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## SHERYL HAUK

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2258 Shore Hill Dr  
West Bloomfield, MI  
48323

Dear Honorable House Judiciary 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

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Planned Parenthood Votes Northwest and Hawai'i

To: Hawai'i State House of Representatives Committee on Judiciary and Hawaiian Affairs  
Hearing Date/Time: Thursday, Feb. 11, 2021, 2:00 pm  
Place: Hawai'i State Capitol, Rm. 325  
Re: Testimony of Planned Parenthood Votes Northwest and Hawai'i in support of HB 570, HD1

Dear Chair Nakashima and Members of the Committee,

Planned Parenthood Votes Northwest and Hawai'i ("PPVNH") writes in support of HB 570 and supports any amendments recommended by the Sex Abuse Treatment Center.

- Survivors of childhood sexual abuse more often than not, withhold disclosure for many, many years.
- 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.
- Studies have shown age 52 as the average age of disclosure for victims of child sexual abuse. HB 570 extends the SOL to within fifty years of the 18<sup>th</sup> birthday of the minor. This aligns with the national trend to either eliminate or extend civil SOL.
- HB 570 also extends the time a survivor of childhood sexual abuse may bring forth an otherwise time-barred action.
- It takes tremendous courage for a minor to disclose sexual assault. Failure to respond appropriately to a disclosure of sexual abuse heightens trauma. HB 570 allows for treble damages when gross negligence is found.
- The possibility of court ordered trauma-informed response training for the personnel of the legal entity involved is included. 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 gives survivors 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.

Thank you for this opportunity to testify in support of this important legislation.

Sincerely,  
Laurie Field  
Hawai'i State Director



February 9, 2021

House's Committee on Judiciary & Hawaiian Affairs  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Hearing: Thursday, February 11, 2019 – 2:00 p.m.

**RE: SUPPORT for House Bill 570 with Requested Amendment**

Aloha Chair Nakashima, Vice Chair Matayoshi 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

**HB-570-HD-1**

Submitted on: 2/9/2021 6:44:28 PM

Testimony for JHA on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I strongly support HB570. The only change I would make is to eliminate the statute of limitations.

Mike Golojuch, Sr.

Secretary, Rainbow Family 808

Date: February 10, 2021

To: Mark Nakashima, Chair  
Scot Matayoshi, Vice Chair  
House Committee on Judiciary & Hawaiian Affairs

From: Jasrael Feeney, Outreach Worker & UHM Student  
Residential Youth Services & Empowerment  
Thompson School of Social Work

RE: Testimony in Strong Support of HB570 HD1  
Relating to Sexual Abuse of Minors

Hearing: Thursday, February 11, 2021 2:00PM, Room 325 via Videoconference

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Aloha Chair Nakashima, Vice Chair Matayoshi, and Members of the House Judiciary and Hawaiian Affairs Committee;

Thank you for providing the opportunity to submit written testimony in **strong support** of HB570 HD1.

I am a student at University of Hawaii at Manoa with Junior standing in the Thompson School of Social Work. I am also an outreach worker with Residential Youth Services and Empowerment. We work with homeless and at-risk youth and young adults on the island of Oahu, and encourage them to move past homelessness. We work closely with other organizations, and also provide our clients with wraparound services such as case-management and behavioral health services. Again, I am testifying in support of HB570 HD1 as a whole, but with an emphasis on the expansion of the time period by which a civil action for childhood sexual abuse must be initiated, along with the push for training on trauma-informed response.

The delay in disclosing child sex abuse happens for a variety of complex and overlapping reasons. Child victims face many barriers that prevent disclosure. Among other barriers, children often lack the knowledge needed to recognize sexual abuse, lack the ability to articulate that they've 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. Trauma that results from the abuse, power differentials between the child victim and adult perpetrator, and institutional power dynamics all impact the delay. Research shows that most people who experience sexual abuse in childhood do not disclose until adulthood. Therefore, narrow statutes of limitation can prevent the punishment of perpetrators on the criminal side, and prevent redress on the civil side. The average age at the time of reporting child sex abuse is about 52 years. This tells us that we should expand the time period by which a civil action for childhood sexual abuse must be initiated.

