

HB-569-HD-1

Submitted on: 2/9/2021 3:58:41 PM

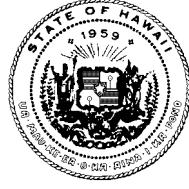
Testimony for JHA on 2/11/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Planned Parenthood Votes Northwest and Hawaii supports HB 569.

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 9, 2021

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB 569 HD1 – RELATING TO VICTIM-COUNSELOR PRIVILEGE.**

Hearing: Thursday, February 11, 2021, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this measure. The House Committee on Higher Education & Technology amended the measure by adding a severability clause, defecting the effective date, and making technical amendments.

PURPOSE: The purpose of the bill expands the victim-counselor privilege under Rule 505.5 of the Hawaii Rules of Evidence to include confidential advocates employed by the University of Hawaii. Effective 7/1/2060. (HD1)

DHS recognizes the critical work campus advocates do to ensure the safety and well-being of those on campus. Survivors on college campuses, whether they are students or employees, should be afforded the same confidentiality protections as they would receive from community advocates and other service providers. Ensuring privileged communications will increase the likelihood that survivors will come forward, learn about their options, and seek supportive measures. DHS programs support numerous University students' educational pursuits, and DHS works closely with various University offices, and seeks to ensure all those on campus have confidential access to safety and healing.

Thank you for the opportunity to provide comments on this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary and Hawaiian Affairs
February 11, 2021 at 2:00 p.m.

by
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 569 HD1 – RELATING TO VICTIM-COUNSELOR PRIVILEGE

Chair Nakashima, Vice Chair Matayoshi, and members of the Committee:

Thank you for the opportunity to present testimony on HB 569 HD1 – Relating to Victim-Counselor Privilege. The University of Hawai'i ("University") supports this bill.

HB 569 HD1 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, the existing victim-counselor privilege under Hawai'i Revised Statutes Section 626-1 only covers services relating to domestic violence and sexual assault. Further, overall privilege does not apply to the University based on the definition of victim counseling programs under the statute.

Expanding the victim-counselor privilege by giving additional legal protections to information that victims share with the University's confidential advocates allows victims to share more information in confidence and receive better support from the University. Protecting survivor information is critical to developing trust between advocate and survivor and makes survivors more likely to share information that is necessary for effective safety planning and response. Absent these additional legal protections, victims may be less likely to share information, in fear that information may be later subpoenaed for court proceedings against their wishes.

Thank you for the opportunity to testify on HB 569 HD1.



HAWAI'I STATE
**COALITION AGAINST
DOMESTIC VIOLENCE**

February 11, 2021

Members of the House Committee on Higher Education & Technology:

Chair Rep. Gregg Takayama
Vice Chair Lynn DeCoite
Rep. Della Au Belatti
Rep. Sonny Ganaden
Rep. Cedric Asuega Gates
Rep. Troy N. Hashimoto
Rep. Jeanne Kapela
Rep. Takashi Ohno
Rep. Sean Quinlan
Rep. Justin H. Woodson
Rep. Ryan I. Yamane
Rep. Val Okimoto

Re: HB569 HD1 Relating to Victim-Counselor Privilege

Dear Chair Takayama, Vice Chair DeCoite, and Members of the House Committee on Higher Education and Technology:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) engages communities and organizations to end domestic violence through education, advocacy, and action for social justice. HSCADV is a private, not-for-profit organization and is a statewide partnership of domestic violence programs and shelters. On behalf of HSCADV and our 23 member programs statewide, I respectfully submit testimony in support of HB569 HD1.

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. Survivors on 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.

With this new rule in place, 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.

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

Sincerely,

Angelina Mercado
Executive Director, Hawai'i State Coalition Against Domestic Violence



Hawaii Women's Coalition

February 11, 2021

Members of the House Committee on Higher Education & Technology:

Chair Rep. Gregg Takayama
Vice Chair Lynn DeCoite
Rep. Della Au Belatti
Rep. Sonny Ganaden
Rep. Cedric Asuega Gates
Rep. Troy N. Hashimoto
Rep. Jeanne Kapela
Rep. Takashi Ohno
Rep. Sean Quinlan
Rep. Justin H. Woodson
Rep. Ryan I. Yamane
Rep. Val Okimoto

Re: HB569 HD1 Relating to Victim-Counselor Privilege

Dear Chair Takayama, Vice Chair DeCoite, and Members of the House Committee on Higher Education and Technology:

On behalf of the Hawai'i Women's Coalition, we respectfully submit testimony in support of HB569 HD1. The Hawai'i Women's Coalition is a catalyst for progressive, social, economic and political change through action on critical issues facing Hawaii's women and girls. Members currently include 29 organizations and agencies (private, public, membership) as well as individuals. The coalition encourages the inclusion of interested parties and in achieving equitable representation.

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. Survivors on 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.

With this new rule in place, 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.

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

Sincerely,
The Hawai'i Women's Coalition

Executive Director
Cindy Shimomi-Saito

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Joshua A. Wisch

Date: February 11, 2021

To: The Honorable Mark Nakashima, Chair
The Honorable Scot Matashi, 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 Support of HB 569 HD1, Relating to Victim-Counselor Privilege

Hearing: Thursday February 11, 2021, Via videoconference

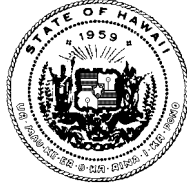
Good afternoon Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Sex Abuse Treatment Center (SATC) is in support of HB 569 HD1, Relating to Victim-Counselor Privilege. This bill would expand the Victim-Counselor Privilege rule 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.

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.



‘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 HB569 HD1
February 11, 2021

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

The Hawai‘i State Commission on the Status of Women supports HB569 HD1, which expands the victim-counselor privilege under Rule 505.5 of the Hawaii Rules of Evidence to include confidential advocates employed by the University of Hawai‘i

Violence against women and gender diverse people has increased during the COVID-19 pandemic. Students and employees victimized by gender-based violence need immediate access to confidential advocates. Confidential advocates are one of the key contributions of the women’s equality movement and “have proven a decisive factor for many ambivalent victims struggling with the decision whether to report a crime.”¹ Campus advocates do critical work and should be supported in taking an empowerment-based and victim-centered approach. Survivors on college campuses should be afforded the same protections for confidentiality as they would receive from community advocates.

Accordingly, the Commission asks the Committee pass HB569 HD1.

Mahalo,

Khara Jabola-Carolus

¹ Perla P. Flores, *Victim, Witness, Pawn & Icon Navigating the Paradoxically Coercive Relationship Between the Criminal Justice System and Victims of Gender-Based Violence*, 44 Lincoln L. Rev. 21 (2017)

HB-569-HD-1

Submitted on: 2/10/2021 9:04:19 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair, Vice Chair and members,

Strong support for this measure. The need to protect the confidentiality of campus rape victims should be obvious and of paramount importance.

Mahalo,

Ann S. Freed

Community Co-Chair Emeritus

Hawaii Women's Coalition