

Honolulu, Hawaii

FEB 18 2016

RE: S.B. No. 2104

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2104 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Create standards and procedures for income withholding, similar to those used for outstanding child support payments, for purposes of enforcing restitution orders;
- (2) Amend the definition of "debt" relating to the recovery of money owed to the State to include court-ordered restitution subject to civil enforcement;
- (3) Provide priority of income withholding orders;
- (4) Require that any bail posted by a defendant be applied toward payment of any court-ordered restitution in the same case;
- (5) Extend victims' access to adult probation records to include access to payment compliance records;
- (6) Make permanent Act 119, Session Law of Hawaii 2011, which allows certain adult probation records to be provided to certain case management, assessment, or



treatment service providers upon the screening for admission, acceptance, or admittance of the defendant into a treatment program; and

- (7) Appropriate funds to enhance restitution collection, including the hiring of necessary staff.

Your Committee received testimony in support of this measure from the Crime Victim Compensation Commission; Department of the Prosecuting Attorney, City and County of Honolulu; Office of the Prosecuting Attorney, County of Kauai; and one individual. Your Committee received comments on this measure from the Judiciary, Department of the Attorney General, and Department of Taxation.

Your Committee finds that victim restitution is a paramount victim's right that addresses a wide range of effects of crime, including physical, emotional, psychological, financial, and social impacts. This measure offers a comprehensive approach to restitution collection so that victims of crimes will not be provided hollow promises when the court orders restitution.

Your Committee has amended this measure by:

- (1) Adopting the language suggested by the Department of the Attorney General to add references to chapters 580 and 584, Hawaii Revised Statutes, as having priority over an income withholding order for court-ordered restitution;
- (2) Adding a severability clause;
- (3) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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. 2104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2104, S.D. 1, and be referred to your Committee on Ways and Means.



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



GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

| | | | | |
|--|--|-------------------------|-----|----------|
| Bill / Resolution No.:* SB 2104 | Committee Referral: JDL, WAM | Date: 2/11/16 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: <input 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 |
| KEITH-AGARAN, Gilbert S.C. (C) | / | | | |
| SHIMABUKURO, Maile S.L. (VC) | / | | | |
| GABBARD, Mike | / | | | |
| KIM, Donna Mercado | / | | | |
| THIELEN, Laura H. | / | | | |
| SLOM, Sam | | | | / |
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| TOTAL | 5 | | | 1 |
| 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