



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2208, RELATING TO SEXUAL ABUSE OF MINORS.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES, AND HOMELESSNESS

DATE: Thursday, February 10, 2022 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 329, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Caron Inagaki, Deputy Attorney General

Chair Yamane 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 18 - 21, would extend the statute of limitations for a victim of child sexual abuse to bring a civil claim for money damages against any person from eight years to thirty-two years after the eighteenth birthday of the victim regardless of when the incident occurred, and, at page 4, lines 1 - 6, from three years 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, whichever occurs later.

The bill amends section 657-1.8(b), HRS, at page 4, lines 11 through 17, by closing the window of time for a victim of child sexual abuse to bring a claim against the perpetrator or a legal entity if the victim was barred from filing a claim due to the expiration of the statute of limitations.

The bill, at page 6, line 19, to page 9, line 19, adds to section 657-1.8, HRS, new subsections (e) and (f) that provide a process to serve and name defendants in actions filed pursuant to subsection (b). At page 9, line 20, to page 10, line 14, a new subsection (g) is also added that allows a plaintiff to request that the personnel of a

legal entity undergo training on trauma-informed response to allegations of sexual abuse.

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.

Additionally, a more specific concern is the new subsection (e). Subsection (e) requires a judge, before a defendant is served, to review a certificate of merit (required by subsection (d), at page 5, line 19, to page 6, line 18) and make a determination, based solely on the certificate of merit, that there is "reasonable and meritorious cause" for filing the action against that defendant. A conflict may arise if the judge who has already determined that a claim has merit is also the judge who is the sole and ultimate trier of fact. Such a judge may find it difficult to remain objective and impartial if that judge has already reached certain conclusions as to facts and liability, even before a defendant has made an appearance. This is a particular concern for the State of Hawai'i because, pursuant to the State Tort Liability Act, section 662-5, HRS, virtually all tort actions against the State will be tried without a jury. To avoid this problem, we recommend the following amendment to subsection (e) at page 6, line 21:

(e) In any action filed pursuant to subsection (b), a defendant shall not be served, and the duty to serve a defendant with process shall not attach, until the court, other than a judge who is or will be the trier of fact in that action, has reviewed the certificates of merit filed pursuant to subsection (d) with respect to that defendant, and has found in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant

Thank you for the opportunity to make comments.



February 10, 2022

TO: Representative Ryan Yamane, Chair
Representative Adrian Tam, Vice Chair and
Members of the Committee of Health, Human Services, and Homelessness

From: Hawaii State Democratic Women's Caucus

RE: HB 2208 Relating to Sexual Abuse of Minors

POSITION: SUPPORT

The Hawaii State Democratic Women's Caucus write in support of HB 2208 Relating to Sexual Abuse of Minors. This measure is vital to give sexual abuse victims the ability to file suit when they are ready for disclosure. Many victims are not able to disclose the abuse for decades.

The proposed language in this bill is based on a California statute and not only expands the time period during which a victim of childhood sexual abuse may initiate a civil action, but also addresses the concerns of unlimited exposure of defendants to potential lawsuits.

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

We ask the committee to pass this bill. Thank you for the opportunity to provide testimony in support.



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For a Healthy Hawai'i

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TESTIMONY IN STRONG SUPPORT OF HB2208 RELATING TO SEXUAL ABUSE OF MINORS

[COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS](#)

Rep. Ryan I. Yamane, Chair
Rep. Adrian K. Tam, Vice Chair

DATE: Thursday, February 10, 2022
TIME: 9:00AM
PLACE: VIA VIDEOCONFERENCE
Conference Room 329

Thank you for the opportunity to submit testimony in support of HB 2208 which will extend the period during which a victim of childhood sexual abuse (CSA) may bring an otherwise time-barred action against the victim's abuser or a legal entity having a duty of care. The bill also includes safeguards against unsubstantiated or fraudulent claims of past abuse. This legislation will not only bring long overdue justice to survivors, but it will also greatly reduce the present danger to children in Hawai'i by exposing hidden predators who are still abusing children today. The members of the Hawaii Psychological Association provide mental health treatment for many children and adults who are survivors of CSA, and we know that this legislation is needed by the people we serve. We applaud the legislators who have introduced this important measure.