The organization I work for actively engages in efforts to promote a more trauma-informed and trauma-responsive service system for children and young adults. It is critical that parents,

teachers, and healthcare providers have conversations about childhood sexual abuse early and often. Trauma-informed adults and parents should have a plan on how they would respond if faced with a disclosure. Many adult survivors of childhood sexual abuse described the secondary trauma they faced when they discussed their abuse, or the truth was discovered. When adults respond with disbelief, rigorous questioning, blaming the child for not saying something sooner, or rationalizing the information in a way that discredits the child's experience or unintentionally blames the child for the abuse, more damage is then done to the child. For community settings to be trauma-sensitive, they need to work towards the goal of ensuring their participants feel safe and comfortable. Creating an environment and a culture of trust is the first critical step to engage those with past trauma. Training on trauma should be standard for all professionals within an organization and should be the new standard of care. Making sure that clients have a sense of control over what happens to them is important.

In conclusion, I urge you to pass HB570 HD1 as a permanent state-based solution to the problem of statute of limitations regarding the reporting of child sexual abuse and the lack of training on trauma-informed response. I thank you for the opportunity to present this testimony and I look forward to seeing positive changes happen in our state.

Sincerely,  
Jasrael Feeney  
District 10



## HB 570, HD 1, RELATING TO SEXUAL ABUSE OF MINORS

FEBRUARY 11, 2021 · HOUSE JUDICIARY AND  
HAWAIIAN AFFAIRS COMMITTEE · CHAIR REP.  
MARK M. NAKASHIMA

**POSITION:** Support.

**RATIONALE:** Imua Alliance supports HB 570, HD 1, relating to sexual abuse of minors, which 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; 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](mailto:kris@imuaalliance.org)**



February 10, 2021

The Honorable Mark M. Nakashima, Chair,  
And Honorable Members of the House Committee on Judiciary & Hawaiian Affairs  
The Hawaii Legislature  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

RE: H.B. 570, relating to sexual abuse of minors

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Dear Chairman Nakashima and members of the House Committee on Judiciary & Hawaiian Affairs,

Thank you for allowing us, Professor Marci Hamilton of CHILD USA and Kathryn Robb of CHILD USA Advocacy, 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](http://www.childusa.org/law).

Kathryn Robb is the Executive Director of CHILD USA Advocacy, a 501(c)(4) advocacy organization dedicated to protecting children's civil liberties and keeping children safe from abuse and neglect. CHILD USA Advocacy 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. 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.**<sup>1</sup> 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.<sup>2</sup> It is now settled that PTSD, memory deficits, and complete disassociation are common coping mechanisms for child victims.<sup>3</sup>

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.”<sup>4</sup> Studies suggest that many victims, as much as 33%, never disclose their abuse.<sup>5</sup> 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.<sup>6</sup>

In fact, the **average age of disclosure of child sexual abuse in a study of 1,000 victims was 52 years-old.**<sup>7</sup> Yet, until recently, many states blocked criminal charges and civil lawsuits well before

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<sup>1</sup> 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).

<sup>2</sup> 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](https://www.justice.gc.ca/eng/rp-pr/jr/trauma/trauma_eng.pdf) (hereinafter “Hoskell”).

<sup>3</sup> 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>.

