

STAND. COM. REP. NO.

646

Honolulu, Hawaii

MAR - 1 2013

RE: S.B. No. 509

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 509 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE
CONSTITUTION OF THE STATE OF HAWAII RELATING TO RIGHTS OF
CRIME VICTIMS,"

begs leave to report as follows:

The purpose and intent of this measure is to propose a
constitutional amendment to guarantee crime victims and their
immediate surviving family members specific rights related to the
information pertaining to and participation in the criminal
justice process.

Your Committee received testimony in support of this measure
from the Department of Public Safety; Crime Victim Compensation
Commission; Hawaii State Commission on the Status of Women; Office
of the Prosecuting Attorney, County of Kaua'i; Department of the
Prosecuting Attorney, City and County of Honolulu; Office of the
Prosecuting Attorney, County of Hawaii; Mothers Against Drunk
Driving Hawaii; Sex Abuse Treatment Center; Domestic Violence
Action Center; and three individuals. Testimony in opposition to
this measure was submitted by the Department of the Attorney
General.

Your Committee finds that existing laws improve the status of
crime victims by enabling crime victims to receive restitution,
requiring that crime victim statements are included in presentence
reports, allowing crime victims to speak prior to sentencing, and
setting forth the basic crime victim rights. However, the Crime

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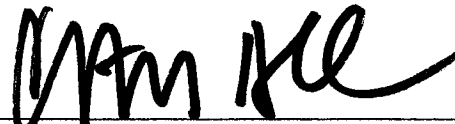


Victim Compensation Commission testified that a constitutional amendment is necessary because these laws intended to assist crime victims frequently fail to provide meaningful protection when they conflict with the rights of the accused. The basic bill of rights for crime victims and witnesses under section 801D-4, Hawaii Revised Statutes, does not establish permanent, enforceable rights for crime victims. This measure proposes a constitutional amendment to guarantee crime victims and their immediate surviving family members specific rights related to information pertaining to and participation in the criminal justice process.

Despite the concerns raised by the Department of the Attorney General, your Committee notes that a crime victim's bill of rights seeks to create a balance in which the defendant's rights are protected and the crime victim is ensured meaningful participation in the criminal system. The Crime Victim Compensation Commission clarified that this proposed constitutional amendment in no way diminishes a criminal defendant's constitutional rights or interferes with the prosecution of a criminal case. Instead, this measure guarantees victims the opportunity to be heard, remain informed, receive restitution, and have their property returned.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 509 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,



CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 509	Committee Referral: JDL	Date: 02-07-13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <i>MS</i> <input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes