or jury, after hearing the full spectrum of evidence submitted in that case. But asserting a claim for punitive damages should not be barred altogether as a matter of legislative policy.

CONCLUSION

We respectfully ask that the content of SB 2316 be modified

1. To delete the proposed “40 years after age 18” limitations deadline;
2. To extend the duration of the “window” under HRS 657-1.8, which otherwise sunsets on April 24, 2020 (by either extending the window within which claims may be brought by survivors or by eliminating the limitations period for child sexual abuse claims); and
3. To delete the proposed prohibition against asserting a punitive damages claim (and thereby allowing such claims to be presented to the trier of fact, subject to the survivor meeting the requisite high standard of proof for willful, wanton or egregious behavior or misfeasance).

Thank you for your consideration.

Respectfully submitted,

ROSENBERG MCKAY HOFFMAN, Attorneys at Law



Charles E. McKay, Partner

To: Hawaii State Senate Committee on Judiciary
Hearing Date/Time: Thurs., Jan. 30, 2019, 10:00 a.m.
Place: Hawaii State Capitol, Rm. 016
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in strong support
of S.B. 2316

Dear Chair Rhoads and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in support of S.B. 2316, which seeks to amend statutory limitations on the time period in which a survivor of childhood sexual abuse may file suit.

S.B. 2316 would amend 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 S.B. 2316 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



SB 2316, RELATING TO CHILDHOOD SEXUAL ABUSE

JANUARY 30, 2020 · SENATE JUDICIARY
COMMITTEE · CHAIR SEN. KARL RHOADS

POSITION: Support, with amendments.

RATIONALE: IMUAlliance supports an amendment for SB 2316, 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.



Parents And
Children Together
BUILDING THE RELATIONSHIPS THAT MATTER MOST

LATE

TO: Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary

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

DATE/LOCATION: February 6, 2020; 10:00 a.m., Conference Room 016

RE: TESTIMONY IN SUPPORT OF SB 2316– RELATING TO CHILDHOOD SEXUAL ABUSE

We ask you to support SB2316 which amends the 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. 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 SB 2316**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.



January 25, 2020

Senate's Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 016
Honolulu, HI 96813

Hearing: Wednesday, January 29, 2019 – 8:30 a.m.

RE: SUPPORT for Senate Bill 2316 with Requested Amendments

Aloha Chair Rhoads, Vice Chair Keohokalole and fellow committee members,

I am writing in SUPPORT with requested amendments for Senate Bill 2316 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization. SB 2316 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 SB 2316 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 Senate Bill 2316 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

SB-2316

Submitted on: 1/26/2020 9:25:57 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rainbow	Individual	Oppose	Yes

Comments:

Rainbow Family 808 supports the Minor Survivors of Sexual Abuse/Rape/Assault!

1) limiting the Statute of limitations to 40 years is a grave miss justice in that statutes of limitations need to be removed just like the other 17 states in the US that have already done so.

2) The survivors of sexual abuse be it by clergy family members or authority figures in any organization need the monetary compensation to find their therapy for the rest of their lives so the limitations set by SB 2316 is totally unacceptable!

In the 2020 legislative session, there is Senate Bill 2316 that limits the statute of limitations only for the next 40 years. This new bill (SB2316) also causes harm by "Monetary Relief for claims brought under this section ." shall not include punitive damages." This Paragraph Prevents the Minor survivors of Sex abuse/assault/rape from due process of law. This is Another crime against the survivors.

Since 1996, I have seen the legislators continue to protect and defend the wishes of the Christian churches. These two problems are proof that this bill benefits Christian churches and other organizations such as Roman Catholic, Mormon, boy scouts etc. This bill SB 2316 also appears to be another example that benefit churches violation to the Separation of State and churches and the rights of sexually abused minors.

Church affiliation is a choice and should not be the leading Factor in deciding for the protection and safety of minors within Hawaii. Senate Bill 2316 appears to be a reflection of the levitation by Senator Les Ihara during opening day ceremonies in the Senate. Senator Ihara celebrated the coming of the Christians to the Hawaiian Islands and all the benefits of their presence at in our state.

Ihara's statement during the 2020 opening day session was an affront to the 18 years of facing Christian opposition to the LGBT Civil Rights in Hawaii. How soon we forget the bus loads of Christians and Christian Schools with the daggers pointed at the windows of the House Chambers with chants so loud, the House discussions being disrupted. It was a frightening time that I don't easily forget.