This testimony draws on extensive social science research, including the work of many psychologists. Most of this information was compiled by the national advocacy group Child USA (<https://childusa.org>) which focuses on laws and issues related to child abuse and neglect, and which has worked on reforming statutes of limitation (SOL) in many states.

There is a lot of information available that is relevant to this proposed legislation. We would like to emphasize several major conclusions from the literature:

- A. **Child sexual abuse is prevalent:** in several meta-analyses, prevalence rates of CSA were 20% or higher for girls in North America and over 7% for boys.^{1,2,3}
- B. **CSA causes serious emotional and psychological damage to the young people who are victimized:** in one study, female CSA survivors were two to four times more likely to attempt suicide, and male CSA survivors were four to 11 times more likely to attempt suicide.⁴
- C. **Research on the effects of trauma from CSA demonstrates that delays in disclosure of the abuse are common – often delays of several decades.** In one study, 44.9% of male victims and 25.4% of female victims of CSA delayed discussing their abuse with anyone for more than 20 years.⁵ Another study found that between 70% and 95% of child sexual assault victims never report the abuse to authorities.⁶

D. Victims and society benefit when perpetrators are held accountable even years after the abuse: Research has found a higher rate of PTSD symptoms in CSA victims delaying disclosure compared to those who did not delay disclosure.⁵ Whenever disclosure occurs, it potentially can prevent victimization of other children. One study found that 7% of offenders sampled committed offenses against more than 40 children, and the highest time between offense and conviction was 36 years.⁶ By allowing claims for past abuse to be brought to court, hidden predators are brought into the light and are prevented from further abusing more children.

We urge the committee to endorse HB2208 and ensure that survivors of sexual abuse can seek compensation for their years of suffering even if it takes them many years to sort out their feelings and report what happened to them.

Respectfully submitted,

Alex Lichten, Ph.D.
Hawaii Psychological Association
Chair, Legislative Action Committee

References

¹G. 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)

²M. Stoltenborgh, et. al., *A Global Perspective on Child Sexual Abuse: Meta-Analysis of Prevalence Around the World*, 16(2) *CHILD MALTREATMENT* 79 (2011)

³N. Pereda, et. al., *The prevalence of child sexual abuse in community and student samples: A meta-analysis*, 29 *CLINICAL PSYCH. REV.* 328, 334 (2009).

⁴Beth E. Molnar et al., *Psychopathology, Childhood Sexual Abuse and other Childhood Adversities: Relative Links to Subsequent Suicidal Behaviour in the US*, 31 *PSYCHOL. MED.* 965 (2001).

⁵Patrick J. O'Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 *J. CHIL. SEX. ABUSE* 133 (2008).

⁶Kamala London et al., *Review of the Contemporary Literature on How Children Report Sexual Abuse to Others: Findings, Methodological Issues, and Implications for Forensic Interviewers*, 16 *MEMORY* 29, 31 (2008)

⁷Sarah E. Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 *J. CHILD SEX. ABUSE* 19, 30 (2007).

HB-2208

Submitted on: 2/9/2022 8:56:17 AM

Testimony for HHH on 2/10/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lynn Costales Matsuoka	Sex Abuse Treatment Center of Hawaii	Support	Yes

Comments:

SATC is in support of HB 2208. Full testimony will be submitted.

HB-2208

Submitted on: 2/7/2022 6:48:08 PM

Testimony for HHH on 2/10/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mike Golojuch, Sr.	Individual	Support	No

Comments:

I support HB2208.

HB-2208

Submitted on: 2/8/2022 3:27:01 PM

Testimony for HHH on 2/10/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Luca Rizzi	Individual	Support	No

Comments:

Dear Chair, Vice-Chair, and Committee Members,

I write in support of HB2208.

While not a survivor of child sexual abuse, I am a rape survivor, having been sexually assaulted and raped in my early twenties. While the pain and the psychological and emotional consequences of child sexual abuse are different from what I have experienced, I also did not disclose my sexual assault until over 15 years after the occurrence. I blamed myself, I felt a deep sense of shame, and I buried the events as deep as they could go. My primary coping mechanism was denial. Then, two years ago, the effects of PTSD reared their ugly heads. I started experiencing depression, anxiety, panic attacks, and suicidal thoughts. If this is how difficult it was for me to deal with my experience as an adult, I can only imagine how incredibly difficult it must be for a child.

