



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

H.B. NO. 570, H.D. 2, RELATING TO SEXUAL ABUSE OF MINORS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, March 3, 2021 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 308, Via Videoconference

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

Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following comments and concerns.

The purpose of the bill is to amend the remedies available to victims of child sexual abuse in section 657-1.8, Hawaii Revised Statutes (HRS).

The amendments to section 657-1.8(a), HRS, at page 3, lines 7 through 16, would extend the statute of limitations for a victim of child sexual abuse to bring a civil claim for money damages against any person to fifty years after the eighteenth birthday of the victim regardless of when the incident occurred and to five years after the date the victim discovers or reasonably should have discovered that psychological injury or illness occurring after the victim's eighteenth birthday was caused by the sexual abuse that occurred when the victim was a minor.

The bill amends section 657-1.8(b) at page 4, lines 1 through 9, to extend the window of time for a victim of child sexual abuse to bring a claim against the perpetrator or a legal entity domiciled within the State, from eight years to twelve years after April 24, 2012, if the victim was barred from filing a claim due to the expiration of the statute of limitations.

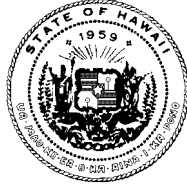
At page 5, lines 3 through 12, the bill further amends subsection (b) to provide that a victim may recover up to treble damages against a legal entity if the victim proves

that the sexual abuse was the result of the legal entity's reckless disregard of evidence relating to a prior incident of sexual abuse of a minor.

Because the contemplated amendments will extend the statute of limitations for many decades, 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.

We appreciate that victims of sexual abuse may need additional time before they are ready to file a lawsuit, but note that the passage of very long periods of time could be severely prejudicial to, and create evidentiary issues for, the litigants.

Thank you for the opportunity to testify.



‘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 HB570 HD2
March 2, 2021

Aloha Chair Luke, Vice Chair Cullen, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports HB570 HD2, which would extend the time period by which a civil action for childhood sexual abuse must be initiated and the period during which a victim of childhood sexual abuse may bring an otherwise time-barred action against the victim's abuser or an entity having a duty of care. The measure allows recovery of treble damages in certain circumstances. The measure also prohibits settlement agreements and court orders that restrict disclosure of certain information. In addition, HB570 HD2 also provides for training on trauma-informed response and applies retroactively to 4/24/2020.

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 have been heard. This is a hugely important step for many survivors to recover from trauma.

Accordingly, the Commission strongly supports HB570 HD2. 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: March 1, 2021

To: The Honorable Sylvia Luke, Chair
The Honorable Ty Cullen, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

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 HB 570 HD2
Relating to Sexual Abuse of Minors

Hearing: Wednesday, March 3, 2021, Via videoconference

Good afternoon Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Sex Abuse Treatment Center (SATC) is in very **strong support of HB 570 HD2.**

Studies on delayed discovery through CHILD USA¹ confirm what we see at the SATC; survivors of childhood sexual abuse more often than not, withhold disclosure for many, many years. The impact of manipulation and grooming by the offender, threats made, concerns about the reactions of others, fear of consequences, feelings of self-blame, and fear of being blamed by others are amongst the myriad of reasons children remain silent. Sometimes children attempt disclosure but are subjected to silencing by the reactions of others.

Child predators rely on the silence of their victims. Hawai'i's current statute of limitations (SOL) to age 26, and 3 year discovery rule, do not sufficiently account for the time needed by survivors to break their silence.

As studies have shown age 52 as the average age of disclosure for victims of child sexual abuse, there is a national trend toward the elimination of civil SOL. Currently, 10 states have eliminated civil SOL and 14 states have extended civil SOL past age 50. HB 570's extension of the SOL to within fifty years of the 18th birthday of the minor would place Hawai'i in line with this national trend.

HB 570 also extends the time a survivor of childhood sexual abuse may bring forth an otherwise time-barred action. This not only gives survivors the opportunity for

¹ Delayed discovery studies available at www.childusa.org/delayed-disclosure.

justice, but it also serves to inform the public of predators who may otherwise remain hidden and protected.