Why is the senate promoting the misplaced protection of the Christian Churches at this time? The Christian churches will be protected from justice that leaves the rape of our children alone if Senate Bill 2316 is passed. The safety and protection of our minors should be the focus for the house and the senate in Hawaii. SB 2316 does not protect sex survivors but rather protects the rapists be they rapists inside churches, families, sport organizations or other organizations.

I believe in transparency at all levels for the benefit of our minors. The other 17 states in the nation have legislated protections for sexually abuse minors in their respective states sans unlawful protection of the churches and other entities that rape their minors by removing Statutes of limitations.

I will be submitting testimony to Gut SB 2316 in favor of Representative Cynthia Theilen's Bill House Bill 18 from the 2019 Legislative session. It has been proven to protect Our children. I have confidence in the cooperation of both chambers to stand up for the social justice and Civil Rights in HB 18 of our underage minors ravaged by sexual assault in the state of Hawai'i unlike SB2316.

I have faith in the US Constitution being fought for on a daily basis by our Hawaii delegation to the house and the senate in DC. Please follow suit here in Hawaii for the protection and safety of our sexually abused minors.

I also have faith in the civil rights of our citizens of my beloved Hawai'i.

Sincerely.

Carolyn Martinez Golojuch, MSW
Graduate of Womens Studies UHM
Masters Level Social Worker UHM
(808) 779-9078
gomama808@gmail.com

"If more people believed in justice, freedom and justice would be reality." cmg

SB-2316

Submitted on: 1/28/2020 10:52:51 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Alu Campagna	Individual	Support	No

Comments:

My child recently alleged in a Children's Justice Center forensic interview that a parent sexually and punitively abused her. Because the CWS case worker failed at his job and did not recommend protections for my child, my children were not granted a Temporary Restraining Order (TRO) by the family court judge. I filed a complaint with DHS and received a letter of apology from them stating that is was their finding that the case worker mishandled our case and was subsequently disciplined. My children are young and because they were returned to their allegedly abusive parent (we share 50/50 custody), they do not believe in our judicial system nor do they believe that speaking telling the truth works. They have effectively shut down and lost hope. Removing this statute of limitations will allow my children to continue through their trauma therapy, their sex abuse therapy, and their behavior therapy so that in time they will be strong enough to seek the justice they were denied last year. I strongly support this bill for my children and others lost in the system.

SB-2316

Submitted on: 1/28/2020 5:53:14 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

STRONG SUPPORT for SB2316. Healing from childhood sexual abuse cannot be put on a time table; it's different for every survivor and survivors shouldn't feel like a chance for justice will slip away if they're not ready to pursue it according to statutory limitations.

SHERYL HAUK

248-935-7721
shauk62@aim.com

2258 Shore Hill Dr
West Bloomfield, MI
48323

January 26, 2020

Honorable Senators,

I am a victim of sexual abuse my entire childhood. HB2316 allows victims who have no voice, to be given time to have find their voice. It brings accountability to the pedophiles who have little to fear under current laws. I was one of those voices and after 50 years I finally found my voice because of the two laws you passed to provide a window for civil case of childhood sexual abuse. I strongly urge you to consider approving this bill, with an amendment of abolishing a time limit.

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 supported last session's HB18 and was hopeful that justice would be served. However at the last hour HB18 became lame duck. I am not in approval of 40 years after 18 because anyone over 58 would have no chance to speak. It took me 52 years to step forward and four years to settle my civil case, made possible by possible through your brave legislation. My sister, 56 is still not emotionally capable to go through this difficult journey and will never have the chance for atonement after two years. Only nine states out of fifty have begun to address this issue. However a window is not enough. HB2316 repeals the statute of limitations for other adults who experience the trauma of sexual abuse as a child for more years than exist to date. It can state to the world the Hawaii recognizes the damage this childhood trauma causes and will stand against it. HB2316 allowed me accountability and atonement, On Yom Kippur, 2018, the Jewish day of atonement, I received a substantial settlement that allows me to testify from Michigan in person. I want the same for my sister and thousand of Hawaii's people over 40. 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 SB18 or HB2316 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.