The current statute of limitations only serves the perpetrators, and the institutions that want to protect them. There is no possible logical justification for not prosecuting these heinous crimes and requiring victims to come forward promptly. They can only come forward when they are ready, not when the law requires it.

Thank you for your attention and for the time you are dedicating to this issue.

Luca Rizzi

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

I am a survivor of childhood sex abuse and I support HB 2208.

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. Most of the men in the Hawaii Men's Peer Support Group for Sex Assault Survivors are my age (45) or older. Therefore, please modify from 32 years to 50 years from age 18 to match the language in Bill SB2717, a similar Statute of Limitations bill.

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-2208

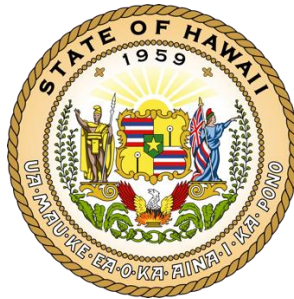
Submitted on: 2/9/2022 1:27:08 AM

Testimony for HHH on 2/10/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Younghee Overly	Individual	Support	No

Comments:

Thank you for this opportunity to testify in support of HB2208 which would expands the time period by which a civil action for childhood sexual abuse may be initiated to 32 years after the victim's 18th birthday.



‘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 H.B. 2208 with Amendments

Dear Chair Yamane, Vice Chair Tam, and Honorable Members,

The Hawai‘i State Commission on the Status of Women **supports** H.B. 2208, which would extend the time period by which a civil action for childhood sexual abuse must be initiated and allow for damages if there is a finding of gross negligence. We request one friendly amendment outlined below.

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.

Please pass H.B. 2208.

Mahalo,
Khara

Executive Director
Cindy Shimomi-Saito

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Date: February 10, 2022

To: Representative Ryan Yamane, Chair
Representative Adrian Tam, Vice-Chair
Members of the Committee on Health, Human Services, & Homelessness

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

RE: Testimony on HB 2208
Relating to Sex Abuse of Minors

Hearing: February 10, 2022, via video conference, 9:00 AM

Good Morning Chair and Members of the Judiciary Committee:

The Sex Abuse Treatment Center (SATC) is in support of the intent of HB 2208, but has reservations to the added provisions relating to the filing requirements imposed upon victims seeking to pursue a civil action against those responsible for the sexual abuse.

The SATC supports the time extension to file a civil action by 32 years after the minor turns 18 years old. This would allow a victim who was sexually abused as a child to bring a civil suit by the age of 50 years, which is in line with the national trend extending the civil statute limitations to age 50 and beyond, as well as those states that have eliminated the civil statute of limitations altogether.

The SATC further supports the provision (g) requiring trauma informed training of personnel of any legal entity that is named as a defendant in a civil action. We submit that the training should be specific to the dynamics of sexual abuse of minors and include some provision that requires the legal entity to take immediate action to protect the child from further harm.

The SATC does have reservation regarding the added provisions of (e) and (f) which are patterned after the California statute. Here, victims would be saddled with additional requirements when filing against a legal entity. More concerning is the requirement that legal entities could not be immediately identified in any given complaint, regardless of a victims knowledge of who that entity may be and the facts supporting the culpability of that entity. Instead, victims are required to identify any legal entity as a "doe" defendant, then satisfy requirements beyond what is already required under Hawaii Rules of Civil Procedure Rule 17 relating to unidentified defendants. A sexual assault victim should not be required to satisfy additional legal requirements that are not required of any other litigant. These requirements also,

lends itself to the further secrecy of the sexual abuse, by requiring victims to actively engage in keeping the identity of the legal entity hidden, and placing the power of the disclosure with a judge. For these reasons, the SATC respectfully requests that amendments be made to HB 2208 by deleting subparagraphs (e) and (f).

Thank you for your consideration.

TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO HB 2208

Date: Thursday, February 10, 2022

Time: 9:00 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** to HB 2208, Relating to Sexual Abuse of Minors.