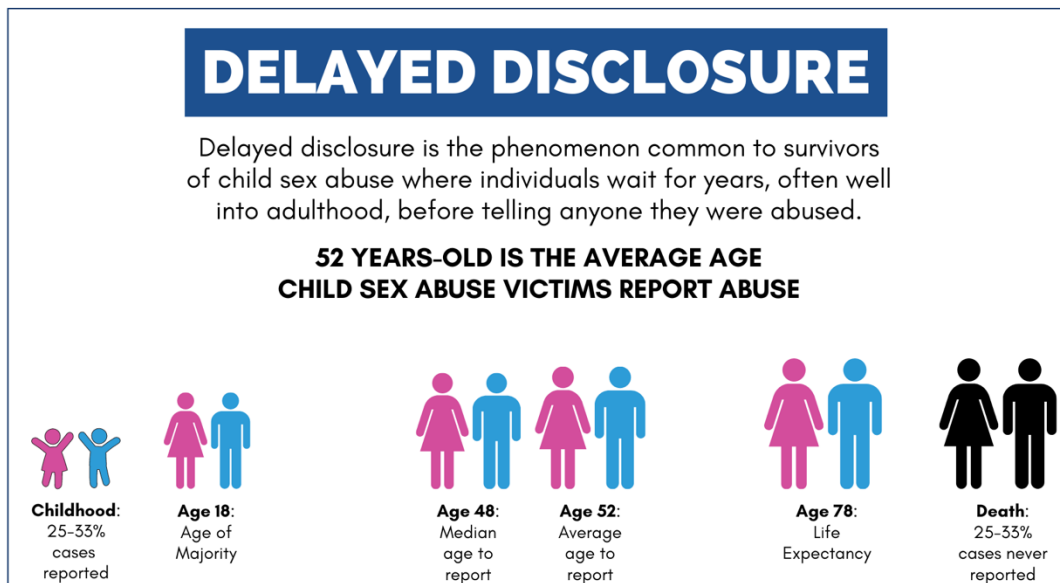
<sup>4</sup> CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA.ORG, 3 (Mar. 2020) available at <https://childusa.org/wpcontent/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf>. (citing N. Spröber et. al., *Child sexual abuse in religiously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

<sup>5</sup> *Id.*

<sup>6</sup> Hoskell, at 24.

<sup>7</sup> 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>.

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 Increasing Victims' Access to Justice and 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.

## 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](http://www.childusa.org)

**CHILD USA**  
THE NATIONAL THINK TANK FOR CHILD PROTECTION

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

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.

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.

When predators are exposed, particularly high-profile ones like Larry Nassar and Jeffrey Epstein, 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. By shedding light on the problem, parents and others are better able to identify abusers and responsible institutions and prevent further abuse. They are also able to better educate children to be aware of the signs of grooming and abusive behavior and create more social awareness to help keep kids safe.

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

### 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 2020 SOL Report.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup> By February of 2021, 22 states have already introduced SOL reform bills.<sup>12</sup>

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.

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<sup>9</sup> 2020 SOL Report, CHILDUSA.ORG (last visited Feb. 10, 2021), available at [www.childusa.org/sol-report-2020](http://www.childusa.org/sol-report-2020).

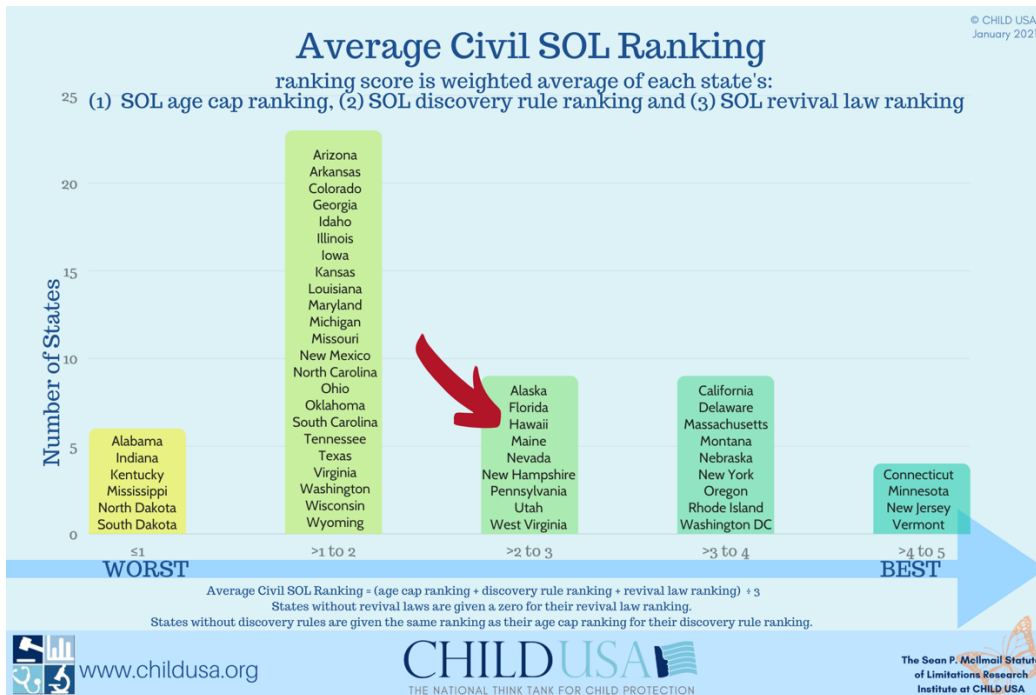
<sup>10</sup> For more information on SOL reform in 2019, visit *2019 Summary of Child Sexual Abuse Statutes of Limitations (SOLs): Introduced, Signed into Law and State Laws by Category*, CHILDUSA.ORG (last visited Jan. 22, 2021), available at [www.childusa.org/2019sol](http://www.childusa.org/2019sol).

