

HARRISON & MATSUOKA

Attorneys at Law

William A. Harrison

E-mail: wharrison@hamlaw.net

Keith A. Matsuoka

E-mail: kmatsuoka@hamlaw.net

Gene K. Lau, of Counsel

E-mail: glau@hamlaw.net

Davies Pacific Center
841 Bishop Street, Suite 800
Honolulu, Hawaii 96813
Telephone: (808) 523-7041
Facsimile: (808) 538-7579
Web: www.hamlaw.net

February 29, 2016

Via: Web: www.capitol.hawaii.gov/submittestimony.aspx

COMMITTEE: **COMMITTEE ON FINANCE**

Chair: Rep. Sylvia Luke

Vice Chair: Rep. Scott Nishimoto

DATE: Tuesday, March 1, 2016

TIME: 11:02 AM

PLACE: Conference Room 308

State Capitol

415 Beretania Street

Honolulu, Hawai'i 96813

SUPPORT: HB 1046/ HD1 Proposed

Honorable Representatives: Sylvia Luke, Scott Nishimoto and members of the Committee on Finance.

Thank you for providing me this opportunity to offer testimony on behalf of the Hawai'i Innocence Project ("HIP") in **strident support of House Bill 1046/HD1**.

As background to our support of the Bill, I am one of the founding attorneys of the "Hawai'i Innocence Project." The Hawai'i Innocence Project is an upper level clinical program at the William S. Richardson School of Law. The project provides individuals who have been wrongfully convicted, the last opportunity to seek exoneration, redress and release. The project is manned by law students who are supervised by Co-Directors Ken Lawson, Ronette Kawakami and practicing criminal defense attorneys, Brook Hart, Susan Arnett and the undersigned. The supervising attorneys have combined legal experience in excess of 120 years.

INTRODUCTION

On June 26, 2015, the American Judicature Society-Hawaii Chapter formed this Special Committee on Redress for Unlawful Imprisonment ["Task Force"]. The

COMMITTEE: COMMITTEE ON FINANCE

Chair: Rep. Sylvia Luke

Vice Chair: Rep. Scott Nishimoto

DATE: Tuesday, March 1, 2016

Page 2

two appointed Co-Chairs of the Committee were The Honorable Jeannette H. Castagnetti and Mark J. Bennett, Esq. I was appointed as the Reporter. The members of the Committee represented a wide range of State and Federal judicial representatives, legal, educational and community representatives from all of the interested stakeholders in the community.

Attorney General Douglas S. Chin asked the AJS to “review, comment on, and make recommendations” regarding a possible compensation statute for wrongfully imprisoned individuals. The Committee was tasked with the duty to review and address four main issues: (1) the factual circumstances under which a person would be eligible for redress, (2) the legal standard and process for eligibility, (3) the types of redress that would be available, including damages, health care, tuition, child support payments, fees and costs, and (4) what the government entity would pay.

The first meeting of the Committee took place on July 9, 2015 at which time the charge was officially presented and the Committee began its discussion of the issues involved.

At the initial meeting, the Committee engaged in a preliminary discussion of the issues and was asked to offer comments and a response to the following questions:

1. Should persons "wrongfully" convicted and imprisoned be entitled to monetary or other redress?
2. If so, what should be the grounds for such redress (actual innocence, something less, etc.)?
3. Who should decide (court, agency, or board)?
4. What should the standard of proof be (clear and convincing, preponderance), and should there be anything that acts to shift the burden from the claimant (prior court ruling establishing innocence, etc.)?
5. Should there be any damages other than money (former HB 148 had a very long list)?
6. Should the damages be fixed based on time, should they be at the discretion of the court/entity awarding the damages, or should they be "not less than" or "not more than" a particular amount?

COMMITTEE: COMMITTEE ON FINANCE

Chair: Rep. Sylvia Luke

Vice Chair: Rep. Scott Nishimoto

DATE: Tuesday, March 1, 2016

Page 3

7. Should there be additional avenues of redress (as former HB 148 seemed to allow), or should any new remedy be an exclusive remedy?
8. Should any statute make clear the limited nature of any waiver of sovereign immunity?
9. What should be the end product of the Committee, e.g., a report with recommendations, a proposed statute, or something else?

