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April 19, 2021

TO: The Honorable Chair Pete Lee
 Members of the Senate Judiciary Committee
 Colorado State Senate

FROM: Ilse Knecht
 Director of Policy & Advocacy
 Joyful Heart Foundation

RE: Testimony in Support of House Bill 1143

The Joyful Heart Foundation strongly supports House Bill 1143, which would ensure that survivors have meaningful rights and access to critical information that can help them heal. Twenty-four states and Washington D.C. grant survivors such rights.

The Joyful Heart Foundation's mission is to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever. Since 2010, Joyful Heart has made the elimination of the rape kit backlog—hundreds of thousands of untested rape kits across the nation—our top priority. We work directly with survivors, stakeholders, and jurisdictions to achieve this goal. Our staff, consultants, and partners have decades of expertise at the forefront of rape kit reform efforts. We have been instrumental in passing state-level rape kit reform legislation in 43 states including Arizona, California, Florida, Georgia, Hawai'i, Kentucky, Massachusetts, Nevada, New Mexico, New York, Texas, and Utah, and we have collaborated with local and state agencies to provide support during the implementation process. With this expertise and legislative track record, we respectfully submit testimony supporting HB1143.

The Problem

Every 73 seconds, someone is sexually assaulted in the United States. In the immediate aftermath of a sexual assault, a victim may choose to undergo a medical forensic examination to collect evidence left behind during the assault. A doctor or nurse will conduct the four-to-six hour examination and will preserve this evidence in what is commonly called a "rape kit." It's important to understand that every single rape kit represents a survivor whose body has become a crime scene and has reported the crime to police, gotten to a hospital, and had evidence collected - everything society asks them to do.



Testimony for HB 137 in Alabama

Amanda Nguyen

Amanda is the president and founder of Rise. She conceived the Survivors' Bill of Rights and theory of model social change, after having to navigate the broken criminal justice system after her own rape. She penned her own civil rights into existence; the bill she drafted is now federal law, as well as Massachusetts state law.

Amanda's Testimony: This legislation was born from my experience with a broken justice system. I am a rape survivor. I remember walking into the local area rape crisis center waiting room and seeing so many survivors there. The greatest injustice I have ever faced was not the act of rape itself, but the subsequent denial of my rights by the country I love. I grew up believing that America is special because it recognizes universal, inalienable rights. But as a rape survivor, I learned that not all are equal in the eyes of the law. Survivors are continually re-victimized by the very system that was built to seek justice for them. It's completely unconscionable that a survivor in one state would have a completely different set of rights than a survivor in another state. In building a legal argument for why I deserve to know where the DNA samples taken from my body were stored, I found a patchwork of rights across America. Two survivors shouldn't have two completely different sets of rights just because they are in two different states. Justice should not depend on geography.

My story with a broken system is not mine alone. This is also the story of 2 million other women in this state. In California, one out of every five adult women has been the victim of rape. Current California code could allow for a rape kit to be destroyed after only two years, even though California has no statute of limitations for most sexual offenses.

In facing these disparities, I realized I had a choice. Accept the injustice or re-write the law. So, I, along with an incredible team, wrote the federal Survivor Bill of Rights. Now it is Federal law and Massachusetts law. I'm going to be honest. Talking about something so personal is scary. But I'm sharing this because I hope you see the importance of these civil rights and I hope that you join us to champion these rights in California.

My story with a broken system is not mine alone. This is also the story of 1.3 billion other people

Jennifer

I was raped in 2012 on my birthday. Each year after 2012, my birthday is no longer just a day to spend with friends. It is my rape anniversary. The first year after my rape, as my birthday approached, I was filled with dread and anxiety, not sure how I would react.

After my rape, I wanted answers but never found them; there weren't many resources detailing what to do after a rape, what my rights were, or what would happen if I decided to report vs if I didn't. I was often given conflicting information from one place to the next. I finally bit the bullet and decided that before the first anniversary of my rape, I would file a police report and see what my options for pursuing justice were.

I hope for the best and prepared for the worst. I looked up penal codes to find out what my rape could be qualified under, prepared myself for a potentially hostile intake at the police station just in case, going over in my mind questions like: What I was wearing? Was under the influence? What's my sexual history? Am I even sure it was rape? Am I lying and wasting their time? But despite "preparing for the worst," I still wasn't ready for what would happen. The interview did not go well; the officers said I was not raped, and filed my report under "unfounded claim." Unsatisfied and frustrated, I went to the DA. I was hungry for justice. She listened to my story. She acknowledged what happened to me. She told me it was morally reprehensible. But she told me because of archaic definitions used for rape in that state, mine didn't technically qualify. I asked her, what if I changed the law? It still wouldn't be retroactive. I never felt more defeated or helpless in my life.

There is no systemic justice for me. The system failed me. The only justice I could carve out for myself was to tell my rapist's mother what he did to me. But that's not enough. My government does not recognize my rape. Even worse, what my rapist did is legal. He could do it to more women, and they, like me, would be helpless to do anything about it. That is why I am here with Rise, fighting for these civil rights.

