



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

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1144, PROPOSED H.D. 1 RELATING TO PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**LATE**

**DATE:** Tuesday, February 9, 2016

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Lance M. Goto, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General supports the proposed H.D. 1 for H.B. No. 1144 (the H.D. 1), with these comments.

The purpose of this H.D. 1 is to propose an amendment to the Hawaii State Constitution to provide victims of crime with specific rights related to the criminal justice process.

The Department is sympathetic to crime victims and supportive of them. And the Department greatly appreciates the effort that was needed to create this proposed legislation that supports victims' rights, while at the same time addressing the strong concerns of the other interested parties.

The Department has reservations because the proposed rights for victims may adversely impact the misdemeanor and petty misdemeanor proceedings in district court. The victim's right to notice of proceedings, right to be present, right to be heard, right to confer with the attorney for the State, and right to be informed in a timely manner of any plea bargain are all reasonable and appropriate. But the district courts process many cases as quickly and efficiently as possible. Many defendants enter pleas and are sentenced at their first court appearance. There may not be sufficient time before the first court appearance for the State to properly notify and confer with the victims. Plea negotiations may take place with little or no notice. In order to address a victim's rights in district court, matters may need to be continued, resulting in a backlog of cases for the courts. To the extent the Department can assist with timely notifications that mitigate against delays, the Department is committed to doing so.

The Department respectfully requests the Committee pass the proposed H.D. 1.

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA  
CYD HOFFELD  
JUDY KERN  
MARILYN LEE  
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February 8, 2016

To: Representative Karl Rhoads, Chair  
Representative Joy San Buenaventura, Vice Chair  
Members of the House Committee on Judiciary

From: Cathy Betts  
Executive Director, Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 1144, Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Thank you for this opportunity to testify in support of HB 1144, which would create a victims' bill of rights within our state constitution. 32 other states in the nation have passed comprehensive constitutional provisions to protect victims of crime. In those states, defendants' rights and victims' rights co-exist and do not diminish one another. Currently, victims in Hawaii have statutory rights but they are not enforceable. In states with constitutional provisions, victims rights are permanent and enforceable.

The rights are basic: the right to be treated with courtesy, fairness, and respect for their dignity, the right to privacy, the right to be informed of services available to them, the right to be informed of their offender's whereabouts, and the right to consult with the prosecutor before a plea bargain is offered. The Commission interfaces with victims on a daily basis—they have complex needs and often need advocacy on their behalf, as navigating a criminal justice system after victimization can be difficult, exhausting, and for some, trigger serious mental health issues.

Last year, we learned that 15-20 felony sexual assault cases had run past the statute of limitations because an individual prosecutor had left the cases in a desk file. Surely, victims can be treated with more dignity than this. Surely, these basic rights can be upheld on more than a "case by case" basis. If anything, a constitutional amendment will change the way we view victims and the criminal justice process, and will serve as a constant reminder that our system can do better for victims.

Awarding basic rights to victims does not diminish the rights of the accused, nor does it change any burden of proof in any criminal case. In light of the ongoing exposure of multiple cracks in our criminal justice system, now is the right time to pass a constitutional amendment and the fair thing to do.

The Commission respectfully urges this Committee to pass HB 1144. Thank you for this opportunity.

DAVID Y. IGE  
GOVERNOR

**LATE**



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
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NOLAN P. ESPINDA  
DIRECTOR

Cathy Ross  
Deputy Director  
Administration

Jodie F. Maesaka-Hirata  
Deputy Director  
Corrections

Shawn H. Tsuha  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1144, HD 1 (PROPOSED)  
PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION  
OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME

By  
Nolan P. Espinda, Director

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 9, 2016; 2:00 p.m.  
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 1144, House Draft (HD) 1 (Proposed), which proposes an amendment to the Hawaii State Constitution, guaranteeing the victims of crime and their surviving immediate family members have specific rights related to information pertaining to and participation in the criminal justice system.

PSD provided opposing testimony in the 2015 Legislative session, but notes that the Proposed HD 1 has removed certain provisions which were of concern. I would like to make clear that the Department's opposition to the original draft of HB 1144 stemmed from the negative impacts the proposed provisions would have on PSD programs and not from any bias against victim rights. In fact, PSD asserts that the protections cited in the proposed measure are already a part of the Department's policies and procedures.

The Department would like to suggest the following minor amendments to clarify the intent of the measure:

Page 2, Lines 2-3: "A victim of crime shall [enjoy] be afforded the following rights beginning at the time of notification to any law enforcement entity of the victim's victimization..."



Testimony on HB 1144, HD 1 (Proposed)

February 9, 2016

Page 2

Page 4: Add after Line 9, ““Surviving immediate family member” means surviving grandparents, parents, siblings, spouse, reciprocal beneficiary, children, and any legal guardian of the victim.”

Page 4, Line 20: “offender as provided by law.”

Thank you for the opportunity to present this testimony.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

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MARI MCCAIG  
Chair

ABELINA SHAW  
Commissioner

MARTHA ROSS  
Commissioner

PAMELA FERGUSON-BREY  
Executive Director

TESTIMONY IN SUPPORT OF  
HOUSE BILL 1144 PROPOSED HD1  
A BILL PROPOSING AN AMENDMENT TO  
ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII  
RELATING TO THE RIGHTS OF VICTIMS OF CRIME

PAMELA FERGUSON-BREY, Executive Director  
Crime Victim Compensation Commission

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, February 9, 2016, 2:00 pm  
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify in support of House Bill 1144 Proposed HD1, referred to as Marsy's Law, proposing an amendment to Article I of the Constitution of the State of Hawai'i relating to the Rights of Victims of Crime. The Commission is dedicated to helping provide compensation to crime victims and promoting the rights of crime victims in general.

Over the years, the legislature has shown commitment to improving the status of crime victims by creating statutes that make restitution mandatory (HRS § 706-646), requiring that crime victim statements be included in the Presentence Report (HRS § 706-602), allowing crime victims to speak prior to sentencing (HRS§ 706-604), and setting forth basic crime victim rights (HRS ch. 801D). The intent has always been "that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants." HRS § 801-D-1. That intent cannot be truly realized until crime victims have their own constitutional bill of rights.

A constitutional amendment is necessary because “[r]ules to assist victims frequently fail to provide meaningful protection whenever they come into conflict with bureaucratic habit, traditional indifference, sheer inertia or the mere mention of an accused’s right – even when those rights are not genuinely threatened.” Lawrence H. Tribe and Paul G. Cassell, Let’s Protect Victims’ Rights, [www.nvcap.org/docs/cassell/9807\\_cassell\\_tribe.html](http://www.nvcap.org/docs/cassell/9807_cassell_tribe.html).

In criminal cases, the Hawai’i constitution provides rights to everyone involved (defendant, media and the public) EXCEPT the crime victim. Yet, the crime victim has more at stake than the media and the public and just as much interest in the outcome of the case as the defendant. While HRS § 801D-4 was intended to provide a basic bill of rights for victims and witnesses, it does not establish permanent, enforceable rights for crime victims guaranteed by the constitution. As a result, HRS § 801D-4 can and has been ignored.

HRS § 801D-4 requires the crime victim to make a written request to be informed of the disposition of the case and to be consulted about any plea bargain without requiring anyone to inform the victim that he or she has the right to make the request. Even if a crime victim makes a request, the rights set forth in HRS § 801D-4 are not enforceable by the victim. Without standing, enforceability, and the force of the constitution, the rights enumerated in HRS § 801D-4 have little meaning. Courts, prosecutors, and defense attorneys have continually disregarded the rights of crime victims.

Thirty two states have constitutional amendments. While some states have clauses limiting civil liability, others do not. According to the national proponents of victim’s rights, the states that do not limit civil liability have had very few suits filed. The Commission is unaware of any suit that resulted in substantial liability to the State.

The proposed amendment does not permit victims to sue for monetary damages. The Commission is unaware of any state with a constitutional amendment that has had an onslaught of lawsuits filed as a result of their constitutional amendment. There is no reason to believe that this amendment would cause an avalanche of litigation.

The crime victims’ right to restitution has not been adequately protected by HRS § 801D-4 or by the 2006 amendment to HRS § 706-646 which made restitution mandatory. In 2003, the Commission began a pilot project to distribute restitution payments collected from inmates and parolees to their crime victims. Since the inception of the project, the Commission has opened over 6,700 restitution files and collected over 3.4 million dollars in restitution. Through this project, the Commission has become familiar with the institutional barriers to the ordering and collection of restitution. Some of these barriers were brought to the public’s attention in a series of articles in the Honolulu Star Advertiser which ran in June 2011.

Through the restitution project and for its own cases, the Commission has received judgments in which restitution was not ordered or not ordered to the extent permitted by the restitution statutes. Without enforceable constitutional rights, victims have no means to ask the court to correct the judgments.

Another example of the failure of HRS § 801D-4 to protect victims' rights made the news on December 28, 2008. Rita Makekau was accused of assaulting her five nieces and nephews by, among other things, breaking their teeth with a hammer, forcing them to eat dog food, pushing them down stairs, and holding them underwater. Ms. Makekau made a conditional plea in which she pled no contest to the charges but was allowed to appeal whether a Hawai'i court had jurisdiction over a self-proclaimed member of the Hawaiian sovereignty. At her sentencing, her nieces and nephew were present and so was their court-appointed Guardian ad litem. At the sentencing, Ms. Makekau requested being allowed to remain on bail pending her appeal. The court set a hearing on the issue. The minor victims' Guardian ad litem intended to be present at the hearing to represent the minor victims' interests. When she arrived at court at the scheduled time, she found out that the attorneys and court held a status conference in chambers at least fifteen minutes prior to the scheduled hearing time. The parties then held and concluded the hearing prior to the Guardian ad litem's arrival. The Guardian ad litem had not been informed of the advanced hearing time. The court granted Ms. Makekau's request to remain free. When told, the Guardian ad litem said that the minor victims "yelled. They were angry and disappointed." Without standing, the Guardian ad litem and the minor victims could not protest being excluded from the hearing. It was fortunate for the minor victims that the case was high profile and the prosecutor's office sought reconsideration of the court's ruling.

The crime victim's bill of rights seeks to create a balance in which the rights of a defendant are protected while at the same time allowing the crime victim meaningful participation in the criminal system. A crime victim's bill of rights in no way diminishes a criminal defendant's constitutional rights. Requiring a crime victim to be advised of proceedings, to be consulted on plea agreements, and to be heard at proceedings does not infringe on a defendant's constitutional rights. Nor does requiring a defendant to pay restitution infringe on a defendant's constitutional rights. To the contrary, being ordered to pay restitution has a positive effect on a defendant's rehabilitation as the defendant is making a positive contribution to his or her victim's recovery. The crime victim's bill of rights provides for proceedings free from unreasonable delays. In instances where a defendant seeks a long delay of trial, the court can and should balance the defendant's need for the continuance against the desire of a crime victim for a timely disposition. A crime victim's right to a timely disposition would not trump a defendant's right to develop a case, but rather it allows the courts to consider the competing needs of the defendant and the victim.

The bill would not create a danger of a victim interfering in the prosecution of the case. The proposed bill provides victims with the opportunity to be heard, kept informed, confer with the prosecutor, and to receive restitution. Conferencing with victims about the case and speaking with the victims before making plea agreements does not provide victims with the right to control the prosecution. It does, however, provide an opportunity for the prosecutor to learn information that may be pertinent to the case.

Every day, victims are thrust into the criminal justice system and asked to navigate its complexities in the midst of their trauma. Sadly, this means that victims' rights are often forgotten or ignored. Crime victims deserve to have permanent, constitutional, and enforceable rights. The ability for victims to enforce their right is critical to ensuring victims' rights are

protected. The constitutional amendment must provide victims with the means to ask courts to remedy violations of their rights.

Thank you for allowing the Commission the opportunity to testify in strong support of House Bill 1144 Proposed HD1.

**Justin F. Kollar**  
Prosecuting Attorney

**Jennifer S. Winn**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

**OFFICE OF THE PROSECUTING ATTORNEY**

**County of Kaua'i, State of Hawai'i**

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TESTIMONY IN STRONG SUPPORT OF  
HB 1144 HD 1 – RELATING TO PROPOSING AN AMENDMENT TO ARTICLE I  
OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE  
RIGHTS OF VICTIMS OF CRIME

Justin F. Kollar, Prosecuting Attorney  
County of Kaua'i

House Committee on Judiciary  
February 9, 2016, 2:00 p.m., Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, STRONGLY SUPPORTS HB 1144 – Relating to Proposing an Amendment to Article I of the Constitution of the State of Hawai'i Relating to the Rights of Victims of Crime. The Bill proposes an amendment to the Hawaii State Constitution guaranteeing that victims of crime and their surviving immediate family members have specific rights related to information pertaining to and participation in the criminal justice process.

Hawai'i is one of eighteen states that do not currently have a victim rights constitutional amendment. We believe the time is right to enshrine in our State's central governing document the notion that victims of crime have certain rights which are central to the concept of justice. Although the crime victim bill of rights was enacted as HRS Section 801D, in 1987, those rights are the mere creature of statute and do not carry the weight and force of constitutional support.

The rights enumerated in the proposed bill are simple; basic rights to be treated with courtesy, fairness, and dignity; to be protected; to be informed and consulted. These rights should not ever be subject to dispute. Victim rights should occupy the same plateau in our justice system as the rights of the accused. Those rights should not and cannot diminish the rights of the

accused, and they should not curtail the power of the prosecution to seek justice free from extrinsic concerns, but they should be, indeed must be, more than an afterthought.

We note that this is not the first time your Committee has considered a proposed amendment to guarantee victim rights. Over the years, various amendments have been considered. In response, concerns have been raised that this amendment could allow crime victims to interfere with prosecution, diminish the rights of the accused, or create new tort rights upon which to sue the State or a prosecutor should the prosecution not end in a manner that pleases a victim. The proposed amendment now before your Committee addresses those concerns effectively.

Accordingly, we are in STRONG SUPPORT of HB 1144 HD 1. We request that your Committee PASS the Bill.

Thank you very much for the opportunity to provide testimony on this Bill.

**Justin F. Kollar**  
Prosecuting Attorney

**Jennifer S. Winn**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

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TESTIMONY IN SUPPORT OF  
HOUSE BILL NO. 1144 HD 1  
PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION OF THE  
STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME

Diana Gausepohl-White, Victim/Witness Program Director  
County of Kaua'i

House Committee on Judiciary  
February 9, 2016, 2:00 p.m., Conference Room 325

Honorable Chair Rhoads, Vice Chair San Buenaventura, and Members of the  
Committee:

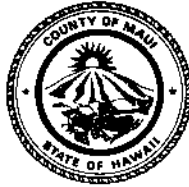
Our American criminal justice system is second to none. That being said, it's naïve to think mistakes aren't made. We are afforded Constitutional rights to protect us when accused and there are well established processes to ensure corrective action is taken if there's an error. I've worked with victims of crime for the past 23 years. Although I've seen improvements, victims still have to rely on the discretion of others, a prosecutor or a judge, to right their wrongs when there's an oversight.