The committee addressed the above questions and reached consensus on each question. The committee decided to schedule a follow-up meeting to review compensation statutes from those jurisdictions which had passed such legislation, as well as available Innocence Project statistics and information. I volunteered to obtain, collate and disseminate the above information to the committee members.

The second meeting of the Committee took place on October 6, 2015 at which time the committee reviewed the compensation statutes from Alabama, California, Connecticut, District of Columbia, Florida, Illinois, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin. Attached as Appendix D is a copy of the above statutes. The committee also reviewed the national Innocence Project Report "Making up for Lost Time: What the Wrongfully Convicted Endure and How to Provide Fair Compensation."

The committee then decided that a subcommittee be established to prepare a draft of proposed legislation to be reviewed by the committee as a whole. The subcommittee was comprised of the following volunteers: the Honorable Jeannette H. Castagnetti, Mark J. Bennett, Esq., Kenneth Lawson, Joshua A. Wisch, Esq., and the undersigned.

Members of the subcommittee met on November 4, 2015. The subcommittee considered language involving eligibility for compensation, evidence of innocence, evidence of a claim, burdens of proof, decision making entities, exclusions, amounts of compensation, types of eligible benefits, attorney's fees and tax implications, gleaned from the various statutes of Alabama, Colorado, Florida, Louisiana, Minnesota, Mississippi, New Hampshire, New Jersey, Texas, Vermont, Washington and Wisconsin. Attached as Appendix F is a composite of the various statutory provisions considered by the subcommittee. The subcommittee then proposed a draft statute. The draft was then circulated to the members as a whole for input,

COMMITTEE: **COMMITTEE ON FINANCE**

Chair: Rep. Sylvia Luke

Vice Chair: Rep. Scott Nishimoto

DATE: Tuesday, March 1, 2016

Page 4

review, possible additions and amendments.

Members of the committee as a whole met on November 23, 2015. There was much discussion as to various provisions of the draft statute. Subsequent to several agreed upon modifications and amendments to the proposed draft, the members reached a consensus on a final draft.

The draft AJS Task Force proposal is virtually identical to HB 1046, except that the HB 1046 adds an additional provision for expungement.

CONCLUSION

The Hawai'i Innocence Project proposed legislation last term to compensate those wrongfully convicted. That legislation (HB 148) had a number of detractors including the Attorney General. The current proposed bill addresses all of the challenges to its predecessor. In short I believe this bill strikes the necessary balance between the needs of the wrongfully convicted, as well as the State, therefore the Hawai'i Innocence Project wholeheartedly supports this bill.

If you have any questions or need further clarification please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Harrison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

William A. Harrison, Esq.
Hawai'i Innocence Project

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON FINANCE

Chair: Rep. Sylvia Luke

Vice Chair: Rep. Scott Nishimoto

Tuesday, March 1, 2016

11:02 a.m.

Room 308

STRONG SUPPORT for HB 1046 HD1 - WRONGFUL IMPRISONMENT

Aloha Chair Luke, Vice Chair Nishimoto and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 1046 HD1 provides compensation and expungement of conviction to persons who can demonstrate they were wrongfully convicted and imprisoned when actually innocent.

Community Alliance on Prisons is in strong support of this measure. The state imprisons people who cause harm to others. Conversely, when it is the state that causes the harm, it is the moral responsibility of the state to compensate the person who endured that harm.

Committee members, we want you to understand that this could happen to any one of us. How many times have you been mistaken for another person? What if you looked like someone who committed a crime and no one believed that you were innocent? What would you want the state to do when you were found innocent after spending years in prison? **Please understand that this is happening as we speak.** People are serving time for crimes they did not commit.

It is perplexing that crime victims are compensated in all 50 states, yet those who were wrongfully imprisoned are not afforded the same respect and accommodation. This is patently unfair and unjust. We can only infer from this that the Aloha state will demand restitution on the victim's behalf for crime, but will ignore the pain and suffering of a person the state has caused. This hurts and heaps even more pain and suffering on the wrongfully imprisoned.