<sup>11</sup> See *2020 SOL Summary*, CHILDUSA.ORG (last visited Jan. 30, 2021), available at [www.childusa.org/2020sol](http://www.childusa.org/2020sol).

<sup>12</sup> See *2021 SOL Summary*, CHILDUSA.ORG (last visited Jan. 30, 2021), available at [www.childusa.org/2021sol](http://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.<sup>13</sup> 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.**

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,<sup>14</sup> 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.

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 all types of defendants
A	California, Delaware, Hawaii New Jersey & New York	Window open for 2 or more years for claims against all 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

www.childusa.org

CHILDUSA  
THE NATIONAL THINK TANK FOR CHILD PROTECTION

The Sean P. McInnis Institute of Limitations Research  
Institute of CHILDUSA

<sup>13</sup> For a comprehensive overview of SOL revival laws, see *Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited Jan. 30, 2021), available at [www.childusa.org/law](http://www.childusa.org/law).

<sup>14</sup> 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](http://www.childusa.org/law).



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.  
Robert A. Fox Professor of Practice  
Senior Resident Fellow, Program for  
Research on Religion  
University of Pennsylvania  
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Kathryn Robb, Esq.  
Executive Director  
CHILD USA Advocacy  
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**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 570, H.D. 1, RELATING TO SEXUAL ABUSE OF MINORS.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Thursday, February 11, 2021      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

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

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Chair Nakashima 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 6 through 15, 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 3, line 20 through page 4, line 2, 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 4, line 21 through page 5, line 9, 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.

A new subsection (e) at page 6, line 18 through page 7, line 12, allows a plaintiff to request, and a court to order, that the personnel of the legal entity undergo training on trauma-informed response to allegations of sexual abuse and states what specific elements "trauma-informed response" would include.

Because best practices for implementing a comprehensive trauma-informed response may evolve over time, and trauma-informed mental health professionals who provide training may have different approaches to deal with each situation and context, we would recommend the sentence at p. 7, lines 1 -2, be changed from "includes" to "may include," to allow for appropriate flexibility in training.

Finally, we point out that with the new electronic filing rules that are now in effect, the wording of subsection (d) on page 5, lines 18 – 20 should be clarified as follows:

(d) In any civil action filed pursuant to subsection (a) or (c), a certificate of merit shall be filed by the attorney for the plaintiff, and shall be electronically filed under sealed and remain confidential.

Thank you for the opportunity to testify.

Date: February 10, 2021

To: The Honorable Mark Nakashima, Chair  
The Honorable Scot Matayoshi, Vice Chair  
House Committee on Judiciary & Hawaiian Affairs

From: Trent Pada, University of Hawaii at Manoa Student  
Thompson School of Social Work & Public Health  
Po'ailani Inc.

H.B. NO. 570 H.D.1

Hearing: February 11,2021

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Aloha Chair Nakashima, Vice Chair Matayoshi, and members of the House Committee on Judiciary & Hawaiian Affairs:

Thank you for providing the opportunity to submit a written testimony in support of HB570 HD1.

I am a student at University of Hawaii at Manoa with Junior standing in the Thompson School of Social Work & Public Health. I am also a residential monitor at Po'ailani Inc. We work with those in the criminal justice system and severe mental health population, located on the east side of Oahu. I am testifying in support of HB570 HD1 as a whole, stress on expanding the time period by which civil action for childhood sexual abuse must be put in place, along with awareness to trauma and trauma educational programs.

Due to untreated trauma, patients report having been sexually abused while growing up and not speaking of their unfortunate events until exposed in a safe environment. More than half of the population in each cycle of rotation at the facility with patients report these personal issues of sexual abuse while they were a minor. Due to the trauma from sexual abuse that has occurred with person(s) well over times mentioned in the bill statement. Many ages vary within their reports disclosing when the perpetrator committed the overt/covert act. This tells us that we should expand the time period by which a civil action for childhood sexual abuse must be addressed.

