



**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:

SENATE COMMITTEES ON JUDICIARY AND ON WAYS AND MEANS

DATE: Tuesday, April 6, 2021 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 211, Via Videoconference

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

Chairs Rhoads and Dela Cruz and Members of the Committees:

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 would extend the statute of limitations for many decades and reopen the window of time to file suit even if the statute of limitations had expired regardless of when the incident occurred, 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.



April 2, 2021

Senate's Committees on Judiciary & Ways and Means
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Hearing: Tuesday, April 6, 2021 – 9:45 a.m.

RE: SUPPORT for House Bill 570 with Requested Amendment

Aloha Chair Rhoads, Chair Dela Cruz and fellow committee members,

I am writing in SUPPORT with a requested amendment for House Bill 570 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i, Hawaii's oldest and largest policy and political LGBTQIA+ focused organization. HB 570 expands the time period by which a civil action for childhood sexual abuse must 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 an entity having a duty of care. Allows recovery of treble damages in certain circumstances. Provides for training on trauma-informed response. Applies retroactively to 4/24/2020.

We support the intent of HB 570 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 that HB 570 to be amended to remove the 50-year cap.

The reason this amendment is to ensure survivors of childhood sexual abuse can have justice no matter when they are able to face or remember their childhood trauma.

For this reason the LGBT Caucus asks that you support this requested amendment to HB 570 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

Executive Director
Cindy Shimomi-Saito

ADVISORY BOARD

President
Mimi Beams

Joanne H. Arizumi

Andre Bisquera

Kristen Bonilla

Dawn Ching

Senator (ret.)
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Steven T. Emura, M.D.

Councilmember
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Lindsay Norcross Mist

Nadine Tenn Salle, M.D.

Joshua A. Wisch

Date: April 6, 2021

To: The Honorable Donovan Dela Cruz, Chair
The Honorable Gil Keith-Agaran, Vice-Chair
Senate Committee on Ways & Means

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 HB 570 HD2
Relating to Sexual Abuse of Minors

Hearing: Tuesday, April 6, 2021, Via videoconference

Good morning Chair Dela Cruz & Rhoads, Vice-Chairs Keith-Agaran & Keohokalole, and members of the Committees:

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 HD2'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.

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

HB 570 HD2 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 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 HD2 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 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, but shall not be limited to, the legal entity's failure to report the prior incident to law enforcement authorities as required by law.

Survivors need time to regain their voice, and they need the opportunity to seek delayed, but healing, justice. When they find the courage to come forward, when they find the strength to put into words the trauma that happened to them, when they are finally ready to break the silence, how can we tell them that it's too late? Why would we let child predators remain hidden if their victims are willing to speak out? Why don't we do all that we can to protect our children and reduce future risk?

HB 570 HD2 is needed. Its passing would send the important message that offenders will be held accountable regardless of how long it takes; it would convey the message that the safety of our children is foremost and the passing of time will not lessen this.

The SATC strongly supports HB 570 HD2 and respectfully asks you to take this needed action. Please do not delay this important measure another year. Thank you for the opportunity to provide testimony.

ADMITTED TO THE PRACTICE OF LAW IN THE STATES OF HAWAI'I, NEW YORK AND NEW JERSEY

TALBERT LAW LLLC

Patricia Medina Talbert - NY, NJ & Hawai'i
Mililani B. Trask, Of Counsel - Hawai'i

350 WARD AVE., #106; HONOLULU, HI 96814;
808-223-2307; 808-442-8119 (F)

THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEES ON JUDICIARY and WAYS AND MEANS

TO: Senator Karl Rhoads, Chair, Judiciary
Senator Jarrett Keohokalole, Vice Chair

Senator Donovan M. Dela Cruz, Chair, Ways and Means
Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: Mililani Trask and Patricia Medina Talbert
TALBERT LAW LLLC, Honolulu, Hawai'i
Attorneys for Plaintiff Victims of Child Sexual Abuse

HEARING DATE: Tuesday, April 6th, 2021

I. Support for HB 570, HD 2 - Relating to Sexual Abuse of Minors

Kamehameha Schools says this about child sexual abuse:

“We are saddened by the tragic events described by our former Kamehameha students. We honor and appreciate the strength and courage it took for them to come forward. They are part of our ‘ohana. We care for all of them and will continue to work with them to do what is pono.” *Star-Advertiser*, April 4, 2020; *Honolulu Civil Beat*, April 24, 2020.

Supporting HB 570, HD 2 is doing what is pono. This bill not only provides further opportunity for victims to seek justice but also closes a loophole schools and their employees are using to sidestep liability when they sexually molest our island children during an out-of-State activity. Predators and their employers cannot be brought to justice even if a complaint is timely brought. HB 570 HD 2 deletes this loophole while opening the window for victims to seek justice.

II. We Are Beneficiaries of the Princess Bernice Pauahi Bishop Trust

Princess Bernice Pauahi Bishop charged the Trustees of her endowment to create the Kamehameha Schools wherein children would be educated and instructed on the

morals that “may tend to make [them] good and industrious men and women....” Our Princess must be weeping as we learn certain of her children lived a nightmare rather than her dream.

We advocate for these revisions not only because we are Native Hawaiian beneficiaries who feel it is our obligation to hold the Trustees of Kamehameha Schools to their sacred trust, but we are also plaintiff’s lawyers who have experience as prosecutor, deputy attorney general, jurist in the criminal part, diplomat to the United Nations. Our practices have focussed on protecting individual civil rights and civil liberties in the interest of social justice.