HAJ supports the amendments extending the statute of limitations for HRS 657-1.8, however, we oppose the proposed subsections (e) and (f) as both place an onerous burden on the victim in filing the suit and creates more barriers to holding perpetrators of child sexual assault accountable. In particular, subsection (e) requires the court to determine at the outset of the lawsuit whether there is a meritorious claim rather than allowing for a jury to decide. Subsection (e) requires the court to evaluate child sexual abuse claims *prior to serving* the complaint, rather than leaving that critical task to the triers of fact, a jury. The practical effect of such a requirement is that it will be more difficult for victims of child sexual abuse to bring their claims and seek justice. This will act as a deterrent and become an additional reason why victims don't disclose sexual abuse.

Further, Subsection (f) relates to naming a new defendant after the case is filed. This subsection again puts the determination of merit into the hands of the Court and out of the hands of the finder of fact. This abrogates Hawaii Rules of Civil Procedure (HRCPP), Rule 17 which deals with unidentified defendants:

“(3) Any party may, by motion for certification, make the name or identity of the party defendant known to the court within a reasonable time after the moving party knew or should have known the name or identity of the party defendant. The motion shall be

supported by affidavit setting forth all facts substantiating the movant's claim **that the naming or identification has been made in good faith and with due diligence**. When the naming or identification is made by a plaintiff, it shall be made prior to the filing of the pretrial statement by that plaintiff, or within such additional time as the court may allow. The court shall freely grant reasonable extensions of the time in which to name or identify the party defendant to any party exercising due diligence in attempting to ascertain the party defendant's name or identity.” HRCF Rule 17(d)(3) (emphasis added).

(4) When a party defendant has been named or identified in accordance with this rule, the court shall so certify and may make any order that justice requires to protect any party from undue burden and expense in any further proceedings involving the party defendant. HRCF Rule 17(d)(4).

The procedure for naming unidentified defendants already provides safeguards for late-named parties and does not require the court to make determinations of merit at the outset of the lawsuit. In turn, proposed subsection (f) will have the consequence of making it more difficult for victims of sexual abuse to hold their abusers accountable.

The addition of these subsections is concerning and give the impression that the legislature is more interested in protecting the rights of the perpetrators than they are in protecting the victims. It’s important to note that this is a civil liability statute, not criminal, and therefore, the normal constitutional rights of the accused that are central in criminal law should not apply. If there is a concern about plaintiff’s lawyers bringing “unsubstantiated or fraudulent claims”, Rule 11 already prevents the filing of frivolous lawsuits with no factual basis. Requiring victims to file certificates of corroboration intrude on Rule 17 and Rule 11 of the Hawaii Rules of Civil Procedure which already guard against the filing of frivolous or fraudulent claims.

While HAJ appreciates the legislature’s concern regarding unsubstantiated or fraudulent claims, there are not hundreds of cases being dismissed because of lack of merit, nor are there thousands of frivolous sex abuse cases clogging up the courts. On the contrary, there are still very few sex abuse cases being filed because victims of abuse are

still afraid of coming forward. This bill will only make it harder for victims of child sexual abuse to bring claims by requiring the Courts to make factual determinations of merit at the outset of the lawsuit.

For these reasons we oppose this measure and respectfully recommend that subsection (e) and (f) from page 6, line 19 to page 9, line 19 be deleted. Thank you for allowing us to testify regarding this measure. Please feel free -to contact us should you have any questions or desire additional information.

HB-2208

Submitted on: 2/9/2022 6:04:57 PM

Testimony for HHH on 2/10/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair, Vice Chair and members,

This bill address the long-standing problem of sex assault on minors. I am in support of this measure, but defer to the expertise of the professionals at the Sex Assault Treatment Center for the specifics,

Mahalo,

Ann S. Freed

Life-time Feminist in Mililani

ADMITTED TO THE PRACTICE OF LAW IN THE STATES OF HAWAII, NEW YORK AND NEW JERSEY

TALBERT LAW LLLC

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

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HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2022
COMMITTEE ON HEALTH, HUMAN SERVICES & HOMELESSNESS

TO: Rep. Ryan I. Yamane, Chair
Rep. Adrian K. Tam, Vice Chair

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

HEARING DATE: Thursday, February 10th, 2022

I. SUPPORT HB2208 *IN CONCEPT* REGARDING EXPANDING STATUTE OF LIMITATIONS; AND OPPOSE IMPOSING ADDITIONAL PROCEDURAL REQUIREMENTS ON VICTIMS.

