



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

---

**ON THE FOLLOWING MEASURE:**

H.B. NO. 234, RELATING TO COLLECTION OF RESTITUTION FOR CRIME VICTIMS.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

**LATE**

**DATE:** Wednesday, January 30, 2013

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Garry L. Kemp, Administrator, Child Support Enforcement Agency

---

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

Although the Department of the Attorney General does not oppose the intent of this bill, the Department is opposed to the part of this bill that seeks to give income withholding for court-ordered restitution priority over all other income withholding orders.

The provisions of this bill seek to address court-ordered restitution and the civil enforcement of such orders.

Currently, the State of Hawaii is in compliance with section 466(b)(7) of the Social Security Act (42 U.S.C. §666(b)(7)) that specifically requires withholding for support collection be given priority over any other legal process under State law against the same income. The provision in Section 1, on page 2, lines 21 and 22, and continues on page 3, lines 1 through 3, will give income withholding orders for court-ordered restitution priority over other income withholding orders. This conflicts with sections 571-52(b), 571-52.2(f), 571-52.3, 576D-14(i), and 576E-16(c), Hawaii Revised Statutes, and may cause the State to be out of compliance with existing federal law. If the State is found to be out of compliance, it will jeopardize federal welfare funding and federal funding of the child support enforcement programs.

In addition, there are inconsistencies in the wording of the bill as there are references to "the agency" in Section 1 but there is no definition for that term. We respectfully request that the committee adopt the following amendments if the committee is to pass this bill.

1. On page 2, line 7, the reference to "agency" should be removed and replaced with "clerk of the court" or the name of the entity that will be responsible for serving an employer

with the income withholding order.

2. The sentence beginning on page 2, line 21 and ending on page 3, line 3, should be amended to read, “Any income withholding order shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, except for income withholding orders and other orders relating to child support as defined in section 576D-1, and shall not be subject to the exemptions or restrictions contained in part II of chapter 651 and in chapters 652 and 653.”

3. On page 3, line 19, the reference to “agency” should be removed and replaced with “clerk of the court”.

4. On page 4, line 4, the reference to “agency” should be removed and replaced with “clerk of the court”.

We respectfully request that the members of the Committee consider the above proposed amendments if this bill is to be passed.