I know there are some who are concerned and fearful of this bill. I believe appropriate revisions have been made and it can be implemented without causing any undue ramifications. If everyone does their job diligently and stays true to our shared goal of "justice for all," guaranteeing the rights of victims of crime under our State Constitution can only be a good thing. Passing it doesn't require courage; just a recognition that without it there will continue to be daily consequences to victims.

I respectfully ask that you support HB1144 HD1.



ALAN M. ARAKAWA  
Mayor



JOHN D. KIM  
Acting Prosecuting Attorney

ROBERT D. RIVERA  
Acting First Deputy Prosecuting Attorney

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**LATE**

CONTACT: RICHARD K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY  
ON

HB 1144, PROPOSED HD 1 - PROPOSING AN AMENDMENT TO  
ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII  
RELATING TO THE RIGHTS OF VICTIMS OF CRIME

February 9, 2016

The Honorable Karl Rhoads  
Chair  
The Honorable Joy A. San Buenaventura  
Vice Chair  
and Members  
House Committee on Judiciary

Chair Rhoads, Vice Chair San Buenaventura and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES HB 1144, Proposed HD 1 - Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime.

The rights of victims of crime are already protected by law pursuant to Hawaii Revised Statutes Chapter 801D. We believe that HB 1144, Proposed HD 1, is unnecessary, and may cause the additional problem of a potential conflict with the constitutional rights of those accused of crime (which are protected by both the state and federal constitutions).

Accordingly, the Department of the Prosecuting Attorney, County of Maui, OPPOSES the passage of this bill. We ask that the committee HOLD HB 1144.

Thank you very much for the opportunity to provide testimony on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

**LATE**

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KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE KARL RHOADS, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY**  
**Twenty-Eighth State Legislature**  
**Regular Session of 2016**  
**State of Hawai`i**

February 9, 2016

**RE: H.B. 1144, PROPOSED H.D.1; PROPOSING AN AMENDMENT TO ARTICLE I  
OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS  
OF VICTIMS OF CRIME**

Chair Rhoads, Vice-Chair Buenaventura, members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony In support of H.B. 1144, H.D. 1 with amendments.

H.B. 1144, H.D. 1 proposes an amendment to Article I of the Constitution of the State of Hawaii to establish a section on crime victims' rights. We are strongly supportive of the concept of an amendment to Hawaii's Constitution clearly establishing the rights of crime victims, as it will help to effectuate the type of legal protections currently available to criminal defendants. As we once again approach this critical issue for victims, we find ourselves at the same crossroads we have visited before. Deciding how to effectively assure crime victims' rights in a justice system designed for the needs and rights of the accused is no easy task. It took nearly seven years to establish Hawaii's current victims' rights statute, *H.R.S. Chapter 801D*. Although previous attempts have been made to enact constitutional rights for crime victims, beginning in 1997, it has been a more challenging process. According to the National Center for victims of Crime, thirty-three (33) states now have some type of constitutional protection for victims' rights. In states that have successfully passed such amendments (none has ever failed a public vote) an average of more than seventy percent (70%) of voters has favored the passage of these measures.

However, we do not suggest that Hawaii's constitution should be amended to protect victims simply because it is a popular idea. We are here in strong support of this measure because **it is the right thing to do**. Similar to the rights of the accused, it is justice and fairness that demand that victims be given meaningful and enforceable rights within Hawaii's criminal justice process. The rule of law that protects the rights of the accused, regardless of how unpopular, and victims have the right to expect no less. As stated in the bill's purpose clause, the rights of victims "should be protected in a manner no less vigorous than those of the accused."

It is a constitutional amendment that can provide the legal backbone to assure that this slogan can become a reality.

As to the specifics of the proposed language in the constitutional amendment, we reiterate our belief that the enumerations of each specific right to be granted to victims be included in the amendment. Among those that we view as critical are: the right to restitution, the right to be notified of “major developments” in a case, the right to be present at all public court proceeding on their case (except where a court determines that the victim’s testimony will be materially affected), the right to be consulted by and advise the prosecution regarding proposed plea agreements, the right to be heard at all criminal justice proceedings that involve the sentencing, incarceration or release of an offender, and finally, the right to be treated with courtesy, fairness and respect for their dignity and privacy throughout the criminal justice process.

We have prepared and attached a proposed H.D. 1 that more specifically outlines the provisions that we believe to be essential.

A constitutional amendment would not take away any of the precious rights of the accused that we all cherish. It would only give victims the essential rights of participation that the constitution currently provides to defendants. Nor would it curtail the discretion our system provides for such decision makers as prosecutors and judges. However, it would guarantee that victims would be able to see and hear the way that their cases are being handled, and to have their concerns heard by the decision makers.

There will be no fair and equal treatment of victims until their rights are guaranteed by our state and federal constitutions. Our constitution is our most powerful legal document. It is the final authority assuring the rights of the accused. The victims deserve no less. The constitution is the measure of what we believe basic justice should be. It reflects what we are as a people, and should assure the fundamental fairness that we expect from our government.

In conclusion, we urge your strong support for H.B. 1144, H.D. 1 with the amendments proposed in our attached draft. Thank you for your time and consideration.

THE HOUSE  
TWENTY-EIGHTH  
LEGISLATURE, 2016  
STATE OF HAWAII

H.B. NO.  
1144, Proposed  
H.D.1

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A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE  
STATE OF HAWAII RELATING TO RIGHTS OF CRIME VICTIMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to propose an amendment to article I of the Constitution of the State of Hawaii to provide recognized and protected constitutional rights for crime victims and their surviving immediate family members, to be known as "Marsy's Law".

The legislature finds that although those accused of crimes have various rights specified in article I, section 14, of the Constitution of the State of Hawaii, crime victims and their survivors currently have no constitutional protections. The legislature further finds that crime victims, whose injuries and losses provide the justification and responsibility of the State for criminal prosecution, should be treated with dignity, respect and courtesy and their rights should be protected in a manner no less vigorous than those of the accused.

The legislature additionally finds that because Hawaii is one of eighteen states that do not have a victims' rights

constitutional amendment, it must join the other states and amend its constitution to establish rights for crime victims. The legislature notes that the proposed amendment does not diminish the rights of offenders. Rather, it offers a better balance between the rights of crime victims and the rights of offenders.

The legislature therefore concludes that the Constitution of the State of Hawaii should be amended to guarantee that crime victims and their immediate surviving family members have specific rights related to information pertaining to and participation in the criminal justice process.

SECTION 2. Article I of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

**"RIGHTS OF CRIME VICTIMS**

**Section** . A crime victim or a deceased victim's surviving immediate family members shall have the following rights:

1. To be informed by the police and the prosecuting attorney of the final disposition of the case. The victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney;

2. To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant;

3. To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness to or a victim of crime, including information on how to apply for the assistance and services and the rights provided under this section;

4. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant;

5. To be notified in a timely manner of all public court proceedings related to the offense, major developments in the case and the final disposition of the case;

6. Upon request, to be informed by the hawaii paroling authority of all parole procedures, to be present at parole minimum hearings and provide a written statement or make oral comments. To provide information to the paroling authority to be considered before the parole of the offender, and to be notified, of the parole or other release of the offender;

7. In all circuit court cases, the court shall afford a fair opportunity to the victim to be heard on the issue of the defendant's disposition, before imposing sentence. The court, service center, or agency personnel who prepare the pre-sentence diagnosis and report shall inform the victim of the sentencing date and of the victim's opportunity to be heard. In the case of a homicide or where the victim is otherwise unable to appear at the sentencing hearing or the victim is a minor, the victim's family shall be afforded the fair opportunity to be heard.

8. To provide input for any process or deliberation that may result in the offender's post-conviction release from confinement, including any type of release by the department of public safety;

9. To be notified in a timely manner regarding any developments relating to the release, discharge, commitment or unauthorized absence of the offender who was committed or involuntarily hospitalized under chapter 704 or 706, Hawaii Revised Statutes;

10. To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on

bail bond, release on appeal bond, and final discharge at the end of the prison term and;

11. Upon request, to have property expeditiously returned by law enforcement agencies when the property is no longer needed as evidence; and

12. Upon request, to receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury; and

13. To be treated with fairness and with respect for the victims dignity and privacy; and

14. To proceedings free from unreasonable delay; and

15. to be present at any public court proceedings involving an offense against the victim unless the court determines that the victim's presence would materially affect the victim's testimony.

#### **ENFORCEMENT**

In any court proceeding involving an offense against a crime victim the court shall ensure that the crime victim or their surviving immediate family members are afforded these rights.

The crime victim, or the crime victim's lawful representative, and any attorney for the State may assert and enforce a right established in this section.



(a) "Victim" means a person against whom a crime has been committed by either an adult or a juvenile or a person who is a surviving grandparent, parent, sibling, spouse or reciprocal beneficiary, child, or legal guardian of a deceased victim.

(b) "Surviving immediate family members" means surviving grandparents, parents, siblings, spouse, reciprocal beneficiary, children, and any legal guardian of the homicide victim.

(c) A victims' exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(d) "Major developments" means arrest or release of the suspect by the police, case deferral by the police, referral to the prosecutor by the police, rejection of the case by the prosecutor, preliminary hearing date, grand jury date, trial and sentencing dates, and the disposition of the case.

(d) This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

(e) The legislature shall, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings. No provision of this section shall be construed as limiting any rights for victims previously conferred by statute.

(f) No right conferred by this section shall be construed to supersede the constitutional rights of the offender.

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SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall crime victims and their immediate surviving family members be provided rights in the Constitution of the State of Hawaii, including fair and respectful treatment throughout the criminal justice process; notification of

public court proceedings; possible plea agreements and case dispositions; proceedings free from unreasonable delay; the opportunity to be present at public court hearings; the opportunity to speak at the sentencing hearing; financial reimbursement from the offender; and notification of the offender's release from custody?"

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

**Report Title:**

Constitutional Amendment; Rights of Crime Victims

**Description:**

Proposes an amendment to the Constitution of the State of Hawaii guaranteeing that crime victims and their immediate surviving family members have specific rights related to information pertaining to and participation in the criminal justice process.



**LATE**

Committee: Committee on Judiciary  
Hearing Date/Time: Tuesday, February 09, 2016, 2:00 p.m.  
Place: Conference Room 325  
Re: Testimony of the ACLU of Hawaii in Opposition to H.B. 1144, H.D. 1, Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Dear Chair Rhoads and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in opposition to H.B. 1144, H.D. 1, which seeks to amend article I of the Hawaii Constitution to guarantee specific rights to victims of crimes.

A constitutional amendment is unnecessary

The Hawaii Constitution is the supreme and paramount law of the state subject only to the restrictions of the U.S. Constitution. Unlike regular statutes, which the legislature itself may repeal or revise, altering the Hawaii Constitution requires a more complex process, including, for example, an enhanced vote requirement of two-thirds majority of both houses if adopted in a single session and formal notice to the governor. See Article XVII, §3. Constitutional amendments should be reserved for those rare instances where there are no other alternatives available such as statutory legislation. Because each of the rights enumerated in H.B. 1144, H.D. 1, could be provided by statute, a constitutional amendment is unnecessary.

The rights granted by the proposed constitutional amendment are unenforceable

Section 2 of the bill provides “[n]othing in this section shall be construed to create a cause of action against the State or counties, or any of their agencies, officials or employees.” The bill is ineffectual if crime victims have no recourse for the violation of their rights protected by the proposed amendment. The ACLU of Hawaii respectfully requests that the Committee defer H.B. 1144, H.D. 1.

Thank you for this opportunity to testify.

Sincerely,

Mandy Finlay  
Advocacy Coordinator  
ACLU of Hawaii

*The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.*



**TO:** Chair Rhoads, Vice Chair San Buenaventura, and Members of the House Committee on Judiciary  
**FROM:** Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)  
**DATE/LOCATION:** February 9, 2016; 2:00 p.m., Conference Room 325

**RE: TESTIMONY IN SUPPORT OF HB 1144 – PROPOSING AN AMMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME.**

My name is Ryan Kusumoto. I am the President & CEO of Parents And Children Together.

**I strongly urge you to support HB 1144.** We support this bill that is designed to provide recognition of and protection of the constitutional rights for victims of crimes and their family members. The proposed constitutional amendment will support the following basic victim's rights:

- Respectful treatment
- Safety from harm or threats of harm
- Information about rights and available resources
- Timely resolution or right to speedy trial
- Notice of significant events relating to the case
- Right to be present at all court proceedings
- Reasonable notice to provide input on plea agreements
- Notice and participation related to pleas, sentencing and court proceedings that may result in post-arrest release decision
- Notice and opportunity to be heard for any process related to post-conviction release of the perpetrator
- Notice and opportunity to heard in developments relating to status of an offender committed or involuntarily hospitalized
- Right to timely notification of changes in custodial status
- Prompt return of property
- Right to full and timely restitution from person(s) convicted

The bill would create a balance between those rights already afforded to the convicted and the accused, with the rights for crime victims. Victims are should be afforded the opportunity to be heard, receive timely notification, and be kept informed. This is a very traumatic and confusing time for victims and this bill will help enforce the necessary rights and protections so needed in this process. This is an opportunity to make meaningful change that all victims and survivors deserve.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. Assisting more than 18,000 people across the state annually, PACT helps families identify, address and successfully resolve challenges through its 16 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, child and adolescent behavioral health programs, and community building programs. PACT provides the most comprehensive services in domestic violence ranging in services for survivors, children, and batterers.

Thank you for the opportunity to testify in **support of HB 1144**, please contact me at (808) 847-3285 or [rkusumoto@pacthawaii.org](mailto:rkusumoto@pacthawaii.org) if you have any questions.



February 6, 2016

COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
Rep. Della Au Belatti  
Rep. Dee Morikawa  
Rep. Tom Brower  
Rep. Mark M. Nakashima  
Rep. Richard P. Creagan

Rep. Gregg Takayama  
Rep. Mark J. Hashem  
Rep. Justin H. Woodson  
Rep. Derek S.K. Kawakami  
Rep. Bob McDermott  
Rep. Chris Lee  
Rep. Cynthia Thielen

NOTICE OF HEARING

DATE: Tuesday, February 9, 2016  
TIME: 2:00pm  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

**RE: IN STRONG SUPPORT OF HB1144 PROPOSED HD1**  
PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII  
RELATING TO THE RIGHTS OF VICTIMS OF CRIME

Dear Committee on Judiciary:

The Pacific Alliance to Stop Slavery (PASS) strongly supports HB1144 Proposed HD1 aka “Marsy’s Law.” As a victim service provider who has assisted numerous survivors of human trafficking and sexual crimes through the justice system, I can attest that there is great need for improvement, on every level, in the way law enforcement treats victims of all types of crime.

All too often, *preventable* mistakes are made throughout our justice system that put victims either at risk or re-victimized. It is the responsibility of our elected officials to heed the testimony in support of these measures, from survivors and families of survivors of crime, and work diligently to ensure that victims’ rights are established.

Without ensuring these rights, law enforcement’s efforts to effectively curtail crime will be largely impotent, rife with victims’ fatigue and/or drop-out from court cases, and at minimum a blatant insult to all persons affected by serious crime.

PASS respectfully urges this committee to support and pass HB1144 Proposed HD1. It is long overdue.

