

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE COMMITTEE ON JUDICIARY
ON
HOUSE BILL NO. 238**

JANUARY 31, 2013

RELATING TO WITNESSES

House Bill No. 238 raises the per diem rate for out-of-state witnesses from \$110 to \$145 and provides an additional \$90 per 24-hour day if an inter-island witness is required to stay overnight.

The Department of Budget and Finance primarily serves as the conduit for witness fee payments certified by the public prosecutor or county attorney for witnesses subpoenaed on behalf of the State and by the public defender for witness subpoenaed on behalf of the defendant. The FB 13-15 requested funding level for witness fees totals \$1.89 million and does not include the proposed cost increases for reimbursements. If this proposal is approved, the department would require additional appropriations to support the additional costs and maintain current service levels. Should there be no increase in existing funding levels, and should House Bill No. 238 pass, there will be insufficient funds in the program for witness fees. Witness fee payments would be delayed until such time that sufficient appropriations are available.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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TESTIMONY ON HOUSE BILL 238
RELATING TO WITNESSES

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

House Committee on Judiciary
Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice Chair

Thursday, January 31, 2013; 2:05 PM
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair Har, and Members of the Committee on Judiciary:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify before you today. The Commission supports the passage of House Bill 238 which increases the per diem amount for out-of-state witnesses and witnesses from another island who have been subpoenaed to testify at a state criminal trial.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available.

Witnesses in criminal cases are vital and can be the deciding factor between an offender being brought to justice and an offender being released. In order to do their civic duty, witnesses must bear the financial burden of lost wages or having to use vacation leave. In

addition to lost wages or leave, witnesses from out of state or off island must pay for additional expenses such as lodging and food. This creates an economic barrier that discourages or prevents witnesses from returning to testify.

The per diem for out of state or off island witnesses was intended to offset the lodging and food expenses. However, the current per diem amounts of \$110 per day for out-of-state witnesses and \$55 for off-island witnesses were last set in 1989 and have not kept pace with the cost of living in Hawai'i. A search of internet sites such as hotels.com shows that discounted hotel rooms start at approximately \$100 per night excluding taxes and fees. However, these prices are not always available to witnesses because witnesses rarely get more than a week's notice of when they need to be in Hawai'i to testify. Thus, an increase to \$145 per day would assist witnesses in finding accommodations that would not require them to pay out of their own pocket. The increase would help secure the cooperation of witnesses who are concerned that in addition to having to use their vacation leave or lose wages to testify, they would also have to use their own money to find suitable accommodations and to pay for meals.

Increasing the per diem from \$110 to \$145 is a modest increase considering that, \$110 in 1989 has the same purchasing power as \$204 today. Bureau of Labor Statics of the US Department of Labor.

Thank your providing the Commission with the opportunity to testify in support of House Bill 238. The Commission urges you to support increasing the per diem rate for off-island witnesses in criminal cases.

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THE HONORABLE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawai'i

January 31, 2013

RE: H.B. 238; RELATING TO WITNESSES.

Chair Rhoads, Vice-Chair Har and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of H.B. 238, which increases the amount of per diem stipends for out-of-state witnesses from \$110 to \$145 per 24-hour day and makes available for a witness who must travel to another island within the State, an additional amount of \$90 per 24-hour day to the current \$55 per 24-hour day if that witness is required to stay overnight.

The purpose of this bill is to support and encourage witnesses to pursue charges against offenders of our criminal laws. In 1989, the legislature added per diem stipends for out-of-state witnesses; however, the amount has remained the same since, for about twenty-four years. This amount is no longer sufficient to pay the personal expenses of out-of-state witnesses, such as lodging and food. Often these individuals are forced to take money out of their own pockets to cover necessary personal expenses when subpoenaed to return to the state as a witness in state court proceedings. Because the per diem stipend amount has not been adjusted to keep pace with the cost of living in Hawaii, it has emerged as an economic "barrier" that either discourages or prevents an out-of-state witness from pursuing charges against offenders due to economic considerations. Further, the Department of the Prosecuting Attorney finds that the per diem stipend amount for witnesses that are required to travel to a different island within the State is also not sufficient to cover the witness' personal expenses when that witness is required to stay overnight.

Lastly, we believe the fiscal impact is manageable, considering that such funds will help bring witnesses from abroad who are needed to successfully convict defendants who have caused harm to people and property. In 2012, the per diem cost to bring witnesses from the mainland and foreign countries to the City and County of Honolulu was \$10,477.50, and the per diem cost

to bring witnesses from the neighbor islands to the City and County of Honolulu was \$605.00. Thus, the total per diem cost to bring witnesses to the City and County of Honolulu in 2012 was \$11,082.50. We estimate an annual cost of \$15,000 to \$25,000 for witness per diem costs for all jurisdictions in the State.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of H.B. 238. Thank you for this opportunity to testify.

Justin F. Kollar
Prosecuting Attorney



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TESTIMONY IN SUPPORT OF
H.B. NO. 238
A BILL FOR AN ACT RELATING TO WITNESSES

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

House Committee on Judiciary

Thursday, January 31, 2013
2:05 p.m., Room 325

Honorable Chair Rhoads, Vice-Chair Har, and Members of the House Committee on Judiciary, the Office of the Prosecuting Attorney, County of Kaua'i submits the following testimony in support of House Bill No. 238.

The purpose of House Bill No. 238 is to amend Section 621-7 of the Hawai'i Revised Statutes as it relates to the per diem paid to out-of-state witnesses, and witnesses needing to travel inter-island within the State of Hawai'i.

House Bill No. 238 slightly increases the per diem stipends for out-of-state witnesses from \$110.00 to \$145.00. The proposed bill also adds that a witness required to travel inter-island within the State of Hawai'i be entitled to an additional \$90.00. Not only would these proposed amendments keep in line with the higher cost of living in Hawai'i, but it would also alleviate financial burdens on the witness and allow them to focus more attention on their participation in court proceedings.

For these reasons, we strongly support House Bill No. 238. Thank you for the opportunity to testify on this matter.

Respectfully,

Justin F. Kollar
Prosecuting Attorney
County of Kaua'i