

SB2161

DEPARTMENT OF THE PROSECUTING ATTORNEY
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**THE HONORABLE BRIAN T. TANIGUCHI, CHAIR
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS**

**TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2010**

February 4, 2010

RE: SENATE BILL 2161, RELATING TO RELATING TO WITNESSES

Good morning Chair Taniguchi and members of the Judiciary and Government Operations Committee, the Department of Prosecuting Attorney provides the following testimony **in support of S.B. 2161**, which proposes to amend Hawaii Revised Statutes Section 621-7 to increase the per diem paid to witnesses who travel from out of state or inter island to attend court proceedings.

The current witness per diem payments in *Section 621-7* (\$110 per day for mainland witnesses and \$55 for inter island witnesses) is both inadequate and an insult to the average citizens who disrupt their daily lives to travel long distances to make our criminal justice system work. The most critical piece in the success or failure of any criminal prosecution is the participation of witnesses who generously contribute their time and testimony with totally insufficient compensation. It is unimaginable that anyone could reasonably argue that the current per diem comes anywhere near covering the expenses and inconvenience associated with traveling to Hawaii. The per diem payments fall far short of the typical cost for even the cheapest hotel room and meals.

If we continue to expect our witnesses to cooperate and actively participate in our criminal justice process we must do more to reduce their financial sacrifice. I have heard many witnesses express their regret over becoming involved in a criminal case after having to rearrange their lives, including taking leave from their jobs and making special arrangements the care of their children, often on relatively short notice. We need to reward and recognize the valuable contributions of witnesses by adequately covering their daily living expenses while they serve all of us. Their cooperation is often the key factor in insuring public safety for the citizens and visitors alike in communities across our state.

For the above reasons we strongly urge your support for S.B. 2161. Thank you for your time and consideration.

**Testimony in Support of SB 2161
Relating to Witness Per Diem**

Hearing before Senate Committee on Judiciary and Government Operations
Senate Ways and Means Committee
February 4, 2010
9:30 a.m.
Senate Conference Room 016

Submitted by Jay T. Kimura, Prosecuting Attorney
County of Hawai'i

TO: Chair Taniguchi, Chair Kim, and Committee Members:

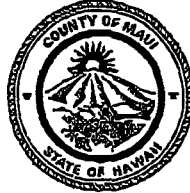
We support Senate Bill 2161 to increase the per diem rate for witnesses.

The current per diem rate for witnesses who must stay overnight in order to testify at court is totally inadequate. The \$55 rate for Hawai'i residents and \$110 for non-residents is expected to cover hotel and meals, with any hotel/food costs beyond the per diem amount at the witness' expense. It is highly unlikely that a decent hotel can be found in that price range, and impossible to pay for hotel and meals from that amount. In view of all the trials that are held, it is a surprisingly small number of witnesses that require per diem.

Considering that witnesses are subpoenaed to appear or face contempt of court charges, that some witnesses lose pay and all lose time when at court, that reprisal is of concern and no one can guarantee safety, AND that it could cost money to testify, it is no wonder that some citizens have great difficulty seeing the benefits of testifying.

However, witness cooperation is critical to a working justice system. We hope you can help to lessen the burden for witnesses by supporting this bill.

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SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS**

**TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2010**

February 4, 2010

RE: Senate Bill 2161 Relating to Witnesses

We are providing testimony in strong support of SB 2161, Relating to Witnesses. The bill increases the per diem payments of out of state witnesses in criminal cases from \$110 to \$145 and \$90 per diem payment for witnesses from any island other than the island on which the court is located, when the witness is required to stay overnight.

The Maui Victim/Witness Assistance Division of the Department of the Prosecuting Attorney provides assistance and support to victims and witnesses through the Hawaii criminal justice system. One of our responsibilities is to assist witnesses who have to come back to Maui to testify in criminal proceedings.

Through the years, we have witnessed the financial hardship being imposed on witnesses who are traveling from the mainland USA and other jurisdictions. One example is a Murder case our office prosecuted and convicted in 1991. The defendant was sentenced to life in prison with a possibility of parole. The case was appealed and the conviction was overturned. In the meantime, majority of the state's witnesses have relocated to the mainland. When it was time for retrial, several witnesses reluctantly came back to testify because of the financial hardship. The mere \$110 per diem was not even enough to cover the hotel cost, not to mention the food and ground transportation. In addition to the expenses of traveling to Hawaii, witnesses had to miss several days of work. Another witness had to make arrangements for the care of her pets, at her own expense. Inter island witnesses are also faced with the same dilemma when they are needed to stay overnight.

We respectfully urge you to support SB 2161 increasing the amount of per diem so that witnesses will not suffer financial hardship. This is one way of acknowledging the importance of witnesses' participation in the pursuit of justice.

Thank you for your time and consideration.