Sincerely,

Kathryn Xian  
Executive Director  
Pacific Alliance to Stop Slavery



## CATHOLIC CHARITIES HAWAII

### TESTIMONY IN SUPPORT HB 1144, PROPOSED HD1: PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME

TO: Representative. Karl Rhoads, Chair;  
Representative Joy A. San Buenaventura, Vice Chair; and  
Members, House Committee on Judiciary  
FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawaii

HEARING: **Tuesday, 2/9/16, 2:00 PM; CR 325**

Chair Rhoads, Vice Chair San Buenaventura, and Members, Committee on Judiciary:

Thank you for the opportunity to provide written **testimony in support of HB 1144, proposed HD1**, which proposes a constitutional amendment for victim's rights/Marsy's law for Hawai'i. Catholic Charities Hawai'i supports these bills since they would benefit not only victims of domestic violence but also all victims of crime.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving individuals, elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i.

As part of program services, CCH provides individual and group counseling services for domestic violence victims. These victims often must try to navigate the complex judicial system at the same time as they try to deal with their trauma. Many may feel re-victimized, forgotten, or ignored, since they lack enforceable rights. Crime victims deserve to be recognized as being as important as the defendant. Providing statutory right for victims does not infringe on the rights of the defendant. Instead, it will ensure that victims are treated with dignity, respect, and courtesy. This proposed constitutional amendment would put crime victims on the same level as defendants.

In 32 other states, the rights of victims are protected. Hawaii is only one of 18 states that lack a constitutional provision that protect victims' rights. It is time to recognize and protect the rights of victims.

Thank you for your consideration of this important issue. Please consider supporting this bill and helping to strengthen laws that protect victims of domestic violence and all crimes.

Please contact me at (808) 373-0356 or [bettylou.larson@catholiccharitieshawaii.org](mailto:bettylou.larson@catholiccharitieshawaii.org) if you have any questions.



**TESTIMONY OF STACY EVENSEN ON BEHALF OF MARSY'S LAW HAWAII IN SUPPORT OF  
HB 1144 proposed HD 1**

**Date: Tuesday, February 9, 2016**

**Time: 2:00 p.m.**

To: Chair Rhoads and Members of the House Committee on Judiciary

My name is Stacy Evensen and I am the State Director of Marsy's Law Hawaii. We support HB 1144 proposed HD 1 that proposes enumerating the rights of crime victims in our State Constitution. These rights include, among others, the right to be treated with courtesy, fairness and respect; the right to be informed of services available for crime victims; the right to be protected from the accused; the right to be notified, present and heard at court proceedings; and the right to proceedings free from unreasonable delay. By elevating these rights to the constitutional level, victims will be assured that their rights will be honored and protected in a manner no less vigorous than the protections afforded criminal defendants. Hawaii is one of only 18 states without constitutional protections for crime victims. Passage of this measure will allow voters to make Hawaii the 33<sup>rd</sup> state to protect the rights of victims in their State Constitution.

With us today is Meg Garvin, a national expert on crime victims' rights. She will provide comments on the bills based on her experience working with victims and law enforcement throughout the country and will be available for questions. There are many others in the room today who want to tell you why passing a bill to elevate victims' rights to the constitutional level is so important. These victims have suffered unspeakable harm through no fault of their own. Some have had good experiences with the criminal justice system, most have not. They will tell you about the re-victimization that resulted from their being excluded from the criminal justice process. They will tell you that, while the passage of these bills will not bring back their loved ones or erase the crime they suffered, it will give future victims enforceable rights as they participate in court proceedings involving themselves or a loved one. They will urge you to pass a bill to give equal rights to crime victims so that no one in Hawaii will have to feel confused, scared or silenced when involved in the criminal justice system.

On behalf of these victims and others across the state, Marsy's Law Hawaii also urges you to pass HB 1144 proposed HD1. Thank you for the opportunity to testify in strong support of equal rights for crime victims in Hawaii.







February 7, 2016

To: Hawaii State House Committee on Judiciary  
Hearing Date/Time: Tuesday, February 9, 2016 (2:00 p.m.)  
Place: Hawaii State Capitol, Rm. 325  
Re: Testimony of American Association of University Women –  
Hawaii in **support of H.B. 1144 – H.D. 1 Proposed**, relating  
to a constitutional amendment to establish rights for victims  
of crimes

Dear Representative Karl Rhoads (Chair), and Representative Joy A. San Buenaventura (Vice Chair), and Members of the Committee,

I am grateful for this opportunity to testify in **strong support of H.B. 1144 – H.D. 1 Proposed**, relating to a constitutional amendment to establish rights for victims of crimes.

My testimony is on behalf of the approximately 400 members of the American Association of University Women (AAUW) in Hawaii, who list gender-based violence as an important current concern. My testimony is informed by many years of work in the field of domestic violence, and research conducted with survivors of intimate partner violence. In addition, when I lived in New Zealand, I managed a 24-hour, 7-days/week domestic violence hotline, and I also trained hotline Advocates to respond skillfully and empathetically to survivors of violence. I provided extensive education to Advocates for Women, and also worked with police, courts, and other service agencies on behalf of survivors.

Based on these experiences, I argue that passage of H.B. 1144 – H.D. 1 Proposed is important, with potential to improve assistance offered to survivors of violence, and other victims of crime in Hawaii. Many of the components of this bill are already fixed in New Zealand law, where I lived for many years, and observed first-hand the importance of these clauses in providing a criminal justice system attentive to the needs and rights of victims. Similar bills to the Hawaii one have also been passed in other American states, and it is time for Hawaii to join the majority of states in moving this bill toward enactment.

It is shocking to me that victims of crimes in Hawaii may not be notified of court or parole hearings, involving them as victims. I personally know people in Hawaii who have been denied this type of information, which may place victims at personal risk, and certainly disturbs them emotionally. The rights mentioned in this bill are all similarly reasonable rights that victims assume would be provided to them, but so often are not in Hawaii.

In conclusion, passage of H.B. 1144 – H.D. 1 Proposed is an important step in improving justice for crime victims.

Thank you for the opportunity to testify.

Sincerely  
Susan J. Wurtzburg, Ph.D.; Policy Chair



Mothers Against Drunk Driving  
National Office  
madd.org

1025 Connecticut Ave., NW  
Suite 1210  
Washington, DC 20036

877.ASK.MADD  
877.MADD.HELP victim support  
972.869.2206 Fax

February 1, 2016

Dear Hawaii Lawmakers:

As the National President of Mothers Against Drunk Driving, I write to you today on behalf of thousands of drunk driving crime victims in support of a proposal to guarantee rights for all crime victims. Specifically, I urge you to support HB 1144 and SB 3034 and create a State Victims' Rights Amendment to the Hawaii Constitution.

My son, Dustin Church, was killed in July 2004 when a drunk and drugged driver ran off the road, hit an embankment and landed upside-down in a Connecticut river. The driver was an impaired teenager, who had been illegally drinking underage and using drugs. Dustin was in the backseat of the two-door car as it sank into the river. The two in the front seat survived. But my son Dustin could not escape and died as the car continued to sink into the river.

Since becoming President of MADD, I have travelled the country working to strengthen drunk driving laws and to protect the rights of DUI victims. I can tell you that HB 1144 and SB 3034 are critical to protecting the rights of those whose lives have been changed forever by those who made the careless choice to drive drunk.

This is important legislation and will protect the rights of all crime victims in Hawaii. Passing this legislation would make Hawaii the 34th state in the nation to enact such rights for both residents and visitors that become victims of crimes. Since 1980, MADD has fought tirelessly to ensure that crime victims are afforded fundamental rights through the justice process. Together with a coalition of crime victims' rights partners, we have made remarkable progress for crime victims, despite many challenges. Only 30 years ago, crime victims had no rights, no access to crime victim compensation, and limited basic services to help rebuild their lives.

Crime victims are often excluded from courtrooms, treated as an afterthought by the criminal justice system, and denied an opportunity to speak at the sentencing of their offenders. To date, 29 states have enacted state constitutional amendments for victims' rights. Through decades of advocacy and hard work, we have come a long way. Today, all states have established crime victim compensation funds. More than 10,000 victim service agencies help victims throughout the nation.

But all too often, we hear from a disparaged family of individual victims which remind us that many challenges remain. Crime victims' rights are not universal and are often not enforced. Only a small percentage of victims receive crime victim compensation, which is usually limited to victims of violent crime. According to last year's National Crime Victimization Survey, more than 50 percent of violent crimes were not reported to police between 2006 and 2010. In addition, a 2011 report called the Use of Victim Services Agencies by Victims of Serious Violent

Crime showed that only nine percent of violent crime victims received needed services in the 1993-2009 timeframe.

You have an opportunity to ensure that rights of crime victims are protected by enacting this vital legislation.

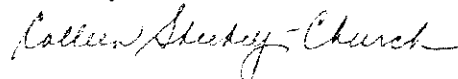
Passage of HB 1144 and SB 3034 would protect crime victims by ensuring that they are guaranteed:

- The right to be reasonably protected from the accused;
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or any release or escape of the accused;
- The right not to be excluded from any such public court proceeding, 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 the proceeding;
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, [or] sentencing, or any parole proceeding;
- The reasonable right to confer with the attorney for the government in the case;
- The right to full and timely restitution as provided in law;
- The right to proceedings free from unreasonable delay, and
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

Thank you for your consideration of this important legislation.

Best wishes.

Sincerely,



Colleen Sheehey-Church  
National President, Mothers Against Drunk Driving



Mothers Against Drunk Driving HAWAII  
745 Fort Street, Suite 303  
Honolulu, HI 96813  
Phone (808) 532-6232  
Fax (808) 532-6004

February 9, 2016

To: Representative Karl Rhoads, Chair –Senate Committee on Judiciary; Representative Joy A. San Buenaventura, Vice Chair; and members of the committee

From: Carol McNamee/Arkie Koehl — Co-chairmen, Public Policy Committee - MADD Hawaii

Re: House Bill 1144, Proposed Draft 1 – Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims

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I am Carol McNamee, representing MADD Hawaii and speaking in strong support of HB 1144, proposed draft 1, which calls for a Constitutional Amendment for Victims Rights.

First, I want to thank this committee for agreeing to hold a hearing and receive testimony again on the compelling reasons why many of us here so passionately believe that Hawaii needs a Constitutional Amendment for Victims Rights.

MADD is one of the largest victim service organizations in the Country. In Hawaii, MADD provides services for victims of homicide as well as for negligent homicide, negligent injury, manslaughter, failure to render aid and for any victim of an impaired driving crash, whether or not the offender is charged or convicted. A MADD memorial in Kaka’ako Waterfront Park stands as testimony to the indescribable pain resulting from the losses that hundreds and hundreds of victims of violent crime in our state experienced after the tragedy which either killed or injured their loved one – or loved ones.

Too often, these victims are destined to suffer more pain when they feel revictimized by the criminal justice system which most believe was designed to support victims through the court process and deliver justice in the end. (*National Crime Victim Law Institute, Victim Law Bulletin – March 2013*) There is no doubt that gains have been made over the 32 years that MADD has been serving victims in Hawaii. The Victim Bill of Rights in Hawaii Revised Statutes was enacted in 1987 and certainly provides the basis for more rights than were even articulated before the 1980’s. However, in Hawaii and in other states across the country, victims have found that there are times when statutory rights are not enough. There is no guarantee the justice described on paper will actually be delivered. “Victims still do not receive justice that affords rights of access and participation that are equal to those of accused.” (*National Association of Attorneys General – 2000*). For this reason, 32 states have now given victims the benefit of a state constitutional amendment for Victims Rights. In most states a very high percentage of the electorate voted to adopt the constitutional amendment.

House Bill 1144, proposed HD1, which proposes a constitutional amendment that we – and other states – are calling Marsy’s Law in memory of a young girl murdered in California, will offer Hawaii victims important protections and will also include a section on “enforcement” in order for a victim to assert the list of rights that are proposed.

It is important to stress that the request to strengthen victims’ rights through a state constitutional amendment is not intended to diminish any rights of the offender. It is important that victims gain more equality with offenders in how they are treated by the criminal justice system. This feeling of equality can help the victim regain a feeling of control and contribute to their eventual healing. A constitutional amendment also establishes a sense of permanence. Statutes can be changed at any time at any time by the Legislature whereas it is much more likely that rights included in a state constitution will remain indefinitely.

The Amendment will not result in any case being retried; nor will it cause any interference with the work of prosecutors who have been assigned to a case.

As our statue in Kaka’ako Park portrays, the families of victims will always have a hole in their hearts but the knowledge that they have constitutionally protected rights will give them more confidence and serenity as they go through the difficult criminal justice process and beyond. As a National MADD past president said, “Criminal defendants have the *right* to remain silent; crime victims all too often are *required* to remain silent. Where is the justice in that?”

Usually, people who have been in crashes caused by a drunk or drugged driver became victims in a split second with no previous idea that life would be ended or tremendously changed because of serious injury. I realize that this could happen to me – or to any of you. We never know who is next. This knowledge makes me want to be assured **now**, that my loved ones will be supported not only by friends, but by the criminal justice system that they may have to experience – a justice system that will treat them with fairness and dignity and give them the right to be informed and to be heard.

Other members of the MADD organization will testify this afternoon and there are some who have sent their support but were unable to be here because of conflicts or because their court cases may not have been concluded. Our National MADD President, who lost her 14-year old son in an impaired driving crash, has also sent her remarks.

MADD strongly encourages this committee to pass HB 1144, proposed HD 1. Thank you for the opportunity to testify in support of this important measure.



TO: Chair Karl Rhoads  
Vice Chair Joy Buenaventura  
Members of the Committee

FR: Nanci Kreidman, M.A  
RE: H B 2 1 2 0 ( H B 1 1 4 4 ) Support

Aloha. And thank you for your consideration of this testimony. It is our responsibility to urge you to examine, improve and support the needs of survivors and their family members. This Bill, pertaining to a Victims Bill of Rights deserves your careful review.

The express statements included as Rights of Victims of Crime seem quite obvious, and would be basic features of a system that has been built to secure our safety and freedom. The fact that this Bill is before you underscores the reality that many victims, survivors and their family members have not been informed, included or empowered by the system after they have been victimized. We would like to see the system more responsive, timely and effective in holding offenders accountable for their crimes and certainly more compassionate for those who are forced to engage with it, because of victimization.

Avoiding re-victimization by the system is an important step in the right direction. And one that is long overdue. With all the wisdom we have gained and experiences we have had these last 30 years in Hawaii, may we respectfully urge your favorable action to advance our work to inform, support, empower and protect victims of crime.

Thank you.

To: Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
And members of the House Judiciary Committee

From: Karen Rose

Date: February 2, 2016

Re: **House Bill 1144, House Bill 2120:** Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

As an advocate for victims of crime, I've heard hundreds of stories over the years from survivors of domestic violence, sexual assault, and other violent crimes, about the daily struggles they endure to feel safe. Unlike offenders who have a multitude of rights protected by the constitution, the victims of their most heinous crimes do not.

