

Honolulu, Hawaii

FEB 28 2013

RE: S.B. No. 872

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
S.B. No. 872 entitled:

"A BILL FOR AN ACT RELATING TO THE 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 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.

Your Committee received testimony in support of this measure
from the Department of the Prosecuting Attorney, City and County
of Honolulu; Office of the Prosecuting Attorney, County of Kaua'i;
Humane Society of the United States-Hawaii; and one private
individual. 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



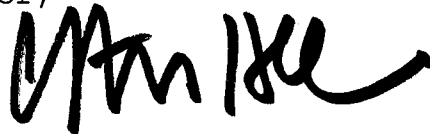
care of these animals and became the legal owner of all one hundred fifty-three dogs upon forfeiture proceedings, the court held that it was not the "actual owner" and was not entitled to restitution under section 706-646, Hawaii Revised Statutes. This measure provides clear language to allow any duly incorporated humane society contracted with the counties to receive restitution for expenses incurred when caring for an animal as a result of animal forfeiture or impoundment.

Your Committee notes the concerns raised by the Office of the Public Defender that adding a duly incorporated humane society contracted with the counties as a victim of a crime entitled to restitution is inappropriate. While the Office applauded agencies that care for distressed animals, caring for animals does not make that agency a victim of a crime in the legal sense. Instead, these agencies have an opportunity to seek monetary damages in civil court.

Your Committee has amended this measure by inserting an effective date of July 1, 2050, to encourage further discussion.

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 S.B. No. 872, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 872, 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



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 872	Committee Referral: JDL	Date: 01-30-2013
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The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5			

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:

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*Only one measure per Record of Votes