HB2208 starts off recognizing law is needed to address the fact “that there are many reasons children delay disclosing sexual abuse,” at p. 1, lines 10-11, and then ends by imposing burdens and hurdles no other civil plaintiff is required to overcome, at p.6, lines 19-21, p. 7-9, to line 19. Mililani Trask and I are compelled to testify today because, in particular, we are beneficiaries of Ke Ali'i Bernice Pauahi's dream and legacy. We attended Kamehameha School (“KS”) and, it is incumbent upon us, her beneficiaries, to ensure her dream is fulfilled.

II. EXPANDING STATUTE OF LIMITATIONS.

We support opening the window on the statute of limitations although we question why there is a 32-year post-18th birthday cut-off, at p. 3 lines 18-21? What is the logic for limiting a claim based upon one's age? Are victims over a certain age disqualified from seeking justice?

If HB2208 had been law, the thirty-two former students of KS who sued Doc Browne and Kamehameha would have been out of luck. That case was filed in 2016 and KS ultimately settled for \$80M. Apparently, the case had merit and KS was not successful in having the case dismissed. Since most of the plaintiffs would have turned 18 in the 1970's, they would have had to file by 2006/2007. Justice would have eluded these victims who would have aged out. Thus, we support a window statute that follows the precedent of prior legislation in which potential plaintiffs were given a period of time within which to file, *regardless of their age*.

III. OPPOSE UNIQUE PROCEDURAL HURDLES FOR VICTIMS.

We oppose adding procedural obstacles, found in sections (e) and (f), upon child sex abuse victims. Protections currently exist for defendants in Hawaii's Rules governing civil practice. What is the problem HB2208 is trying to solve? Is there data showing an alarming number of child sex abuse cases have no merit? and, are being dismissed? Or is HB2208 simply an effort to amend Hawaii's law because we want to be like California in its child sex abuse window statute? If that's the reason, why?

We do we have factual information here in Hawai'i about these cases. As stated earlier, thirty-two plaintiffs came forward suing Kamehameha School and that case settled. Currently in the litigation pipeline, there are dozens more, primarily against Kamehameha School. KS plaintiffs experienced everything from rape and sodomy to sexual molestation. These are indigenous, native Hawaiians and part Hawaiians who were children at the time. The trauma was so severe some adults committed suicide after extensive emotional and psychological dysfunction; and others struggle with the trauma to this day.

While we do not suggest the sponsors of HB2208 intentionally sought to disproportionately burden victims in Hawaii's indigenous population, the bill has that effect. HB2208 also adds layers of procedural requisites unique to this victim class as a whole. One wonders whose interests are served by making it more difficult for child sex abuse plaintiffs to come forward to seek justice. We believe any victims are entitled to a fair shot, like any other plaintiff. Nothing more and nothing less. HB2208 does not maintain a level playing field.

As a final note, we have a new State Prosecutor and if that Office continues to oppose law extending the statute of limitation, we respectfully remind the Committee that Hawai'i Revised Statute §701-108 (of the Penal Code) says: ... sexual assault in the first and second degrees, and continuous sexual assault of a minor under the age of fourteen years *may be commenced at any time* (emphasis added).

In this vein, it is important to understand that because the statute of limitations will be expanded for child sex abuse victims that does NOT result in a requirement that a legislature impose constitutional protections to a civil defendant. Indeed, it is, arguably, inappropriate for a legislative body to impose such constitutional requirements upon a civil litigant when those rights are not found in the Constitution.

HB2208 is moving in the right direction and gets off track along the road of good intentions. For these reasons, we support the concept of opening the statute of limitations (but do not understand the age based calculation) and oppose placing unique procedural hurdles upon these victims not found elsewhere in our civil jurisprudence.