III. **Hawai’i Has Other Existing Law That Has No Time Limit for Prosecution.**

Hawai’i Revised Statute §701-108 lists the crimes for which there is NO statute of limitation or time limit within which the crime can be prosecuted. It says:

Time limitations. (1) A prosecution for murder, murder in the first and second degrees, attempted murder, and attempted murder in the first and second degrees, criminal conspiracy to commit murder in any degree, criminal solicitation to commit murder in any degree, **sexual assault in the first and second degrees, and continuous sexual assault of a minor under the age of fourteen years may be commenced at any time.**

Certain misconduct is considered so egregious the Legislatures, at the time of passage, determined **not** to limit its prosecution. It is of note that sexual assault in the first and second degree and sexual assault of a minor “may be commenced at any time.” Despite the passage of time for any of these cases, our State, nonetheless refused to cut off prosecution.

Certainly those Legislatures realized there would be a challenge to prosecuting a case that may be decades old. Moreover, in a criminal case, the State has a higher burden of proof than in a civil case. Despite this, the State, representing the victim, would have the opportunity to bring a defendant to justice. If law makers were not deterred in a criminal case by the passage of time, the same rationale holds for victims of child sexual abuse in a civil case.

IV. **HB 570, HD 2 Is Needed to Close Loopholes Being Used By Defendants to Avoid Liability and Responsibility For Child Sexual Abuse.**

A. The language in (2)(b) stating the child abuse must have “occurred in this State” *must be deleted* as it gives predators, pedophiles and legal entities a “free pass” to molest Hawai’i’s children.

The Loophole. The Hawai’i window statute is an opportunity for pass and current victims of child sexual abuse victim to seek justice fin the civil courts. All victims are being disadvantaged by the current statute that has a geographic loophole for defendants.

At least one court has interpreted this section of the current law to dismiss a claim against a defendant when the molestation occurred during a school-sponsored activity outside Hawaii's borders which are a mere three nautical miles off shore!

It is a common practice for our students to participate in nationally held athletics, leadership, social, cultural, academic and other types of school-sponsored activities and competitions. They must travel off-island to do so. The Legislature could not have intended the courts to dismiss claims against alleged pedophiles who sexually abuse our children during the events.

In the recent years, the public has come to know about sexual abuse perpetrated upon student athletes. At a national level, we know of Larry Nassar who pled guilty to federal child pornography charges, and was sentenced to 60 years in prison on December 7, 2017. Nassar was a longtime USA Gymnastics (USAG) national team doctor who travelled with child gymnasts and sexually abused them in hotels and training camps under the guise of osteopathic manipulation. This is an example of abuse that occurs at a time when a child is most vulnerable and often in a special relationship of trust and/or dependency with the abuser.

A child's trust and dependency upon his or her chaperone, teacher, coach are, in fact, heightened when you take the school-age child off campus. The child is in a vulnerable position, perhaps more so than when at school. Intended or not, this loophole giving a "free pass" to abusers exists and is being exploited by abusers. HB 570 and SB 833 remove this loophole in (2)(b) and must be passed.

V. The Law Should Require Any Plaintiff and/or Legal Entity to be a Resident Of and/or Domiciled in the State of Hawai'i at the Time of the Child Sexual Abuse.

We also support the concept that the child sexual abuse complained of must have a nexus, a legally recognized connection to Hawai'i to ensure protection of our children and to make clear the conduct that is prohibited. For these reasons, we support the inclusion of the language in (2)(b) requiring a plaintiff to be a resident of Hawai'i; and stating a legal entity can be held responsible if it is is "domiciled within the State."

The revisions and clarifications ensure the intent of the Legislature is realized in practical terms. And, the changes also send a clear message to our citizens that we will protect our child victims and hold legal entities responsible who are conducting business in Hawai'i.

V. CONCLUSION.

HB 570 HD 2 are doing more than expanding the window statute. It is shoring up loopholes and removing ambiguities that we believe are frustrating the purpose and intent of the Legislature.

At the end of the day, the law is not an intellectual framework. It is a practical journey a victim of child sexual abuse can embark upon to achieve justice. In simple

terms and as one victim, who was 14 at the time, says: "I had no choice where it happened, but I live with its impact daily."

Respectfully submitted,

Patricia Medina Talbert

Patricia Medina Talbert

Mililani B. Trask

Mililani B. Trask

4/04/2021



TO: The Honorable Karl Rhoads, Chair, The Honorable Jarrett Keohokalole, Vice Chair, and Honorable Members of the Senate Committee on Judiciary

The Honorable Donovan M. Dela Cruz, Chair, The Honorable Gilbert S.C. Keith-Agaran, Vice Chair, and Honorable Members of the Senate Committee on Ways and Means

FROM: Marci Hamilton, Founder & CEO, CHILD USA; Professor, University of Pennsylvania, and Kathryn Robb, Executive Director, CHILD USAAdvocacy

RE: HB 570, relating to sexual abuse of minors

DATE: April 6, 2021

Dear Chair Rhoads, Vice Chair Keohokalole, Chair Dela Cruz, Vice Chair Keith-Agaran and Members of the Senate Committees on Judiciary and Ways and Means,

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. 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 enabled 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. 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.**ⁱ 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.ⁱⁱ It is settled that PTSD, memory deficits, and complete disassociation are common coping mechanisms for child victims.ⁱⁱⁱ

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.”^{iv} Studies suggest that many victims, as much as 33%, never disclose their abuse.^v 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.^{vi}

In fact, the **average age of disclosure of child sexual abuse in a study of 1,000 victims was 52 years-old.**^{vii} 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 hands of the perpetrators and the institutions that cover up for them; they disable victims’ voices and empowerment.