The organization I work for addresses many forms of trauma and these types of issues as they occur, but only scratching the surface as to addressing the issues of person being sexually abused as a minor. The program does provide resources for wrap-around services such as caseworkers, therapy, psychiatry, group homes/clean and sober living with the continuum of care after leaving the residential program at Po'ailani Inc. It is vital that these issues are addressed and within our facility for the patients and Public Health. They are solely focused on client's mental health and substance abuse rehabilitation. Although I am still a student and do not have clinical credentials, I see time after time that patients re-enter the residential program dealing with the same underlying issues of early childhood sexual abuse, mental health and drug/alcohol addiction.

In conclusion, I personally urge that you pass the HB570 HD1 as a standing basis to working towards the solution in the issue regarding the statute of limitations to reporting of child sexual abuse and the insufficient number of programs that facilitate specialized educational programs which support untreated trauma. I thank you for this opportunity to share this testimony and I look forward to seeing the positive outcomes we in the state observe come to life.

Sincerely,  
Trent Pada  
District 6  
Undergraduate Student/Residential Monitor  
University of Hawaii at Manoa Thompson School of Social Work  
Po'ailani Inc.  
45-567 Pahia Rd.,  
Kaneohe, HI 96744

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)

HOUSE OF REPRESENTATIVES  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2021

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

TO: Rep. Mark M. Nakashima, Chair  
Rep. Scot Z. Matayoshi, Vice Chair

FROM: TALBERT LAW LLLC, Honolulu, Hawai'i  
Attorneys for Plaintiff Victims of Child Sexual Abuse

HEARING DATE: Thursday, February 11th, 2021

I. [Support for HB 570, HD1 \(companion SB 833\) Relating to Sexual Abuse of Minors; Oppose SB 163.](#)

Pending HB 570, HD1 closes critical loopholes and removes ambiguities defendants and legal entities are using to sidestep liability for child sexual abuse. These defendants are using current language in the law as a free pass to sexual molest Hawaii's children when our children are on a school-sponsored event outside of our State. Our schools routinely take our children out-of-state to participate in athletic, scholastic, cultural and leadership activities. Sexual predators and pedophiles should not have open season on our children merely because the school-sponsored event is occurring beyond our State's border. HB 570 HD1 deletes this loophole.

Although not under consideration, we do oppose SB 163 because it eliminates the current right of a victim of abuse to bring a lawsuit when he or she discovers the child sexual abuse occurred and is the cause of his/her dysfunction. Whether or not discovery has occurred is governed by existing law. Thus,, we do not comprehend why SB 163 eliminates this right.

II. [Who we are.](#)

We are beneficiaries of the endowment established by Princess Bernice Pauahi Bishop, Ke Ali'i in the line of Kamehameha, for the children of Hawai'i. She 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 she watches the dream she had for the children of Hawai'i turn into a nightmare for those subjected to child sexual abuse.

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 liberties in the interest of social justice. We have and are representing adults who led dysfunctional lives until they connected child sexual abuse with their traumatized existence. These adults who were given a chance to seek justice seized upon it as a critical step to healing.

III. [HB 570, HD1 \(companion SB 833\) are 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 Hawaii's children.

[The Loophole.](#) The Hawai'i window statute is an opportunity for an adult, who was a child victim, to seek justice for sexual molestation occurring decades ago. At the same time, the law also protects victims of child sexual abuse ("CSA") that is occurring contemporaneously. 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. A victim is without recourse that frustrates the purpose of a window statute.

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 beyond Hawaii's boundaries, a mere three nautical miles!

As a concrete example, sexual abuse perpetrated upon student athletes has come to light and is being litigated in our circuit courts. 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.

IV. In the interest of protecting and guiding Hawaii's citizens, the law should require any plaintiff and/or legal entity to be a resident of and/or domiciled in the State of Hawaii 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 Hawaii 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 Hawaii; and stating a legal entity can be held responsible if it 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 Hawaii.