Respectfully submitted,

Patricia Medina Talbert

Patricia Medina Talbert

Mililani B. Trask

Mililani B. Trask

COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Rep. Ryan I. Yamane, Chair

Rep. Adrian K. Tam, Vice Chair

Thursday, February 10, 2022 - 9:00am – Conf. Room 325 and via videoconference

Testimony in Strong Support for SB2208 RELATING TO SEXUAL ABUSE OF MINORS

The National Association of Social Workers – Hawai'i (NASW- HI) strongly supports SB2208, which would expand the statute of limitations to initiate civil action for childhood sexual abuse (CSA) against abusers or a legal entity having a duty of care; and would authorize a court to require organizations or institutions who sanction or employ perpetrators to undergo training on trauma-informed response.

NASW describes the practice of social work as “the professional application of social work values, principles, and techniques to one or more of the following ends: helping people obtain tangible services; counseling and psychotherapy with individuals, families, and groups; helping communities or groups provide or improve social and health services; and participating in legislative processes. The practice of social work requires knowledge of human development and behavior; of social, economic, and cultural institutions; and of the interaction of all these factors.” Accordingly, social workers often find themselves in situations where they are mandated to report child sexual abuse and/or *suspected* child sexual abuse to authorities; or work with institutions that need reform and training in this area.

Thus, NASW-HI greatly appreciates this measure and wishes to highlight the following research statistics:

- Suicide attempts are high among CSA survivors; with female survivors 2 to 4 times more likely to attempt suicide, and male survivors 4 to 11 times more likely to attempt suicide.ⁱ
- 44.9% of male victims and 25.4% of female victims of CSA have been found to delay discussing their abuse with anyone by more than 20 years.ⁱⁱ
- Between 70% and 95% of child sexual assault victims never report the abuse to authorities.ⁱⁱⁱ
- CSA victims suffer from a higher rate of PTSD symptoms, which delays disclosure.^{iv}
- Some predators abuse multiple victims over the course of their lifetime. One study found that 7% of the offenders sampled committed offenses against 41 to 450 children, with the time between offense to conviction up to 36 years.^v
- The estimated lifetime cost to society of child sexual abuse cases occurring in the US in 2015 was \$9.3 billion, and the average cost of non-fatal per female victim was estimated at \$282,734. Average cost estimates per victim include, in part, \$14,357 in child medical costs, \$9,882 in adult medical costs, \$223,581 in lost productivity, \$8,333 in child welfare costs, \$2,434 in costs associated with crime, and \$3,760 in special education costs. Costs associated

with suicide deaths are estimated at \$20,387 for female victims.^{vi}

- Fifteen states and two U.S. territories no longer have civil Statutes of Limitations for CSA.^{vii}
- Twenty-seven United States and territories currently have laws allowing for the revival of CSA claims.^{viii}

Thank you for the opportunity to provide this testimony in support.

Sincerely,

, MSW, LCSW

Sonja Bigalke-Bannan, MSW, LCSW
Executive Director,
National Association of Social Workers- Hawai'i Chapter

ⁱ Beth E. Molnar et al., *Psychopathology, Childhood Sexual Abuse and other Childhood Adversities: Relative Links to Subsequent Suicidal Behaviour in the US*, 31 PSYCHOL. MED. 965 (2001).

ⁱⁱ Patrick J. O'Leary & James Barber, *Gender Differences in Silencing following Childhood Sexual Abuse*, 17 J. CHILD SEX. ABUSE 133 (2008).

ⁱⁱⁱ See David Finkelhor et al., *Sexually Assaulted Children: National Estimates and Characteristics*, US Dept. of Justice, Office of Justice Programs (2008), available at <https://www.ojp.gov/pdffiles1/ojdp/214383.pdf> (Based on an analysis of an estimated 285,400 child sexual assault victims, researchers found that only 30% of cases involved police contact.); Kamala London et al., *Review of the Contemporary Literature on How Children Report Sexual Abuse to Others: Findings, Methodological Issues, and Implications for Forensic Interviewers*, 16 MEMORY 29, 31 (2008) ("Researchers have found a range of 5% to 13% of child sexual abuse victims reporting abuse to authorities across different studies.").

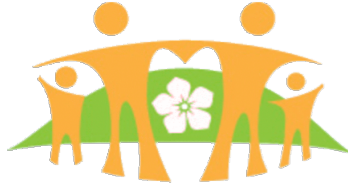
^{iv} Sarah E. Ullman, *Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors*, 16 J. CHILD SEX. ABUSE 19, 30 (2007).