At SATC, we see first-hand the tremendous courage it takes for a minor to disclose sexual assault. We also see the harmful impacts when a survivor's disclosure is minimized or ignored. Failure to respond appropriately to a disclosure of victimization reinforces the minor's belief that he/she is unsafe, heightens a sense of powerlessness, and further victimizes the survivor.

All of us share responsibility in keeping children safe. Entities with a duty of care for children are responsible for ensuring a safe environment, and for minimizing risk. HB 570 allows for treble damages when gross negligence is found. While the SATC believes punitive damages should be awarded on an individual case basis, the SATC supports the inclusion of failure to report evidence of sexual abuse of a minor to authorities in its definition of reckless disregard. However, the SATC would like to suggest the inclusion of the language highlighted below in Section 2, subsection (b)(2) to read as follows:

Damages against the legal entity shall be awarded under this subsection only if there is a finding of gross negligence on the part of the legal entity[-]; provided that a victim may recover up to treble damages, unless prohibited by another law, if the victim proves that the victim's sexual abuse was the result of the legal entity's reckless disregard of **the need to exercise reasonable care including but not limited to reckless disregard of** evidence relating to a prior incident of sexual abuse of a minor. For purposes of this subsection, a legal entity's reckless disregard of evidence relating to a prior incident of sexual abuse of a minor shall include the legal entity's failure to report the prior incident to law enforcement authorities as required by law.

HB 570 further includes the possibility of court ordered trauma-informed response training for the personnel of the legal entity involved. Ensuring an environment in which trauma is understood is beneficial to all. As research has shown that adverse childhood experiences can become toxic stress which can negatively impact a child's emotional, physical, and spiritual health, trauma-informed training can equip personnel to respond to children in a manner that is responsible, safe, non-judgmental, and supportive.

HB 570 serves survivors by giving them the time needed to regain their voice, and the opportunity to seek delayed, but healing, justice. Additionally, it serves the community as it has the potential to expose child predators who have been hidden. And lastly, it ensures measures to protect the children of Hawai'i and reduce future risk.

For these reasons, the SATC strongly supports HB 570 HD2, and respectfully asks you to take this needed action. Thank you for the opportunity to provide testimony.

HB-570-HD-2

Submitted on: 3/1/2021 3:26:27 PM

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

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|------------------------------------|---------------------------|---------------------------|
| nanci kreidman | domestic violence action center | Support | No |

Comments:

thank you.

HB-570-HD-2

Submitted on: 3/1/2021 4:01:15 PM

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

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mike Golojuch, Sr. | Rainbow Family 808 | Support | No |

Comments:

Rainbow Family 808 strongly supports the passage of HB570. However, we wish that the statute of limitations is removed from the bill. Thank you for allowing us to state our support and opinion.

Mike Golojuch, Sr., Secretary

Rainbow Family 808



HB 570, HD 2, RELATING TO SEXUAL ABUSE OF MINORS

MARCH 3, 2021 · HOUSE FINANCE COMMITTEE ·
CHAIR REP. SYLVIA LUKE

POSITION: Support.

RATIONALE: Imua Alliance supports HB 570, HD 2, relating to sexual abuse of minors, which expands the time period by which a civil action for childhood sexual abuse may be initiated; extends the period during which a victim of childhood sexual abuse may bring an otherwise time-barred action against the victim's abuser or a legal entity having a duty of care; allows recovery of treble damages; and provides for training on trauma-informed response.

Imua Alliance is one of the state's largest victim service providers for survivors of sex trafficking, **who often suffer childhood sexual abuse before being exploited in our state's prolific slave trade.** 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. Imua Alliance, 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 Imua Alliance 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.