For several years I worked as a victim advocate at the Hawaii County Prosecuting Attorney's Office. I saw time and time again how important it is for victims of crime to stay informed of legal proceedings, to have the option to make a statement at a sentencing, or to provide valuable input to judges and parole boards on how their lives have been affected by these crimes.

While it is encouraged that our system keep victims informed of these proceedings, it's not a right that is guaranteed under our constitution, and therefore many victims fall through the cracks, or worse, get completely ignored by our legal system. There's a reason it's called the 'criminal justice system', and not the 'victim justice system.' It's not right, it's not fair, it's inhumane, and it needs to change.

Victims and their families deserve equal rights in Hawaii, and this is why I am an advocate for Marsy's Law for All. As a state and a nation that values human rights, we shouldn't tolerate this kind of callous discrepancy in the treatment of our citizens.

Hawaii is one of 18 states without a constitutional amendment to provide enforceable rights for victims of crimes. We are the Aloha State. It is our kuleana to create a legal environment where victims are confident that their rights are protected and respected - a system that doesn't re-traumatize victims by withholding knowledge that could affect their safety and well-being.

A measure supporting equal rights for victims is one of the bills presented this legislative session. Please support Marsy's Law For All and pass this important bill today.

Karen Rose  
Executive Director  
Visitor Aloha Society of Hawaii Island



## VISITOR ALOHA SOCIETY OF HAWAII

**TO:** Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

**FROM:** Jessica Lani Rich, Visitor Aloha Society of Hawaii

**SUBJECT:** HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime

Hearing February 9, 2016, 2:00 p.m.

**POSITION:** SUPPORT

Good morning Chair Rhoads, Vice Chair San Buenaventura, and members of the House Committee on Judiciary. Thank you for the opportunity to provide testimony in support of HB 1144 to amend the Hawaii State Constitution to guarantee that crime victims and their surviving family members have enforceable rights.

My name is Jessica Lani Rich and I'm the President and CEO of the Visitor Aloha Society of Hawaii, a non-profit agency that assists visitors who are victims of a crime or other adversity. Our agency assists approximately 1,800 to 2,000 visitors every year. We request your support for an Amendment to the Hawaii Constitution that guarantees basic rights to crime victims. These basic rights include the right to be treated with courtesy, fairness, and respect for their dignity and privacy throughout the criminal justice proceedings, the right to receive information about their rights and services available to crime victims, and the right to restitution.

Crime has a negative impact not only on the people of Hawaii but also on our visitor industry. Hawaii is one of just 18 states that does not have a constitutional provision protecting victims' rights. The proposed amendment does not diminish the rights of offenders – their rights remain intact. This bill offers a better balance between the rights of crime victims and the rights of offenders.

I urge your Committee to pass this measure. Thank you for considering my testimony in support of HB 1144.



DATE: February 9, 2016, 2:00 p.m.

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice-Chair  
And Members of the House Committee on Judiciary

FROM: Lisa Dunn, Executive Vice President & Director of Programs  
The Children's Alliance of Hawaii

RE: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to Rights of Crime Victims

POSITION: Strong Support

Chair Rhoads, Vice-Chair San Buenaventura, and Members of the Committee on  
Judiciary:

Thank you for providing this opportunity to testify in strong support of HB 1144.

The Children's Alliance of Hawaii believes that each child is resilient, creative, courageous and strong and deserves every opportunity to thrive to their fullest potential. Children who have been traumatized by sexual abuse need special ongoing support to help them become healthy and successful adults. The Children's Alliance of Hawaii is dedicated to providing caring support for children who have been sexually abused, offering hope for the future.

It is heartbreaking to see innocent children who are violently harmed left defenseless against perpetrators. It is just as disturbing when the rights of child victims are not enforced as the case winds its way through the court system.

The proposed constitutional amendment for a victims' bill of rights would guarantee basic rights of crime victims. They will have permanent, constitutional, and enforceable rights.

There will be no fair treatment of victims until their rights are guaranteed by our state constitution, which is the final authority assuring the rights of the accused. Victims, especially children deserve no less.

Please pass HB 1144 out of your Committee.

To: Representative Karl Rhodes, Chair- House Committee on Judiciary;  
Representative Joy San Buenaventura, Vice Chair; and members of the Committee

From: Nonohe Botelho, National Organization of Parents of Murdered Children

Date: Tuesday, February 9, 2016

Re: **House Bill 1144:** Proposing An Amendment To Article I Of The Constitution Of The State Of Hawaii Relating

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Aloha, my name is Nonohe Botelho. I am the Hawaii Contact Person for National Organization of Parents of Murdered Children (POMC). I became affiliated with Parents of Murdered Children in 2011 after my son, Joel Kealiinoa Botelho, was gunned down and brutally killed in front of our home in Kaneohe.

I am writing to say that I support the passing of HB 1144, pertaining to the Amendment to Article I of the Constitution of the State of Hawaii Relating to the Basic Rights of Victims of Crime.

Today I want to bring to your attention to two specific amendments under the proposed Article 1:

**1) “The basic right to be treated with courtesy, fairness and respect for their dignity and privacy throughout the criminal justice proceeding.”**

In the case involving a murder victim, who was bludgeoned, had his throat cut and his body dismembered, the media choose to air a small clip of the defense attorney calling the victim a “homegrown terrorist”. The victim’s name was Jamil Khan, a “local boy” raised in Hawaii, his parents of Middle Eastern descent. Calling the victim a homegrown terrorist was not only an example of victim blaming it also created an environment of hostility for the family. In another murder case, after a gross misunderstanding, the family of victim Albert Myers, was told that they were not allowed to attend court for the reading of the verdict. They were actually told to stay away from the courthouse completely. They received emails and phone calls over the weekend telling them to stay away. The family wrote a letter expressing their frustration and feelings of being harassed. To this day they have had no response. The case is with the Supreme Court awaiting a decision for dismissal.

These are just two examples in which victims and their families were mistreated and humiliated. **The current system offers no constitutional provisions protecting victims’ rights to be treated with dignity.**

**2) “The right to receive timely notification of proceedings and other major development in their cases.”**

In the case of murder victim Kollin Elderts, the family was not informed of a major development in the case. In previous discussions with the prosecutor’s office the family agreed to accept a lesser manslaughter charge, if necessary. Unfortunately, as we all sat in the courtroom as the judge read the jury

instructions it became painfully clear that the lesser manslaughter was NOT included. The family was never informed of the change and was devastated by the decision. Today, the Eldert's await a Supreme Court ruling, which will determine whether this case will go to a third trial.

In many cases, victims and families are NOT notified of proceedings or major development in their cases. For example, families of victims who are murdered in a "heinous, atrocious and cruel manner" are told that the defendant would be eligible for an Extended Sentence, beyond the minimum term. I personally know of a hand full of families, including myself, that went through this process. We poured our hearts out via our Victim Impact Statements, imploring the judge to grant the Extended Sentence. After waiting two years for the extended sentencing phase the judge simply stated that she "Could NOT impose the Extended Sentence." We were devastated and left very confused.

Recently, I was referred to a Star Advertiser article written in 2007, stating that, "the Supreme Court ruled that the Extended Sentencing law violates the constitutional rights of the defendant," which basically voids the law. Everyone from the Supreme Court down, including prosecutors and judges, know the extended sentencing law is unconstitutional and yet they mislead families and spend tax payer's dollars to go through a process designed to fail. **The current system offers no constitutional provisions protecting victims' rights to be informed of legal proceeding and major developments.**

Currently, in the State of Hawaii, victims and their families have no recourse or mechanism to ensure that our rights are not only protected, but enforceable. I want to tell you, our lawmakers, that the work you do here today is extremely important, not only for me, but for future generations. I want to be able to tell Joel's sons, my grandson, that their Daddy didn't die in vain. Today, we are not asking to get "special" treatment; we are asking for equal treatment. We are asking for the same rights as the defendant. Nothing more, nothing less.

Thank you for your time and consideration.

**LATE**

I stand in strong support of Marsy's Law (SB 679/HB 1144) because I am the mother of a murdered son. I started the Hawaii Chapter of POMC (Parents of Murdered Children) after our 24-year-old son, Michael, was shot to death in our Hawaii Kai home. It is still unsolved after more than 32 years.

We were so badly abused and further traumatized by the only system in place at that time to assist victims - the Victims' Compensation Commission. When I went into testify at the hearing, I was told by the woman who was Chair of the Commission, "You have your nerve coming here expecting the State of Hawaii to give you anything when your son was a known drug user!". This was not the only nasty comment she made. Her impression that my son was a known drug user I later found out came from a statement made to the police by a neighbor boy. The boy, caught up in the excitement and wanting to be part of the murder investigation, told the homicide detective my son had smoked pot. My son like most teenagers during that era had smoked pot, and was not a known drug user. This boy's comment was of course noted in the homicide detective's report.

The night my son was murdered, I left on a trip to the mainland to attend my brother's funeral in Seattle. Once I landed in Los Angeles, I was called by the homicide detective who told my son had been murdered. I left my home that night saying goodbye and I love you to my son hearing him telling me to try to have a good time as I closed the front door on my way to the airport. My having left the Island the night my son was murdered appeared to the police that I was fleeing the crime of murdering my son. I was considered a suspect and was taken into custody for questioning the minute I landed in Honolulu having taken the next flight back. The fact that they considered me a suspect was also noted in the homicide detective's report. It was only years later that the police determined I was in the air travelling half way to the mainland when the shooting occurred.

At the hearing that day, another member of the Victims' Compensation Commission, an elderly Asian, slept through the entire hearing. This, plus the Chairwoman's reprehensible attitude toward me and my son whom she had never met, further traumatized me and I left me feeling abused even to this day.

Date: February 5, 2016

To: The Hon. Karl Rhodes, Chair, and the Hon. Joy A San Buenaventura, Vice Chair – House Judiciary  
Re: HB1144 on 2/9/16 325 at , Conference Room , Amendment to Art. 1 of Constitution  
From: Sharon L. Young (formerly Sharon Y. Martinez), Co-Founder of the Missing Child Center Hawaii

I support HB 1144, which will help to ensure the rights of victims by giving them a constitutional right to be informed of notifications about proceedings and major developments in their criminal cases.

On 8/1/91 my three children were abducted by my ex-husband from my Manoa home, and taken into Mexico, where their father filed petitions within the Mexican court system to make it impossible for them to leave Mexico without his permission. The State of Hawaii issued four felony warrants against my ex-husband for his actions.

Years later, in 2009, I discovered that my ex-husband was back in the United States. I contacted Charlene Takeno of the Missing Child Center Hawaii, to have the court system follow up on the apprehension of my ex-husband. We both discovered that the State of Hawaii had removed the felony warrants for his arrest years earlier; neither Charlene nor I had ever been informed.

On December 18<sup>th</sup>, 2009 my son, Ariel Martinez (who successfully escaped from his abusive father in Mexico and escaped back to Hawaii on May 8<sup>th</sup>, 1994), Charlene Takeno and I went to the Prosecuting Attorney's office to find out when and why the warrants had been dismissed. A representative of the Prosecuting Attorney's office met with us and stated that he had no idea how the warrants had been expunged, when they had been expunged or who had initiated the dismissal of the warrants. I asked why I was never notified of their dismissal. We were told it was highly unusual for me not to be notified but that it would be impossible for the state to re-instate the warrants. My ex-husband had tried to murder me in 1985 and once the warrants were dismissed my life was in danger again. At the meeting at the AG's office my son angrily stated that his father could get off from any responsibility to the people he had harmed, and would never be held liable. The representative said that unfortunately was the case. Later I learned from the new Prosecuting Attorney that in January 2004 the deputy Prosecuting Attorney proposed that the warrants be dismissed and on 3/14/05 the State dismissed the warrants. No one knows why I was never informed.

This is why the state needs to change an un-enforceable statute into an enforceable law. We have a statute that states that victims must be informed, but sometimes this protocol is not followed. If victims had constitutional rights the state would make an effort to notify victims and follow the protocol. How many violent acts would be stopped if victims were properly informed?

In the 1990's John Walsh of America's Most Wanted told me that criminals had more rights than victims and I didn't want to believe him. His observation was right then and is still correct. When will Hawaii do something to change this? If someone in your family was victimized wouldn't you want them to have the same rights as the criminals perpetrating the crime? I believe passing HB 1144 will ensure a victim's right to be kept informed and may help to save lives.



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

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DATE: February 9, 2016

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

FROM: The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women and Children

RE: Testimony in Support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the State of  
Hawaii Relating to the Rights of Victims of Crime

Monica Cobb-Adams  
Donne Dawson

Good afternoon Chair Rhoads, Vice Chair San Buenaventura, and members of the House Committee on Judiciary.

Dennis Dunn  
Councilmember  
Carol Fukunaga  
David I. Haverly

The Sex Abuse Treatment Center (SATC) strongly supports H.B. 1144 Proposed H.D. 1, an amendment to the Hawai'i State Constitution guaranteeing that victims of crime and their surviving immediate family members have specific rights with respect to being informed about, and participating in, the criminal justice process.

Linda Jameson  
Michael P. Matsumoto  
Robert H. Pantell, MD  
Gidget Ruscetta

All states and the federal government have passed laws to establish a set of victims' rights, requiring that survivors of crime have access to certain information, protections and a limited role in the criminal justice process. However, Hawaii's statute (Haw. Rev. Stat. § 801D-4) has been little known and unevenly implemented.

Joshua A. Wisch

This underscores the need for an amendment to the Hawaii State Constitution to ensure that survivors of crime are aware of their rights, and state and local governments are cognizant of what is needed to protect and heal people whose lives have been touched by crime and violence as their cases progress through the criminal justice system.

The SATC has encountered both the best and worst that Hawaii's system has to offer survivors of crime. Some are able to access community resources that assist them to experience a relatively smooth interaction with the criminal justice system, such as legal systems advocacy available through sexual assault centers on each island. There are also tireless and sympathetic advocates embedded in some government agencies, such as the Victim Witness Programs of the County Prosecutors' Offices, who work hard to keep survivors of crime involved in and informed about what is happening with their cases.

However, many survivors are not so fortunate. They may interact with agencies or portions of the system where victim advocates are not available or accessible, and consequently may find themselves shut out of the process or cut off from information they need. Moreover, they may not be treated with respect by all of the people they encounter in the system, or their concerns and needs may not be afforded appropriate priority when they conflict with those of others. This can lead to feelings of anger, resentment, and revictimization, or even place survivors at safety risk.

Survivors should be consistently informed about, and afforded the opportunity to participate in, the investigation, prosecution, and ongoing management of their cases. Survivors' voices in these matters are important, and engaging survivors fully in the process is empowering and healing.

H.B. 1144 Proposed H.D. 1 would allow the People of the State of Hawai'i to join with their peers in 32 other States to enact a constitutional amendment that protects the basic rights of survivors of crime. The proposed amendment would not take away any of the protections currently afforded to accused criminals or curtail the discretion of prosecutors or judges. Rather, it is narrowly tailored to provide only reasonable, necessary rights to ensure that survivors receive sufficient information about, and are able to participate meaningfully in, the criminal justice process.

Moreover, strengthening state constitutional protections for survivors of crime acknowledges the existing good work of advocates in community organizations and government agencies, while making sure that survivors' experiences are consistent throughout the criminal justice system.

