

Testimony of the Office of the Public Defender
State of Hawaii
to the Senate Committee on Judiciary and Labor

April 2, 2013

LATE TESTIMONY

**H.B. NO. 235, H.D. 1 RELATING TO COLLECTION OF RESTITUTION
FOR CRIME VICTIMS.**

oppose

Chairs Hee and Members of the Committee:

H. B. 235, H.D. 1 seeks to amend HRS Section 706-646 – Victim Restitution. The proposed amendment would add “any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals, contracted with the State or county to enforce animal-related statutes or ordinances, that impounds, holds, or receives custody of a pet animal pursuant to but not limited to sections 711-1109.1, 711-1109.2 and 711-1110.5”.

We believe this is not an appropriate addition to the category of “victims” of a crime, currently listed in 706-646 which provides for an award of restitution to:

- direct victims of a crime, including business, trust or government,
- a surviving relative of a deceased victim, or
- a governmental entity that has reimbursed the victim for losses arising as the result of the crime or paid for medical care provided to the victim as a result of the crime.

In other words, restitution can be ordered for the actual dollar loss of a victim, their medical bills, their funeral expenses, etc. However, if a private entity, such as an insurance company, pays for repairs to a home from a burglary break-in, the insurance company is not able to seek restitution because the insurance company is not a victim. Only the victim can seek to be made whole for the reasonable and verifiable losses suffered by the victim.

The goal in the area of restitution is to repay the victim for actual loss but not to have the criminal court act as a collection agency for what would otherwise be the subject of civil proceedings, such as “pain and suffering” of the victim or the expenses of all other entities that might have a role to play in covering various costs. Those entities continue to be able to seek monetary damages in civil court.

This bill proposes to go outside the stated title of the statute to include an entity that is not a victim in a legal sense. Certainly, we applaud the agencies that care for distressed animals that have been taken from owners who either couldn't care for them, or worse, chose not to. But caring for the animal(s) does not make that entity a victim of the crime.

hee6 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 01, 2013 2:05 PM
To: JDLTestimony
Cc: igibson@hsus.org
Subject: Submitted testimony for HB235 on Apr 2, 2013 09:30AM

LATE TESTIMONY

HB235

Submitted on: 4/1/2013

Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Inga Gibson	The Humane Society of the United States-Hawaii	Support	Yes

Comments: Dear Chair Hee and Committee members, We thank you for your consideration of HB235 to clarify that humane societies and animal care organizations are "victims" and thus eligible to receive financial restitution for the care they provide to animals seized and/or forfeited to their agencies in animal cruelty prosecutions. While our state law already provides for restitution, a recent court ruling challenged a humane society being deemed a victim (whether directly or indirectly) and was thus not awarded any financial compensation. This law is thus necessary to clarify the intent that these agencies be able to collect restitution from the defendant(s). Thank you for your consideration of this testimony and we urge your support of HB 235. Inga Gibson Hawaii Director The Humane Society of the United States

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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hee6 - Megan

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To: JDLTestimony
Cc: jlouis@hawaii.edu
Subject: *Submitted testimony for HB235 on Apr 2, 2013 09:30AM*

LATE TEST

HB235

Submitted on: 4/1/2013
Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jamie Louis	Individual	Support	No

Comments:

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Cc: felinitous@yahoo.com
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LATE TESTIMONY

HB235

Submitted on: 4/1/2013

Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mary James	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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To: JDLTestimony
Cc: stacy.takekawa@gmail.com
Subject: *Submitted testimony for HB235 on Apr 2, 2013 09:30AM*

LATE TESTIMONY

HB235

Submitted on: 4/1/2013

Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Stacy Takekawa	Individual	Support	No

Comments:

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
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To: JDLTestimony
Cc: Ahimsam9@gmail.com
Subject: Submitted testimony for HB235 on Apr 2, 2013 09:30AM

LATE TESTIMONY

HB235

Submitted on: 4/1/2013

Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Markl	Individual	Support	No

Comments: Please use your responsibility so that people have no incentive to hurt innocent creatures. Just as if you were traumatized and injured by someone, you would expect that person or party to compensate you, don't let them know cruelty has no consequences. If they know they will have to pay, they will be less motivated to terrorize. Please pass this and encourage colleagues to vote on floor to demand humane action. Thank you.

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hee2 - Kathleen

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To: JDLTestimony
Cc: daveandtaramc@yahoo.com
Subject: Submitted testimony for HB235 on Apr 2, 2013 09:30AM

LATE TESTIMONY

HB235

Submitted on: 4/1/2013

Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
David McArthur	Individual	Support	No

Comments: please support HB 235

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Cc: ron@rongose.com
Subject: *Submitted testimony for HB235 on Apr 2, 2013 09:30AM*

LATE TESTIMONY

HB235

Submitted on: 4/1/2013

Testimony for JDL on Apr 2, 2013 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Gose	Individual	Support	No

Comments:

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