

STAND. COM. REP. NO.

1294

Honolulu, Hawaii

APR 05 2013

RE: H.B. No. 235  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 235, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COLLECTION OF RESTITUTION FOR  
CRIME VICTIMS,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the  
definition of "victim" in section 706-646, Hawaii Revised  
Statutes, to include any duly incorporated humane society or  
society for the prevention of cruelty to animals, contracted by a  
county or the State, that impounds, holds, or receives custody of  
a pet animal pursuant to sections 711-1109.1, 711-1109.2, and  
711-1110.5, Hawaii Revised Statutes, for the purposes of the  
collection of restitution, except for costs that have already been  
contracted and provided for by the counties or the State.

Your Committee received testimony in support of this measure  
from the Department of the Prosecuting Attorney, City and County  
of Honolulu; Hawaiian Humane Society; The Humane Society of the  
United States; and ninety-two individuals. Testimony in  
opposition to this measure was submitted by the Office of the  
Public Defender.

Your Committee finds that in a recent decision, the Circuit  
Court of the First Circuit denied restitution to the Hawaiian  
Humane Society for their expenses incurred in caring for one  
hundred fifty-three dogs previously subjected to animal cruelty in



the second degree. The court held that the Hawaiian Humane Society was not a government agency or a "direct victim" of the crime committed. Although the Hawaiian Humane Society assumed care of these animals and became the legal owner of all one hundred fifty-three dogs upon forfeiture proceedings, the court held that it was not the "actual owner" and was not entitled to restitution under section 706-646, Hawaii Revised Statutes. This measure provides clear language to allow any duly incorporated humane society contracted with a county or State to receive restitution for expenses incurred when caring for an animal as a result of animal forfeiture or impoundment.

Your Committee has amended this measure by:

- (1) Deleting the language that excludes costs of a duly incorporated humane society or society for the prevention of cruelty to animals that have already been contracted and provided for by the counties or the State from the recovery of victim restitution; and
- (2) Changing the effective date from September 24, 2021, to upon approval.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 235, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 235, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,



CLAYTON HEE, Chair