Therefore, we respectfully urge you to join SATC in strongly supporting H.B. 1144 Proposed H.D. 1.

Testimony of Margaret Garvin, MA, JD  
Executive Director, the National Crime Victim Law Institute  
and  
Clinical Professor of Law, Lewis & Clark Law School, Portland, Oregon

In Support of HB 1144 Proposing an Amendment to the Constitution of the State of Hawaii  
Relating to the Rights of Victims of Crime

Before the House Judiciary Committee  
February 9, 2016

Chair Karl Rhoads and Members of the Committee:

I am honored to be here today to testify in support of the constitutional victim' rights contained in HB 1144. To create the most meaningful, clear and enforceable rights for victims , additional rights and clarity of enforcement language may be desirable but what you have in front of you would move Hawaii forward and ensure that victims are not re-victimized by the criminal justice system.

By way of background, I am the Executive Director of the National Crime Victim Law Institute (NCVLI) and a Clinical Professor of Law at Lewis & Clark Law School in Portland, Oregon. NCVLI is a nonprofit educational and advocacy organization with the mission to actively promote balance and fairness in the justice system through crime victim-centered legal advocacy, education and resource sharing. Our work touches victims' rights in state, federal, and military courts across this country. I have testified before numerous state legislatures and the United States Congress on the state of victims' rights, and have consulted on drafting numerous victims' rights provisions including the 2004 Federal Crime Victims' Rights Act. Prior to joining NCVLI, I went to law school in Minnesota where I worked for a public defender's office, then clerked for the Honorable Donald P. Lay of the Eighth Circuit Court of Appeals, and practiced in a private law firm in Minneapolis, Minnesota.

My support for constitutional victims' rights is grounded in values of procedural justice. These are that the criminal justice system functions best when those directly impacted – both victims and defendants – have their voices meaningfully integrated such that they can perceive the process as fair and transparent. With regard to victims, research makes clear that when the system operates otherwise victims may endure harm beyond the original crime; harm which is



referred to as “secondary victimization” and which is recognized to have significant negative impacts on victims as well as on the proper functioning of justice system.

Minimizing this secondary victimization and its impacts is recognized to be achievable with meaningful, participatory rights. After decades of experience it is clear that the most effective of these rights are constitutional rights.

Why constitutional rights rather than mere statutes? There is no dispute that amending a constitution should not be done lightly; it should not be done to achieve merely short-term, partisan or purely policy objectives. In fact, constitutional law scholars agree that constitutional amendments are appropriate only when the goal involves a basic human right that by consensus deserves permanent respect and cannot adequately be protected through statute. Victims’ rights meet this test.

I do not believe anyone in this room disputes that the system should treat crime victims with dignity and respect and afford them rights. But the statutory rights afforded to date have proven inadequate here and across the country. When discussing victims’ statutory rights, Law Professor Lawrence Tribe, one of the preeminent constitutional scholars of our day, noted that “[t]here is a tendency to ignore or underenforce such rights whenever they appear to rub up against either the rights of the criminally accused or the needs or wishes of the prosecution.” In short, victims’ statutory rights operate against the background of a legal culture in which the very notion of victims having enforceable “rights” has been minimized. This statutory reality stands in contrast to constitutional rights. As James Madison and others recognized when advancing the Bill of Rights, constitutional rights impress a different degree of respect and they acquire the status of fundamental maxims of a community.

Concerns that constitutional victims’ rights undermine defendants’ constitutional rights are misplaced. Rights in the criminal justice system are not a “zero-sum” game. As Human Rights Watch, a well-respected NGO, noted in a 2008 report on crime victims’ rights in America: “While there can be tensions between the legitimate interests of victims and defendants, a criminal justice system based on human rights standards can safeguard the rights of both while advancing justice and the rule of law.” Daily courts harmonize competing rights and interests and across the country they have proven quite capable of doing so in the context of victims’ rights and defendants’ rights.

The constitutional rights in this bill will secure meaningful inclusion of victim voice throughout the justice system without the granting of a veto. The provisions afford victims standing to assert their rights and to seek a remedy for violation in trial and appellate courts. It achieves this without diminishing defendants' rights.

I thank you for allowing me time to speak today and I urge you to heed the call of the victim community: treat victims like defendants by recognizing that their most basic rights of be notified, present and heard should be enshrined in this state's constitution.

Thank you.

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**LATE**

February 9, 2016



To: Representative Karl Roads, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

From: Howard S. Garval, President & Chief Executive Officer  
Date: Tuesday, February 9, 2016 (2:00 p.m., State Capitol Conference Room  
325)

**RE: In Support of HB1144 Proposed HD1**

Child & Family Service (CFS) has a long history of providing services to survivors and perpetrators of domestic violence and their families. We operate four domestic abuse shelters, three transitional housing programs for survivors of domestic abuse, court-ordered counseling for perpetrators, and Domestic Violence Advocacy, a program that serves women who receive a waiver from First to Work due to domestic violence. We also provide domestic violence services to families in the child welfare system as well as serving sexual abuse victims and kupuna who are at risk of abuse. We serve large numbers of victims each year who suffer from significant trauma. Unfortunately, the justice system sometimes exacerbates this trauma rather than protecting victims.

I am writing in **support of HB1144 Proposed HD1** that proposes a constitutional amendment for victims' rights in what has become known as Marsy's Law for Hawaii. While victims have certain statutory rights under Hawaii law, defendants and perpetrators of crime have certain constitutional rights that victims currently do not have in Hawaii. Hawaii is one of only 18 states that do not have a constitutional provision that protects victims' rights. This bill does not deprive defendants of their rights. The current statutory rights for victims are not enforceable so a constitutional amendment is necessary to ensure that all crime victims in Hawaii have permanent and enforceable rights.

CFS asks for your support for this bill to move a step closer to protecting the rights of victims of crime in this state.

Mahalo for the opportunity to submit testimony.

**"We're all about FAMILY"**

*Mission: Strengthening Families and Fostering the Healthy Development of Children*



Date: February 8, 2016

To: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

From: Lorraine Davis, Chief Operating Officer  
Sex Assault Support Services  
A Program of the YWCA of Hawaii Island

Re: Testimony in Strong Support of House Bill 1144 Proposed House  
Draft 1 Proposing an Amendment to Article I of the Constitution of  
the State of Hawaii Relating to the Rights of Victims of Crime

Good afternoon Chair Rhoads, Vice Chair San Buenaventura, and  
members of the House Committee on Judiciary

The YWCA of Hawai'i Island strongly supports H.B. 1144 Proposed H.D. 1,  
which proposes an amendment to the Hawai'i State Constitution  
guaranteeing that victims of crimes and their surviving immediate family  
members have specific rights with respect to being informed about, and  
participating in, the criminal justice system.

The YWCA of Hawai'i Island is dedicated to eliminating racism,  
empowering women and promoting peace, justice, freedom and dignity for  
all. To that end, one of the programs of the YWCA of Hawai'i Island is the  
Sexual Assault Support Services, a program dedicated to providing  
services to primary and secondary victims of sexual violence. In our work,  
we deal with the trauma and subsequent effects of sexual assault for all  
ages and stages of victims. In the course of our service to victims, we  
witness the frustrations and perceived ideas that victims have no rights and  
watch the devastation those frustrations have on the healing process for the  
victim and their family. In a presentation to a community service agency,  
our County of Hawai'i Prosecuting Attorney admitted that offenders have  
more rights than victims, discussing the disparities between the two groups.

We believe that survivors should be informed about, and be afforded the  
opportunity to participate in, the investigation, prosecution, and ongoing  
management of their cases. Survivor's voices in these matters are an  
important reminder to other key participants in Hawai'i's criminal justice

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**Our Mission: YWCA Hawai'i Island is dedicated to eliminating racism, empowering women,  
And promoting peace, justice, freedom, and dignity for all.**

*A partner agency of the Hawai'i Island United Way*

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system of the magnitude of the issues the victim's face with violent crimes. Our victims face physical and emotional harm that is often long-lasting or permanent. These victims have names and faces and are in our community. We need to allow them their voice. Assisting survivors to participate in the legal process can help to empower and heal them, and sends a strong message that the State of Hawai'i cares about and will protect their victims as much as, if not more, than the offender.

The YWCA of Hawai'i Island applauds the efforts of the enumerated rights found in Chapter 801D of the Hawaii Revised Statutes. However, we firmly believe that a Constitutional mandate will enhance the protections and rights of our victims of crime in the State of Hawai'i.

The YWCA of Hawai'i Island respectfully requests that you pass H.B. 1144 Proposed H.D. 1 and grant the People the authority to appropriately prioritize the needs of survivors of crime in our State Constitution, our most powerful legal document.

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**Our Mission: YWCA Hawai'i Island is dedicated to eliminating racism, empowering women,  
And promoting peace, justice, freedom, and dignity for all.**

*A partner agency of the Hawai'i Island United Way*

# LATE TESTIMONY

## TESTIMONY OF STACY EVENSEN ON BEHALF OF MARSY'S LAW HAWAII IN SUPPORT OF HB 1144 proposed HD 1

**Date: Tuesday, February 9, 2016**

**Time: 2:00 p.m.**

To: Chair Rhoads and Members of the House Committee on Judiciary

My name is Stacy Evensen and I am the State Director of Marsy's Law Hawaii. We support HB 1144 proposed HD 1 that proposes enumerating the rights of crime victims in our State Constitution. These rights include, among others, the right to be treated with courtesy, fairness and respect; the right to be informed of services available for crime victims; the right to be protected from the accused; the right to be notified, present and heard at court proceedings; and the right to proceedings free from unreasonable delay. By elevating these rights to the constitutional level, victims will be assured that their rights will be honored and protected in a manner no less vigorous than the protections afforded criminal defendants. Hawaii is one of only 18 states without constitutional protections for crime victims. Passage of this measure will allow voters to make Hawaii the 33<sup>rd</sup> state to protect the rights of victims in their State Constitution.

With us today is Meg Garvin, a national expert on crime victims' rights. She will provide comments on the bills based on her experience working with victims and law enforcement throughout the country and will be available for questions. There are many others in the room today who want to tell you why passing a bill to elevate victims' rights to the constitutional level is so important. These victims have suffered unspeakable harm through no fault of their own. Some have had good experiences with the criminal justice system, most have not. They will tell you about the re-victimization that resulted from their being excluded from the criminal justice process. They will tell you that, while the passage of these bills will not bring back their loved ones or erase the crime they suffered, it will give future victims enforceable rights as they participate in court proceedings involving themselves or a loved one. They will urge you to pass a bill to give equal rights to crime victims so that no one in Hawaii will have to feel confused, scared or silenced when involved in the criminal justice system.

On behalf of these victims and others across the state, Marsy's Law Hawaii also urges you to pass HB 1144 proposed HD1. Thank you for the opportunity to testify in strong support of equal rights for crime victims in Hawaii.

# Louis Pohl Gallery

Louis Pohl Gallery  
1142 Bethel St.  
Honolulu, Hawaii 96813  
(808) 521-1812  
[www.louispohlgallery.com](http://www.louispohlgallery.com)

Date: 1-28-2016

To: Representative Karl Rhoads, Chair  
Representative Joy A. Buenaventura, Vice Chair  
And Members of the House Judiciary Committee

From: Sandra Pohl, Louis Pohl Gallery

RE: Support HB 1144/HB 2120 State Constitutional Amendment for Victim Rights

Thank you for the opportunity to provide testimony in support of HB 1144/HB 2120 to amend the Hawaii State Constitution to guarantee that crime victims and their immediate surviving family members have enforceable rights.

I believe it is necessary to have a constitutional amendment securing permanent enforceable rights for victims, with equal protections under the Hawaii State Constitution as the right of their offenders. Victims have a right to be treated with fairness and with respect for their dignity and privacy. They have a right to receive reasonable protection from threats' and harm.

The proposed amendment does not diminish the rights of offenders their rights remain intact. This offers a better balance between the rights of crime victims and the rights of offenders.

I urge your committee to pass this measure. Thank you for considering my testimony in support of HB 1144/HB 2120.

Sincerely

SANDRA POHL

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

FROM: Anonymous sexual abuse survivor

HEARING: February 9, 2016, 2:00 p.m.

Testimony in support of HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

I am submitting this testimony anonymously because the criminal case is ongoing.

For many years I lived in the fear of actually doing something, and coming forward to the legal system. I imagined that my perpetrator would have been arrested immediately, and this would all be over, and I could finally move on with my life. In reality, he was arrested for less than a day. I am left to wonder what is happening with the case, whether there will be a trial or if he will ever pay for what he did. I came to the conclusion that the unknown made me feel safer than actually doing something because I am still in the same situation, nothing happened to him. The criminal justice system hasn't helped me in the way I thought they would. I ran into the arms of the law for help, understanding, and safety, but only to find out I felt safer in the room that the crime was committed. I expected the weight I carried around for years to be lifted as soon as I said something, but it felt heavier than before. My reasoning for supporting this bill is the belief that victims deserve to have basic rights, a speedy process, and feel like they are being taken care of.

As a victim of sexual abuse, I wasn't presented with the rights that I thought I had. I kept quiet for many years because I was scared of the law and what would happen, but what motivated me was to receive the rights that I thought I was entitled to, which I didn't even receive. I thought that having a voice and saying something would make a difference but this person is still in my life due to circumstances beyond my control and I was only offered a restraining order against him. I feel like for the crime he committed there was no justice and I am still waiting and I do not think that the law should be like this. I can't imagine what victims of more serious crimes, like those involving death, go through while waiting to see what will happen to their case. The process has taken much longer than I expected.

In Psychology, we learn that if a child does something wrong, immediate punishment needs to take place in order for them to learn that they did something that they were not supposed to do. The criminal justice system needs to work the same way; offenders need to be punished as soon as possible in order for them to even know that they committed a serious crime, and to understand the intensity of the crime. As time goes on, they think they got away with it. For example, I'm sure that my perpetrator thinks the one-day of arrest was his punishment and he is now free. If he feels that his punishment was over with, and it wasn't as bad as he thought it would be, he has the opportunity to do it to someone else.

What gave me the strength to say something was the fact that I could not move on, and better myself as a person until I did something. I was also motivated to use my voice in hopes of making a difference and helping others. I wanted to protect other potential girl's lives that could have been in jeopardy, but he is still in the same living circumstances and capable of hurting someone else. Victims need to be taken care



of. They should be able to turn to the law and receive justice. I reached out to the law for help and there was no consolation at all.

I have a lot of unanswered questions and I wish that there was somewhere I could turn to like an organization to help me understand my situation, my environment and rights. Victims experience a lot of psychological trauma that affects them mentally, physically, and emotionally. Victims need guidance during this difficult time. Victims are vulnerable and can be taken advantage of because of their vulnerability. I think it is important for victims to be informed of their rights and provided with resources so that they do not feel alone as they go through the criminal justice process.

Victims should be informed of their rights and should have their questions answered. Victims should be protected by the law and feel safe to use their voices. This is why I strongly support HB 1144.

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

FROM: Anonymous

HEARING: February 9, 2016, 2:00 p.m.

Testimony in support of HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

I am submitting this testimony anonymously.