II. 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

CHILDUSA

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. By allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children. This is especially important because predators have many victims and abuse into their elderly years. As well as providing already-existing victims of abuse a path to justice, SOL reform protects society at large. 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 today to grow into healthy adults.

SOL reform also educates the public about the danger of child sexual abuse and how to prevent it. 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 encouraging institutions to implement accountability and safe practices.

The costs of sex abuse are staggering. Child sex abuse generates many costs that impact the nation's health care, education, criminal justice, and welfare systems, costing nearly \$2 trillion annually. Numerous, scholarly studies have concluded that the average cost of child maltreatment is approximately \$830,928.00 per victim.^{viii} It is unfair for the victims and Hawaii taxpayers to be the only ones who bear this burden; HB 570 levels the playing field by imposing liability on the ones who caused the abuse and alleviating the burdens on the victims and taxpayers. Further, if this revival window is passed, **Hawaii will gain millions of dollars in revenue from Medicaid reimbursements** from settlement funds and damages awards survivors recover.

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

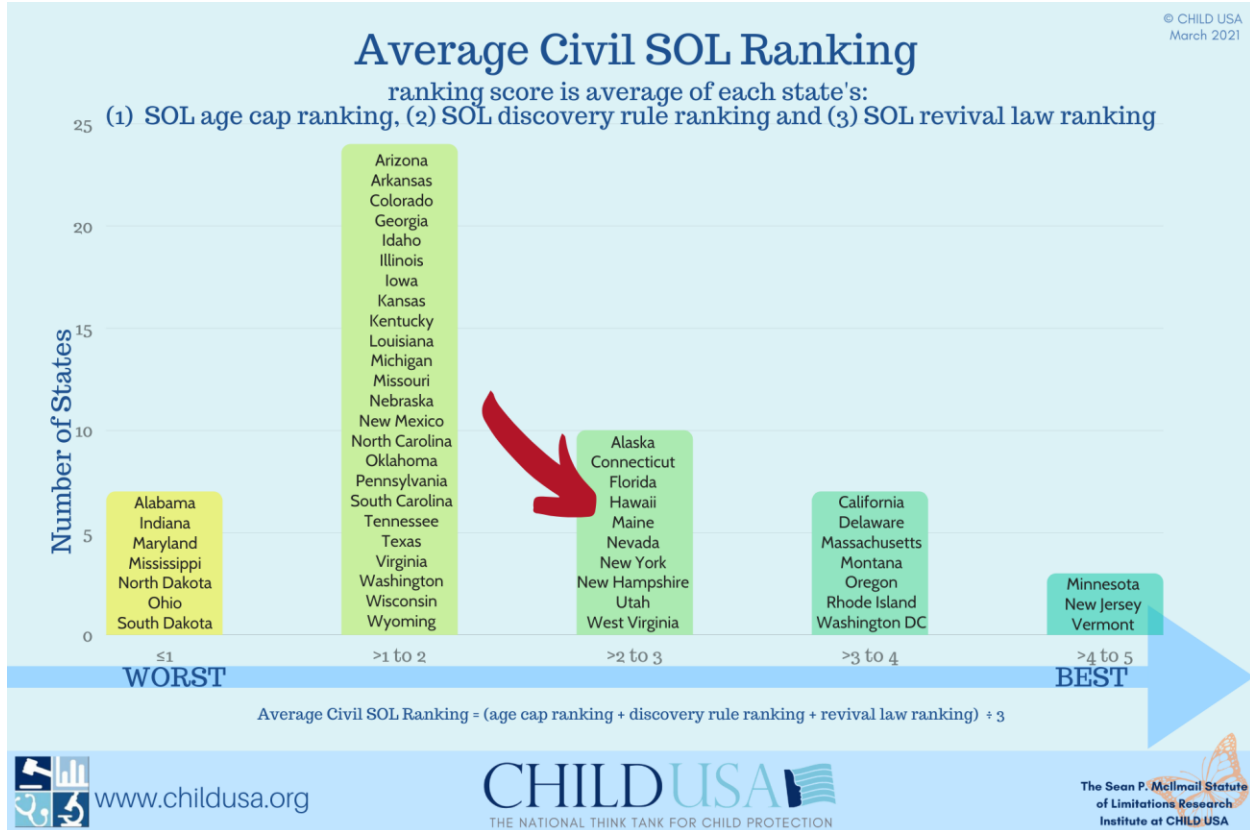
There is a vibrant national and global movement for SOL reform. The trend is toward elimination of civil and criminal SOLs and the revival of expired civil claims. For an analysis of the SOL reform movement since 2002, see CHILD USA's Report: History of US SOL Reform: 2002-2020.^{ix} 2019 was a banner 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.^x 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.^{xi}

By April of 2021, 31 states, including Hawaii, have introduced SOL reform bills for child sex abuse. Arizona and Kentucky already have new SOL laws going into effect, including a revival law in Kentucky. This year, Hawaii is one of 24 states trying to extend or eliminate civil SOLs and one of 19 states seeking to revive civil claims for past child sex abuse.^{xii}

Hawaii has made some recent progress towards reforming its SOLs for child sex abuse, yet there is still more that needs to be done. Hawaii has been climbing slowly and this bill is an opportunity for the state to reach the top - for the children of yesterday, today and tomorrow. As you can see in the graphic below, there has been incredible progress across the nation. It's time for Hawaii to join the movement.



