
A BILL FOR AN ACT

RELATING TO VICTIM RESTITUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2012, the legislature enacted the justice
2 reinvestment initiative, Act 139, Session Laws of Hawaii 2012,
3 to reduce corrections spending, increase efficiency, decrease
4 recidivism, and increase offender accountability through data-
5 driven strategies. One justice reinvestment initiative strategy
6 to increase offender accountability was to increase the amount
7 of victim restitution collected from inmates with unpaid
8 restitution orders. Section 353-22.6, Hawaii Revised Statutes,
9 was amended to increase the amount of restitution collected from
10 inmates from ten per cent of inmate earnings to twenty-five per
11 cent of all inmate earnings, deposits, and credits. The
12 legislature intended the amendment to apply to all unpaid
13 restitution orders.

14 While it was the legislature's intent that crime victims
15 achieve financial justice through increased restitution
16 collection, the collection of twenty-five per cent from inmates'
17 earnings, deposits, and credits has not been uniformly applied
18 to all inmates in all correctional facilities.



1 The legislature finds that some courts have ordered
2 restitution payments of less than twenty-five per cent of all
3 inmate earnings, deposits, and credits and that the department
4 of public safety had been advised to comply with the court
5 orders instead of section 353-22.6, Hawaii Revised Statutes.
6 The legislature further finds that the department of public
7 safety was also advised that the twenty-five per cent deduction
8 from all inmate earnings, deposits, and credits could not be
9 applied to sentences imposed prior to July 1, 2012, the
10 effective date of the law that increased the deductions to
11 twenty-five per cent. These limitations to the application of
12 section 353-22.6, Hawaii Revised Statutes, are contrary to the
13 legislature's intent, which was to impose the collection of
14 restitution at the rate of twenty-five per cent from all inmates
15 to which section 353-22.6 applies.

16 The purpose of this Act is to clarify that twenty-five per
17 cent of inmate earnings, deposits, and credits shall be deducted
18 to satisfy victim restitution orders and that amount shall not
19 be lowered by any other existing statute or court order.

20 SECTION 2. Section 353-22.6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§353-22.6 Victim restitution. The director of public
2 safety shall enforce victim restitution orders against all
3 moneys earned by the inmate or deposited or credited to the
4 inmate's individual account while incarcerated. [~~The~~]
5 Notwithstanding any other law or court order to the contrary,
6 the amount deducted shall be twenty-five per cent of the total
7 of all moneys earned, new deposits, and credits to the inmate's
8 individual account. The moneys intended for victim restitution
9 shall be deducted monthly and paid to the victim once the amount
10 reaches \$25, or annually, whichever is sooner. This section
11 shall not apply to moneys earned on work furlough pursuant to
12 section 353-17."

13 SECTION 3. Section 706-646, Hawaii Revised Statutes, is
14 amended by amending subsection (3) to read as follows:

15 "(3) In ordering restitution, the court shall not consider
16 the defendant's financial ability to make restitution in
17 determining the amount of restitution to order. The court,
18 however, shall consider the defendant's financial ability to
19 make restitution for the purpose of establishing the time and
20 manner of payment. The court shall specify the time and manner
21 in which restitution is to be paid[-]; provided that the court's
22 order shall comply with the requirements of section 353-22.6.



1 Restitution shall be a dollar amount that is sufficient to
2 reimburse any victim fully for losses, including but not limited
3 to:

4 (a) Full value of stolen or damaged property, as
5 determined by replacement costs of like property, or
6 the actual or estimated cost of repair, if repair is
7 possible;

8 (b) Medical expenses; and

9 (c) Funeral and burial expenses incurred as a result of
10 the crime."

11 SECTION 4. This Act shall apply to orders for victim
12 restitution that are issued after the effective date of this
13 Act.

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on July 1, 2014;
17 provided that the amendments made to section 353-22.6, Hawaii
18 Revised Statutes, by this Act shall be repealed when section
19 353-22.6, Hawaii Revised Statutes, is reenacted on July 1, 2018,
20 by section 14 of Act 139, Session Laws of Hawaii 2012, as
21 amended by section 2 of Act 67, Session Laws of Hawaii 2013.



Report Title:

Crime Victim Compensation; Restitution

Description:

Clarifies the Director of Public Safety's authority to deduct 25% of all moneys earned, new deposits, and credits to an inmate's individual account for restitution. Applies to orders issued after the effective date of this Act. Effective July 1, 2014. (HB2654 HD1)

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