

Honolulu, Hawaii

MAR 04 2016

RE: S.B. No. 2104
S.D. 2

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

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2104, S.D. 1, 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 establish standards relating to the collection and disbursement of restitution for crime victims.

More specifically, this measure:

- (1) Establishes procedures for withholding income from persons ordered to pay restitution;
- (2) Establishes a priority of income withholding orders and a formula for allocating amounts withheld among multiple restitution orders;
- (3) Amends the definition of "debt" relating to the recovery of money owed to the State to include court-ordered restitution subject to civil enforcement;
- (4) Requires that any bail posted by a defendant shall be applied toward payment of any court-ordered restitution in the same case;



- (5) Extends victims' access to adult probation records to include access to a defendant's payment compliance records;
- (6) Makes permanent Act 119, Session Laws 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) Appropriates an unspecified sum of money to enhance restitution collection, including the hiring of necessary staff.

Your Committee received written comments in support of this measure from the Department of Public Safety, Department of the Prosecuting Attorney of the City and County of Honolulu, and one individual.

Your Committee received written comments on this measure from the Department of Taxation, the Judiciary, and the Crime Victim Compensation Commission.

Your Committee finds that this measure provides a reasonable and comprehensive approach to the collection and disbursement of restitution owed to crime victims by persons against whom judgments or orders have been entered. Providing clarity in the priority of income withholding orders and a formula for allocating amounts withheld from a person against whom more than one order has been entered will help address the negative effects that crime has upon victims.

Your Committee has amended this measure by adopting the following amendments proposed by the Department of the Prosecuting Attorney of the City and County of Honolulu:

- (1) Clarifying that the measure's provisions relating to the withholding of income for payment of restitution applies to persons sentenced to supervision under adult client services;
- (2) Clarifying the methods in which an employer may submit payment to the clerk of the court;



- (3) Extending, from ten days to twenty-one days, the time by which the clerk of the court shall disburse to an obligee payments derived from amounts withheld by an employer;
- (4) Clarifying that the definition of "employer" shall not apply if the employed individual is incarcerated in a correctional facility or engaged in an inmate work furlough program;
- (5) Providing that no filing fee or surcharge shall be imposed for a victim to access certain adult probation records of a defendant to enforce a restitution order;
- (6) Extending for two additional years, to 2020, the sunset date for the provision that increases from ten per cent to twenty-five per cent the amount to be deducted from inmate earnings for payment of restitution;
- (7) Adding an appropriation for equipment costs to support judiciary staffing positions established by this measure;
- (8) Making technical nonsubstantive amendments for purposes of clarity and consistency; and
- (9) Changing the effective date to July 1, 2076, to facilitate further discussion on the measure.

Your Committee notes that the Department of the Prosecuting Attorney of the City and County of Honolulu proposed that this measure appropriate \$694,744, with \$651,744 for the sixteen new judiciary staffing positions and \$43,000 for equipment costs to implement this measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2104, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2104, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,

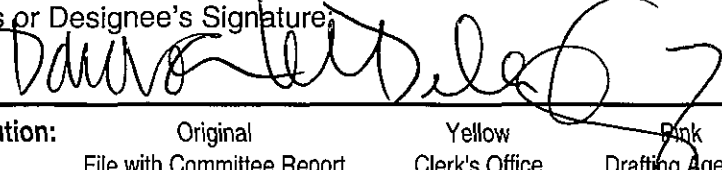


JILL N TOKUDA, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB 2104, SD 2	Committee Referral: SDL, WAM	Date: 3/1/16		
<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
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood				/
HARIMOTO, Breene	/			
INOUYE, Lorraine R.	/			
RIVIERE, Gil	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
SLOM, Sam				/
TOTAL	9			2
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