



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Higher Education and Technology  
February 3, 2021 at 2:00 p.m.

By  
Jan Gouveia  
Vice President for Administration  
University of Hawai'i

### HB 569 – RELATING TO VICTIM-COUNSELOR PRIVILEGE

Chair Takayama, Vice Chair DeCoite, and members of the committee:

Thank you for the opportunity to present testimony on HB 569 – Relating to Victim-Counselor Privilege. The University of Hawai'i ("University") supports this bill.

HB 569 expands the existing victim-counselor privilege held by community-based victim counseling programs to advocates employed by the University. Previously, as part of Act 208, Session Laws of Hawai'i 2016, the Legislature required the University to designate confidential advocates at each campus to provide confidential advocacy support to victims of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. However, the law did not provide a mechanism to guarantee confidentiality to students and employees seeking services of campus-based advocates. Additionally, the existing victim-counselor privilege under Hawai'i Revised Statutes Section 626-1 only covers services relating to domestic violence and sexual assault. Further, overall privilege does not apply to the University based on the definition of victim counseling programs under the statute.

Expanding the victim-counselor privilege by giving additional legal protections to information that victims share with the University's confidential advocates allows victims to share more information in confidence and receive better support from the University. Protecting survivor information is critical to developing trust between advocate and survivor and makes survivors more likely to share information that is necessary for effective safety planning and response. Absent these additional legal protections, victims may be less likely to share information, in fear that information may be later subpoenaed for court proceedings against their wishes.

Thank you for the opportunity to testify on HB 569.



Executive Director  
Cindy Shimomi-Saito

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**Date:** February 3, 2021

**To:** The Honorable Gregg Takayama, Chair  
The Honorable Lynn DeCoite, Vice Chair  
House Committee on Higher Education and Technology

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

**RE:** Testimony in Support of HB 569, Relating to Victim-Counselor Privilege

**Hearing:** Wednesday, February 3, 2021, Via videoconference

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Good afternoon Chair Takayama, Vice Chair DeCoite, and Members of the Committee:

The Sex Abuse Treatment Center (SATC) is in support of HB 569, Relating to Victim-Counselor Privilege. This bill would expand the Victim-Counselor Privilege rule to include confidential advocates employed by the University of Hawaii.

The Victim-Counselor Privilege has been effective in protecting trauma victims as it provides privilege status to their confidential communications. Survivors of sexual assault often face extreme difficulty and fear when disclosing their experience. The relationship between a counselor and a survivor is critical, and requires trust and safety. The Victim-Counselor Privilege promotes this, and as a result, plays a big role in the survivor's recovery process.

The SATC supports this measure as it will protect the confidentiality of sexual assault survivors accessing care within the University of Hawai'i system.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 2, 2021

TO: The Honorable Representative Gregg Takayama, Chair  
House Committee on Higher Education & Technology

FROM: Cathy Betts, Director

SUBJECT: **HB 569 – RELATING TO VICTIM-COUNSELOR PRIVILEGE.**

Hearing: Wednesday, February 3, 2021, 2 p.m.  
Conference Room 309, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this measure.

**PURPOSE:** The purpose of the bill is to expand the victim counselor privilege to confidential advocates to allow University of Hawaii employees to receive the same confidential services as students. This bill proposes to amend section 626-1, Hawaii Revised Statutes.

DHS recognizes the critical work campus advocates do to ensure the safety and well-being of those on campus. Survivors on college campuses, whether they are students or employees, should be afforded the same confidentiality protections as they would receive from community advocates and other service providers. Ensuring privileged communications will increase the likelihood that survivors will come forward, learn about their options, and seek supportive measures. DHS programs support numerous University students' educational pursuits, and DHS works closely with various University offices and seeks to ensure all those on campus have confidential access to safety and healing.

Thank you for the opportunity to provide comments on this measure.

**HB-569**

Submitted on: 2/2/2021 1:36:44 PM

Testimony for HET on 2/3/2021 2:00:00 PM

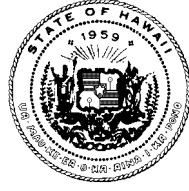
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
nanci kreidman	domestic violence action center	Support	No

Comments:

thank you. it is important for survivors to have confidential allies and professionals they can speak with. Being heard and believed without risk is precious.

love, nanci kreidman

LATE



‘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**

IN SUPPORT OF HB569  
February 3, 2021

Dear Chair Takayama, Vice Chair DeCoite, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports HB569, which expands the victim-counselor privilege under Rule 505.5 of the Hawaii Rules of Evidence to include confidential advocates employed by the University of Hawai‘i

Violence against women and gender diverse people has increased during the COVID-19 pandemic. Gender-based violence victims need immediate access to confidential advocates. Confidential advocates are one of the key contributions of the women’s equality movement and “have proven a decisive factor for many ambivalent victims struggling with the decision whether to report a crime.”<sup>1</sup> Campus advocates do critical work and should be supported in taking an empowerment-based and victim-centered approach. Survivors on college campuses should be afforded the same protections for confidentiality as they would receive from community advocates.

Accordingly, the Commission asks the Committee pass HB569.

Mahalo,

Khara Jabola-Carolus

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<sup>1</sup> Perla P. Flores, *Victim, Witness, Pawn & Icon Navigating the Paradoxically Coercive Relationship Between the Criminal Justice System and Victims of Gender-Based Violence*, 44 Lincoln L. Rev. 21 (2017)



HAWAI'I STATE  
COALITION AGAINST  
DOMESTIC VIOLENCE

LATE

February 2, 2021

Members of the House Committee on Higher Education & Technology:

Chair Rep. Gregg Takayama  
Vice Chair Lynn DeCoite  
Rep. Della Au Belatti  
Rep. Sonny Ganaden  
Rep. Cedric Asuega Gates  
Rep. Troy N. Hashimoto  
Rep. Jeanne Kapela  
Rep. Takashi Ohno  
Rep. Sean Quinlan  
Rep. Justin H. Woodson  
Rep. Ryan I. Yamane  
Rep. Val Okimoto

Re: HB569 Relating to Victim-Counselor Privilege

Dear Chair Takayama, Vice Chair DeCoite, and Members of the House Committee on Higher Education and Technology,

The Hawai'i State Coalition Against Domestic Violence (HSCADV) engages communities and organizations to end domestic violence through education, advocacy, and action for social justice. HSCADV is a private, not-for-profit organization and is a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 23 member programs statewide, I respectfully submit testimony in support of HB569. This bill expands the victim-counselor privilege under Rule 505.5 of the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i. With this new rule in place, victims would feel safer to come forward knowing they are going to a confidential resource. Currently, there are gaps in confidentiality and for many survivors in higher education, it can dissuade them from seeking the appropriate assistance.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado  
Executive Director, Hawai'i State Coalition Against Domestic Violence



HAWAI'I STATE  
**COALITION AGAINST  
DOMESTIC VIOLENCE**

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