With rise, there is hope. I no longer have to wait at the mercy of a broken system. Now, we have a voice. We can change the system. We can't change what happened to us, but we can make sure that future victims and survivors don't have to navigate a complex system without guidance.

This is the only form of justice I will ever see from the system. For me to change it from within. This is why this is so important to me. Because this is my justice.

Flannery

Thank you chairman and committee members for reading my testimony today. I have written this testimony on behalf of HB21-1143, Protect Survivors' Rights to Rape Kit Evidence, because access to justice is something that should be available to all.

In 2015, I was sexually assaulted by a man I was dating. As I tried to wrap my head around my trauma, I experienced a plethora of conflicting emotions, and though contacting the authorities occurred to me, justice ultimately seemed untenable. I wanted to enlist the prosecutorial support of the justice system, but was silenced by how few basic protections exist for someone like me. I was deeply aware that my case rendered itself as she-said-he-said, and I couldn't imagine pursuing a long road of interrogation and accusation.

On top of everything, I felt shame and guilt for not coming forward. My assailant was free to attack another as I abandoned other potential casualties instead of doing whatever I could to halt future victimization. But I simply could not fathom how legal action would make any difference.

After some time and a lot of healing, I turned my focus towards what I could do to make a difference- ensuring other survivors have their civil rights protected. As a survivor, I deeply understand that we all deserve the same rights no matter where the crime took place.

After my assault, I had a hard time figuring out what protections I would be afforded. Had I known that I would have had access to an advocate's support, and on hand access to information detailing my rights, I would have felt like the law was on my side. I would have felt protected from further traumatization. My crime took place in New York and none of this information was readily available to me. Survivors are left to navigate a confusing and opaque law enforcement and judicial system on their own -- while at their most vulnerable. Had these protections been available to me, I would have been more empowered to report my crime. HB21-1143 ensures that survivors of sexual assault will have the support of the criminal justice system that I never did.

Thank you.

Grace Watkins

When I was 18 I was raped by a Notre Dame athlete while his friends filmed. I was hospitalized for my injuries at a facility that did not have Sexual Assault Nurse Examiners on staff. I was told that I would have to pay thousands of dollars for a rape kit, which I simply could not afford. I did not know that this was a violation of Indiana law. The untrained nurses told me that I wasn't "really assaulted", despite treating and documenting my open cuts and tissue damage.

My hospital experience was as horrific as the assault itself. In the following months and years, I found myself dwelling just as much on the callousness of the nurses and the lost opportunity of my rape kit as I did on the assault itself. I came to understand that this is what it feels like to have your rights denied. Injustice is not just bad rules; it is a collection of deeply painful lived experiences.

I still struggle daily with what happened to me, and I am frustrated by my inability to express myself in ways that are new or compelling enough to help others understand. In my victim impact statement, I even wrote, “I am angry and in pain and so, so tired. I apologize for the bluntness of my words, but I don’t know how to make myself any clearer.” I have only found solace in community with other survivors and those willing to help our efforts to improve institutionalized responses to sexual violence.

I am very passionate about my work, but I’m also angry that I have to do it. I mourn for the interests I had prior to being raped, which receive less time and attention now that I have devoted my career path to prevention and response efforts. The trauma of a rape is not isolated to its direct aftermath, but also in the tragedy of every subsequent hour lost. Time that I spent parsing through the particularities of FERPA with Notre Dame’s General Counsel could have been spent reading, writing, or laughing with friends.

I continue to fight because I can’t abandon these problems now that I know they are there. And I know that I am not alone in this.

Amanda Wingle

In the early morning hours of April 11, 2008, I was raped after a night of partying with friends. I came from a conservative Catholic family and had grown up hearing messages about victims “asking for it” by consuming alcohol, wearing a short skirt, any number of imagined offenses which I was taught to believe somehow justified the violation of another’s body in the most intimate and horrific way possible. So, because of my upbringing and the fear that I would be blamed for what happened, I didn’t go to the hospital or report my rape to the police. I genuinely believed I had brought it on myself.

After initial medical attention, I struggled silently until over a year later when I finally disclosed to my longtime nurse practitioner. She responded with immense compassion and concern, encouraged me to get into counseling, and regularly checked in with me for the rest of the duration of our patient-provider relationship.

Over the course of the subsequent years I began volunteering with the RAINN Online Hotline in the hopes that I could keep someone else from feeling as alone as I had felt. I wanted every patient to have the same positive, life-changing experience that my nurse practitioner provided for me. Today, I’m the Program Services Coordinator at my local domestic violence agency. I

love my work immensely, but one of the most difficult parts is seeing my clients struggle to navigate a legal system which often does not serve their needs in the way that it should. Hardly anything is easy or straightforward, and often it seems like it's one thing after the other for my clients.