We are heartened by this measure's emphasis on trauma-informed care. Given the severity of the trauma inflicted by perpetrators of childhood sexual violence, we believe that it is entirely appropriate for trauma-informed services and training to be made available upon request in the process of making a victim whole, especially since so many survivors of sexual violence have been shamed and silenced for the pain they've endured.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org



TO: The Honorable Sylvia Luke, Chair, The Honorable Ty J.K. Cullen, Vice Chair, and Honorable Members of the Committee on Finance

FROM: Marci Hamilton, CEO & Legal Director, CHILD USA; Robert A. Fox Professor of Practice, University of Pennsylvania and Kathryn Robb, Executive Director, CHILD USAAdvocacy

RE: HB 570, relating to sexual abuse of minors

DATE: March 2, 2021

Dear Chairman Luke, Vice Chairman Cullen and Members of the House Committee on Finance,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USAAdvocacy, to submit testimony regarding HB 570, which will increase access to justice for victims of childhood sexual abuse and enhance protection for children in Hawaii. If passed, this legislation will make Hawaii a leader in the fight to protect children's rights.

By way of introduction, I am Professor Marci Hamilton, the Founder, CEO, and Academic Director of CHILD USA, a national, 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 leads the national reform movement for child sex abuse SOLs and is the only organization tracking SOLs for child sex abuse in every state. CHILD USA provides an analytical overview of SOL reform for child sex abuse, as well as other cutting-edge issues related to child protection, at www.childusa.org/law.

Kathryn Robb is the Executive Director of CHILD USAAdvocacy, a 501(c)(4) advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. CHILD USAAdvocacy draws on the combined expertise of the nation's leading experts and child advocates, specifically its sister organization, CHILD USA. Kathryn is also a survivor of child sexual abuse.

We commend you and the Committee for taking up HB 570, which will extend the civil SOL for victims to bring child sex abuse claims to court from the current limit of age 26 or 3 years from discovery to age 68 or 5 years from discovery. It would also open a revival window during which all claims, previously time barred, will be revived and permit recovery of treble damages against institutions that were reckless or failed to report abuse. This will allow all past victims of child sex abuse to come forward and pursue civil justice while the window is open until April 24, 2024.




I. SOL Reform Serves the Public Good by Preventing Future Abuse

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 obtaining justice and naming their perpetrators publicly for fear of retaliation. 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. By opening a window, access to justice for past victims will be available; this will also greatly reduce the present danger to the children of Hawaii.

There are three compelling public purposes served by child sex abuse SOL reform:


- 1) SOL reform **identifies hidden child predators and the institutions** that allowed the abuse to the public so children will not be abused in the future;
- 2) It **shifts the cost of abuse** from the victims and society to those that caused it; and
- 3) It **educates the public** about the prevalence and harm from child sex abuse to prevent future abuse.

HOW STATUTE OF LIMITATIONS REFORM HELPS EVERYONE




Identifies previously unknown predators and institutions responsible

to the public, shielding other children from future abuse.




Shifts the cost of abuse

from the victims and society to the perpetrators and the institutions that enabled them.



Educates the public

about the prevalence and harm from child sex abuse so that families and the legal system can prevent abuse.


www.childusa.org

CHILD USA

THE NATIONAL THINK TANK FOR CHILD PROTECTION

The Sean P. Meilmail Statute
of Limitations Research
Institute at CHILD USA

SOL reform, and window laws in particular, validate victims and shift the cost of abuse from victims and the public to the perpetrators and enabling institutions, placing them on notice that the state no longer stands with them - but with their victims.

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 child sex abuse. Yet, it is in society’s interest to have sex abuse survivors identify hidden child predators to the public—whenever the survivor is ready.

When predators and institutions are exposed, particularly high-profile ones like Larry Nassar, Jeffrey Epstein, the Boy Scouts of America, and the Catholic Church, the press and media industry publish investigations and documentaries that enlighten the public about the insidious ways child molesters operate to sexually assault children and the institutional failures that enabled their abuse (i.e. Netflix’s *Jeffrey Epstein: Filthy Rich* and HBO’s *At the Heart of Gold: Inside the USA Gymnastics Scandal*). By shedding light on the problem, parents and others are better able to identify abusers and responsible institutions and prevent further abuse. This knowledge helps to educate children to be aware of the signs of grooming and abusive behavior and create more social awareness to help keep kids safe, while also supporting institutions to implement accountability and safe practices.

