

Honolulu, Hawaii

MAR 04 2016

RE: S.B. No. 3034
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 Ways and Means, 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 and intent of this measure is to propose an amendment to the Hawaii State Constitution to establish specific rights for crime victims.

Specifically, the measure:

- (1) Establishes certain constitutional rights for victims of crimes and surviving immediate family members of deceased crime victims, including the rights to be informed of, and be heard at, criminal proceedings, and to be informed of developments that may result in an offender's release;
- (2) Requires a court to ensure that a crime victim or surviving immediate family member is afforded the proposed rights in any court proceeding involving an offense against a victim;
- (3) Provides that a crime victim, their representative, surviving immediate family member, or an attorney for the State may assert and enforce the proposed rights;



- (4) Provides that a crime victim's exercise of the proposed rights shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence;
- (5) Provides that the proposed rights do not create any cause of action for compensation or damages against the State or any of its political subdivisions, or any employees of the State or any of its political subdivisions;
- (6) Authorizes the Legislature to enact substantive and procedural laws to further define, implement, and protect the proposed rights; and
- (7) Provides that none of the proposed constitutional rights shall be construed to supersede the constitutional rights of any accused person or adjudicated offender.

Your Committee received written comments in support of this measure from the Crime Victim Compensation Commission, Department of the Attorney General, Department of Public Safety, Hawaii State Commission on the Status of Women, Hawaii State Ethics Commission, Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Mayor of the County of Maui, Office of the Prosecuting Attorney of the County of Kauai, American Association of University Women - Hawaii, The Children's Alliance of Hawaii, Hawaii State Coalition Against Domestic Violence, Louis Pohl Gallery, Marsy's Law Hawaii, Maui Search and Rescue, Missing Child Center Hawaii, Mothers Against Drunk Driving - Hawaii, Mothers Against Drunk Driving - National Office, Parents and Children Together, The Sex Abuse Treatment Center, Visitor Aloha Society of Hawaii Island, and fifty-seven individuals.

Your Committee received written comments in opposition to this measure from the Department of the Prosecuting Attorney of the County of Maui.

Your Committee finds that Hawaii is one of eighteen states that have not established constitutional protections for crime victims. If ratified, this measure will provide constitutional rights for crime victims and surviving immediate family members and ensure that those rights are protected and may be enforced, without diminishing the rights of persons accused of crimes.



Your Committee notes that the Legislative Reference Bureau has raised technical issues regarding the measure's vague or ambiguous wording, including, for example: possible conflicts between release of information concerning developments relating to the status of persons involuntarily hospitalized and the privacy rights of those persons; and the enumeration of escape as a planned change in custody status of which crime victims must be notified. Your Committee requests that the next committee to deliberate on this measure address these technical issues.

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. 3034, S.D. 1, and recommends that it pass Third Reading.

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

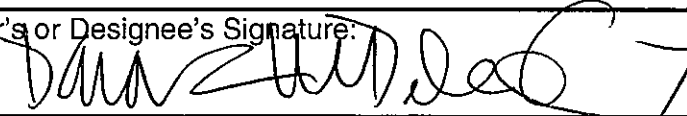


JILL N. TOKUDA, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB 3034, SD1	Committee Referral: SDL, WAM	Date: 8/24/16		
<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 checked="" 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