

Honolulu, Hawaii

February 19, 2016

RE: H.B. No. 1144  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1144 entitled:

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

begs leave to report as follows:

The purpose of this measure, as received by your Committee, is to propose an amendment to the Hawaii State Constitution that guarantees specific rights to victims of crime and their surviving immediate family including rights to receive information, participate in the criminal justice process, and to financial reimbursement from the offender, to be known as "Marsy's Law".

For purposes of the public hearing on February 9, 2016, your Committee posted notice of and circulated a proposed draft, that deletes the provisions of the measure as it was received by your Committee and inserts new language that:

- (1) Specifies the victims of crime, crime victims, or victims that are the subject of the proposed constitutional rights;
- (2) Clarifies the rights to be afforded the victim of crime;
- (3) Deletes the provision relating to the expeditious return of property that is used for evidence; and



- (4) Deletes the provision that permitted the State to assert the court's denial of a crime victim's right as an error to sustain an appeal of a criminal case.

The Department of the Attorney General, Department of Public Safety, Hawaii State Commission on the Status of Women, Crime Victim Compensation Commission, Kauai County Prosecuting Attorney, Parents and Children Together, The Pacific Alliance to Stop Slavery, Catholic Charities Hawaii, American Association of University Women - Hawaii, Mothers Against Drunk Driving National Office, Mothers Against Drunk Driving HAWAII, Domestic Violence Action Center, Visitor Aloha Society of Hawaii, The Children's Alliance of Hawaii, National Organization of Parents of Murdered Children, Parents of Murdered Children, Missing Child Center Hawaii, The Sex Abuse Treatment Center, Marsy's Law Hawaii, National Crime Victim Law Institute, Child & Family Service, YMCA of Hawaii Island, Louis Pohl Gallery, and many concerned individuals testified in support of H.B. No. 1144, H.D. 1, Proposed. The American Civil Liberties Union of Hawaii testified in opposition. The Honolulu Department of the Prosecuting Attorney provided comments.

Your Committee finds that constitutionally protected rights will better ensure that crime victims are not overlooked by the criminal justice system. The existing statutory rights for crime victims simply do not work and have not been implemented in a consistently meaningful way.

Due to the regard with which constitutional rights are viewed, the committee notes that proposals to amend the State's Constitution are not to be done casually and consequently did not pass this measure last session. Instead it used the interim to research and reflect upon the scope of the rights, ultimately providing a proposal for an amended measure in advance of the hearing so that various stakeholders could comment on it.

The proposed amended bill is intended to reflect a terse yet flexible group of rights for crime victims. These rights are based on the well-tested federal statute for crimes that fall under federal jurisdiction. It should be noted that these rights are not written in such a detailed manner as to constrain the criminal justice process or require repeated amendments.



It is the committee's strong intent that the rights apply to all proceedings related to the criminal conduct including proceedings handled by the Department of Public Safety and the Paroling Authority.

The time period for which these rights exist is intentionally broad and intended to mean all stages of the criminal justice process. This means from the time an injury was inflicted on the victim and continuing until the offender is no longer in the criminal justice system including parole, probation, release from a mental institution, and no longer subject to registration on the sex offender registry.

Your Committee considered both H.B. No. 1144 as it was received by your Committee and the proposed draft. Upon careful consideration, your Committee voted to accept the proposed draft, with amendments to clarify that the victim's rights apply to all proceedings related to the criminal conduct.

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 H.B. No. 1144, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1144, H.D. 1, and be referred to your Committee on Finance.

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



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KARL RHOADS, Chair