The state continues to put up barriers to ignore/deny/delay their own responsibility. The message this sends to our communities is so wrong. It is the opposite of what we teach our keiki about being responsible citizens: **You take responsibility for your actions; you clean up your mess; and you take whatever steps necessary to correct the wrong you have caused.**

HOW DOES THE STATE TAKE RESPONSIBILITY FOR RUINING SOMEONE'S LIFE?

How can such an egregious wrong be made right? Currently 30 states (see map on page 3 of this testimony) have compensation statutes for the wrongfully convicted. **It is embarrassing to say that Hawai'i doesn't even apologize or take any responsibility for the harm they have caused.**

The Innocence Project released a report¹ in 2009 with recommendations for compensation. Applicants must have documentation that demonstrates actual innocence, and a small number of people qualify.

The Innocence Project's Recommendations

For those few qualified applicants, the state should readily and generously offer assistance. No amount of money can make up for the lost years, the trauma of prison life, or the horrible experience of being falsely branded a murderer, rapist or thief. But compassionate state assistance can at least help bring the exoneree's struggle to an end by providing him with the finances to find a home, see a doctor, get job training and counseling, and attempt to make a new life for himself.

These recommendations for state compensation laws have been developed by the Innocence Project after years of working with exonerees and their families, legislators, social workers and psychologists:

- Provide a minimum of \$50,000, untaxed, per year of wrongful imprisonment and \$100,000, untaxed, per year on death row. This amount is based on the federal government's standard created through the Innocence Protection Act of 2004.
- Cover limited and appropriate attorney's fees associated with filing for compensation.
- Provide immediate services including housing, transportation, education, workforce development, physical and mental health care through the state employee's health care system and other transitional services.
- Issue an official acknowledgment of the wrongful conviction.

By fairly compensating those who have suffered under the criminal justice system, the state reassures its citizens that the government will attempt to rectify a wrong – whether the state is at fault or not. In short, it's the right thing to do.

Pages 27-31 of this report list the statutes, support services and restrictions of the states who offer some form of compensation. In summary, it is crucial to the integrity of our justice system and to the state that Hawai'i improves the quality of justice by first apologizing and then providing support and compensation to those individuals who have been wrongfully convicted and imprisoned because of the state's error. **JUSTICE DEMANDS THIS.**

Mahalo for this opportunity to testify.

