



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Higher Education
February 7, 2023 at 3:00 p.m.

By

Jan Gouveia

Vice President for Administration
University of Hawai'i

SB 236 – RELATING TO VICTIM-COUNSELOR PRIVILEGE

Chair Kim, Vice Chair Kidani, and Members of the Committee:

Thank you for the opportunity to present testimony on SB 236 – Relating to Victim-Counselor Privilege. The University of Hawai'i ("University") supports this bill.

SB 236 expands the existing victim-counselor privilege held by community-based victim counseling programs to advocates employed by the University. Previously, as part of Act 208, Session Laws of Hawai'i 2016, the Legislature required the University to designate confidential advocates at each campus to provide confidential advocacy support to victims of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. However, the law did not provide a mechanism to guarantee confidentiality to students and employees seeking services of campus-based advocates. Additionally, overall privilege does not apply to the University based on the definition of victim counseling programs under the statute.

Since 2016, many individuals have sought help from University confidential advocates. However, one of the most important factors in deciding to not seek assistance is confidentiality concerns, out of an individual's fear that disclosure could lead to retaliation via further abuse and harassment. This is evidenced by data showing that of the students who reported experiencing some form of sexual misconduct in the 2021 Systemwide Campus Climate Survey on Sexual Harassment & Gender-Based Violence and not seek help through the University, 22.2% purport they did not report because they feared their experiences would not be kept confidential. Furthermore, over 41% of students who experienced any type of sexual or gender-based violence reported experiencing academic or professional consequences, including reduced academic performance, dropping classes, and considering leaving the university.

The University supports expanding the victim-counselor privilege to include its University confidential advocates and the important services they provide. The University's confidential advocates continue to ensure victims can share information and receive better support from the University. This in turn allows University community members to continue to succeed in their educational, personal, and professional goals. Absent expanding the victim-counselor privilege to include the University confidential advocates,

victims may be less likely to share information, in fear that information may be later subpoenaed for court proceedings against their wishes. A decision to not seek the support of a confidential advocate could lead to lasting negative impacts on the educational and professional lives of University community members long after an incident occurs.

Thank you for the opportunity to testify on SB 236.



To: Senator Donna Mercado Kim, Chair
Senator Michelle Kidani, Vice Chair
Committee on Higher Education

From: Lynn Costales Matsuoka, Executive Director
The Sex Abuse Treatment Center,
A Program of Kapi'olani Medical Center for Women and Children

Re: Victim Counselor Privilege, SB 236

Date: February 5, 2023

Good morning, Chair Donna Mercado Kim and Vice Chair Michelle Kidani on the Committee on Higher Education.

The Sex Abuse Treatment Center (SATC) is in support of SB 236, Relating to Victim-Counselor Privilege. This bill would expand the Victim-Counselor Privilege under the Hawai'i Rules of Evidence Rule 505.5 to include confidential advocates employed by the University of Hawaii.

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

Mandating confidential advocates to undergo a minimum of 35 hours of training, ensures they will have the knowledge, and skill to provide quality services to victims and align the confidential advocate with other victim counselors provided by this rule.

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

Thank you for the opportunity to provide testimony in support of SB 236.



HAWAII STATE
COALITION AGAINST
DOMESTIC VIOLENCE

February 7, 2023

Members of the Senate Committee on Higher Education:

Chair Donna Mercado Kim
Vice Chair Michelle N. Kidani
Sen. Carol Fukunaga
Sen. Gilbert S.C. Keith-Agaran
Sen. Kurt Fevella

Re: SB236 Relating to Victim Counselor Privilege

Dear Chair Kim, Vice Chair Kidani and Members of the Senate Committee on Higher Education:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses the social, political, and economic impacts of domestic violence on individuals, families, and communities. We are a statewide partnership of domestic violence programs and shelters.

On behalf of HSCADV and our 28 member programs statewide, I respectfully submit testimony in **strong support of SB236**. This bill expands the victim-counselor privilege under Rule 505.5 of the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i, and increases the training requirements for domestic violence advocates from 25 hours to 35 hours.

Survivors within the University of Hawai'i system, whether they are students or employees, should be afforded the same confidentiality protections as they would receive from community advocates and other service providers. This measure would enable more students and employees would be willing to disclose their victimization and in doing so, the opportunity to receive critical services such as safety planning. Currently, there are gaps in confidentiality and for many survivors in higher education, it can dissuade them from seeking the appropriate assistance, access to justice and resources to heal from their trauma.