V. In §657-1.8, section 2, the statement "A civil cause of action for the sexual abuse of a minor shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707" does not extend constitutional and procedural rights in a criminal prosecutions to this civil case.

HB 570 and SB 833 refer to part V or VI of chapter 707 in defining the basis for a civil cause of action sounding in child abuse. Chapter 707 in Hawaii's laws refers to our Penal Code. At least one Court has concluded that due to this reference, a defendant in a civil case for child sexual abuse is therefore entitled to the protections given a defendant in a criminal matter. The civil court plaintiff must prove certain elements of the crime to succeed on the civil side. One way of looking at this is to say a plaintiff must try a "case within a case." He or she must prove a criminal offense occurred as it would be tried in the criminal part in order to succeed on the civil side.

It seems unlikely the Legislature intended the Penal Code to be infused into a civil case for child sexual abuse to that degree. Certainly, the Penal Code definition of sexual abuse can be used to define the wrongdoing forming the basis for a civil cause of action. In order to eliminate any ambiguity about the Legislature's intent, we recommend the following be included in Committee reports:

The purpose of HB 570 HD1 (companion SB 833) is to amend various Sections of 657-1.8, Hawaii Revised Statutes. This law incorporates the definition of sexual acts by stating in section (2): A civil cause of action for the sexual abuse of a minor shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707. This reference to Hawaii's Penal Code and the definition of cognizable claims in a civil case is not intended to grant a plaintiff in a civil cause of actions any of the procedural requirements and/or constitutional protections afforded to a criminal defendant being prosecuted pursuant to Hawaii's Penal Code.



We recommend this inclusion in the committee record because there is a distinct difference between the procedural and constitutional rights allowed a defendant accused of a crime and the rights of a defendant in a civil case.

Constitutional protections are in place in a criminal prosecution because, if found guilty, one is deprived of civil liberties, indeed, in some states a loss of life. In a civil lawsuit, a finding of liability results in an award of monetary damages and/or certain performance requirements. Constitutional protections such as due process, the right to counsel, the right to remain silent do not apply in a civil case. Put another way, if you're a convicted felon, one of the penalties imposed upon you is the loss of your right to vote. If you're found liable in a civil case, there are damages, not penalties, and not the loss of your right to vote.

Thus, guidance to the courts and to practitioners is critical to eliminate any ambiguity that is then open to judicial interpretation. The reference to Hawaii's Penal Code is for the purpose of defining the prohibited sexual contact and not for the purpose of affording a civil defendant the rights inherent in a criminal prosecution.

## VI. CONCLUSION.

HB 570 HD1 (companion SB 833) 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

Encl: Proposed Committee Statement: "The purpose of referring to Hawaii's Penal Code, in HRS §657-1.8, section 2, is to define a civil cause of action for the sexual abuse of a minor which does not include importing procedural and constitutional rights afforded a person in a criminal prosecution."

### Proposed J&HA Committee Statement

“The purpose of referring to Hawaii’s Penal Code, in HRS §657-1.8, section 2, is to define a civil cause of action for the sexual abuse of a minor, which does not include importing procedural and constitutional rights afforded a person in a criminal prosecution.”

The purpose of HB 570 HD1 (companion SB 833 is to amend various Sections of 657-1.8, Hawaii Revised Statutes. These bills continue to incorporate the definition of sexual acts by stating in section (2): A civil cause of action for the sexual abuse of a minor shall be based upon sexual acts that constituted or would have constituted a criminal offense under part V or VI of chapter 707. This reference to Hawaii’s Penal Code is not intended to grant a plaintiff in a civil cause of actions any of the procedural requirements and/or constitutional protections afforded to a criminal defendant being prosecuted pursuant to Hawaii’s Penal Code.

Constitutional protections are in place in a criminal prosecution because, if found guilty, one is deprived of civil liberties, indeed, in some states a loss of life. In a civil lawsuit, a finding of liability results in an award of monetary damages and/or certain performance requirements. Constitutional protections such as due process, the right to counsel, the right to remain silent do not apply in a civil case. If you're found liable in a civil case, there are generally monetary damages, not penalties and the loss of one’s civil liberties.