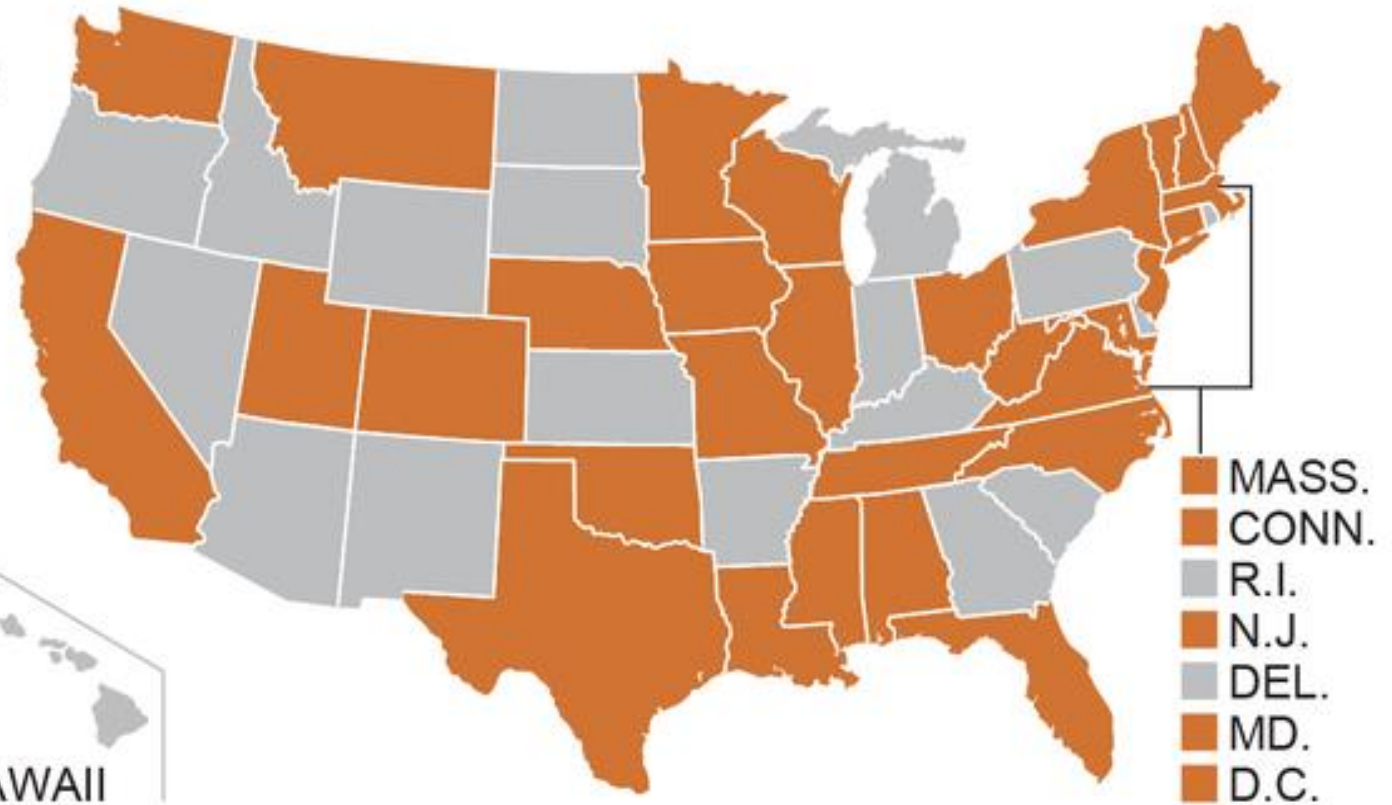
¹ **Making up for Lost Time: What the Wrongfully Convicted Endure and How to Provide Fair Compensation**, December 2009. <http://www.innocenceproject.org/news-events-exonerations/executive-summary-making-up-for-lost-time-what-the-wrongfully-convicted-endure-and-how-to-provide-fair-compensation#sthash.ohjbgKpt.dpuf>

Payment for wrongful convictions

States with compensation laws

States without

Note: The U.S. government compensates those wrongfully convicted of federal crimes



Source: The Innocence Project

@latimesgraphics

A decade ago, President George W. Bush signed the Innocence Protection Act, which guarantees those exonerated of federal crimes \$50,000 for every year they spent in prison, \$100,000 for each year on death row.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 9:51 AM
To: FINTestimony
Cc: hlusk@chowproject.org
Subject: *Submitted testimony for HB1046 on Mar 1, 2016 11:02AM*

HB1046

Submitted on: 2/29/2016

Testimony for FIN on Mar 1, 2016 11:02AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Lusk	The CHOW Project	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