I know how long that 20 minutes waiting for a HIV test feels -- I can only imagine the stress and anxiety of having a rape kit languish on an unidentified shelf, unable to track its status, whether it has been tested, or even if it exists anymore (as some state laws allow the kits to be destroyed after as little as 30 days). I can't imagine constantly just WAITING for the phone to ring -- have they tested the kit? Did they find the perpetrator? And if so, what comes next? I've seen the struggles faced by survivors I spoke with through both RAINN and at the DV agency, and I am moved to make things better for them. In many cases, they do everything they are "supposed" to do and still do not receive justice. We tell them to report it, to go to the ER, to do all these hard, retraumatizing things, and then after they do it we do not give them the support or resolution that they need.

Rise is taking a common sense, straightforward approach to removing some of the roadblocks that should never have existed in the first place. What we put survivors through is completely unacceptable, it must be fixed, and I want to be a part of the solution.

Maradith Morris

As a sexual assault survivor and a sexual assault nurse examiner, I have witnessed the anguish and betrayal my patients experience when they learn they have no right to their testing information, if their kit is tested at all. This information is not just "forensic evidence," it is health information. Sexual assault survivors are asked to navigate an unconscionable maze of bureaucratic, medical, and legal regulations while at their most vulnerable -- and they're asked to do it without an advocate. In fact, they're asked to do it with the deck stacked against them.

The system should be set up to bring them security and justice, not to bring further pain and trauma. The rights that Rise advocates for are fundamental, and as a survivor I am committed to ensuring that future survivors are empowered by Iowa law, not re-traumatized by a lack of basic rights.

Tyrell Walker

Most of us have been impacted by sexual assault, whether we know it or not. When someone we care about is hurt and traumatized, it affects everyone. The deepest pain is obviously felt by the victim of sexual assault, but the aftermath reverberates outwards much farther than the event itself. Sexual assault is not just a women's issue; it is a human issue.

When a citizen is a victim of a crime, the criminal justice system is supposed to help them and protect them. I have not witnessed this when it comes to sexual assault survivors. Instead, I have seen a criminal justice system that traumatizes survivors of sexual assault as much, if not more, than the assault itself. Survivors are penalized for their trauma, told conflicting information, forced to relive their attack every time they have to fight for their evidence to be kept, or are left alone to navigate a complicated system with no guidance whatsoever. This is not the country I want America to be. I do not want us to be a country that leaves survivors of assault, victims of a crime, lost, alone, unsupported by the justice system. America can, and must, do better. We need a system that provides basic support and guidance to victims of crimes, and ensure that the criminal justice system is prepared and empowered to execute the law fairly.

A civilization is judged not by the strength of those most powerful, but by how we care for and support those in need. Survivors need these rights. These rights are vital to creating a justice system for all, and will create provisions necessary for a criminal justice system that knows how to properly treat sexual assault survivors.

Information is Healing

When someone is sexually assaulted, they temporarily lose power and control over their life. Survivors feel this loss of control profoundly, and this feeling can persist. For survivors to gain a sense of control back and lessen the feelings of powerlessness, it's important for them to have choices, and be informed about their case, options, and next steps in their lives.

Even with the most supportive assistance available, the aftermath of a sexual assault is traumatic. This trauma can be compounded when survivors experience even unintentional insensitivity from law enforcement, helping professionals, or the system in general.

After having a forensic exam conducted, survivors go home and wait. They wait to hear about their case and the results of testing their rape kit. Tragically, most survivors, after leaving the hospital, are never contacted about the status of their rape kit.

In 2016, Joyful Heart released [Navigating Notification](#), the result of a 3-year research project studying best practices for victim notification and re-engagement. In partnership with researcher Dr. Courtney Ahrens of California State University at Long Beach, we brought together the voices of more than 90 survivors, criminal justice, medical, academic, and advocacy professionals to establish survivor-centered, trauma-informed policies and protocols for victim notification.

One of the key findings of our research was, for survivors who want to know about their case and their kit, not having access to such information can severely hamper recovery. One survivor said:

Just constantly thinking about, "When are they going to call me?" or "How come they haven't and why is that, and when I can, there is still nothing. Always on my mind, yes, that whatever it is, it is, just the same question for 14 years. They didn't say anything after that so it was a constant thought in my head for a very very long time."

Survivors in our study asserted strongly that if they are afforded rights, provided information, and given options it can be very important to how they move forward. Survivor agency is key to healing. Access to information about the status and location of their rape kits can help survivors counter the loss of self-determination and control that is often at the core of a sexual assault experience.

Twenty four states and Washington D.C. grant survivors the right to know the status of their kits. Survivors in Colorado should have the same right.

We urge you to enact this important legislation. The Joyful Heart Foundation thanks you for your efforts and leadership on this issue. We stand ready to assist you in creating safer communities and offering a path to healing and justice to all sexual assault survivors in Colorado.

With Gratitude,

Ilse Knecht



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