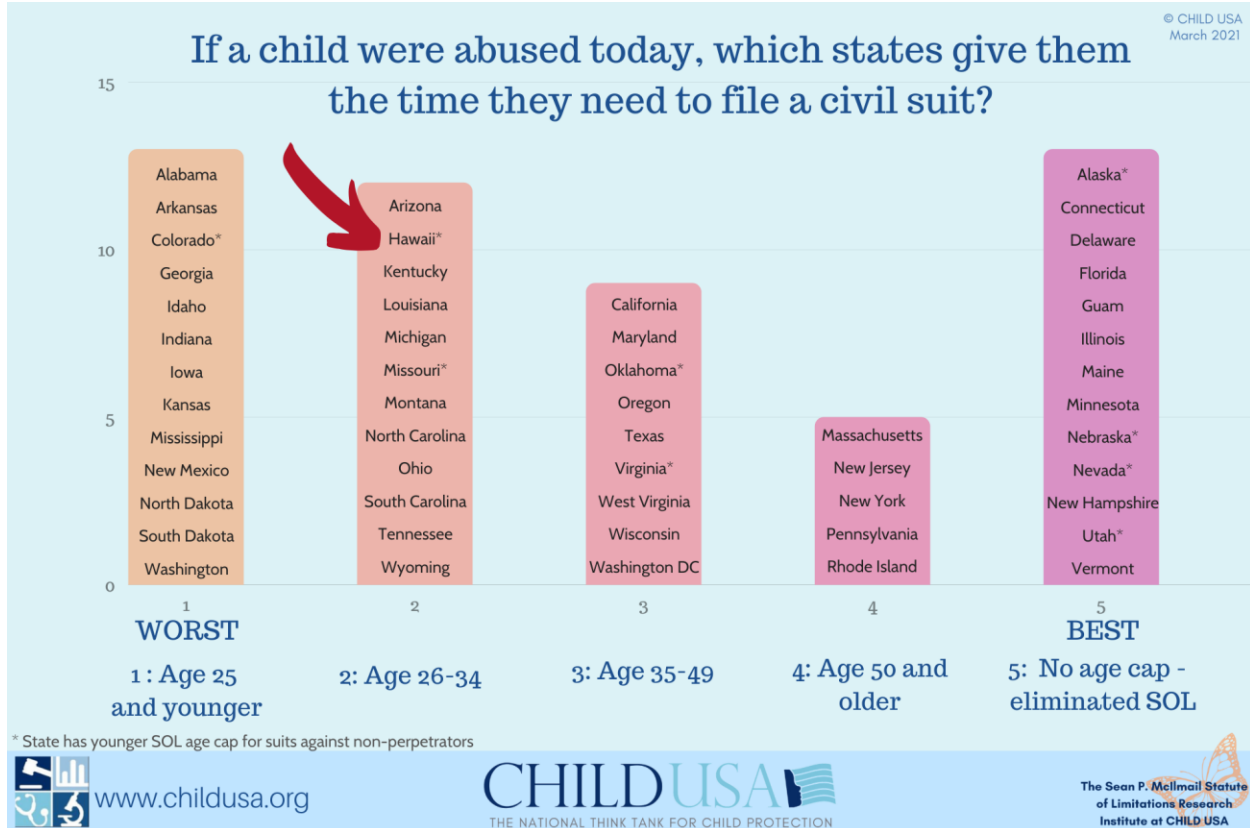
The following graphic demonstrates how Hawaii ranks amongst other states regarding its current civil SOLs for child sex abuse. CHILD USA's average ranking of each state's civil SOL takes into account each state's age cap, discovery rule, and revival law. On a scale of 0-5, overall, Hawaii currently ranks as a 3, making it above average amongst the states, with room for improvement.



a. Hawaii Should Extend Its Civil SOL for Child Sex Abuse

In Hawaii, the civil SOL for claims against perpetrators expires when victims reach age 26 or 3 years after discovering their injuries. The SOL is even shorter for claims against institutions and others, 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 and others would still expire at age 20 or 2 years from discovery and continue to immunize those who cover up and enable abuse.

The following graphic demonstrates how Hawaii ranks amongst other states regarding its current age cap for civil child sex abuse claims. Overall, 12 states and Guam have eliminated some civil SOLs for child sex abuse and they are ranked below as the best.^{xiii} Another 5 states have extended civil SOLs past 50 years of age.^{xiv} Hawaii ranks low because of its short SOL against perpetrators and its even shorter SOL against other individuals and entities who enable abuse.



HB 570's civil SOL extension against perpetrators to age 68 is in line with the recent trend to eliminate the civil SOL and to give now adult victims of child sex abuse time to come forward in accordance with the delayed disclosure of abuse science.

b. Hawaii Should Open a Revival Window for Child Sex Abuse Claims

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.

There is only one way to restore justice to 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 19 states, Washington D.C. and Guam to enact revival laws for child sex abuse claims.^{xv} 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. Hawaii is amongst the higher-ranking states like California, Delaware and New York that have improved upon their windows by reopening them or broadening them in subsequent years.