As well as providing already-existing victims of abuse a path to justice, SOL reform protects society at large. By allowing past-expired claims to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children. Preventing further abuse only serves to help –society—by reducing the costs of healthcare for victims, allowing more healthy people into the workforce, and increasing the ability of children to grow into healthy adults. SOL reform also educates the public about the danger of child sexual abuse.

II. Delayed Disclosure Science Supports SOL Reform for Child Sex Abuse

There is a worldwide epidemic of child sex abuse, with at least **one in five girls and one in thirteen boys sexually assaulted before they turn 18**.¹ The trauma stemming from child sexual abuse is complex and individualized, and it impacts victims throughout their lifetimes. There is an overwhelming body of science exposing the ways in which the trauma of sexual abuse during childhood impacts memory formation and the repression of memories.² It is now settled that PTSD, memory deficits, and complete disassociation are common coping mechanisms for child victims.³

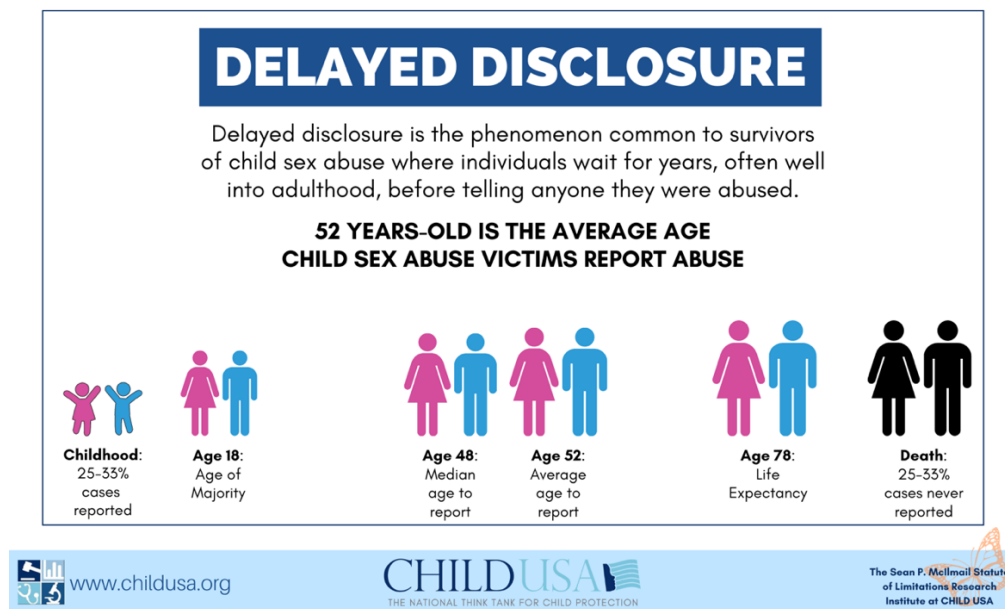
¹ G. Moody, et. al., *Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender*, 18(1164) BMC PUBLIC HEALTH (2018) (finding a 20.4% prevalence rate of child sexual abuse among North American girls); M. Stoltenborgh, et. al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) CHILD MALTREATMENT 79 (2011) (finding a 20.1% prevalence rate of child sexual abuse among North American girls); N. Pereda, et. al., *The prevalence of child sexual abuse in community and student samples: A meta-analysis*, 29 CLINICAL PSYCH. REV. 328, 334 (2009) (finding a 7.5% and 25.3% prevalence rate of child sexual abuse among North American boys and girls respectively).

² van der Kolk, B. The Body Keeps the Score: Memory & the Evolving Psychobiology of Posttraumatic Stress. *Harvard Review of Psychiatry* (1994) 1(5), 253-65; Jim Hopper, *Why Can’t Christine Blasey Ford Remember How She Got Home?*, *Scientific Amer.* (Oct. 5, 2018), available at <https://blogs.scientificamerican.com/observations/why-cant-christine-blasey-ford-remember-how-she-got-home/>; see also Hoskell, L. & Randall, M., *The Impact of Trauma on Adult Sexual Assault Victims*, *Justice Canada* 30 (2019), available at https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf (hereinafter “Hoskell”).

