



UNIVERSITY OF HAWAII SYSTEM
‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony
Hō‘ike Mana‘o I Mua O Ka ‘Aha‘ōlelo

Testimony Presented Before the
House Committee on Higher Education & Technology
March 15, 2023 at 2:00 p.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai‘i

SB 236 – RELATING TO VICTIM-COUNSELOR PRIVILEGE

Chair Perruso, Vice Chair Kapela, 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: House Committee on Higher Education & Technology
Hearing Date/Time: Wednesday, March 15, 2023, 2:00 PM
Re: Testimony in SUPPORT of SB236

Dear Chair Perruso, Vice Chair Kapela, 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.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

March 15, 2023

Members of the House Committee on Education

Chair Amy A. Perruso
Vice Chair Jeanne Kapela
Rep. Lisa Marten
Rep. Rose Martinez
Rep. Scot Z. Matayoshi
Rep. Sean Quinlan
Rep. Chris Todd
Rep. Justin H. Woodson
Rep. Diamond Garcia

Re: SB236 Relating to Victim Counselor Privilege

Dear Chair Perruso, Vice Chair Kapela, and Members of the House Committee on Higher Education & Technology:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) addresses domestic violence's social, political, and economic impacts 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 to 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.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

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



SB 236, RELATING TO VICTIM-COUNSELOR PRIVILEGE

MARCH 15, 2023 · HOUSE HIGHER EDUCATION AND
TECHNOLOGY COMMITTEE · CHAIR REP. AMY
PERRUSO

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.

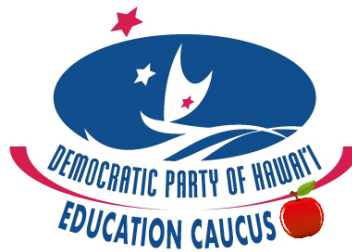
According to the Rape, Abuse and Incest National Network, the nation's largest anti-sexual violence organization, 11.2 percent of all college students experience rape or sexual assault through physical force, violence, or incapacitation. Among undergraduate students, 23.1 percent of females experience 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



SENATE BILL 236, RELATING TO VICTIM-COUNSELOR PRIVILEGE

MARCH 15, 2023 · HOUSE HIGHER EDUCATION AND
TECHNOLOGY COMMITTEE · CHAIR REP. AMY
PERRUSO

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:

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



March 16, 2023

Dear Chair Kim, Vice Chair Kidani and honorable members of the committee,

I am a student at UH and I appreciate the opportunity to submit testimony in **support of the totality of HB554 HD2: Relating to Campus Safety**. Campuses are place to learn and build futures, however furthering your education can put you at a higher risk of sexual assault. Data shows that one in ten people attending college will be victims of sexual assault by the time they graduate, demonstrating that students are at an alarmingly high risk. The goal of the Campus Safety Bill is to protect these students who will inevitably become victims by providing them resources and trained personnel to help them overcome the trauma as well as working on campus education to help prevent these crimes from happening so frequently.

It's important for students to feel safe on campus, especially when it's the place they are living and have nowhere else to go, often far away from family members and previous support systems. College is when you start on your own in the world. We want to make sure victims of sexual assault feel like they have a support system they can trust and feel comfortable with. However, this cannot be done without amnesty for the victims. If someone is subjected to something as traumatic as sexual assault, they shouldn't have to worry about getting in trouble for the circumstances it happened under, nor should these circumstances take away from the seriousness of these situations. For example, if someone drinking underaged is sexually assaulted and goes to report this, they could get in trouble for the underaged drinking although it pales in comparison to the gravity of a sexual assault. This just causes further trauma and distracts from the violent crime that was committed and should be being addressed. This is why amnesty for victims is so important and one of multiple reasons why this bill is vital. Victims need amnesty if they are going to use university resources. In 2021 surveys showed that 5 in 6 students that experienced sexual assault didn't access UH resources, and with amnesty these numbers could be a lot lower, providing a safe and protected space for victims. I'm grateful for the opportunity to speak on HB554 HD2.

Mahalo for your time,

Jessie Gunderman



March 16, 2023

Aloha Chair Kim, Vice Chair Kidani and honorable members of the committee,

My name is Ryan Coughlin and I am a student at the University of Hawai'i at 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. I was extremely shocked and disgusted to learn that victim-Counselor Privilege does not extend to the courtroom. Before I learned of this fact, I was under the impression that Victim-Counselor Privilege is there to provide Sexual Assault victims with a safe and confidential outlet to discuss their experiences. However, I believe that by forcing confidential advocates to disclose the information of victims when dealing with legal prosecution defeats the purpose of having a confidential advocate to begin with. To be straightforward, based on the definition of a Confidential Advocate, I believe that the term should be redefined to properly represent what it entails, therefore the term Confidential Advocate would transform into Confidential Advocate to a degree.

Being a Sexual Assault victim is already unfathomably traumatic, but when a victim goes to a Confidential Advocate and expects total confidentiality and instead is met with confidentiality to a degree the psychological impact that comes with this can be extremely detrimental to the victim's mental health. In addition, the fact that Confidential Advocates are not fully confidential plays a direct role in the very little amount of Sexual Assault victims that report their experiences to these advocates. So when asked the question "Why do an extremely low percentage of women report Sexual Assaults in a college setting?" It can be concluded that women do not want to report their traumatic experiences to a Confidential Advocate who is not fully confidential. To conclude, I strongly believe Confidential Advocates should be confidential when pertaining to legal prosecutions, as a result, a larger percentage of women would report their traumatic experiences which would better the victims as a whole when dealing with the plague that is Sexual Assault.

