

JAN 25 2006

S.B. NO. 2526

A BILL FOR AN ACT

RELATING TO BILL OF RIGHTS FOR VICTIMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 801D-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§801D-4 Basic bill of rights for victims and witnesses.**

4 (a) [~~Upon written request, victims~~]Victims and surviving
5 immediate family members of crime shall have the following
6 rights:

7 (1) To be informed by the police and the prosecuting
8 attorney of the final disposition of the case. If the
9 crime charged is a felony, the victim or a surviving
10 immediate family member shall be notified of major
11 developments in the case and whenever the defendant or
12 perpetrator is released from custody. The victim or a
13 surviving immediate family member shall also be
14 consulted and advised about plea bargaining by the
15 prosecuting attorney;

16 (2) To be notified by the prosecuting attorney if a court
17 proceeding to which they have been subpoenaed will not
18 proceed as scheduled;



- 1 (3) To receive protection from threats or harm;
- 2 (4) To be informed by the police, victim/witness
- 3 counselor, or other criminal justice personnel, of
- 4 financial assistance and other social services
- 5 available as a result of being a witness to or a
- 6 victim of crime, including information on how to apply
- 7 for the assistance and services;
- 8 (5) To be provided by the court, whenever possible, with a
- 9 secure waiting area during court proceedings that does
- 10 not require them to be in close proximity to
- 11 defendants and families and friends of defendants;
- 12 (6) To have any stolen or other personal property
- 13 expeditiously returned by law enforcement agencies
- 14 when the property is no longer needed as evidence. If
- 15 feasible, all the property, except weapons, currency,
- 16 contraband, property subject to evidentiary analysis,
- 17 and property, the ownership of which is disputed,
- 18 shall be returned to the person within ten days of
- 19 being taken; and
- 20 (7) To be informed by the department of public safety of
- 21 changes planned by the department in the custodial
- 22 status of the offender that allows or results in the



1 release of the offender into the community, including
2 escape, furlough, work release, placement on
3 supervised release, release on parole, release on bail
4 bond, release on appeal bond, and final discharge at
5 the end of the prison term.

6 (b) [~~Upon written request, the~~]The victim or the parent or
7 guardian of a minor or incapacitated victim of an offense under
8 section 707-730, 707-731, or 707-732(1)(a) shall have the right
9 to be informed of the human immunodeficiency virus (HIV) status
10 of the person who has been convicted or a juvenile who has been
11 adjudicated under that section and to receive counseling
12 regarding HIV. The testing shall be performed according to the
13 protocols set forth in section 325-17. Upon request of the
14 victim, or the parent or guardian of a minor or incapacitated
15 victim, the department of health shall provide counseling.

16 (c) Notwithstanding any law to the contrary, the
17 department of public safety, the Hawaii paroling authority, the
18 judiciary probation divisions and branches, and the department
19 of the attorney general shall make good faith efforts to notify
20 the victim of a crime, or surviving immediate family members of
21 a victim, of income received by a person imprisoned for that
22 crime when the imprisoned person has received a civil judgment



1 that exceeds \$10,000, a civil settlement that exceeds \$10,000,
2 or any income that exceeds \$10,000 in one fiscal year, whenever
3 the income is known to the agency, and, in addition, the
4 department of public safety shall make good faith efforts to
5 notify the victim of a crime or surviving immediate family
6 members of a victim, whenever it is known to the agency that a
7 person imprisoned for that crime has a financial account, of
8 which the department of public safety is aware, of a value
9 exceeding \$10,000.

10 (d) Notwithstanding any law to the contrary, payment of
11 restitution and judgments to victims, or surviving immediate
12 family members of a victim, shall be a precondition for release
13 on parole for any imprisoned person whom the Hawaii paroling
14 authority determines has the financial ability to make complete
15 or partial restitution payments or complete or partial judgment
16 payments to the victim of the person's crime, or to the
17 surviving immediate family members of a victim.

18 (e) Notwithstanding any law to the contrary, the State of
19 Hawaii, any political subdivision of the State of Hawaii, any
20 department or agency of the State, any officer of the State, and
21 any employee of the State shall be immune from damages in any
22 lawsuit based on noncompliance with subsection (c) or (d).



1 Nothing in this subsection shall be construed to prevent
 2 disciplinary action against any employee of the State who
 3 intentionally fails to comply with subsection (c) or (d) after
 4 being warned that compliance is required."

5 SECTION 2. Statutory material to be repealed is bracketed
 6 and stricken.

7 SECTION 3. This Act shall take effect on July 1, 2006.
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INTRODUCED BY: _____

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 J. LaFitz
 Suzanne Chun Oakland
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SB. NO. 2526

Report Title:

Bill of Rights for Victims

Description:

Amends HRS 801D to remove the written request requirement for rights of victims to become affective.