³ Jacobs-Kayam, A. and Lev-Weisel, R., *In Limbo: Time Perspective and Memory Deficit Among Female Survivors of Sexual Abuse*, *Frontiers in Psychol.* (April 24, 2019) available at <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.00912/full>.

Trauma is only one of the barriers preventing children from disclosing abuse. “Among other barriers, children often lack the knowledge needed to recognize sexual abuse, lack the ability to articulate that they have been abused, don’t have an adult they can disclose their abuse to, don’t have opportunities to disclose abuse, and aren’t believed when they try to disclose.”⁴ Studies suggest that many victims, as much as 33%, never disclose their abuse.⁵ The disclosure of child sexual abuse is a process and not a discrete event in which a victim comes to terms with their abuse. Often this happens in the context of therapy; sometimes it is triggered many years after the abuse by an event the victim associates with the abuse; other times it happens gradually and over time as a victim recovers their memory.⁶

In fact, the **average age of disclosure of child sexual abuse in a study of 1,000 victims was 52 years-old.**⁷ 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.



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. Short SOLs for child sex abuse play into the

⁴ CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA.ORG, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf>. (citing N. Spröber et. al., *Child sexual abuse in religiously affiliated and secular institutions*, 14 BMC PUB. HEALTH 282, 282 (2014).

⁵ *Id.*

⁶ Hoskell, at 24.

⁷ CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA.ORG, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf>.

hands of the perpetrators and the institutions that cover up for them; they disable victims' voices and empowerment.

III. Hawaii Should Join the National Trend Toward Meaningful SOL Reform for Child Sex Abuse by Extending its Civil SOL and Opening a Revival Window for Expired Claims

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 claims. For an analysis of the SOL reform movement from 2002 through 2020, see CHILD USA's Report: History of U.S. SOL Reform.⁸ 2019 was a banner year for helping child sex abuse survivors access justice by changing the statutes of limitations. With the public more awake than they've ever been to the injustice survivors faced by being shut out of courts, there was a surge of SOL reform, with 23 states and Washington D.C changing their SOLs for the better in 2019.⁹ The powerful SOL reform wave rode its way into 2020, with 30 states introducing legislation, but the outbreak of Covid-19 slowed its momentum. Despite significant disruptions by Covid-19 in 2020, 8 states passed new and improved SOL laws for child sex abuse.¹⁰ By March of 2021, 29 states have already introduced SOL reform bills.¹¹

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 able to file civil claims for past abuse that would have otherwise been time-barred. That being said, the revival window is now closed and Hawaii's current civil SOL which expires when victims are in their 20's is short in comparison to the rest of the states.

For claims against perpetrators, Hawaii's SOL expires when victims reach age 26 or 3 years after discovering their injuries. It is even shorter for claims against institutions, expiring when victims reach age 20 or 2 years after discovery. This means the civil SOL expires almost *three decades* before the average victim will tell anyone they were abused. Extending the SOL against perpetrators to age 68 or 5 years from discovery would be a significant improvement. However, the SOL against institutions would still expire at age 20 or 2 years from discovery, which immunizes institutions who covered up or enabled abuse.

This proposed window and civil SOL extension against perpetrators to age 68 is in line with the recent trend to eliminate the civil SOL and to give victims into their 50's time to come forward in accordance with the delayed disclosure of abuse science.