Sheryl Hauk

248-935-7721

SB-2316

Submitted on: 1/28/2020 1:41:38 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Vickie Parker Kam	Individual	Support	No

Comments:

I am writing to formally support SB2316 to amend the current limits that child survivors of sex abuse may file a civil suit to seek reparations. This is a positive restorative justice measure and will allow for child survivors to have a voice and be validated. It will also serve as a deterrent to child predators that they can not hide until enough time has passed to escape consequences of their actions.

Mahalo and please support SB2316.

SB-2316

Submitted on: 1/28/2020 4:51:51 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Chalsa M. Loo, Ph.D.	Individual	Support	No

Comments:

I am in SUPPORT of SB2316. Opening the window for victims of childhood sexual abuse is vital to the healing of victims of childhood sexual abuse. I have evaluated and/or treated many of these men who, as children, were sexually abused and I have seen how dramatic the healing has been for many of these individuals when they have been given the opportunity to seek justice for wrongs committed to them when they were children. I am a clinical psychologist in private practice and an expert in the field of assessment and treatment for PTSD. I am a Fellow of the American Psychological Association in the Divisions of 1) Ethnic Minorities and Mental Health, 2) Environment and Behavior, and 3) Women and Psychology. I have also conducted research and published extensively in the field of trauma. The State of Hawaii should be very proud to be one of the States to have extended the deadline on reporting and seeking legal remedy for child sexual abuse among a few other States and I urge the Committee to continue or extend such deadlines for the benefit of many who never saw justice in the past. We cannot assume that a child has the power and self-confidence to file suit against a sex abuse perpetrator in their childhood. This Bill helps rectify that imbalance of power and will help to empower many victims of child sexual abuse. Just this last year, many victims of child sexual abuse have come forward to seek justice. Please let us continue to allow others to do so.

Chalsa M. Loo, Ph.D.

Licensed Psychologist in the State of Hawaii

1164 Bishop St. Suite 1502

Honolulu, HI 96813

(808) 526-2008

SB-2316

Submitted on: 1/26/2020 10:12:38 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Marten	Individual	Support	No

Comments:

Chair Rhoads and Vice Chair Keohokalole,

Please pass SB2316. Victims of childhood sexual abuse are sometimes too traumatized to confront their abusers until well into adulthood. They should have the opportunity to take that step towards healing when they are ready.

Mahalo, Lisa Marten

SB-2316

Submitted on: 1/28/2020 3:58:01 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

SB-2316

Submitted on: 1/27/2020 7:07:28 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Ramirez	Individual	Support	No

Comments:

Excellent amendment! Mahalo to our legislators for recognizing that these victims can be traumatized for decades and they need less stress, fewer strict deadlines, and all the support the State can offer.

Mahalo for this compassionate amendment.

Sincerely,

Deb Ramirez

SB-2316

Submitted on: 1/26/2020 5:51:25 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

SB-2316

Submitted on: 1/26/2020 9:26:39 AM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

Mahalo to Chair Rhoads for bringing this bill to a hearing. I remember being sad to watch a similar bill to this one die last year in conference committee. I remember Chair Rhoads asking during that conference committee meeting if there were any versions of the bill that the House would agree to, and the agreement simply not being possible. I commend you and Senators Thielen, Chang, Ihara, and Ruderman for continuing to try to find a way to fix this problem.

I have had a lot of messed-up things happen to me in my life, but childhood sexual abuse is not one of them. I have been working in the education field for about five years now, and I have learned about how widespread the problem is, especially for kids with disabilities.

Working as a teacher of the blind in Honolulu, i have had so many people ask me if I taught at the Hawaii School for the Deaf and Blind. I actually don't know anyone who works there, but I have met many graduates of the School. The media made a big deal a few years ago, as they should have, about the sexual assault scandal at that school. Many kids were raped at that school for a long time, and I'm sure that there are still some survivors who have not come forward. It's a difficult process for survivors to come forward, especially with how people treat them in the process. We need to allow survivors to go through their healing process at their own pace and do what they need to do when they can do it. This is true for survivors of sexual abuse at any school or any institution.

I also respectfully request that the Committee support the amendments requested by the LGBT Caucus of the Democratic Party of Hawaii.

Mahalo!