HB 1046 TESTIMONY 2-28-16

Hello, I am strongly in support of this measure becoming law. My son was wrongfully indicted in 1995, tried and convicted in Hilo in 2000 in the Sequoya Vargas case. The state withheld evidence from the court appointed attorney, evidence that I found through a FOIA request years later. I have yet to present this evidence penned by then DA Kimura to the Hilo court, nor to the Office of Disciplinary Counsel. The Hilo DA withheld this 1995 Request for Fugitive Warrant that he sent to U.S. Magistrate Stephen Alms, and it proves that Deputy DA Matsukawa was lying about my son NOT being arrested in Santa Cruz, Ca. in 1993. DA Matsukawa withheld this evidence at motions, and trial. He lied to trial judge Amano, the jury, he lied from direct appeal thru a Rule 40 petition about the voluntariness of my son's statement, and at an Evidentiary Hearing in Hilo prior to the petition being kicked up to the ICA. I have this evidence and other evidence related to the perjured testimony of the state's witnesses who were the truly guilty parties in the death of Sequoya Vargas and the subsequent cover-up. One man, Matthew K. Gibbs received 5 years probation, the other, Jason H. McCubbins received 20 years (he was released in August 2015), my son, Richard Damian Serrano, who went to trial after refusing a plea deal, received 120 years. The Deposed, in Florida, Witness, Maureen Elizabeth McCubbins (Roberts), was and is a drug addicted woman and was found to be legally insane in a proceeding in a Hilo courtroom in 2007, she falsely testified against my son prior to trial, in exchange for not being charged with accessory after the fact. THERE ARE SO MANY MORE EGREGIOUS ISSUES THAT NEED TO COME TO LIGHT RELATED TO HILO DETECTIVES LARRY WEBER, AND DETECTIVE ROCKNE ARAUJO, AS WELL AS SANTA CRUZ, CA. DETECTIVE WATSON, AND F.B.I. AGENT JOHN CARPENTER....ALL OF WHOM LIED DURING MOTION TO SUPPRESS, AND AT TRIAL. THEY ALL KNEW THAT MY SON WAS BEING SCAPEGOATED AND HAD BEEN ARRESTED ON A PHONEY WARRANT IN 1993. His statement was the first thing the jury wanted to see during deliberations, Maureen McCubbins' deposition was the second. My son never said he injured Sequoya Vargas in any way, however, the DA locked him into that 1993 statement, by HIDING FROM COUNSEL THE REQUEST FOR FUGITIVE WARRANT AND ACCOMPANYING AFFIDAVIT OF THE F.B.I.

I can only imagine what a can of worms will be opened when we finally get the 2nd Rule 40 petition before a court. My son and I have both been quite ill, and finding an attorney that we can afford has been impossible. I guess we are on our own. Thank you for your attention, on behalf of my son, and so many other inmates and families who have been destroyed forever by the general absence of ethics and accountability that my son and I have personally experienced in our dealings with (Hilo) police, (Hilo) prosecutors, PSD and prison administrators related to healthcare and Civil Rights violations, certain ACOs, and others in power in Hawaii. I am sorry to have to say it that way, but to us it is real. My son's slow to receive healthcare is costing the State of Hawaii hundreds of thousands of dollars per year, he has been in prison for 17 years. His pre-sentencing report states that he "has no medical conditions that would make his sentence a hardship on him". Judge Amano and the DA knew full well his illnesses are serious, yet they pushed for a man who had no criminal past, to receive 2 life plus 20yrs, to run consecutively. Is this smart or even justice? My son has been an exemplary inmate, a helpful and compassionate person throughout his unjust ordeal.

Sincerely, Diane DiMaria

STARN · O'TOOLE · MARCUS & FISHER

A LAW CORPORATION

February 29, 2016

The Honorable Sylvia Luke
Chair, Committee on Finance
State Capitol, Room 306
415 S. Beretania Street
Honolulu, HI 96813

The Honorable Scott Y. Nishimoto
Vice-Chair, Committee on Finance
State Capitol, Room 421
415 S. Beretania Street
Honolulu, HI 96813

Members of the Committee on Finance:

Rep. Romy M. Cachola	Rep. Matthew S. LoPresti
Rep. Ty J.K. Cullen	Rep. Nicole E. Lowen
Rep. Lynn DeCoite	Rep. Richard H.K. Onishi
Rep. Aaron Ling Johanson	Rep. James Kunane Tokioka
Rep. Jo Jordan	Rep. Kyle T. Yamashita
Rep. Jarrett Keohokalole	Rep. Feki Pouha
Rep. Bertrand Kobayashi	Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, March 1, 2016
TIME: 11:02 A.M.
PLACE: Conference Room 308
State Capitol
415 South Beretania Street
Honolulu, Hawaii

Re: **H.B. 1046, HD1, Relating to Wrongful Imprisonment**

Dear Chair Luke, Vice-Chair Nishimoto, and Members of the Committee on Finance:

I write in strong support of H.B. 1046, HD1, Relating to Wrongful Imprisonment. I had the privilege of co-chairing (with Hon. Jeannette Castagnetti) a 2015 American Judicature Society special committee established for the purpose of evaluating the need for a statute like H.B. 1046, HD1, and, if the special committee believed there was a need, recommending a possible statute to address the need.