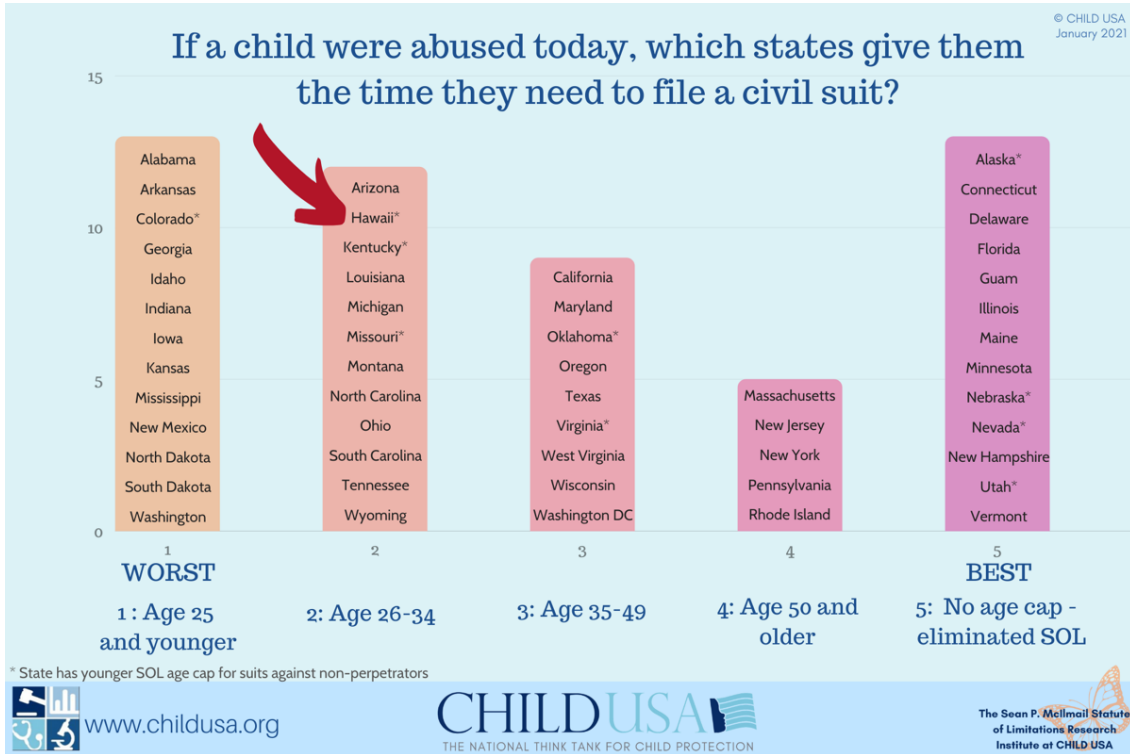
The following graphic demonstrates how Hawaii ranks amongst other states regarding its age cap for civil child sex abuse claims.

⁸ 2020 SOL Report, CHILDUSA.ORG (last visited March 2, 2021), available at www.childusa.org/2020-sol-report/.