^v Michelle Elliott et al., *Child Sexual Abuse Prevention: What Offenders Tell Us*, 19 CHILD ABUSE NEGL. 579 (1995).

^{vi} Elizabeth J. Letourneau et al., *The Economic Burden of Child Sexual Abuse in the United States*, 79 CHILD ABUSE NEGL. 413 (2018).

^{vii} AK, AZ, CO, CT, DE, FL, IL, LA, ME, MN, NE, NV, NH, UT, VT, Guam, and NMI. For more information on civil SOL elimination, visit *2021 SOL Tracker*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at www.childusa.org/2021sol.

^{viii} See *Revival and Window Laws Since 2002*, CHILDUSA.ORG (last visited Dec. 1, 2021), available at <https://childusa.org/windowsrevival-laws-for-csa-since-2002/>.



Hawaiian Islands Association for Marriage and Family Therapy
(HIAMFT)

We know systems. We know relationships.
We know FAMILY MATTERS.

COMMITTEE ON HEALTH, HUMAN SERVICES, & HOMELESSNESS

Rep. Ryan I. Yamane, Chair

Rep. Adrian K. Tam, Vice Chair

Thursday, February 10, 2022 - 9:00am – Conf. Room 325 and via videoconference

Testimony in Strong Support for SB2208 RELATING TO SEXUAL ABUSE OF MINORS

The Hawaiian Islands Association for Marriage and Family Therapy (HIAMFT) strongly supports SB2208, which would expand the statute of limitations to initiate civil action for childhood sexual abuse against abusers or a legal entity having a duty of care; and would authorize a court to require organizations or institutions who sanction or employ perpetrators to undergo training on trauma-informed response.

Marriage and Family Therapists (MFTs) are one of five core mental health professions (along with psychiatrists, psychologists, social workers, and advanced practice psychiatric nurses) identified by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services. MFTs are trained to diagnose and treat mental health issues, such as but not limited to, anxiety, depression, substance abuse, alcoholism, relationship & marital problems, child-parent problems, ADD/ADHD, and schizophrenia; attending to a patient's primary relationship networks and using a perspective that considers the full context of a patient's situation. This is particularly important when working with critically serious issues like childhood sexual abuse.

Accordingly, HIAMFT wishes to highlight the following research statistics:

- 10% of children are sexually abused; 1 out 5 girls; and 1 of 13 boys.ⁱ
- Nearly 90% CSA perpetrators are someone the child knows.ⁱⁱ
- CSA victims avoid disclosing their abuse because they often fear disruptions in family stability, loss of relationships, or involvement with the authorities.ⁱⁱⁱ

Thank you for the opportunity to provide this testimony in strong support of this bill.

Sincerely,

A handwritten signature in black ink that reads "John Souza, Jr., LMFT, DMFT". The signature is written in a cursive style.

Dr. John Souza, Jr., LMFT, DMFT, President

The Hawaiian Islands Association for Marriage and Family Therapy

ⁱ G. Moody, et. al., Establishing the international prevalence of self-reported child maltreatment: a systematic review by maltreatment type and gender, 18(1164) BMC PUBLIC HEALTH (2018) (finding a 20.4% prevalence rate of CSA 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 CSA 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 CSA among North American boys and girls respectively).

ⁱⁱ Perpetrators often being parents, stepparents, siblings, and grandparents. Sarah E. Ullman, Relationship to Perpetrator, Disclosure, Social Reactions, and PTSD Symptoms in Child Sexual Abuse Survivors, 16 J. CHILD SEX. ABUSE 19 (2007); David Finkelhor & Anne Shattuck, Characteristics of Crimes Against Juveniles, University of New Hampshire, Crimes Against Children Research Center (2012), available at http://www.unh.edu/ccrc/pdf/CV26_Revised%20Characteristics%20of%20Crimes%20against%20Juveniles_5-2-12.pdf.

ⁱⁱⁱ Delphine Collin-Vézina et al., A Preliminary Mapping of Individual, Relational, and Social Factors that Impede Disclosure of Childhood Sexual Abuse, 43 CHILD ABUSE NEGL. 123 (2015).