

JAN 20 2011

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-3, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§801D-3] Eligibility of victims. A victim has the~~
4 ~~rights afforded by this chapter and is eligible for the services~~
5 ~~under this chapter only if the victim reported the crime to~~
6 ~~police within three months of its occurrence or discovery,~~
7 ~~unless the victim had justification to do otherwise."]~~

8 SECTION 2. Section 801D-4, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (a) to read:

11 "(a) Upon written request, ~~[victims and]~~ a victim, a
12 surviving immediate family [members of crime] member, or, where
13 specifically provided below, a witness shall have the following
14 rights:

15 (1) To be informed of the rights set forth in this section
16 that are applicable to a victim, surviving immediate
17 family member, or witness;



1 (2) To be treated with fairness, respect, and dignity, and
2 to be free from intimidation, harassment, or abuse,
3 throughout the criminal justice process;

4 [~~(1)~~] (3) To be informed by the police and the prosecuting
5 attorney of the final disposition of the case. If the
6 crime charged is a felony, the victim or a surviving
7 immediate family member shall be notified of major
8 developments in the case and whenever the defendant or
9 perpetrator is released from custody. The victim or a
10 surviving immediate family member shall also be
11 consulted and advised about plea bargaining by the
12 prosecuting attorney;

13 (4) To be present at and to be informed of all criminal
14 proceedings where the defendant has the right to be
15 present;

16 (5) To be heard at any proceeding involving a post-arrest
17 release decision, a negotiated plea, or sentencing;

18 [~~(2)~~] (6) To be notified by the prosecuting attorney if a
19 court proceeding to which [~~they have~~] a victim,
20 surviving immediate family member, or witness has been
21 subpoenaed will not proceed as scheduled;

22 [~~(3)~~] (7) To receive protection from threats or harm;



- 1 [~~(4)~~] (8) To be informed by the police, victim/witness
2 counselor, or other criminal justice personnel, of
3 financial assistance and other social services
4 available as a result of being a witness to or a
5 victim of crime, including information on how to apply
6 for the assistance and services;
- 7 [~~(5)~~] (9) To be provided by the court, whenever possible,
8 with a secure waiting area during court proceedings
9 that does not require [~~them~~] a victim or surviving
10 immediate family member to be in close proximity to
11 defendants and families and friends of defendants;
- 12 [~~(6)~~] (10) 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 (11) To receive prompt restitution from the person or
21 persons convicted of the crime that resulted in the



1 victim's or surviving immediate family member's loss
2 or injury;

3 (12) To have available pre-sentence reports relating to the
4 crime when they are available to the defendant;

5 ~~[(7)]~~ (13) To be informed by the department of public
6 safety of changes planned by the department in the
7 custodial status of the offender that allows or
8 results in the release of the offender into the
9 community, including escape, furlough, work release,
10 placement on supervised release, release on parole,
11 release on bail bond, release on appeal bond, and
12 final discharge at the end of the prison term[-]; and

13 (14) To be heard at any proceeding when any post-conviction
14 release from confinement is being considered.

15 2. By amending subsections (c) and (d) to read:

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 a surviving immediate family ~~members~~
21 ~~of a victim,~~ member, of income received by a person imprisoned
22 for that crime when the imprisoned person has received a civil



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

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

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



S.B. NO. 55

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on upon approval.

4

INTRODUCED BY: Will Evers

John Ryan
James H. Stewart

John H.

Michelle L. Sidani

J

David J. Lee



Report Title:

Bill of Rights for Victims

Description:

Amends chapter 801D, providing for additional rights to crime victims, surviving immediate family members, and witnesses.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