© CHILD USA
March 2021

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	Kentucky & Washington D.C.	Window open only for claims by survivors under a certain age, with 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

www.childusa.org

CHILD USA
THE NATIONAL THINK TANK FOR CHILD PROTECTION

The Sean P. McMail Institute of Limitations Research
Institute at CHILD USA

The 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,^{xvi} 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,



Marci A. Hamilton, Esq.
Professor, Fels Institute of Government
University of Pennsylvania

Founder & CEO
CHILD USA
3508 Market Street, Suite 202
Philadelphia, PA 19104
mhamilton@childusa.org
Tel: (215) 539-1906



Kathryn Robb, Esq.
Executive Director
CHILD USA Advocacy
3508 Market Street, Suite 201
Philadelphia, PA 19104
krobb@childusadvocacy.org
Tel: (781) 856-7207

- ⁱ 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).
- ⁱⁱ 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").
- ⁱⁱⁱ 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>.
- ^{iv} 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).
- ^v *Id.*
- ^{vi} Hoskell, at 24.
- ^{vii} See *supra* n. iv.
- ^{viii} M. Merricka, et. al, *Unpacking the Impact of Adverse Childhood Experiences on Adult Mental Health*, CHILD ABUSE NEGL. (2017).
- ^{ix} CHILD USA, *History of US SOL Reform: 2002-2020*, CHILDUSA.ORG (last visited Feb. 10, 2021), available at www.childusa.org/sol-report-2020.
- ^x For more information on SOL reform in 2019, visit *2019 SOL Tracker*, CHILDUSA.ORG (last visited Jan. 22, 2021), available at www.childusa.org/2019sol.
- ^{xi} See *2020 SOL Tracker*, CHILDUSA.ORG (last visited Jan. 30, 2021), available at www.childusa.org/2020sol.
- ^{xii} See *2021 SOL Tracker*, CHILDUSA.ORG (last visited Apr. 5, 2021), available at www.childusa.org/2021sol.
- ^{xiii} AK, CT, DE, FL, IL, ME, MN, NE, NV, NH, UT, and VT. For information on civil SOL elimination, see *2021 SOL Tracker*, CHILDUSA.ORG (last visited Apr. 5, 2021), available at www.childusa.org/2021sol.
- ^{xiv} MA, NJ, NY, PA, & RI. See *id.*
- ^{xv} For a comprehensive overview of SOL revival laws, see *Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited Apr. 5, 2021), available at www.childusa.org/law.
- ^{xvi} See *The Relative Success of Civil SOL Window and Revival Statutes State-by-State*, CHILDUSA.ORG (last visited Apr. 5, 2021), available at www.childusa.org/law.

HB-570-HD-2

Submitted on: 4/2/2021 10:06:18 AM

Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Testifying for Planned Parenthood Alliance Advocates	Support	No

Comments:

Planned Parenthood Alliance Advocates supports HB 570, HD1. Thank you!

HB-570-HD-2

Submitted on: 4/1/2021 4:07:46 PM

Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Testifying for 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/Board Member, Rainbow Family 808

HB-570-HD-2

Submitted on: 4/4/2021 1:56:18 PM

Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Testifying for AAUW of Hawaii	Support	No

Comments:

Members of AAUW of Hawaii support HB570 HD2 which expands the time period by which a civil action for childhood sexual abuse may be initiated to 50 years after the 18th birthday of the victim. Most victims cannot disclose the abuse until years later. Please pass this bill and show that justice has no time limit.

SHERYL HAUK

shauk62@aim.com

Dear Honorable Senate Ways and Means and Judiciary Committees ,

I am testifying FOR HB570 HD2, with reservations. I applaud the attempt to extend the statute of limitations for victims of sexual assault while a minor in Hawaii. It is grievous that HB270 HD2, reads "effective July 1, 2060." I have personally presented written and oral testimony for five years in support of similar bills. I recognize that this effective date encourages discussion within committees, however this tactic has intentionally stalled similar bills over the last three years; HB2187, SB2179, HB18, SB163, and presently Erin's Law SB518.

The assistant attorney general, Caron Inagak, has frequently testified against all these bills, consistently reminding and misleading legislative committee members to believe cases have limited evidence and victims that do not remember details. The average age for victims to admit abuse is 46. Many of you have heard my story through the years. I will not repeat it, but remind you it took 55 years for me to finally have the courage to step forward. While in the legislative library January 2020, I was told there was someone from Michigan stirring mischief. I also sat in a representative's office for 2 days as her aids lied she was not in the capitol. As I left her office, dismayed over another bill stalled, the representative walked right past me.

My personal settlement after 55 years, allowed by the open two year window, enables me to travel and testifying in NONCOVID times, donate to organizations that support abused victims, and financially support an educational PODCAST series sharing with the public the importance of understanding victims, signs of abused keikis, and what everyone can do to prevent this crime that will and does cost the state many years down the road. I strongly encourage you to pass HB 270, eliminating the effective date to July 1, 2060 to ensure it does not get "lost," like so many other bills. Know that I only left beloved Hawaii Nei because of the painful memories of childhood sexual, physical, and mental abuse and the threats on my life. I am not a stranger, I will always call Hawaii my home.

Mahalo,

Sheryl Hawk

HB-570-HD-2

Submitted on: 4/1/2021 7:54:01 PM

Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kamuela Werner	Individual	Support	No

Comments:

Aloha:

I strongly SUPPORT HB570 HD2.