Thus, guidance to the courts and to practitioners is critical to eliminate any ambiguity that is then open to judicial interpretation. A plaintiff need not prove a crime was committed and/or assisted by any person and/or legal entity. The reference to Hawaii’s Penal Code is for the purpose of defining the prohibited sexual contact and not for the purpose of affording a civil defendant the procedural and constitutional rights inherent in a criminal prosecution. //

02/11/2021

Executive Director  
Cindy Shimomi-Saito

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**Date:** February 11, 2021

**To:** The Honorable Mark Nakashima, Chair  
The Honorable Scot Matayoshi, 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 HD1  
Relating to Sexual Abuse of Minors

**Hearing:** Thursday, February 11, 2021, Via videoconference

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Good afternoon Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Sex Abuse Treatment Center (SATC) is in very **strong support of HB 570 HD1.**

Studies on delayed discovery through CHILD USA<sup>1</sup> 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 18<sup>th</sup> 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

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<sup>1</sup> Delayed discovery studies available at [www.childusa.org/delayed-disclosure](http://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 and respectfully asks you to take this needed action. Thank you for the opportunity to provide testimony.

**HB-570-HD-1**

Submitted on: 2/10/2021 3:00:59 PM

Testimony for JHA on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pilialoa Callahan	Individual	Support	No

Comments:

I believe that we can all benefit from proper training on how to handle and help victims of sexual abuse. I also believe that it is wise to extend the period in which a minor may come forth and speak about their trauma as it is not an easy thing to do. Many victims feel unsafe and uneasy about going forward with their abuse but the better trained professionals in the field of this area, I believe, the more likely it is to have an outcome of a victim seeking help and justice.

**HB-570-HD-1**

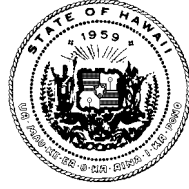
Submitted on: 2/10/2021 5:41:57 PM

Testimony for JHA on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Justin Mark Hideaki Salisbury	Individual	Support	No

Comments:

Support



‘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 HD1  
February 11, 2021

Aloha Chair Nakashima, Vice Chair Matayoshi, and Honorable Members,

The Hawai‘i State Commission on the Status of Women supports HB570 HD1, 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 HD1 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 HD1. Thank you for this opportunity to provide testimony on this issue.

Sincerely,

Khara Jabola-Carolus



Dear Chair Yamane, Vice Chair Tam, and committee members:

I am a survivor of childhood sex abuse and I support HB 570.

Extending the time to bring suit for civil action is very important due to the nature of childhood sex Abuse (CSA). CSA is confusing, creates feelings of shame, guilt and anger, and destroys your ability to trust. Your ability to connect with other people is crippled since you feel alone and that the abuse was your fault. Many people's lives have been ruined by sex abuse; destructive effects include depression, addiction, and suicide.

As a survivor, talking about the abuse is hard...as a male survivor, near impossible. Our culture and toxic masculinity make it difficult for men to seek help. It can take many years after the abuse to even admit what happened, let alone seek the mental health attention needed to accept and move on. I lead a men's peer support group in Hawaii that has attendees of up to 10 men at a meeting, with many more men aware of the group but not ready to meet in a group just yet. The men are in favor of extending the window legislation and the civil statute of limitations but would rather have the statute eliminated entirely. Also, the men consider limiting the monetary damages a victim can recover to only "treble damages" is a slap in the face. These entities chose money and reputation over the safety of children and should not be protected by insincere politicians like Rep Belatti, who has killed past statute of limitation bills in the past. It's a joke to think "trauma-informed response" will have any credible or lasting effect on entities. Entities need the fear of punitive damages to make any real and lasting changes to protect children.

I ask the respected committee members today to please consider HB570 but eliminate the statute of limitations and the language limiting damages (treble damages). Please show that you support survivors and their recovery by giving them the chance to speak out against their perpetrators and feel whole again. Thank you.

Andre Bisquera

**HB-570-HD-1**

Submitted on: 2/10/2021 9:17:15 PM

Testimony for JHA on 2/11/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice Chair and members,

As the Co-Chair Emeritus of the Hawaii Women's Coalition I have spent decades hearing the gut-wrenching stories and testimony of victims who suffer life-long consequences from this most heinous of crimes.

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

Please, Please pass this measure. Our common humanity demands justice for victim survivors.

Mahalo,

Ann S. Freed

Co-Chair Emeritus, Hawaii Women's Coalition