

Honolulu, Hawaii  
March 24, 2016

RE: S.B. No. 3034  
S.D. 1  
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 S.B. No. 3034, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to propose an amendment to the Constitution of the State of Hawaii to provide recognized and protected rights for victims of crime and certain surviving immediate family members.

The Hawaii State Commission on the Status of Women, Prosecuting Attorneys of the County of Kauai and the City and County of Honolulu, Mayor of the County of Maui, Domestic Violence Action Center, The Children's Alliance of Hawaii, Mothers Against Drunk Driving Hawaii, Kailua Neighborhood Board, Visitor Aloha Society of Hawaii, Mothers Against Drunk Driving National Office, American Association of University Women Hawaii, Hawaii State Coalition Against Domestic Violence, Parents and Children Together, The Sex Abuse Treatment Center, Friends of the Missing Child Center Hawaii, National Organization of Parents of Murdered Children, YWCA of Hawaii Island, Louis Pohl Gallery, Maui Search and Rescue, and many concerned individuals testified in support of this measure. The Department of the Attorney General, Crime Victim Compensation Commission, and Marsy's Law Hawaii testified in support and provided comments. The Office of the Public



Defender, Prosecuting Attorney of the County of Maui, Community Alliance on Prisons, American Civil Liberties Union of Hawaii, and two concerned individuals testified in opposition.

Your Committee finds that existing statutory rights for victims of crime simply do not work and have not been implemented in a consistently useful manner. Your Committee believes that constitutionally protected rights will better ensure meaningful and enforceable rights for victims.

It is your Committee's intent that these rights apply to "all proceedings related to the criminal conduct" including probation, sentencing, parole, and any other process or deliberation that may result in the offender's release or change in custody status. The period for which these rights exist is, as well, intentionally broad and intended to mean all stages of the criminal justice process, meaning 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, or no longer being subject to registration on the sex offender registry.

Your Committee has amended this measure by:

- (1) Specifying that the rights afforded to victims of crime shall attach upon the victimization of a person by a crime and continue throughout the criminal justice process;
- (2) Stating a clear and concise list of rights of victims of crime including:
  - (A) To be reasonably protected from the accused, including the consideration of the victim's safety in the decision to deny or fix the amount of bail and release conditions for the accused;
  - (B) To reasonable, accurate, and timely notice of all proceedings related to the criminal conduct;
  - (C) To not be excluded from any proceeding related to the criminal conduct, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding;



- (D) To be reasonably heard at all proceedings related to the criminal conduct;
  - (E) To the reasonable right to confer with the attorney for the State in the case or other proceeding related to the criminal conduct;
  - (F) To full and timely restitution as provided in law;
  - (G) To proceedings free from unreasonable delay;
  - (H) To be treated with fairness and with respect for the victim's dignity and privacy;
  - (I) To be informed in a timely manner of any plea bargain, deferred prosecution agreement or final disposition, and other major developments, as that term may be defined by law, in proceedings related to the criminal conduct; and
  - (J) To be informed of these rights and of other rights and services available for crime victims;
- (3) Defining the terms "victim of crime", "crime victim", and "victim" for the purposes of this section; and
  - (4) Making nonsubstantive, technical 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. 3034, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3034, S.D. 1, 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