I am 54 y/o now and living a scrappy degenerated life all due to the Event that happened when I was 36, January 28, 1998. Thanks to your Law Officers and the Lack of Rights I had during an investigation and charges made by the Dept of Police; the officers on dirty duty that I went through in an entire 15 hour ordeal that left me stripped of mental, physical and physiological capacities to the point of suicidal thoughts. NOT BECAUSE OF THE PERPETRATOR, but because the the brutal and forceful interrogation and obnoxiousness of the way that each and every single cop on duty drilled and drilled and drilled me from Station to classic police abuse of power to the ONE AND ONLY CLINIC where their behavior threatened and forcibly demanded that evidence be collected against my will and the the DR. of whom we had discussed was better to go to Maui for, in complete disagreement these officers not only bullied me and bullied the acting physician, to RAPE MY BODY OVER again for THEIR MUCH NEEDED EVIDENCE WHETHER it was done properly or not. The physician had no prior expertise, "BUT HAD TO" by coercion of very loud and very broadcasting officers who pretty much announced it to the entire neighborhood what they wanted from both him and myself. Lo and Behold, I asked for it not to be in the newspapers,...well, in a small town,...EVERYONE knew who was this age,..with five kids!!! The whole town, thanks for the social ===ANX-ZIETY AND PANIC ATTACKS. DAMAGING MY ENTIRE LIVELIHOOD IN RIDICULE.... IN a TOWN THAT EVERYONE KNOW OF ME, and not know the facts. I had every Jealous women seething with JOY at my misfortune!! staring and snickering, Enjoying belittlements went on and on for years,...harrassed, and battling the world on my fingertips, has frazzled and had me pulling out my hair, and crushed my very threads that were left.

Tearfully forced that morning at 9am two officers came to pull me off of work to take me down to the station to get any information they could by getting tipped off by someone other than myself. Unbeknown to me,...I was already in a extremely exhausted and fragile state due to being a single mother of five, and working 60 hrs incl overtime,...and managing with 5 different timed babysitters for 5 different ages to manage preschoolers, kindergarteners, and middle schooler and the timing of extraneous hours to keep up in a survival mode.

With no concern whatsoever, the five hours of battering by two to three cops interrogating me, and two belligerent and obnoxious that forcibly drove me to the Local one and only clinic for another 5 hours, and finally, without feeding or allowing me food, time to manage my children, pick them up or catch my breath... call someone, or allow me to have an attorney present... another 5 hours to rake through and intrude my house and in taking my stuff that they needed (and of course never returned) till 12 midnight.

I cannot impress how devastated, torn, completely obliterated my spirit, soul, body, mental state, and crushed I was to be treated in such a terrible terrible manner. I in the following months lost all functionality of reason... my job skills, my homemaking skills, my ability to think clearly, having lost clarity on life, who I was or what purposes that I had in life left me,..within 3 mos I was asked to leave work as my performance was lacking terribly, I eventually could no longer organize my household, and lost all sense it seems drifting farther and farther away into oblivion,...with no help, aid, or consult of what was going on. I barely remembered there were two women who came from a Victim Witness Program, ineffectively, apparently, since they were on Maui, quite far from being anywhere close enough to help aid a very smashed and busy mother with ages 3, 5,6,7, 10 yr old children in tow. I got my \$2k two years later,...something they made me fill out as compensation for selling my soul to the cops. Less than two years later,...I lost my children to CPS. My island lacked confidentiality as well as social agencies to help me. No Sexual Assault Treatment Center, no mental health counselor that had a sensitivity to females, who are not just alcoholic/addicts; as the MSW available, was a 1st born Japanese, Stoic, stern, and invalidating to a women who he disapproving looked at as incapacitated. There was no respite caregivers altho I begged of some friends and some other social agencies that could not help me.

Funny, Every one in the LPD wanted something from me,...and I HAD NO RIGHTS as far as they were concerned. The treatment, the whole process now 18 years later has stolen my dignity,... or minds reverence to completely mess me up the remaining years ... that still til today... and am always treading on thin ice... ALL BECAUSE OF WHAT THEY, THE STUPID COPS, WANTED DONE. BECAUSE IT WAS THE LAW TO PROSECUTE. STATE vs ME. because that is all I have left. It really never came to pass having pressed charges against a Man who defiled me wasn't anything compared to what the cops did to ruin my livelihood, my mental state, my sacred home, body and soul... has since left me,...and I have yet to get anywhere close to getting it back.

2nd story: My daughter, at 15 years old, committed suicide, because the STATE (CPS) who placed her in a home of 7 MALES at the age of 12 because she had a "different" dad than the daughter that came home to me later in the year 2002. She told me of how the officers called her names and said "All kinds of shet to her saying vicious things about her, and her bf who was 21" Arrested for the 3rd time for driving a vehicle, she was obviously unguided in her fathers family home and so the LPD then proceeded to charge her bf with 6 counts of sexual assault, all because Under threats, and verbal abuse, psychological trauma they were not able to stand up against the whole force of police brutal verbal accusations to say: Yes we love each other. A double suicide occurred no more than 500 ft behind the Police Station, and the bodies were not found for 3 days.

Ridiculously hilarious how the protection of the cops are to their own needs to be met. Thanks for making me Crazy. Depressed. Mentally challenged through Major Depressive Orders the last two decades of my life... and for the rest of my life as well. Thanks now, I am medically managed,.. mentally unstable...and what, what can be done to help me after losing a daughter, losing all my children...who have now grown up beyond me?? What? what will ever compensate me for all the losses, and shame, and ridicule, and hardship of gravely emotional PTSD. May I be raped rather than protected by a system that crushed me, the victim, into millions of pieces.

"Humpty Dumpty Sat on a Wall, Humpty Dumpty had a great Fall. All the Kings Horses and all the Kings Men,

COULDN'T PUT HUMPTY TOGETHER AGAIN."

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

FROM: Anonymous

HEARING: February 9, 2016, 2:00 p.m.

Testimony in support of HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

I am submitting this testimony anonymously.

I am 54 y/o now and living a scrappy degenerated life all due to the Event that happened when I was 36, January 28, 1998. Thanks to your Law Officers and the Lack of Rights I had during an investigation and charges made by the Dept of Police; the officers on dirty duty that I went through in an entire 15 hour ordeal that left me stripped of mental, physical and physiological capacities to the point of suicidal thoughts. NOT BECAUSE OF THE PERPETRATOR, but because the the brutal and forceful interrogation and obnoxiousness of the way that each and every single cop on duty drilled and drilled and drilled me from Station to classic police abuse of power to the ONE AND ONLY CLINIC where their behavior threatened and forcibly demanded that evidence be collected against my will and the the DR. of whom we had discussed was better to go to Maui for, in complete disagreement these officers not only bullied me and bullied the acting physician, to RAPE MY BODY OVER again for THEIR MUCH NEEDED EVIDENCE WHETHER it was done properly or not. The physician had no prior expertise, "BUT HAD TO" by coercion of very loud and very broadcasting officers who pretty much announced it to the entire neighborhood what they wanted from both him and myself. Lo and Behold, I asked for it not to be in the newspapers,...well, in a small town,...EVERYONE knew who was this age,..with five kids!!! The whole town, thanks for the social ===ANX-ZIETY AND PANIC ATTACKS. DAMAGING MY ENTIRE LIVELIHOOD IN RIDICULE.... IN a TOWN THAT EVERYONE KNOW OF ME, and not know the facts. I had every Jealous women seething with JOY at my misfortune!! staring and snickering, Enjoying belittlements went on and on for years,...harrassed, and battling the world on my fingertips, has frazzled and had me pulling out my hair, and crushed my very threads that were left.

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COULDN'T PUT HUMPTY TOGETHER AGAIN."

FROM: Anonymous Domestic Violence Survivor

HEARING: Tuesday, February 8, 2016

**LATE**

### Testimony in Support of HB 1144, Rights for Victims

Thank you for the opportunity to provide testimony in **strong support** of HB 1144. All the reasons I am requesting to remain anonymous are also all the reasons I'm in **strong support** of this bill. As a domestic violence victim my safety and the safety of my children are constantly in jeopardy because the current system does not protect victims like me. I have experienced numerous incidents where my rights have been violated. To be honest, in my experience the only thing the system has done consistently is - it's made me feel like I have NO rights.

For 2 ½ years I tried desperately to escape the hands of my abuser. I've made several reports of abuse and numerous TRO violations. I've dealt with the police department, judiciary system, victim witness, etc. It's been a long haul because I felt like I was in this battle alone. Every department, every step of the way, I was constantly reminded that this man, who repeatedly held a gun to my head, knives to my throat, kicked, punched, bled and beat the life out of me - has rights! This man who not only physically abused me, but, also caused harm to my children - has rights! What about mine? At NO time did anyone in the system tell me I had rights too.

Passing this bill would **ensure** victims have rights and are treated with the dignity and respect they deserve. NO victim should be called "Dumb" "Stupid" or told "Girls like you end up dead in a ditch!" by responding police officers the way I was. It's embarrassing and humiliating to be treated this way by police officers - those who serve and protect our community and are domestic violence victim's first line to safety. This bill would ensure victim's right. And, that those rights are upheld.

My abuser was sentenced to 2 jail terms in this 2 ½ years. I found out about his release when I walked to my vehicle after work and found him hiding in the bed of my truck waiting for me. The abuse I faced because I was not notified is indescribable. Someone should have told me. By not notifying me - the system put my children and I in harm's way.

I was subpoenaed to testify against my abuser in court. I had to sit in the hallway of the court house waiting for our trial to begin. My abuser sat in the same hallway a few feet away from me taunting and harassing me. I was subpoenaed and I had a restraining order in effect. But, I had to explain and beg out of fear to a security guard to help me. Because, I didn't feel safe with my abuser a few feet away saying he'd "Kill me" visually upset that he was facing charges for abuse. The prosecutor's office knew I had a restraining order. Arrangements should have been made ahead of time. Instead, I had to face my abuser in the hall before testifying. I should not have been placed in that predicament. I should have been protected and ensured safety prior to testifying. These are just some of the ways the system failed to protect my rights.

Again, not once did anyone tell me I had rights too. I gave up and lost all hope in the system. My way out of my abusive relationship was a one way ticket to the mainland because, there was NO support for victims like me. The system makes victims shy away from calling for help. But it doesn't have to be this way. Passing this bill will ensure victim's rights. Passing this bill will ensure victims are treated with the respect and dignity they deserve. Passing this bill will ensure victims are notified of their offender's custodial status. Passing this bill could save someone's life. Please – I beg you all, to pass this bill.

Thank you for the opportunity to provide my **strong support** for this bill while remaining anonymous. By doing so, you're ensuring my safety.

Anonymous

February 5, 2016

To: Representative Karl Rhoads - Chairman of the House Judiciary Committee; Representative Joy A. San Buenaventura, Vice Chair; and members of the committee.

From: Peter E. Robb

Re: House Bill 1144, HD1 - Proposing an Amendment to Article 1 of the Constitution of the State of Hawaii Relating to Rights of Crime Victims.

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I am Peter Robb, an individual who is speaking in strong support of HB 1144, HD1 calling for a Constitutional Amendment for Victims Rights. I became a victim as a result of a head-on car crash on May 25, 1975. My wife, Mairi, our unborn daughter Fiona, who was still born at 8 pounds 3 ounces, and a 19 year old soldier on a motorcycle all died from injuries as a result of that crash.

The first officer on the scene, who was a friend of the driver that caused the crash, incorrectly assumed by the position of the cars on the highway that I had caused the crash. Unfortunately, because it was the era of law enforcement where the thinking was that it was okay to do favors for friends. Due to an apparent mark on his head and his unresponsiveness, more concern was placed on the defendants care at the scene. There was no testing at the scene or hospital for his possible impairment. As a result he was never charged with DUI. My most vivid memory of the other driver continues to be his being passed out on a gurney in the emergency room. All of the emergency room personnel commented on the defendants high level of intoxication while they were tending to the injuries sustained by myself and our two sons.

Anecdotally I would like to add that since MADD and other victim assistance programs were non existent, I was basically told to suck it up and get on with my life and take care of my 3 and 4 year old sons. The world was not going to stop because of our loss. Unfortunately that advice caused me to delay the grieving process for twelve years.

Approximately ten months later, I was invited to participate in the Criminal Justice System where I became one of a number of witnesses who gave testimony on the events of the evening. The Prosecuting Attorney, interviewed me just once for approximately two hours the Friday before the trial. During the trial I was sequestered in a small room on the first day until I was called to give my testimony. I was not allowed to hear any of the legal proceeding. In summary, I stated that I had observed the defendant pass another car and from my perspective continued straight through a curve in the Highway and ran into the motorcyclist as he was attempting to get out of harms way by going completely off the highway. In attempting to get back on the highway and onto his side of the road he hit us in the right front of the car making it impossible to open the passenger door. Since our closing speed was estimated to be



85 miles per hour (his at 50 mph, us at 35 mph) and we were about 75 yards behind the motorcycle, we had less than 2 seconds between crashes.

Unbelievably, the last question I was asked when on the witness stand was if I had recently remarried. In spite of my look of incredulity to the judge for relevance, I was directed to answer. Because the defendant was never charged with DUI for this crash, evidence of a previous conviction for DUI was inadmissible at trial. In spite of all the evidence, it took the jury only two hours to decide that the defendant was innocent of three charges of first degree negligent homicide.

What I continue to have issue with is that since all of the money is on the Civil side of the ledger, more time was spent investigating and gathering information by my attorneys. It was found that the driver had been at a church picnic with his family on the day of the crash where he was observed drinking beer. After the picnic, he took his family home, left them there and went alone to another party where he was observed to drink Scotch straight from a bottle and take a few hits off a joint. He left that party and just prior to the crash, stopped off at a bar and had a few more drinks before heading home. The insurance company for the bar made a settlement and the driver contributed \$300 and a note of condolence to the cause.

I find it ironic that the defendant gets to listen to all of the testimony at trial and to review all depositions prior to trial to prepare his defense, but as a victim who was also a witness, I was not allowed to hear testimony on the basis that I might have changed my testimony as a result of what I heard. With the defendant typically going last, are we naively to assume that all defendants will tell the truth.

Although much improvement has been made to the Criminal System since that time, I do not think that it is time to rest on our laurels. Please take up this cause to pass HB 1144, HD1 and truly give victims equal rights in this system of justice.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 3:53 PM  
**To:** JUDtestimony  
**Cc:** kw1152@yahoo.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/5/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathryn Weldon	Individual	Support	No

Comments: I support this bill.

