

STAND. COM. REP. NO. 572

Honolulu, Hawaii
February 15, 2013

RE: H.B. No. 236
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 236 entitled:

"A BILL FOR AN ACT RELATING TO THE RIGHTS OF VICTIMS,"

begs leave to report as follows:

The purpose of this measure is to ensure that the victims of a felony offense, or their surviving immediate family members, receive adequate information regarding the major developments of their case by, among other things:

- (1) Requiring the Department of Health (DOH), upon request, to notify the the prosecuting attorney in the county where the crime was committed (appropriate prosecutor) if the offender is:
 - (A) Absent without authorization, or hospitalized or committed in the course of or resulting from a penal proceeding;
 - (B) Released on certain grounds relating to physical or mental incompetence; or
 - (C) Regains competence to proceed;
- (2) Creating an exception to the DOH's confidentiality laws to allow the disclosures under paragraph (1);



- (3) Requiring the appropriate prosecutor to notify each victim, or surviving immediate family member, of the events in paragraph (1);
- (4) Adding the DOH to the list of agencies charged to cooperate in the protection of victims' and witnesses' rights in criminal proceedings; and
- (5) Expanding the definition of "major developments" to include:
 - (A) The finding that the offender is unfit to proceed or acquitted due to specified physical or mental incompetence; and
 - (B) Following the finding that the offender is unfit to proceed or acquitted, the offender is:
 - (i) Released; or
 - (ii) Committed to an appropriated public or private institution, including various types of facilities and institutions.

The Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kauai, Crime Victim Compensation Commission, Honolulu Police Department, and Hawaii State Coalition Against Domestic Violence testified in support of this measure. The Department of Health and the Office of the Public Defender provided comments.

Your Committee has amended this measure by:

- (1) Deleting the purpose section;
- (2) Deleting the requirement that DOH give the appropriate prosecutor notice of the release of any person who was committed in lieu of prosecution or sentence, or committed due to:
 - (A) Being unfit to proceed;
 - (B) A post-commitment or post-release proceeding; or
 - (C) An acquittal for physical or mental disease, disorder, or defect;



- (3) Limiting the proposed exception to DOH's confidentiality laws to only allow the disclosure of information relating to unauthorized absences of the offender to the appropriate prosecutor;
- (4) Requiring that the appropriate prosecutor receive notice of a hearing for involuntary hospitalization that arises from a commitment in lieu of prosecution or sentence, or a commitment due to:
 - (A) Being unfit to proceed; or
 - (B) An acquittal for physical or mental disease, disorder, or defect,if the administrator of a psychiatric facility gives notice of intent to discharge, and allows the prosecutor to give notice to the victims, or their immediate surviving family members;
- (5) Revising the proposed expansion of the definition of "major developments" by deleting certain examples of public and private facilities and institutions where an offender may be committed; and
- (6) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 236, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 236, H.D. 1, and be referred to the Committee on Finance.

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



KARL RHOADS, Chair