SB-2316

Submitted on: 1/28/2020 11:55:23 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Natalie Speedracer	Individual	Support	Yes

Comments:

My children and I are still currently awaiting justice from their "alleged" sexual assault perp. The amount of time it takes to disclose, deal with CWS and family courts, detectives, prosecuting attorneys and other miscarriages of justice all tick the clock down on criminal and civil opprotunities which does not allow victims enough time to go through these many processes or deal with the stresses incurred as well as have to still attend school and so on. All vicitms should be able to seek justice with no clock, if they have the evidence and are honest and in good faith. The least that can be done for now is allow more time if not eventually indefinite opprotunity.

SB-2316

Submitted on: 1/26/2020 10:15:29 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Tada	Individual	Support	No

Comments:

LATE

Dear Chair Rhoads, Vice Chair Keohokalole, and committee members:

I am a survivor of childhood sex abuse and I support SB 2316.

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 SB 2316. While I would prefer that the statute of limitations be eliminated, extending the statute of limitations to age 58 would allow many survivors to speak out against the perpetrator and find justice. Thank you.

Andre Bisquera

LATE

SB-2316

Submitted on: 1/29/2020 11:47:26 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

Aloha Chair Rhoads and members,

Although this bill is not in this year's package, The Women's Coalition has long supported some version of this measure informed by the experience and data of member organization, the Sex Assault Treatment Center. I agree with the 40 year mark. Please pass out of committee,

Mahalo, Ann S. Freed

LATE

SB-2316

Submitted on: 1/30/2020 6:17:56 AM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

LATE

SB-2316

Submitted on: 1/29/2020 4:30:04 PM

Testimony for JDC on 1/30/2020 10:00:00 AM

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

Comments:

SB-2316

Submitted on: 2/3/2020 8:42:33 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

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

Comments:

I do support SB2316 but with amendments. There should be no statutory limitations for sexual abuse for children, especially when other states have already passed such a measure. Further, victims should always be allowed to be compensated for the terror, medical treatment and therapy they have and will continue life long. Do not punish the victim but those who committed the crimes against children.

Please pass SB2316.

Mike Golojuch, SR., Lt Col USAF (RET)

Secretary, Rainbow Family 808

SB-2316

Submitted on: 2/3/2020 11:48:50 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jo-Ann M Adams	Individual	Comments	No

Comments:

I support the amendment changing the statute of limitations.

I oppose the change dropping punitive damages. This is an intentional tort, usually by an adult toward an innocent child. There is a power differential which often accompanies this tort.

Further, given the well-documented history of "cover up" by various institutions of its perpetrators, punitive damages should remain a possible remedy. It is up to a judge and jury whether or not punitive damages should be awarded. It would be a total travesty to remove punitive damages as a potential remedy.

SB-2316

Submitted on: 2/1/2020 11:13:20 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steffanie Humphrey	Individual	Support	No

Comments:

SB-2316

Submitted on: 2/1/2020 10:40:20 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Rhoads and Members of the Committee of the Judiciary,

I am writing in support of SB2316 - RELATING TO CHILDHOOD SEXUAL ABUSE.
Please support this bill.

This bill amends statutory limitations on the time period in which a survivor of childhood sexual abuse may file a civil suit. This bill will permit the court to order restorative justice measures, if deemed appropriate. I have personal friends who needed decades to build the confidence to come forward with their childhood sexual abuse. It is only just that the law be changed to allow justice to be served to protect the dignity of the innocent.

Recently a good friend from college finally opened up about her childhood sexual abuse that occurred over 20 years ago. She is now in her 40s and is finally seeing a therapist for her emotional scars. I believe that our society must protect these sexually abused survivors.

Mahalo,

Caroline Kunitake

SB-2316

Submitted on: 2/4/2020 9:06:02 AM

Testimony for JDC on 2/6/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Eileen McKee	Individual	Support	No

Comments:

I stand in strong support for Senate Bill 2316.

Eileen McKee

279 Alaume Street

Kihei, 96753

SB-2316

Submitted on: 2/2/2020 11:38:17 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

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

Comments:

SB-2316

Submitted on: 2/2/2020 11:24:25 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

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

Comments:

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SB-2316

Submitted on: 2/4/2020 5:19:27 PM

Testimony for JDC on 2/6/2020 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Bilyk	Testifying for Breastfeeding Hawaii	Support	No

Comments: