



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Government Operations

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Friday, February 6, 2009, 9:00 a.m.
State Capitol, Conference Room 016

by
Janice Yamada
Probation Administrator, Adult Client Services Branch

Bill No. and Title: Senate Bill No. 111, Relating to the Penal Code.

Purpose: Establishes the payment priority of the DNA analysis fee over other fees and fines assessed against a defendant by the court.

Judiciary's Position:

The Judiciary strongly supports Senate Bill No. 111, Relating to the Penal Code. The bill is a Judiciary package bill which seeks to clarify the payment priority of the DNA analysis fee over other fees and fines assessed against a defendant by the court. Hawaii Revised Statutes Section 706-603(1), (DNA analysis monetary assessment; DNA registry special fund) states that every defendant convicted of a felony offense, shall be ordered to pay a monetary assessment of \$500 or the actual cost of the DNA analysis.

In 2008, the Judiciary's Adult Client Services Branch staff began collection of the DNA sample and monetary assessment. However, in reviewing the DNA statute, it was not clear as to the payment priority of the DNA analysis fee over other fees and fines assessed against a defendant by the court. Section 706-603 (1) includes the provision that the court shall order the defendant to pay an assessment that the defendant will be able to pay within five years so it appears that the DNA fee should have some priority over other fees. Also, Section 706-603 (4) indicates that restitution to the victim of a sexual assault or violent crime shall be made before payment of the monetary assessment. As Sections 706-605 (6), 706-648, and 706-650 do not list the DNA fee in the priority of payment of fees, this amendment will clarify this issue and specify that the DNA analysis fee be paid after both restitution and the crime victim compensation fee.

Thank you for the opportunity to testify on Senate Bill No. 111.