Increasing the minimum number of hours of training a domestic violence advocate from 25 to 35 would better prepare them to work with survivors of domestic violence in a trauma-informed and survivor-centered manner. This requirement is overdue for an update - Hawai'i has one of the lowest training requirements in the nation, with most states requiring an average of 35 hours.

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

Sincerely,
Angelina Mercado, Executive Director



February 7th, 2023

Dear Chair Kim, Vice-Chair Kidani, and honorable members of the Senate Higher Education Committee,

My name is Anna Ezzy and I am the co-State Director of the Every Voice Coalition, a student-led organization working to end sexual violence on college campuses. I am honored to submit testimony today in **support** of the totality of SB236: Relating to Victim-Counselor Privilege. Passing SB236 is crucial to sustaining trust between Confidential Advocates and the campus communities they serve by ensuring Advocates are truly confidential and cannot be made to share victims' private notes anywhere that a victim does not wish their information to be shared.

Confidentiality is a substantial barrier for victims to access help after experiencing sexual violence; in 2021, one in five victims at the University of Hawai'i shared that they did not report their experiences because they feared it would not be kept confidential (2021 UH Campus Climate Survey). As a student at the University of Hawai'i as well as a survivor of campus sexual violence, I personally understand the importance of confidential resources for victims getting the support they need to heal and continue in their education. Campus survivors often do not have the information they need to make informed decisions that will impact their educational, personal, and professional trajectories, and almost 50% of sexual violence survivors at UH in 2021 reported negative academic and/or professional consequences, a significant increase from 2019.

Confidential Advocates fill a crucial role on University of Hawai'i campuses as a safe place for students to learn their options for support, both on campus and off campus. However, a Confidential Advocate without confidentiality privilege is misleading to students, poses additional risks for survivors, and increases institutional distrust. As a single person on campus that has access to the experiences of survivors, confidential advocates are holders of sensitive information. No victim should be barred from accessing a Confidential Advocate because they fear losing control over their story by having it shared without their consent.

Thank you for the opportunity to submit testimony in **support** of SB236 and mahalo for all you do to support the health and safety of Hawai'i's students.

Sincerely,

A handwritten signature in cursive script that reads 'Anna Ezzy'.

Anna Nalani Ezzy

co-State Director

Every Voice Coalition Hawai'i



To: Senate Committee on Higher Education
Hearing Date/Time: February 7, 2023 3PM
Re: Testimony in SUPPORT of SB236

Dear Chair Kim, Vice Chair Kidani, and the Members of Committee,

Members of Hawaii State Democratic Women's Caucus thank you for this opportunity to testify in support of SB236 which would ensure that Confidential Advocates at the University of Hawaii have victim-counselor privileges as well as the minimum number of hours of training required for other victims advocates in Hawaii.

Most students experiencing domestic violence or sexual assault, 5 out of 6 in case of University of Hawaii, did not use campus resources. One in five victims at the University of Hawaii did not report because they feared their experiences would not be kept confidential. SB236 would protect the privacy of student survivors and build students' trust in University of Hawaii's resources.

Please support the students by passing SB236. Thank you for your consideration.

Sincerely,

Members of Hawaii State Democratic Women's Caucus

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls.



To: Senate Committee on Higher Education
Hearing Date/Time: February 7, 2023 at 3:00PM
Place: Hawai'i State Capitol, Room 229
Re: Testimony in STRONG SUPPORT of SB236

Dear Chair Kim, Vice Chair Kidani, and Members of the Committee,

Members of AAUW of Hawaii thank you for this opportunity to testify in strong support of SB236 which would ensure that Confidential Advocates at the University of Hawai'i have victim-counselor privilege as well as equal training requirements to other victims-advocates in Hawai'i. These actions are needed to protect the privacy of student survivors and build campus community trust in University of Hawai'i's supportive resources.

AAUW research shows that nearly two-thirds of college students nationally experience some type of sexual harassment. The repercussions of campus violence are serious: the 2021 Campus Climate Survey of the University of Hawai'i showed 46% of students reported negative academic or professional consequences after experiencing gender violence, a significant increase in percentage from 2019. Yet 5 out of 6 of students experiencing gender violence did not access campus resources post-incident. Confidentiality is a substantial barrier to getting help: one in five victims at the University of Hawai'i shared that they did not report their experiences because they feared it would not be kept confidential.