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

Signed,
Ryan Coughlin

**HAWAI'I
PACIFIC
HEALTH**

KAPI'OLANI
THE SEX ABUSE
TREATMENT CENTER



To: Rep. Amy Peruso, Chair
Rep Jeanne Kapela, Vice Chair
Committee on Higher Education and Technology

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: March 15, 2023

Good morning, Chair Amy Peruso and Vice Chair Jeanna Kapela and members on the Committee on Higher Education and Technology.

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.

March 13, 2023

TO : The Members of the Committee On Higher Education & Technology

Chair Amy A. Perruso	Vice Chair Jeanne Kapela	
Luke A. Evslin	Rose Martinez	Chris Todd
Trish La Chica	Scot Z. Matayoshi	Justin H. Woodson
Lisa Marten	Sean Quinlan	Diamond Garcia

FROM : Caroline DELSAUX, graduate student in social work

SUBJECT : **SB236 Relating To Victim-Counselor Privilege**
Rules of Evidence; Victim-Counselor Privilege; University of Hawai'i;
Confidential Advocates
Hearing: Wednesday, March 15, 2023 at 2:00 PM

Thank you for the opportunity to present testimony in support of SB236. I am writing in full support of this measure that would expand the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i and increase the minimum number of hours of training a domestic violence victims' counselor must complete to be considered a victim counselor.

Currently, I am enrolled in the specialized year of the Master of Social Work at UH at Mānoa. During my first year of my Master's degree, I had the opportunity to do my internship with UH Confidential Advocacy.

Based on the 2021 Campus Climate Survey Report, we can note in particular:

- 9.2% of all UH students reported experiencing sexual harassment both on & off campus at any time while enrolled
- 18.5% of all UH students reported experiencing domestic violence/intimate partner violence both on and off campus, at any time while enrolled
- 6% of all UH students reported experiencing nonconsensual sexual contact both on & off campus at any time while enrolled

Once the person dares to take the step of wanting to talk about this trauma and ask for support, the trust in the relationship should be optimal. The fear of not being believed is as strong as the fear of not being able to disclose in confidence, with the idea that it may not remain private. Or conversely, sometimes being able to finally allow oneself to speak leads to sharing sensitive information without thinking about the fact that this might be reported.

Given the physical, emotional, psychological and social tsunami that victims must deal with in these circumstances, it seems certain that support that guarantees confidentiality is a primary foundation.

Unfortunately, because of those traumatic events, the boundaries of their privacy have been violated. Out of respect for their experience, it is essential to guarantee them a safe place to come and share their feelings and questions in complete confidence and trust.

Once the basic safety issues are addressed along with a discussion of options, resources and some guidance, the victim/survivor can then be empowered to continue on their own healing path.

For these reasons, I write in strong support of this measure to expand the victim-counselor privilege under the Hawai'i Rules of Evidence to include confidential advocates employed by the University of Hawai'i.

Thank you for the opportunity to provide testimony.

Caroline Delsaux

SB-236

Submitted on: 3/14/2023 7:31:20 PM

Testimony for HET on 3/15/2023 2:00:00 PM

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

Comments:

I respectfully submit testimony in support of HB841 HD1. This bill amends HRS 586-10.5, Domestic Abuse Protective Orders to require reports by the Department of Human Services Child Welfare Services when there are allegations of child abuse as defined in HRS 350-1 instead of allegations of domestic abuse.

Without this amendment, survivors of domestic violence would continue to face the potential of a Child Welfare Services (CWS) investigation when they include their children in a domestic violence protective order. Too often, survivors are subjected to more traumatization and victimization during a CWS investigation - instead of receiving trauma-informed help and resources, they are subjected to victim blaming and are held accountable for the abuse, not their partner. Survivor safety is not addressed, and yet we know, when a survivor is safe, their children are more likely to be safe as well.

Domestic violence protective orders are the only survivor-led legal remedy to which they have access and we must balance strengthening the intent of domestic violence protective orders and ensuring that allegations of child abuse are investigated and children are protected.

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

SB-236

Submitted on: 3/14/2023 7:43:31 PM

Testimony for HET on 3/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carolyn Lee	Individual	Support	Written Testimony Only

Comments:

I respectfully submit testimony in support of SB 236. This bill amends HRS 586-10.5, Domestic Abuse Protective Orders to require reports by the Department of Human Services Child Welfare Services when there are allegations of child abuse as defined in HRS 350-1 instead of allegations of domestic abuse.

Without this amendment, survivors of domestic violence would continue to face the potential of a Child Welfare Services (CWS) investigation when they include their children in a domestic violence protective order. Too often, survivors are subjected to more traumatization and victimization during a CWS investigation - instead of receiving trauma-informed help and resources, they are subjected to victim blaming and are held accountable for the abuse, not their partner. Survivor safety is not addressed, and yet we know, when a survivor is safe, their children are more likely to be safe as well.

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

SB-236

Submitted on: 3/14/2023 9:50:41 PM

Testimony for HET on 3/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Deanna Espinas	Individual	Support	Written Testimony Only

Comments:

I am in support of this bill.