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.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 11:57 AM  
**To:** JUDtestimony  
**Cc:** tampaltin@gmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/7/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tamara Paltin	Individual	Support	No

Comments: Aloha, Please support this bill, it is based on real life tragic and heartbreaking experiences of victims and it represents the compassion that we would all like to see afforded to us if we were the victims. Mahalo Tamara

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 9:36 AM  
**To:** JUDtestimony  
**Cc:** debrannan@gmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/7/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa Ellen Smith	Individual	Support	No

Comments: Criminals have rights under the Hawaii Constitution, crime victims and their survivors currently have no constitutional protections. During what may be the most traumatic time in a victim's life, it is unconscionable that Hawaii does not have protections in place for them. Please consider ensuring that any victim of a crime is given rights.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 9:17 AM  
**To:** JUDtestimony  
**Cc:** lesliemonsalvejones@gmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/7/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
leslie monsalve-jones	Individual	Support	No

Comments: Hi my name is Leslie Monsalve-Jones . My sister is a missing person from Maui -Moreira Monsalve. After experiencing Maui justice system ... Please.... I beg you to pass this bill. Let's change the history here in Hawaii to protect the VITICIMS!!! When I Im joined my parents during our family search of My sister . I found then that Moreira had no rights... That criminals have more rights than the victim and their family. Moreira is still missing... Everyday I wake and wonder if this is the day Mo comes home. When will this nightmare end ... The criminal is walking around on US soil... Pass this bill.... Please ... Walk in our shoes...

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TO: Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

And Members of the House Judiciary Committee

FROM: Kimberlyn Scott

SUBJECT: HB 1144/HB 2120 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

HEARING DATE: February 9, 2016, 2:00 p.m.

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

Thank you for your time today. I am here to speak in support of SB 679.

That I am the mother of a murder victim is my qualification to speak. On this day two years ago, my daughter, Charli, left to give her ex boyfriend a ride.

She never returned.

Her 16 year old sister found her clothing. Charli's car was burned, her home ransacked. She was stabbed repeatedly, and her body dismembered. Charli was violently erased.

She was almost six months pregnant.

I do not say these words aloud often or with comfort so please, hear me!

My being here in this unenviable position to address this subject should stand as testimony to the need for Marsy's Law, but my daughter has underscored the need in blood for you to see.

If Marsy's Law was encoded in our Constitution we would have been notified of all the hearings in a "timely manner", afforded time to prepare to be near the person we believe murdered my child and hers. This was not our experience. We have been given as little as 40 minutes notice and at times none at all.

I've no guarantee that this will not be so again.

We were not notified of Victim Compensation forms until they were late and felt "lucky" to be excused for "our" oversight.

We have become a "pests" to gain access to knowledge that should be afforded us according to our "victims' statute". Shall I tell you how it feels to stand in a room full of people and explain the details of your child's demise to get her death certificate? Where is the "courtesy and privacy" assured us in the current statute during these events? Will the next victim be spared by an enforceable law?

The Department of the Attorney General opposes this Bill contending, "The Victims' Bill of Rights.... addresses most of the rights being proposed and should be adequate to properly address victims' rights."

I assure you this is NOT SO. I have limited the examples, but there are more.

There is enough poetic injustice born as victims- like putting money in a meter to sit in court with the person accused of my daughter's murder. Or that all participants in a trial but victims are asked about their schedules. Does it matter that the date of a hearing falls on my daughter's 17th birthday? To my daughter, to myself, assuredly.

Would it matter to you if you were standing where we stand now?

The objections raised in opposition of this Bill are inconveniences for the most part. I ask you to weigh the inconvenience of justifiable change against the burden of victims. Do you see inequity in the scales?

We victims FEEL that imbalance.

Thomas Jefferson wrote that “If (law or constitution) be enforced longer than 19 years, it is an act of force, and not of right. The constitution and the laws ..... extinguish (ed) ...in their natural course with those who gave them being.”

Consider; Our government was built to enable appropriate change. We can ill afford to be afraid of the process that is the engine of thereof.

Please. For Mo Monsalve, Gail Otsuka, Kimberly Vinuya, Charli and her unborn son and the many others that have suffered violent crimes, enshrine victims rights in the constitution and assure victims of crime here in Hawaii that they matter.



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Rep. Joy A. San Buenaventura, Vice Chair

And Members of the House Judiciary Committee

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Thomas Jefferson wrote that “If (law or constitution) be enforced longer than 19 years, it is an act of force, and not of right. The constitution and the laws ..... extinguish (ed) ...in their natural course with those who gave them being.”

Consider; Our government was built to enable appropriate change. We can ill afford to be afraid of the process that is the engine of thereof.

Please. For Mo Monsalve, Gail Otsuka, Kimberly Vinuya, Charli and her unborn son and the many others that have suffered violent crimes, enshrine victims rights in the constitution and assure victims of crime here in Hawaii that they matter.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 7:03 PM  
**To:** JUDtestimony  
**Cc:** kawaipapanursery@hushmail.com  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/6/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christine Davis	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 6:34 PM  
**To:** JUDtestimony  
**Cc:** diverusn1@comcast.net  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/6/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sandra Lynn Hailiopua Storm-Conway	Individual	Support	No

Comments: Testimony on behalf of the families of Racquel Aila Akau and Michelle Benevedes was submitted on the anniversary of the date of their deaths January 20th [2007] 2016. Will be read by a representative at the hearing. SSC

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 3:45 PM  
**To:** JUDtestimony  
**Cc:** ladylafalot@hotmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/6/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
anmarie davis	Individual	Comments Only	No

Comments: I am saddened to learn that Hawaii is one of just 18 states that does not have a constitutional provision protecting victims' rights. It seems criminals have more rights under the Hawaii Constitution while crime victims and their survivors currently have no constitutional protections. I AM IN FULL SUPPORT HB1144. The rights of the people and victims need to be protected just as much and even more so I believe. But in all fairness, it would seem that we have EQUAL protection for all concerned. Unfortunately I have already seen the negative impact resulting from a victim's rights not being closely guarded with the same attention as the perpetrator. As a close friend of Charli Scott, this has caused much pain to the victims. I would hate to see this happen to more victims in our future. We must change and do better! Thank you so much for your consideration, Anmarie Davis

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 12:22 PM  
**To:** JUDtestimony  
**Cc:** panther\_dave@yahoo.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/6/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dave Kisor	Individual	Support	No

Comments: When my Sister was murdered in Saint Petersburg, FL, all the city did was (other than simultaneously sit on their hands and pick their noses) was to send Victims Assistance to my Parents. The city went so far as to prevent the detectives from working on the case. The damage to our parents was irreparable and they suffered until the day they died. It didn't do anything for me, either. I don't want to see a family suffer the way our Parents did, just because the local government didn't give a damn. It hurt writing this.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 4:24 AM  
**To:** JUDtestimony  
**Cc:** evelyn\_cullen@yahoo.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/6/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Evelyn Cullen	Individual	Support	No

Comments: MY SON'S ARE RECENT VICTIMS OF M NIGHT CLUB BOUNCERS, TOTALLY UNPROVOKED. IF THEY KNEW THAT WALKING IN THERE ON 1/30/16, THAT THEY WOULD BE LEAVING NEAR DEATH, DO YOU THINK THEY WOULD BE WALKING IN THAT DOOR. FOLLOWING THE INCIDENT, SO I FOUND THAT M NIGHT CLUB IS NOTORIOUS FOR THIS KIND OF TREATMENT TO THEIR PATRONS. ANOTHER PATRON TOOK CELLPHONE FOOTAGE AND POSTED IT ON YOUTUBE. BEFORE SHE LEFT SHE WENT UP TO ONE OF THEM AND SAID, I SAW THE WHOLE THING. WITH THAT BEING SAID, I SUPPORT THIS BILL, MY SONS ARE LUCKY THEY WALKED OUT AND SURVIVED, WITH A LONG ROAD AHEAD TO RECOVERY. THEY ARE GOOD, LAW ABIDING CITIZENS, THAT CONTRIBUTE TO THE BETTERMENT OF OUR SOCIETY. M NIGHT CLUB IS NOT. SUPPORTING THIS BILL WILL NOT ONLY GIVE THE VICTIMS A VOICE, IT WILL MAKE IT HARDER ON THOSE THAT CHOOSE TO BE A MENACE TO SOCIETY. M NIGHT CLUB IS A FRONT FOR MONEY LAUNDERING. LEGISLATURE LET IT BE KNOWN. ANY BILL THAT PROTECTS THE PUBLIC SHOULD NOT BE IN QUESTION, BUT FIND THE ENTIRE SUPPORT OF THE ENTIRE LEGISLATURE. MAHALO! EVELYN

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 8:38 PM  
**To:** JUDtestimony  
**Cc:** sorote@earthlink.net  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/5/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ana Sorote	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 7:46 AM  
**To:** JUDtestimony  
**Cc:** PC70@cornell.edu  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick Callahan	Individual	Support	No

Comments:

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mailinglist@capitol.hawaii.gov  
Sunday, February 07, 2016 1:20 PM  
JUDtestimony  
hibiscusllc@gmail.com  
Submitted testimony for HB1144 on Feb 9, 2016 14:00PM  
Voice 003.m4a

**HB1144**

Submitted on: 2/7/2016  
Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Leslie Knoles	Individual	Support	No

Comments:

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TO: Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

And Members of the House Judiciary Committee

FROM: Amy Yamada

SUBJECT: HB 1144/HB 2120 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime

HEARING DATE: February 9, 2016, 2:00 p.m.

Aloha,

My name is Amy Yamada and I would like to start my testimony by thanking you all for taking the time to read/hear my story. I sincerely wish I could be there in person to express to you how desperately SB 679, HB 1144 - Marsy's Law - needs to be passed.

I am a cousin of Billy Oliveira. My cousin Billy has been missing since July 13, 2015. From the very limited information our family has received it seems that Billy vanished without a trace from

his home in Nahiku, Maui. I know this is not the case, but I have no one to help me disprove that.

He is a 39 year old man. That statement alone has resulted in the lack of support from our law enforcement. The story I have been trying to get across is Billy's story, but not one that can help us has taken the time to listen. At no point has anyone taken into consideration who he was other than an adult male.

Billy Oliveira is a son, grandson, brother, cousin, uncle, and friend. He was a gentle person. Billy was never a person who would harm anyone or anything. He was a jokester. Billy never drove. He never got the license. He never went anywhere alone. He loved sports, his hometown and above all he loves his family. Yes he was a man, but the bottom line is he is a person who deserves to be found!

Billy was adopted by our grandparents when he was a teenager. After our grandfather passed away he lived with our grandmother in Nahiku and they took care of each other. While this may be meaningless to many, I cannot reiterate how loyal he was to our Mama. Billy never, ever went anywhere without telling her where he was going to be. If she wasn't home and spent the

night out somewhere he would call several times to check on her. She takes a bus to town once a week to do her shopping and during the few hours she was away he would call her to check in and she would call him to let him know when she got to town and when she was on her way home.

When he didn't return home the morning of July 14, 2015 with no phone call I immediately knew

something was wrong. I told her that she should call the police, but she wanted to give it a little more time - just in case he was somewhere with no phone. When the next day came with no contact more family members became alarmed and urged her to call the police. One of Billy's brother's called the police and was told that he had to wait another day to file a report. We waited and hoped for a phone call or for him to walk through the door, but neither came. Billy's brother called on that day and was told he had to wait until the exact time (10:30pm) to file the report and being that no one would be at the station, they would have to wait until the next morning. Billy went missing on Monday night, the official report was not filed until Thursday. By

that point we took things into our own hands and began searching and contacted Maui Search and Rescue to assist our family in the search.

The police came to Billy's home once after the report was made. They questioned my grandmother and cousin, walked through Billy's room and took a list of phone numbers he had in his room. We were never officially told, but the family was lead to believe that they were only looking for a suicide note. We informed the police that we sought the help of Maui Search and Rescue with the thought that they would come to help, but at no time did Maui Police assist with a search.

Our family was assigned a detective. I am the only person in our family to have spoken to the detective. When he initially called my grandmother, she asked that I speak to him because she was overwhelmed by everything going on. While he has been responsive, after a certain point he stopped communication. I believe that is due to the fact that there is no physical evidence, however I cannot be sure. There is no contact unless I initiate it. It would be great to hear from someone at some point to reassure us that his case has not been closed.

I have given names of people that we are suspicious of to the police and from what i know they

have been questioned once. Never investigated. Perhaps they have been, but there is nothing that says I have a right to know that.

I understand that there is no law against an adult choosing to leave home with no contact. I also understand that the police have certain protocols to follow and that there is information that has to be protected to not compromise anything that has been done so far. I am also very aware that ours is not the only case that the detective is responsible for. I do, however, believe that Billy

should be treated as a person...a person with a family who loves him and want to find him.

What I would like you to take from this above all is that a human being has gone missing and his family has been left to figure out how. I know Marsy's Law would have helped me to get answers our family needs. I am not sure if Billy's case can be considered a criminal case, but if Marsy's Law was in effect I would at least have been able to get information from MPD as they received it. To know what direction they would be going in.

Should this case become a "criminal case" I would hope I could have some kind of rights to help me through a process I have no idea how to navigate through. Marsy's Law can do that for me, or for anyone who will face a situation like this one.

No one ever thinks about tragedy happening to their family. No one plans for a family member to be kidnapped, or raped, or murdered. No one should ever have to go through that. The sad reality is that it happens everyday and may even happen to your family. I know that I was not prepared for this.

Why is it that the people who inflict the pain and heartache by committing these awful crimes have more rights than the victims! PLEASE CHANGE THAT!!

I thank you for your time and hope that you will be able to make the decision to support this bill being passed - if not for Billy, then for the next person.

If you would like to contact me for more information, please feel free to contact me.

Mahalo,

Amy Yamada

February 8, 2016  
Testimony in Support of HB1144

Aloha kākou,

Thank you for the opportunity to provide testimony **in support of HB 1144** to amend the Hawaii State Constitution to guarantee that crime victims and their surviving family members have enforceable rights.

Tuesday, February 9th - the same day that HB 1144 will be read before the Senate, - is the two-year anniversary of the murder of my friend Charli Scott and her unborn son Joshua. I loved Charli very much, and I know she really wanted to be a mom. She would have been a wonderful mom. My heart will never be the same.

I also know that Charli's parents, sisters, extended family, and friends went through a nightmare of a labyrinth following Charli's disappearance (a nightmare that still continues) and in the process realized that the laws in the State of Hawai'i don't adequately protect the rights of victims.

Charlie's family has found out the hard way: that **we need a HB 1144 for Hawaii**. Hawai'i is one of just 18 states that does not have constitutional provisions protecting victim's rights.

Every day, hundreds of people in Hawai'i suffer tremendous damage at the hands of criminals. Then they suffer again - as victims, thrust into the complex judicial system and left to navigate an unfamiliar court process.

Current statutory laws provide basic rights to victims, but they are **not enforceable** and **often trumped by the constitutional rights of the accused**. This is an outrage and must change.

I am testifying in support of HB 1144 because I believe that victims deserve to have equal rights under the law.