Me ke aloha,

Kamuela Werner

HB-570-HD-2

Submitted on: 4/1/2021 4:24:28 PM

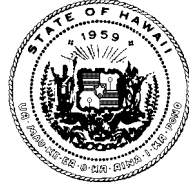
Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richelle Freitas	Individual	Support	No

Comments:

Please pass this bill. It is a really important tool in protecting sexual assault victims and children who are hurt.

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 HB570 HD2
April 6, 2021

Aloha Chairs Rhoads and Dela Cruz, 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

LATE



**Statement of the Democratic Party of Hawai'i
Comments on HB570 HD2, Relating to Sexual Abuse of Minors**

The [Democratic Party of Hawai'i](#) provides supports HB570 HD2, Relating to Sexual Abuse of Minors, to the extent that it aligns with our Party's [platform](#). The bill would expand the time period by which a civil action for childhood sexual abuse may be initiated; extend 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; allow recovery of treble damages in certain circumstances; and provide for training on trauma-informed response. The bill would apply retroactively to 4/24/2020 and be effective 7/1/2060.

The Democratic Party of Hawai'i is committed to creating a society where children are safe and can thrive physically, emotionally, educationally, and spiritually. Our national platform calls attention to the importance of ending sexual assault, domestic abuse, and other violence against the most vulnerable among us, including children and young women, transgender women, and other groups who are disproportionately affected by sexual assault and domestic abuse. Our national platform further calls for expanding services for survivors, including expanding access to legal assistance and victim advocate services.

As such, we believe it is important that Hawai'i take steps to protect those who were victims of sexual abuse as minors, including those steps articulated in HB570 HD2. These steps are a beginning to achieving justice and healing for these victims of childhood sexual abuse and those who care deeply for them.

Mahalo nui for the opportunity to provide these comments in support of this important bill.

DEMOCRATIC PARTY OF HAWAII

PO Box 2041 • Honolulu, HI 96805 • (808) 596-2980 • www.hawaiiidemocrats.org

LATE

COMMENTS FOR HB 570-MARCH 24,2021

My name is Marlene De Costa, a cradle Catholic, educated in Catholic schools from elementary through graduate school, a mother of two adult Catholic educated sons, grandmother of three, one of which is a first grader at Holy Family Academy and a Trustee of St. Louis School in Honolulu, HI. Professionally, I have been in real estate asset management for over 35 years, currently serving as the Real Estate Director for the Roman Catholic Church in the State of Hawaii.

I have grave concerns about the current edition of HB 570, primarily the length of time a person to be able to file a sex abuse claim and the uncertainty it allows for our institution to continue to plan for our mission. In addition, the treble damages are another issue that I know will cause our churches and schools to face an unknown of great proportions.

When I arrived in this position in 2009, I began the process of identifying those real estate assets in our control that were not essential to our mission and to the support of our operating budget. It was the intention that those assets could be disposed of to support our identified mission goals: families, young adults, our schools, affordable housing and responsible planning. However, it soon became apparent that the sale proceeds were to be allocated to support the settlements with those who had filed for sex abuse claims which happened more than 40 years ago. Except for two parcels that have been on the market for the last two years, there are no more non-essential (non-mission) properties to be sold. In addition, what few non-essential properties that are left is being used as collateral for the debt incurred to support the settlements.

What remains are churches, schools and our offices. As you may know, we have closed several schools over the past 10 years. Our prior hopes were to support our schools, build affordable housing, plan for our priest and lay retirees and build another church for those who are living in west Oahu. We are at a crossroad. Our assets are depleted. The institution known as the Catholic Church is only made up of people who go to our churches, the Catholic and non-Catholic students in our schools and their families, and the people that we serve in the community through our alliance organizations: Catholic Charities Hawaii and Hope Services Inc.. Should the years of open filing be extended, then how do we plan for our students and our families? Should treble damages continue to be included in this bill, it will probably be the schools and parishes that we will need to close and sell in the future. Which ones should we choose? The rural locations? The urban locations? These are all people in your districts. Real people, not a faceless institution with endless resources. I ask that you reconsider these two issues in the proposed legislation, HB 570.

LATE

HB-570-HD-2

Submitted on: 4/5/2021 4:50:24 PM

Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaikea K. Blakemore	Testifying for Neighborhood Place of Puna	Support	No

Comments:

Support

LATE

HB-570-HD-2

Submitted on: 4/5/2021 6:54:12 PM

Testimony for JDC on 4/6/2021 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kekoa McClellan	Testifying for The Roman Catholic Church in the State of Hawaii	Comments	No

Comments:

Aloha Chair Rhoads,

Please accept this testimony, providing comments on and offering suggested amendments to HB570 H.D. 2, relating to the sexual abuse of minors.

First and foremost, on behalf of our client, the Diocese of Honolulu (the name of the Roman Catholic Church in Hawaii) and their nearly 250,000 members across the State, the Diocese supports an extension of the current statute of limitations regarding the sexual abuse of a minor. Simply put, the current two year statute of limitations for victims of childhood sexual abuse to file a civil claim against their abuser or their abuser's employer is not long enough.

The following are suggested amendments intended to preserve the intent of HB570 H.D. 2, extending the amount of time for victims of childhood sexual abuse to file a claim, while considering the legal concerns with and the impact on kama'aina communities of the bill as written. These amendments ensure the right of any defendant in these cases to a fair trial, weigh the impact of this measure on our State's independent schools and churches, and seek to include the victims of childhood sexual abuse who may not be covered by this measure in its current form.

