

STAND. COM. REP. NO.

1204

Honolulu, Hawaii

March 22, 2013

RE: S.B. No. 873
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 873, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO COLLECTION OF RESTITUTION FOR CRIME VICTIMS,"

begs leave to report as follows:

The purpose of this measure is to support and facilitate the collection of court-ordered restitution for crime victims by:

- (1) Establishing requirements and procedures for income withholding orders for crime victim restitution;
- (2) Repealing a court's authority to revoke restitution once ordered;
- (3) Requiring that all money posted by the defendant as bail or bond be applied toward the payment of any court-ordered restitution, fines, or fees in the same case;
- (4) Expanding crime victims' access to adult probation records to include access to the defendant's record of compliance with court-ordered payments; and
- (5) Appropriating funds to the Judiciary for the purpose of enhancing the collection of restitution and hiring of necessary staff.

SB873 HD1 HSCR JUD HMS 2013-2880



The Department of the Prosecuting Attorney of the City and County of Honolulu and the Crime Victim Compensation Commission supported this measure. The Judiciary, the Department of the Attorney General, and one concerned individual provided comments on the measure.

Your Committee has amended this measure by:

- (1) Removing the prohibition on the court's ability to revoke restitution once it is ordered;
- (2) Limiting instances where monies already paid shall be applied toward the payment of restitution, fines, or fees to monies paid as bail and where it was the defendant's own money deposited for the bail, and placing the burden of proof on the prosecution to show by a preponderance of the evidence that the money deposited for bail was the defendant's own money;
- (3) Requiring the court to allow 30 days for a defendant to make restitution payment in full before an income withholding order is issued;
- (4) Expanding the types of court orders having priority over income withholding orders for restitution to include orders made pursuant to chapter 576B, Hawaii Revised Statutes (Uniform Interstate Family Support Act), to ensure compliance with federal law; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 873, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 873, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



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

Karl Rhoads

KARL RHOADS, Chair