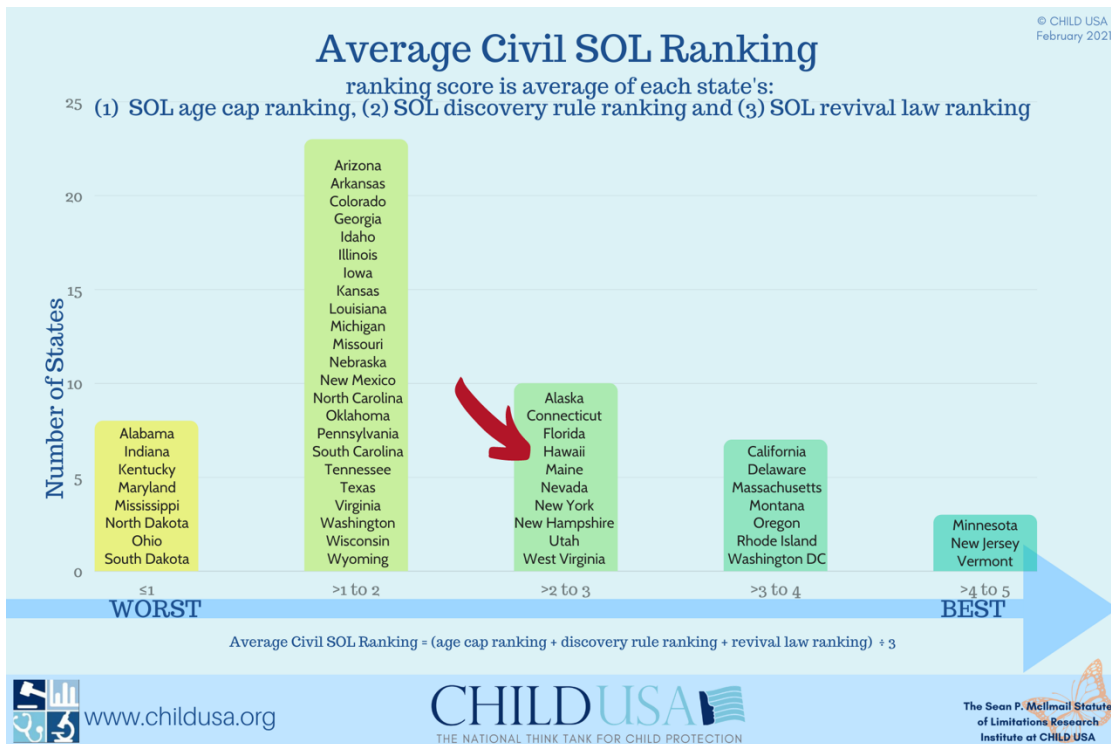
⁹ For more information on SOL reform in 2019, visit *2019 SOL Tracker*, CHILDUSA.ORG (last visited March 2, 2021), available at www.childusa.org/2019sol.

¹⁰ See *2020 SOL Tracker*, CHILDUSA.ORG (last visited March 2, 2021), available at www.childusa.org/2020sol.

¹¹ See *2021 SOL Tracker*, CHILDUSA.ORG (last visited March 2, 2021), available at www.childusa.org/2021sol.



The graphic below depicts CHILD USA’s average ranking of each state’s civil SOLs (including age caps, discovery rules, and revival laws). On a scale of 0-5, overall, Hawaii ranks as a 3, making it above average amongst the states.




There is only one way to restore justice to these adult victims of child sex abuse: to revive their expired civil claims that were barred by unfairly short SOLs. In other words, to fix the wrongs done to them, they deserve the opportunity to file civil lawsuits if they so choose. Hawaii is one of 18 states, Washington D.C. and Guam to enact revival laws for child sex abuse claims.¹² Hawaii has already made great progress for adult survivors of child sex abuse with a revival window that was open for a total of 6 years. Unfortunately, **the window closed on April 24, 2020, and now survivors who have not yet come to terms with their abuse are shut out of court again by Hawaii's short civil SOL.**

The following graphic is a revival window report card, grading each state's window based on how helpful it is to survivors and to society by exposing hidden predators within the states. Hawaii's window ranks high, with only Vermont and Guam which have permanently open windows, ranking higher.

| Window Report Card | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| A window is a law that revives expired civil claims and allows adult survivors to sue for child sex abuse they endured years ago while the window is open | | |
| A+ | Vermont & Guam | Window permanently open for claims against <u>all</u> types of defendants |
| A | California, Delaware, Hawaii New Jersey & New York | Window open for 2 or more years for claims against <u>all</u> types of defendants |
| B | Arizona, Minnesota & North Carolina | Window open for more than 1 year, but not explicitly applicable to claims against all types of defendants |
| B- | Montana | Window open for 1 year only |
| C | Washington D.C. | Window open for claims by survivors under age 40 only, with some exceptions |
| C- | Georgia & Utah* | Window open for claims against perpetrators only |
| D | Michigan | Window open for claims of abuse by perpetrator doctors only (Larry Nassar) |
| F | All Other States | No window, hidden predators are protected |





¹² For a comprehensive overview of SOL revival laws, see *Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited March 3, 2021), available at www.childusa.org/law.

States that have revived expired civil SOLs have learned about hidden child predators and institutions that harbored them while empowering victims. These revival laws do not yield a high number of cases,¹³ but provide long-overdue justice to older victims of child sex abuse.