The purpose of a Confidential Advocate is extremely important, as they open doors and clarify options for students in the process of navigating college after experiencing sexual violence. SB236 is a crucial measure to guarantee true confidentiality for advocates who have access to sensitive information about the experiences of survivors. Without privilege, confidential advocates could serve as an easily accessible repository for defendants who want to devalue the perspective of a survivor by accessing this information through legal means. No victim should have to avoid accessing a Confidential Advocate for fears of confidentiality. Now is the time more than ever to act and support students by passing SB236.

The American Association of University Women (AAUW) of Hawaii is an all volunteer, statewide chapter of a national organization and is made up of six branches: Hilo, Honolulu, Kaua'i, Kona, Maui, and Windward O'ahu. UH Hilo, UH Mānoa, UH Maui College, and Windward Community College are also AAUW partners. AAUW's mission is to advance gender equity for equal opportunities in education, at workplace and for economic security, and in leadership.

with Aloha,
Public Policy Committee, AAUW of Hawaii
publicpolicy-hi@auw.net

TESTIMONY IN SUPPORT OF SB 236

TO: Chair Kim, Vice Chair Kidani, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

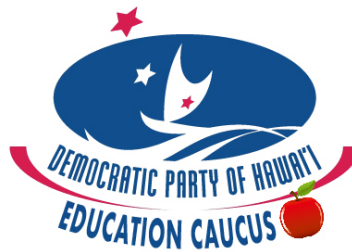
DATE: February 7, 2023 (3:00 PM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 236, which expands the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i. The bill also increases the minimum number of hours of training a domestic violence victims' counselor must complete to be considered a victim counselor.

This measure would enable more students and employees would be willing to disclose their victimization and in doing so, the opportunity to receive critical services such as safety planning. Currently, there are gaps in confidentiality and for many survivors in higher education, it can dissuade them from seeking the appropriate assistance, access to justice and resources to heal from their trauma.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions, and have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.



SENATE BILL 236, RELATING TO VICTIM-COUNSELOR PRIVILEGE

FEBRUARY 7, 2023 · SENATE HIGHER EDUCATION
COMMITTEE · CHAIR SEN. DONNA MERCADO KIM

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus **supports** SB 236, relating to victim-counselor privilege, which expands the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i and increases the minimum number of hours of training a domestic violence victims' counselor must complete to be considered a victim counselor.

According to the Rape, Abuse and Incest National Network, the nation's largest anti-sexual violence organization, 11.2 percent of all college students experience rape or sexual assault through physical force, violence, or incapacitation. Among undergraduate students, 23.1 percent of females experience rape or sexual assault through physical force, violence, or incapacitation. This issue is not specific to women, either. Male college-aged students (18-24) are 78 percent more likely than non-students of the same age to be a victim of rape or sexual assault. Sexual violence is pervasive on college campuses in Hawai'i. According to UH's most recent climate survey, conducted in 2021:

- Approximately 35 percent of students at the University of Hawai'i feel that the issues of sexual assault and sexual harassment are extremely, very, or somewhat problematic.

- 9.2 percent of students at the University of Hawai'i experienced sexual harassment while at the university according to the 2021 campus climate survey.
- 18.5 percent of students at the University of Hawai'i experienced dating or domestic violence while at the university according to the 2021 campus climate survey.
- 6 percent of students at the University of Hawai'i experienced nonconsensual sexual contact while at the university according to the 2019 campus climate survey, an increase of 14 percent since 2017.
- 100 percent of students experiencing sexual harassment reported negative consequences from the incidents, such as emotional trauma and adverse academic impacts.

To provide UH students with the strongest possible protections from sexual and gender violence, we should ensure that confidential advocates have the legal privilege that is necessary to sustain confidential communication with survivors. If survivors can trust that an advocate to whom they report incidents of trauma will not be compelled to initiate disciplinary or legal proceedings, then they will be far more likely to seek the support they need to heal and, ultimately, if they choose, pursue a formal claim about the harm they have endured.