The special committee consisted of many segments of the relevant community, including the state and federal judiciary (both state and federal judges served on the special committee), the Department of the Attorney General, the Office of the United States Attorney, the Hawaii Innocence Project, and other groups and individuals.

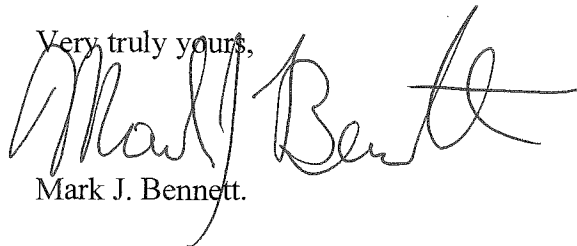
The special committee unanimously believed there was a need for a statute to provide monetary compensation to persons convicted of crimes of which they were innocent, yet for which they were imprisoned. Our system of justice is the best in the world, and yet it still sometimes results in innocent persons being convicted and imprisoned. It is only just and fair that we as a society provide monetary compensation in such circumstances.

The special committee reviewed legislation adopted in many of the several states and also looked at some of the objections to a 2015 proposed bill, particularly from the Attorney General. The special committee tried to draft a bill which was just and fair to those innocent persons convicted and imprisoned, and yet was also fair to the State and the taxpayers. The special committee believes it was able to do that and was able to unanimously and respectfully recommend a statute to the Legislature.

H.B. 1046, HD1 is largely the statute respectfully recommended by the special committee. The special committee believed the proposed statute afforded appropriate compensation and yet also provided appropriate safeguards for the State and the taxpayers, striking a far balance.

Because I believe H.B. 1046, HD1 is just and needed legislation, I respectfully ask the Committee to recommend its approval to the full House of Representatives. I regret that because I will be in an administrative proceeding, I will not be able to testify in person before the Committee.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark J. Bennett". The signature is fluid and cursive, with a large initial "M" and "B".

Mark J. Bennett.

Via: Web: www.capitol.hawaii.gov/submittestimony.aspx

COMMITTEE ON FINANCE

Chair: Rep. Sylvia Luke

Vice Chair: Rep. Scott Y. Nishimoto

DATE: Tuesday, March 1, 2016

TIME: 3:00 PM

PLACE: Room 308, State Capitol
415 Beretania Street
Honolulu, Hawai`i 96813

HB 1046 - RELATING TO WRONGFUL IMPRISONMENT

STRONG SUPPORT

Honorable Chair Luke, Honorable Vice-Chair Nishimoto and Honorable Members of the Committee.

My name is Virginia Hench, and I am the Founding Director of the Hawai`i Innocence Project and Co-ordinator of The Hawai`i Friends of the Innocence Movement, and I am here to testify in strong support of House Bill 1046.

In 1913, California and Wisconsin became the first states to create systematic financial restitution for citizens wrongly deprived of their liberty by wrongful convictions. For decades, they were the only states to provide this important safety net to help restore the wrongly convicted to a productive life. However, as exonerations began to be more publicized, more states began to enact statutory compensation. Between the turn of the 21st century and 2014, when Minnesota enacted a compensation statute, a total of 30 states (as well as the federal government and the District of Columbia) enacted compensation statutes. Not one of those jurisdictions has chosen to repeal a compensation statute.

As we begin the year 2016, however, Hawai`i remains among the minority of jurisdictions that fails to provide reasonable compensation to innocent persons who have been unjustly required to sacrifice their liberty and serve time for another person's crime.

In looking over the states with compensation, it is interesting to note that a majority of southern states, as well as a majority of "red" states over-all, have compensation statutes. This may be because compensation for the wrongly convicted is not just a liberal idea. It is sound policy, regardless of politics, and it makes fiscal sense.