Institutional child sex abuse is a systemic problem occurring in athletic institutions, youth-serving organizations, religious groups, etc. Without institutional accountability for enabling child sex abuse to happen and by looking the other way or covering up abuse when it's reported, the **children these institutions serve remain at risk today**. HB 570's window provision permits recovery of treble damages against institutions if the institution failed to report child sex abuse or disregarded evidence that a person had previously sexually abused a child. This sends a strong message to youth serving organizations in Hawaii that the state will not tolerate "passing the trash" or looking the other way when a person is raping or molesting a child in their midst.

Once again, we commend you for supporting this legislation, which is desperately needed to help survivors of childhood sexual abuse, and for taking up the cause of child sex abuse victims. Hawaii's children deserve SOL reform to protect them today and into the future. Extending the time for survivors to file suit and opening a window for expired claims is a positive step for Hawaii's children and families. Please do not hesitate to contact us if you have questions regarding SOL reform or if we can be of assistance in any way on other child protection issues.

Sincerely,



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¹³ See The Relative Success of Civil SOL Window and Revival Statutes State-by-State, CHILDUSA.ORG (last visited Jan. 30, 2021), available at www.childusa.org/law.

HB-570-HD-2

Submitted on: 3/2/2021 11:24:02 AM

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

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

Comments:

Planned Parenthood Votes Northwest and Hawaii supports HB 570. Thank you!

SHERYL HAUK

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Dear Honorable Finance Committee,

I am testifying FOR HB570, with many reservations. Thank you for 50 years extension, but that is not enough. The addition of "For a period of after twelve years after April 24, 21 2012, a victim of child sexual abuse who resided in the State at the time of the abuse may file an otherwise time-barred claim," It eliminates my sister, my niece, my step sister, and countless others. Once again ... NO ACCOUNTABILITY by the Hawaii State legislature. This bill has been once again watered down from its predecessors.

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 58 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. This bill is not eliminating the statute of limitations for other adults who experience the trauma of sexual abuse as a child. I didn't talk because "cognitive development or limited capacity." I was scared for my life. Many times I was threatened with death, even as an adult, if I told anyone. It took every fiber to step forward and have a hitman come to my home twice in Michigan.

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.

There must be a better affirmation of the State Hawaii supporting victims with no other recourse. Thousands of victims suffering with these memories and experiences, that are not simply emotionally ready to come forward and share. Please amend this bill and pass it on that would help victims heal and this horrifying crime by not limiting time to pass before atonement can be found. WHAT ARE YOU AFRAID of?

Mahalo,

Sheryl Hauk
shauk62@aim.com

HB-570-HD-2

Submitted on: 3/1/2021 11:03:15 PM

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

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Barbara J. Service | Individual | Support | No |

Comments:

Please support extending time for child sexual abuse victims to bring civil actions against their perpetrators. Child sexual abuse is complex and victims often don't reveal their abuse for years. Given the lifelong effects of abuse, it's important that victims be given every opportunity to heal.

Mahalo for the opportunity to provide testimony.

Barbara J. Service MSW (ret.)

43 years in Child Welfare

HB-570-HD-2

Submitted on: 3/2/2021 10:47:43 AM

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

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

Comments:

Aloha Chair Luke, Vice Chair Cullen and members,

As in my testimony in previous committees I am in strong support of this measure. The trauma of childhood sex abuse never goes away and it can take decades for victims to have the presence of mind and soul to report. They deserve justice and restitution for the harm caused them and their families.

Please Pass,

Mahalo, Ann S. Freed, Mililani, HI

HB-570-HD-2

Submitted on: 3/2/2021 12:04:56 PM

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

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Andre Bisquera | Individual | Oppose | No |

Comments:

I am a survivor of child sex abuse and this bill is slap in face to us survivors because of the language that limits survivors to only treble damages. Who cares if survivors are able to sue if they're not going to get any real compensation or the entity isn't motivated to change? Remove the treble damages and I can support this bill. Otherwise, it's just lip service and a fuck you to survivors.

Andre Bisquera