Suggested amendments:

Waiver of the State's sovereign immunity. HB570 H.D. 2 does not go far enough and should be amended to cover victims who suffered abuse while in the care of the State. As written, HB570 H.D. 2 does not specifically waive the State's sovereign immunity for civil action by victims of childhood sexual abuse who were abused by an individual in the employ of the State Department of Education or any other State department, agency, or program. Forgetting these victims rubs salt in the open wounds of survivors of abuse who attended public schools or who were in the care of a person under the State's employ, victims who may be left with little or no recourse under the law as written.

Deletion of Treble Damages. The treble damages provision effectively creates a new tort that jeopardizes the insurance policies that an organization may have had in place in the past, providing insurance companies with a back door to deny claims and leaving our local churches and independent schools without coverage to support a victim's claim. California appears to be the only state that passed a treble damages law for similar cases and that law is already being challenged in the courts. With this provision in place, a single claim against one of our smaller independent schools and local churches could leave the church or school bankrupt, and the victims without recourse.

Deletion of the line "domiciled within the State" from section 2 (b) (1) found on page 4, line 15 of HB570 H.D. 2. Many abusers did not work for a church or school that was "domiciled" in the State. As written, this language leaves some victims without recourse to their abuser's employer altogether while inadvertently shifting liability to the local affiliates of an abuser's employers.

Replacing the 50 year window of time to a more functional standard. The current law on the books must clearly be changed, two years after a child's 18th birthday is not nearly enough time to file a claim. As written, HB570 H.D.2 affords 50 years from a victim's 18th birthday. This window of time, as articulated by the State's Attorney General, makes it very difficult for a local church or one of our State's independent schools to defend themselves against unscrupulous plaintiffs lawyers who may abuse the statute. It has been the suggestion of some in law enforcement and prosecution that 25 years from a victim's 18th birthday provides victims with enough time to file a claim without eroding a defendant's right to a fair trial, while other State's took a more prescribed approach to a statute, like New York which recently extended the state's statute of limitations for civil claims until a victim reaches age 55.

Thank you for your and your committee's leadership on this bill. This is a topic that leaves everyone of us with a pit in our stomach, wanton for justice, in search of reconciliation, and filled with a desire to find a way to aloha all of those negatively impacted by these stains on our shared history.

Mahalo for your time and consideration of these comments and suggested amendments.

LATE

COMMENTS FOR HB 570-MARCH 24, 2021

My name is Dara Perreira-Balmores and I am a practicing Catholic from Kalaheo, Kaua`i. My home parish is Holy Cross Church. I have two children, ages 9 and 6, who attend St. Theresa Catholic School in Kekaha, Kaua`i. I feel that as a Catholic, a wife, a mother and a member of my community it is important for me to comment and provide feedback for your consideration of HB 570.

The Catholic faith is an integral part of how I live, how I work and how I raise my family. There are a number of Catholic churches and schools in the State of Hawaii which has for years served as places of worship, fellowship and outreach to the community. The Catholic churches have a reach into our communities where some non-profits and government agencies cannot, and provides assistance to the poor, marginalized and forgotten. The Catholic school system has educated tens of thousands of children over the years.

The sexual misconduct claims have rocked our faith communities and shaken even those with the strongest faith. As a mother of young children I am angered, disappointed and heartbroken at the thought of children being abused in the Church. I was not yet born or was a toddler during the span of when the majority of these alleged incidents occurred. Most of those individuals being accused are no longer alive to defend themselves. If they were, and if found guilty, we would have been able to properly serve justice to the victims through the judicial system. I do believe in justice for the victims, especially children.

I would also like to mention that for twelve years now, I have served as the Human Resources Director of the Diocese of Honolulu. I oversee, along with a full-time Director for the Protection of Young People (Safe Environment), the vetting and training of all adults who have contact with minors, including priests. When these heinous activities occurred years ago, there was no standard education for adults or children about abuse. Today we have multiple ways of educating our church leadership, employees and volunteers, parents and adults. We provide up to date information on the frequently changing world of abuse including abuse via technology. We have strict policies and codes of conduct for adults that outline boundaries in working with minors. We have parishioners with legal, law enforcement, health care and social work backgrounds who volunteer their time to train and educate our church community about abuse and to be contacts available for others to reach out to. We have a confidential hotline to report abuse of any kind, if it took place in our church or outside our church, we help anyone in need.

The Catholic Church has been extremely saddened and discouraged by these sexual misconduct incidences, and has taken responsibility for what happened in the past. We also want to be responsible in preventing abuse from taking place in the future. One abuse case is one too many. However, opening the statute of limitations and the remedies as suggested can reverse the progress and strides we have made. Reporting claims 50 years after one's 18th birthday, especially when the alleged perpetrator is no longer alive or when both parties or witnesses have faded memories, lessens the opportunity to properly discover the truth. This may also lead to frivolous claim reporting. The Church may then have to rely on settlement payments which in turn takes away from our mission of forming individuals and families in our faith, educating thousands of Hawaii's children and caring for the poor and most vulnerable and for our communities at large.

