



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
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By

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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.