A person who is imprisoned for another person's crime loses more than liberty and connections to family and community. The exoneree loses reputation, chances for education, earning power, credit towards a pension. They lose the chance to build equity in a house. The state loses the benefit of the taxes they would have paid on their earnings, had they not been wrongly incarcerated. Moreover, upon release, the exoneree's knowledge and skills are usually outdated. Many exonerees are diagnosed with post-traumatic stress disorders, which can further exacerbate their struggles in re-establishing a normal, productive life. Ironically, the exoneree does not even have access to the re-entry services available to a guilty person who has been released after serving their sentence.

Financial compensation, free tuition or job training, and other compensatory benefits can help the wrongfully convicted person make a smoother re-entry into society and increase their future self-sufficiency. It is not only simple justice to compensate the victims of wrongful incarceration, it makes economic sense to help put them in a position to contribute to society rather than leaving them in a position where they and their families are likely to be dependent on social services.

Compensation also allows government and citizens to make amends to the wrongly convicted person and, more generally, helps to repair damage to the state's public legitimacy and boost public faith in the good judgment and fairness of our system. It is a fundamental rule of good character to take responsibility when you hurt someone, and do what you can to make things right. This bill is an important step towards justice for the wrongly convicted.

Hearing this bill is an important first step toward righting a wrong, and I thank you for the opportunity to testify. Please move this bill forward.

Yours sincerely,

/s/ Virginia E. Hench

Co-ordinator, Hawai'i Friends of the
Innocence Movement.

Co-Founder and Founding Director,
Hawai'i Innocence Project.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 29, 2016 2:59 PM
To: FINTestimony
Cc: gladys.baisa@mauicounty.us
Subject: Submitted testimony for HB1046 on Mar 1, 2016 11:02AM

HB1046

Submitted on: 2/29/2016

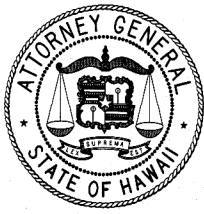
Testimony for FIN on Mar 1, 2016 11:02AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Gladys Coelho Baisa	Individual	Support	No

Comments: I support HB1046 HD1. Justice demands that the state must be held accountable for wrongdoing, just as we hold lawbreakers to account. The state can never compensate a person for ruining his/her life, however, this bill can help the person start to rebuild the life lost through years of incarceration. This acknowledgement is important for the person wronged by the state.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 1046, H.D. 1, RELATING TO WRONGFUL IMPRISONMENT.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

LATE

DATE: Tuesday, March 1, 2016

TIME: 11:02 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Mark Nomura, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General supports H.B. No. 1046, H.D. 1, which provides a procedure for persons who are “actually innocent” of crimes for which they were convicted and imprisoned, to seek compensation from the State. The Department opposed H.B. No. 1046, as originally introduced, for reasons raised previously.

H.B. No. 1046, H.D. 1, is substantially the product of the American Judicature Society-Hawaii Chapter’s special committee on redress for unlawful imprisonment. The American Judicature Society is an independent, nonpartisan, national organization of judges, lawyers, and interested members of the public, whose mission is to improve the American justice system. The special committee on redress for unlawful imprisonment was co-chaired by the Honorable Jeannette H. Castagnetti, state circuit court judge, and Mark J. Bennett, Esq., former Hawaii Attorney General.

H.B. No. 1046, H.D. 1 represents the collaborative work of the special committee, which was comprised of a wide range of state and federal judicial representatives, as well as legal, educational, and community representatives from all interested stakeholders in the community. The committee considered wording from existing statutes in other states on issues such as the eligibility for compensation, evidence of innocence, evidence of a claim, burdens of proof, decision-making entities, exclusions, amounts of compensation, types of eligible benefits, attorney’s fees, and tax implications.

Ultimately, the committee drafted proposed legislation that is substantially the same as H.D. 1. The Department believes the H.D. 1 presents a reasonable compensation statute, based

on the collaborative effort of significant stakeholders in the community, which balances the interests of an allegedly wrongfully imprisoned petitioner against the State's limited resources.

Thank you for the opportunity to testify.