I understand that I may be one of a few who do not agree with the bill as written and I do not fault anyone for supporting children that have experienced abuse and see this bill at face value. However, I don't believe they fully understand the big picture of the thousands of other children, poor, needy and marginalized communities who we serve that will be affected by a potential bankruptcy. I kindly ask that you please consider reducing the proposed statutory reporting period to 15 or 25 years after a

potential victim's 18th birthday. This way proper investigations of allegations, support for victims and consequences for perpetrators may be served properly through the established channels of justice and the valuable mission of the church may continue for generations to come.

Sincerely,

April 5, 2021

LATE

HB 570 Testimony

OPPOSE HB 570

My name is Jayne Mondoy and I live in the Moanalula Gardens neighborhood on the island of Oahu. As a kama'aina member of our community in the State of Hawaii, I write to oppose HB 570 which, if passed, will have a devastating impact on me, my family, and our State.

As a practicing Catholic, my parish/church is a valuable place of worship, where I am grounded in faith, and whose pastors and parishioners have supported me throughout my life. My child received a Catholic education during her formative years and graduated from a Catholic university. Inspired by our faith, we as a family serve the greater needs of our island community in many ways.

Our State has benefitted from the leadership and contributions of countless men and women who are graduates of the Catholic schools and/or have roots in Catholic parish education programs. These persons are oriented toward justice and service. Many have received tuition assistance from the Church in order to complete their educations and achieve their dreams.

The financial impact related to the passage of HB 570 may result in the forced closure of Catholic parishes and schools, thus greatly diminishing the quality of life for me and/or many of the approximately 250,000 other Catholics in our State.

For decades, and especially throughout the Covid-19 pandemic, Catholic non-profit organizations have made significant contributions to the entire community, providing funds for rental relief, food distribution, care for our kupuna, and much more. Our advocacy efforts on behalf of the poor have helped the State to close funding gaps for the critical programs that serve this population.

The Catholic Church has developed a comprehensive "safe environment" program which teaches children and adults how to identify, report, and – ultimately – prevent sexual abuse. As a person who is on the "front lines" of ministry to children and their parents, I can attest to their effectiveness. Every parish across the State is committed to the safe environment program which is viewed as not merely a "mandate" but a moral imperative central to our Christian mission.

The safe environment program has been so successful that other non-profit organizations look to the Church as they formulate their programs for the education and prevention of child sex abuse.

HB570 as written targets the very Church that assists the State with responding to the overwhelming social service needs of the people of our island communities. The length of time a person has to be able to file a sex abuse claim and the treble damages have the potential for creating a devastating financial impact on our ability to continue to educate, reach out and accompany families, to minister to persons who feel alienated, and struggling to cope in these difficult economic times.

Our State need more, not fewer, collaborators in our shared desire to "live aloha."

Please vote NO on HB 570.

LATE

Senate Committees on Ways and Means and Judiciary
HB570 HD2
Tuesday, April 6, 2021, at 9:45 a.m. In Room 211

Dear Chair Dela Cruz, Chair Rhoads, Vice Chair Keith-Agaran, Vice Chair Keohokalole and Honorable Members,

My name is Lisa Sakamoto and I was raised in Kaneohe where I attended St. Ann School before graduating from Maryknoll High School. Our family (my mother, father, husband, and two boys) currently reside in the Ainakoa area and are parishioners of Mary Star of the Sea Church. My two boys are also Eagle Scouts.

I am very concerned about the impact HB 570 HD2 will have on our community's future. Please reconsider the bill – especially the length of time of 50 years to something more reasonable. I agree 2 years is too short but 50 years after your 18th birthday would allow claims occurring in the 1950s and 1960s to impact an organization where most of any accused predators as well as the administrators at that time are no longer alive and unable to defend themselves. Due to the passage of time, reliable factual evidence may no longer exist and could cause settlements of unsupported claims. We see this now when the statutes of limitations were lifted through April 24, 2020.

Further, the current bill allowing treble damages would cause substantial harm to any organization that is simply trying to do good in our community especially if the organization is unable to seek recovery from organizations that are NOT domiciled within the State of Hawaii who may have been responsible for the duty of care to the victim.

Finally, excluding the State of Hawaii from the statutes simply leaves a vulnerable population from ever seeking resolution. If we truly care about protecting our keiki then we should make sure state institutions are equally held accountable for their actions.

For all these reasons, I humbly request you reconsider the passage of HB570 HD2 in its current form.

I too share in the pain of the stories of those who were harmed by those few who took advantage of our keiki. As the current diocesan finance officer for the Roman Catholic Church in the State of Hawaii, I can assure you that our church has done everything to assist the victims and we will continue to do so. We are also committed to making sure our keiki are well protected today and our safe environment program is our highest priority. But HB570 HD2 in its current form will lead any organization, including our church, trying to do good in our community to financial ruin. Therefore, the organization would no longer be able to serve the vulnerable population of our State as well as educating our keiki through schools, scouting, and other life enriching programs.

Please do not pass House Bill 570 HD 2 in its current form. In doing so, all the good work that so many of these organizations are positively contributing to the greater community will be gone.

LATE

HB-570-HD-2

Submitted on: 4/5/2021 8:57:43 PM

Testimony for JDC on 4/6/2021 9:45:00 AM

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

Comments:

Please support HB570 to lengthen the time that child sexual abuse victims have to report the abuse. I have 43 years experiend in Child Welfare and I know that it is difficult for children to reveal what happened to them..

Thank you for the opportunity to provide testimony.

Barbara J. Service MSW (ret.)

Senior advocate.