Kris Coffield · Chairperson, DPH Education Caucus · (808) 679-7454 · kriscoffield@gmail.com



SB 236, RELATING TO VICTIM-COUNSELOR PRIVILEGE

FEBRUARY 7, 2023 · SENATE HIGHER EDUCATION
COMMITTEE · CHAIR SEN. DONNA MERCADO KIM

POSITION: Support.

RATIONALE: Imua Alliance supports SB 236, relating to victim-counselor privilege, which expands the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i and increases the minimum number of hours of training a domestic violence victims' counselor must complete to be considered a victim counselor.

According to the Rape, Abuse and Incest National Network, the nation's largest anti-sexual violence organization, 11.2 percent of all college students experience rape or sexual assault through physical force, violence, or incapacitation. Among undergraduate students, 23.1 percent of females experience rape or sexual assault through physical force, violence, or incapacitation. This issue is not specific to women, either. Male college-aged students (18-24) are 78 percent more likely than non-students of the same age to be a victim of rape or sexual assault. Sexual violence is pervasive on college campuses in Hawai'i. According to UH's most recent climate survey, conducted in 2021:

- Approximately 35 percent of students at the University of Hawai'i feel that the issues of sexual assault and sexual harassment are extremely, very, or somewhat problematic.
- 9.2 percent of students at the University of Hawai'i experienced sexual harassment while at the university according to the 2021 campus climate survey.

- 18.5 percent of students at the University of Hawai'i experienced dating or domestic violence while at the university according to the 2021 campus climate survey.
- 6 percent of students at the University of Hawai'i experienced nonconsensual sexual contact while at the university according to the 2019 campus climate survey, an increase of 14 percent since 2017.
- 100 percent of students experiencing sexual harassment reported negative consequences from the incidents, such as emotional trauma and adverse academic impacts.

To provide UH students with the strongest possible protections from sexual and gender violence, we should ensure that confidential advocates have the legal privilege that is necessary to sustain confidential communication with survivors. If survivors can trust that an advocate to whom they report incidents of trauma will not be compelled to initiate disciplinary or legal proceedings, then they will be far more likely to seek the support they need to heal and, ultimately, if they choose, pursue a formal claim about the harm they have endured.

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



February 1st, 2023

Aloha Senate Committee on Higher Education, Chair Kim, and Vice-chair Kidani.,

My name is Gwynne Long and I am a student at the University of Hawai'i Hilo. I appreciate the opportunity to testify in SUPPORT of SB236 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i.

Students who have been assaulted have been physically or emotionally exposed to somebody without their consent, why should they be exposed again by somebody they confide in? Knowing that you have a trained professional to lean on, without the potential risk of them going to court to testify is a small ask for somebody who has gone through a great deal of emotional turmoil. Providing confidential advocates on campus will allow survivors to have a safe space where they can begin or continue their healing process. Too many survivors refuse to seek help, because they are fearful that their own words and expression of feelings will then be used against them in court. We now have the opportunity to change that by giving survivors a safe space where they can freely express their trauma in a comfortable, secure, and confidential environment. This is a resource that can be utilized to protect survivors and keep them safe, because harboring their trauma can only lead to greater risk, including but not limited to detrimental impacts to their mental health.

The purpose of the University of Hawai'i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass SB236 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Signed,
Gwynne Long



February 7, 2023

Aloha Senate Committee on Higher Education,

My name is Jessie and I am a student at the University of Hawai'i Hilo. I appreciate the opportunity to testify in SUPPORT of SB236 Relating to Victim-Counselor Privilege to include University of Hawai'i Confidential Advocates in having legal victim-counselor privilege as well as equal training requirements to other victims' advocates in Hawai'i.

Not providing survivors with confidential resources greatly reduces the chance that they will use the resources. Survivors should not have to worry about the circumstances under which their attack happened, or have to consider repercussions. They should be able to feel safe and protected by the programs in place and the people they are talking to. Anything else takes away from the crime at hand, causing further trauma to the survivor, and distracts from getting them justice.

The purpose of the University of Hawai'i Confidential Advocates is to open doors and clarify options for students in the process of navigating college after experiencing sexual violence. However, a Confidential Advocate without victim-counselor privilege is misleading to students and poses serious risks for survivors disclosing sensitive information. Please pass SB236 to ensure students can access truly confidential resources on campus.

Mahalo for your dedication to equity in education and the health of our campus communities in Hawai'i.

