

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

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

March 12, 2013

RE: S.B. 879, S.D. 1; 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 following testimony in strong support of S.B. 879, S.D. 1.

The original purpose of S.B. 879 was to increase the amount of per diem stipends from \$110 to \$145 per 24-hour day for out-of-state witnesses, and to add an additional \$90 per 24-hour day (to the current \$55 per 24-hour day) for witnesses who must travel inter-island, if those inter-island witnesses are required to stay overnight.

Increasing per diem stipends would greatly support and encourage victims and other witnesses to report and pursue charges against criminal offenses that occur in Hawai'i. These amounts have not changed in 24 years (last increased in 1989), and have lagged significantly behind comparable per diems provided to state employees who travel interisland or overseas for state-related purposes. In fact, the current per diem for out-of state witnesses is generally insufficient to cover personal expenses, such as lodging and food, and many who return to testify as witnesses in state court proceedings are forced to take money out of their own pocket to cover necessary personal expenses.

Because the witness per diem stipend has not been adjusted to keep pace with the cost of living in Hawai'i, 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. Similarly, the per diem stipend amount provided to witnesses who must travel inter-island is insufficient to cover personal expenses, when witnesses are required to stay overnight.

Considering the Department's figures from 2012, the total number of per diem days for witnesses travelling from the mainland and foreign countries, to the City and County of

Honolulu, was 95.25 days for 25 witnesses, for a total of \$11,082.50. The cost for 10 witnesses who travelled from the neighbor islands to the City and County of Honolulu was \$605.00, with none requiring an overnight stay.

Based on these figures, the anticipated increase in per diem expenditures, if the amount were raised from \$110.00 to \$145.00 per day, would only be **\$3,333.75 per year**. Considering the importance of bringing back necessary witnesses, to successfully convict defendants who have caused harm to people and property, the Department strongly believes that such fiscal impact is entirely manageable for the state.

Whereas the cost of increasing witness per diems as proposed in S.B. 879 would be very minimal, the benefit to the the public and to returning witnesses is exponentially greater, not only for their overall sense of public safety and welfare, but also for Hawai'i's reputation of maintaining a safe and hospitable environment. The proposed increase of \$35 per day in witness per diem is a small investment with a significant return.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of S.B. 879, S.D. 1. Thank you for this opportunity to testify.

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY
ON
SENATE BILL NO. 879 S.D.1**

MARCH 12, 2013

RELATING TO WITNESSES

Senate Bill No. 879, S.D.1, raises the per diem rate for out-of-state witnesses from \$110 to an unspecified amount and also provides an additional unspecified amount 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. Increases in the reimbursement rates would require additional appropriations to support the additional costs tied to the increases and to maintain current service levels. Should there be no increases in the existing funding levels, there may be insufficient funds in the program for witness fees. Witness fee payments could then be delayed until such time that sufficient appropriations are available.



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

1136 Union Plaza, Suite 600
Honolulu, Hawaii 96813
Telephone: 808 587-1143
FAX 808 587-1146

MARI MCCAIG
Chair

THOMAS T. WATTS
Commissioner

L. DEW KANESHIRO
Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY ON SENATE BILL 879, SD1
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

Tuesday, March 12, 2013; 2:00 PM
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair Har, and Members of the House 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 Senate Bill 879, SD1, 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 Senate Bill 879, SD1. The Commission urges you to support increasing the per diem rate for off-island witnesses in criminal cases.



Hawai'i Convention Center
1801 Kalākāua Avenue, Honolulu, Hawai'i 96815
kelepona tel 808 973 2255
kelepa'i fax 808 973 2253
kahua pa'a web hawaii-tourism-authority.org

Neil Abercrombie
Governor

Mike McCartney
President and Chief Executive Officer

**Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
On
S.B. 879, S.D. 1
Relating to Witnesses
House Committee on Judiciary
Tuesday, March 12, 2013
2:00 p.m.
Conference Room 325**

The Hawai'i Tourism Authority (HTA) supports S.B. 879, S.D. 1, which proposes to increase the per diem payments for out-of-state witnesses in criminal cases.

One of the nine strategic initiatives of HTA's Tourism Strategic Plan is Safety and Security, with the goal of achieving a safe Hawaii visitor experience and providing assistance to visitors who are victims of crimes, accidents, and other adversities. Key to achieving this goal is supporting and strengthening criminal deterrence and law enforcement. This includes allocating more resources for law enforcement personnel and resources for those involved in the legal system. The current per diem of \$110 per day discourages many out-of-state witnesses, many of whom are tourists from returning to testify in state court. The per diem amount and the witness fee of \$20 are supposed to cover the witness' lodging, meals, ground transportation, and other expenses.

Providing adequate resources for law enforcement agencies and tougher sentencing law to keep repeat offenders off the streets are not effective if key witnesses do not return to testify.

Mahalo for the opportunity to offer these comments.