Mahalo,
Jessie Gunderman



February 6th, 2023

Aloha Chair Kim, Vice-Chair Kidani, and honorable members of the Senate Higher Education Committee,

My name is Lily Bohem James, I am a 2021 college graduate and serve as co-Executive Director of The Every Voice Coalition, and **I am testifying in support of SB236.**

There is an epidemic of sexual violence on our college campuses. To put some context into what students are experiencing every day on campuses: estimates show that 1 in 10 students will experience sexual violence during their time in college which means some 6,000 currently enrolled Hawai'i students have experienced or will experience sexual violence. **This is an outrage, but our society has grown numb to the realities that students face in their communities.** Beyond just the numbers, I ask you to think about what happens in the aftermath of these traumatic incidents– Where do these students go? Who do they talk to? What resources do they have to help them heal physically, emotionally, and mentally?

Right now, student survivors are not receiving the support they need following an experience of sexual violence. Indeed, 82.4% of University of Hawai'i students reported negative consequences after experiencing sexual violence at UH. Many student survivors will take leaves of absence or drop out of college altogether and many of these students will experience PTSD, depression, and/or misuse alcohol or drugs, often as a means of self-medication. Further, estimates show that the lifetime cost of rape– often including student loan debt as a result of adverse impacts on a survivor's educational trajectory– to be over \$122,000 per survivor.

Expanding victim-counselor privilege to include confidential advocates employed by the University of Hawai'i is a crucial step to ensuring students can access resources and receive the support they need. Advocates serve as a critical point person to direct students to resources, facilitate accommodations, and ensure that lack of knowledge is not a barrier for access.

However, students must know that the information and details they share with Advocates is kept confidential. Without that guarantee, students will never be able to feel completely comfortable and confident in their ability to seek support and help. Indeed, 1 in 5 student survivors at the University of Hawai'i shared that they did not report their experiences because they feared it would not be kept confidential. **Expanding victim-counselor privilege is a critical step to strengthen these already crucial champions on campus.**

Thank you so much for listening to the voices of students, young alums and survivors. I urge the committee to vote SB236 favorable out of committee.

With urgency,

Lily Bohem James
Co- Executive Director, The Every Voice Coalition

SB-236

Submitted on: 2/4/2023 5:34:36 PM

Testimony for HRE on 2/7/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
panelopi mckenzie	Individual	Support	Written Testimony Only

Comments:

I am in support of SB 236

SB-236

Submitted on: 2/4/2023 10:31:03 PM

Testimony for HRE on 2/7/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alexandra Chou	Individual	Support	Written Testimony Only

Comments:

It is imperative for our students to have a confidential person to go to when they are in need

SB-236

Submitted on: 2/6/2023 7:23:05 AM

Testimony for HRE on 2/7/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bryana Turner	Individual	Support	Written Testimony Only

Comments:

SB236

Expansion of Victim Counselor Privilege to Campus Advocates and Increases DV training to 35 hours

This bill expands the victim-counselor privilege under Rule 505.5 of the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i, and increases the training requirements for domestic violence advocates from 25 hours to 35 hours.

Survivors within the University of Hawai'i system, whether they are students or employees, should be afforded the same confidentiality protections as they would receive from community advocates and other service providers. This measure would enable more students and employees would be willing to disclose their victimization and in doing so, the opportunity to receive critical services such as safety planning. Currently, there are gaps in confidentiality and for many survivors in higher education, it can dissuade them from seeking the appropriate assistance, access to justice and resources to heal from their trauma.

Increasing the minimum number of hours of training a domestic violence advocate from 25 to 35 would better prepare them to work with survivors of domestic violence in a trauma-informed and survivor-centered manner. This requirement is overdue for an update - Hawai'i has one of the lowest training requirements in the nation, with most states requiring an average of 35 hours.

SB-236

Submitted on: 2/6/2023 9:54:10 AM

Testimony for HRE on 2/7/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dr. Faith Joyner	Individual	Support	Written Testimony Only

Comments:

Aloha, I support this bill. Mahalo for your consideration.

LATE

SB-236

Submitted on: 2/7/2023 3:12:30 AM

Testimony for HRE on 2/7/2023 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom a Kanaka Maoli.

I'm writing in SUPPORT of SB236.

me ke aloha 'āina,

Nanea Lo, Mō'ili'ili