I urge your Committee to pass this measure. Thank you for considering my testimony in support of HB 1144

Mahalo piha,  
Sara

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 7:56 PM  
**To:** JUDtestimony  
**Cc:** truly.joannies@gmail.com  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/7/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joan Pan	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 7:31 PM  
**To:** JUDtestimony  
**Cc:** kristiadachi@icloud.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/7/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kristi Adachi MD	Individual	Comments Only	No

Comments: Victims should have the same rights as the defendants, treated with fairness and dignity, rights to fair and speedy trials, right to their own private attorneys, right to receive information about their rights and services available to crime victims.. , etc. Hawaii is one of eighteen states in the nation that does not recognize rights for victims. I personally feel this is inconceivable that a progressive state such as Hawaii has no such laws.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 7:16 PM  
**To:** JUDtestimony  
**Cc:** mceldowney.mary@gmail.com  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/7/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary McEldowney	Individual	Support	No

Comments:

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Legislators,

It is my belief that victims of crime, such as intoxication manslaughter, should have constitutional rights that guarantee they will be treated with dignity, and informed of the criminal justice process. Ethan Couch killed my brother, Brian Jennings, by driving under the influence of alcohol and other substances. My family has been completely devastated by his careless behaviors ever since, and is further insulted by having to hear the details of this case in the media (which may or may not be completely factual information). It is important for the victims to be involved for their own healing and grieving process. I also believe that excluding victims from the criminal justice process also allows the criminal to avoid seeing the faces of those he or she has so deeply affected, thereby increasing the odds of them repeating their behaviors once released. Please consider amending the constitution to help the victims to heal from their traumatic experience.

Very respectfully,  
Amy Peets

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 8:24 AM  
**To:** JUDtestimony  
**Cc:** cdudoit@cfs-hawaii.org  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charity Dudoit	Individual	Comments Only	No

Comments: I strongly support this bill. Victims deserve rights!

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February 8, 2016

The Honorable Karl Rhodes, Chair  
The Honorable Joy A. San Buenaventura, Vice-Chair  
House Committee on Judiciary

M: Lorna Kanehira

Testimony in Strong Support of H.B. 1144  
Proposing an Amendment to Article I of the Constitution of the  
State of Hawaii Relating to Rights of Crime Victims

Thank you for the opportunity to testify in support of H.B. 1144 regarding a proposed victims' rights constitutional amendment.

My husband was killed in the Xerox shooting in 1999. I was in a fog after my husband's death. There were so many things to take care of, and I was suddenly a single parent. I had to be strong for my 5-year-old son. All I remember about that time is funerals.

The prosecutor assigned two victim witness advocates to the seven wives of Xerox victims. All of us testified on the first day right after the opening statements. We were allowed to sit in the courtroom for the rest of the trial, which lasted a month. The advocates sat with the wives in the courtroom. We depended on them to explain what had happened in court. They would let us know if the testimony would be emotionally difficult, and we could choose to leave the courtroom. They told us what to expect in each phase of the trial. I was given an opportunity to submit a victim impact statement to include with the pre-sentencing report and to address the court before the defendant was sentenced.

It's hard to imagine a surviving family member or a victim going through the criminal justice system without information and support. The process was complicated and intimidating, and I found it hard to concentrate. My mind was elsewhere, on my son. The advocates made the process understandable and prepared me for whatever would happen. There was never a time that I didn't know what was going on.

I would have been lost in the criminal justice system without the victim witness advocates. I strongly believe that victims and surviving relatives should have a constitutional right to the same services and respectful treatment that I received. I therefore ask the House Judiciary Committee to approve HB 1144.

Hearing Date: Tuesday, February 9, 2016 at 2:00 p.m.

House Committee on Judiciary, **HB 1144/HB 2120** Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crimes

Testimonial from Sandra Lynn Hailiopua Storm-Conway *On behalf of the Families of Michelle Anne Ku'uipo Benevedes and Racquel Lynn Ilimelakuuleimomilani Aila Akau*

Today is the ninth anniversary of the brutal and horrific deaths of my baby sister, "Rocky" and my first cousin, Michelle. We have sought justice for Rocky, Michelle and their children, all minors with the exception of two at the time of their deaths to no avail. Once again, this year, as the family spokesperson, I was asked to provide testimony to both the State of Hawaii House committees and the State of Hawaii Senate committee regarding the Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime and the passing of Marsy's Law for Hawaii. For the first time in the nine years that we as a family have been fighting for justice for Rocky and Michelle, I found that I had nothing to say. I also found that in the place of nothing to say, all that was left was raw emotion, i.e. intense grief, frustration and anger.

Since our story has been on television and in the newspapers repeatedly since Rocky and Michelle were killed, most of you know everything there is to know. Last year, I outlined in vivid detail the grievous failure of the judicial system and the many formal grievances that were filed against many departments within that system utilizing the statutes enacted by the State of Hawaii to prove overwhelming negligence in our case. You, the elected voice of the people of the State of Hawaii did nothing. It was the final slap in the face of every surviving family member in the Benevedes family, the Aila family and the Akau family. At this point in time, Tyler Duarte, the offender, has quite literally "gotten away with murder" and we, the surviving family members are left with betrayal, disgust, frustration, and anger.

In speaking to one of the representatives of Marsy's Law National I said "Have you ever had one of those happy days when you feel a "rush" of pure joy?" **That was the day.** I was standing in my kitchen in Kaneohe and all of a sudden felt so very happy and blessed. I had a huge, wonderful family, a loving husband, good friends, a job I loved and the best boss in the world, a beautiful home, and now our first grandchild born on January 7, 2007 in Ogden, UT. I was beyond happy at that moment. And then the phone rang. It was my sister-in-law, Elsa, crying hysterically and repeating over and over "Rocky and Michelle are dead!" My world stopped right then and there and for the last nine years has never been the same. Before that moment, when I thought of my baby sister, whom I held in my arms when she was born, I saw her as light-hearted, always full of laughter; now all I see is her screaming for her life, crushed against that brick wall, with the steering column and her dead cousin on her lap. And, the tears start to flow over and over again; Rocky's laughter and sense of humor, Michelle's generous and kind nature – gone forever. Then Uncle Brian Benevedes, Auntie Yvonne Benevedes, Ronald Aila, Sr. – all dead; two fathers and a mother who loved their only daughters more than their own lives. Tyler Duarte killed them all.

At this time, we would like to thank those that did attempt to achieve justice for Rocky and Michelle. The Honorable Judge Frances Wong whom imposed a sentence with very strict probation provisions to include restitution to be paid in full for Rocky and Michelle's funerals (which did not happen). The Honorable Senator Brian Taniguchi for introducing SB 29 related to mandatory sentencing for offenders convicted of first degree negligent homicide. Probation Administrator, Ms. Janice Yamada, who took our formal grievance seriously and initiated an investigation into the policies/procedures of the probation department. Pamela Ferguson-Brey, Executive Director, Crime Victim Compensation Commission who has never given up the fight for the victims of crime in the State of Hawaii. And, our newest champion, Stacy Evensen, State Director of Marsy's Law for Hawaii.

It is clear that we will never achieve our goal of justice for our precious Rocky and Michelle. We support Marsy's Law for Hawaii and the Amendment to the Constitution so that other victims of violent crime do not have to suffer what we have had to endure. **This is your opportunity to finally do what is right and just for the victims of violent crime in the State of Hawaii.**



Racquel Lynn Iimelakuuleimomilani Aila Akau  
Michelle Anne Ku'uipo Benevedes

Date of Death 01/20/2007 in Waimanalo, Hawaii

In memoriam, we love you; miss you and thank you for all the joy you have given us during your lives cut short.

**WE WILL NEVER FORGET**



Sandra Lynn Hailiopua Storm-Conway, sister, cousin and Family Spokesperson

DATE: February 9, 2016

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice-Chair  
And Members of the House Committee on Judiciary

FROM: Martha Ross, LSW  
Mailing: P.O. Box 390, Waimanalo, HI 96795 E: mrosshawaii@gmail.com

RE: HB 1144/HB 2120 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims

POSITION: Strong Support

Chair Rhodes, Vice-Chair San Buenaventura, and Members of the Committee on Judiciary:

Thank you for providing this opportunity to testify in strong support of HB 1144/HB 2120. As a licensed social worker with over 20 years of experience working with victims of crime, I have seen first-hand that a victims' bill of rights in the Hawaii State Constitution is necessary for survivors and their families who have suffered from devastating loss, grief and pain.

As a victim witness advocate with the Honolulu Prosecutor's Office from 1982 - 1991, I was able to establish and coordinate their Victim Witness Assistance Volunteer Program and served as an advocate and counselor for victims and witnesses of violent crimes with the Victim/Witness Kokua Services. I have also worked at the Sex Abuse Treatment Center, and co-founded the first counseling-education/support empowerment group for battered women on Oahu. Currently, I serve as a Commissioner for the Crime Victim Compensation Commission.

I have seen and am familiar with many cases in which victims and their families were re-traumatized and felt powerless because they were not given their basic rights as victims. These cases that range from the family not being informed of the convicted murderer being granted an early release from the Hawaii State Hospital only to commit another heinous violent act to survivors diligently wanting to attend sentencing and parole hearings but are either not informed at all or after the hearings have taken place.

Too often, victims and their families learn after-the-fact that a plea bargain was entered or that the defendant was sentenced. Some discover what happened in the case when the offender shows up at their doorstep. In the courthouse, they find themselves sitting across the hallway from the offender. Later they are confronted with the reality that restitution ordered will not come close to covering their out-of-pocket costs resulting from the crime.

In 1988, the legislature enacted a Basic Bill of Rights for Victims and Witnesses (HRS § 801D-4). It covered victims of crimes against the person and surviving immediate family members of a homicide victim. The legislative intent set out in § 801D-1 recognizes the importance of victims to the health of



the criminal justice system and declares its intent that victims be treated with respect and agencies and individuals in the criminal justice system honor and protect the rights of victims and witness:

In recognition of the civic and moral duty of victims and witnesses to cooperate fully with law enforcement and prosecutorial agencies and in further recognition of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declared its intent, in this chapter to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

Responsibility for enforcement of the Basic Bill of Rights was assigned to the individual counties in HRS § 801D-5. However, state and county officers and employees could not be held liable in a civil action if it failed to carry out its responsibility, and the statute imposed no other penalty for non-compliance.

Twenty-seven years later, some progress has been made, most notably the Statewide Automated Victim Information and Notification or SAVIN electronic system that alerts victims to changes in an offender's custody status. However, the Bill of Rights has not been institutionalized, and compliance is inconsistent. My understanding is that victims are falling through the cracks of the criminal justice system. Often, they receive some rights but not all of their rights. Some victims still enter the criminal justice system not knowing how to get information or even whether there are services available.

The experiences of victims/surviving families and victim service providers make it clear that, despite strong efforts by criminal justice agencies, the system is failing to consistently enforce and protect the rights of victims. Whether or not victims receive their rights should not depend on the variation of victims' rights offered by each police officer, prosecutor, victim witness advocate, or judge. Our justice system depends on the participation of victims, for the system to change and acknowledge this truth, victims must have constitutional rights.

HB 1144/HB 2120 recognizes the critical role victims perform in the criminal justice system and ensures that their rights are institutionalized and internalized. The justice system must be able to assure victims and families of murdered victims that their rights are safely embedded in the state's constitution and will be honored and protected.

I urge your committee to pass HB 1144/HB 2120.

February 9, 2016, 2:00 p.m.

TESTIMONY ON HB 1144 PROPOSED HD 1 PROPOSING AN AMENDMENT TO  
ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE  
RIGHTS OF VICTIMS OF CRIME

To: Representative Karl Rhoads, Chair Judiciary Committee  
From: Marilyn B. Lee  
Re: HB 1144

Dear Chair Rhoads and Members of the Committee,

I am Marilyn Lee, a Commissioner of the Hawaii State Commission on The Status of Women, Member of Neighborhood Board 25, Board Member of Friends of Hawaii State Center for Missing Children, and President Elect of Soroptimists of Central Oahu.

I speak today as a private citizen in support of HB 1144 Proposing an amendment to the Constitution of the State of Hawaii relating to the Victims of Crime.

I believe our Hawaii Constitution should include a Bill of Rights for crime victims, along the lines of the victim's rights amendment, which has previously been introduced in Congress.

This amendment is rooted in the belief that victims of crime deserve a role in the criminal justice process that matches constitutional protections for criminal defendants.

There is a growing National consensus that victims belong inside the criminal justice process, illustrated by the fact that Hawaii is one of only 18 states that do not recognize victim's rights in their Constitution.

Crime victims deserve fairness, respect and dignity, and until this is enshrined in the Constitution, enforcement of Victim's Rights will be lax.

Please pass HB 1144 today and work with the Senate to bring about equal treatment of crime victims in Hawaii.

Thank you for the opportunity to testify.

Aloha,  
Marilyn B. Lee

February 9, 2016, 2:00 p.m.

TESTIMONY ON HB 1144 PROPOSED HD 1 PROPOSING AN AMENDMENT TO  
ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE  
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To: Representative Karl Rhoads, Chair Judiciary Committee  
From: Marilyn B. Lee  
Re: HB 1144

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Please pass HB 1144 today and work with the Senate to bring about equal treatment of crime victims in Hawaii.

Thank you for the opportunity to testify.

Aloha,  
Marilyn B. Lee

Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

om: Jenny D. Delos Santos, a survivor of domestic violence

re: H.B. 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime

Date: Feb. 9, 2016, 2:00 p.m.

I support H.B. 1144, which will help to ensure the rights of victims by giving them a constitutional right to be informed of rights and services available as well as be given a chance to tell the judge how the crime has impacted them and their opinion about the appropriate sentence.

My experience of domestic abuse happened in the 1980's when it was not talked about in public or the media. It was sort of pushed under the rug, and there were no real services let alone rights for domestic abuse victims and their children.

While I was married to my ex-husband, he owned a couple of guns and kept it in our apartment. For two months in 1987, he kept me up until 2 or 3 a.m. in the morning intimidating, threatening and terrorizing me that he would kill me, the children and the neighbors if I didn't admit that I was having an affair with someone, which I wasn't. As I stood my ground and tried to convince my husband that there was no affair, the threats became more and more violent as the days progressed.

One day while my ex-husband threatened me, my body fell to the floor lifelessly, and I was extremely very cold and unable to get up. My children (4 and 5 years old) screamed and cried and asked their dad what happened, who wasn't sure himself what happened. Later, I found out it was a nervous breakdown.

When I got better, my ex-husband said he would stop all the threats, intimidation and terroristic threatening. He also gave me flowers, candy and was extremely really nice. Then a month later....the violence started again.

I finally went to a domestic abuse shelter with help from a neighbor in Sept. 1987. By that time, I was very sick (mentally and physically), and I had post-traumatic stress. It took more than 20 years to finally overcome PTSD.

If victims had constitutional rights back in 1987, maybe I wouldn't have had to go through all the threats, intimidation and terroristic threatening. I also wouldn't have to go through 20 years of experiencing post-traumatic stress.

I believe passing H.B. 1144 would ensure victims of constitutional rights.

To: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

From: Nicholas Iwamoto

Subject: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Hearing Date: February 9, 2016, 2:00 p.m.

On Super Bowl Sunday, 2009, I hiked Koko Head to train for my upcoming enlistment in the Hawaii Army National Guard. I did not finish the hike. When I got to the summit, a man randomly attacked me with a knife. When I begged for mercy, he stabbed me in the head 6 times. When I fought back, he cut my throat and dumped me off a cliff. I broke my neck. I fractured my skull. My lungs were destroyed. In the hospital, I coughed up pieces of lung and small rocks for two weeks.

I lived. My survival has been accompanied by agony and anguish, but the support from the good people of Hawaii has been overwhelming. It has gotten me through my darkest days.

The silence from the State has been heartbreaking. For the last 7 years, I have been left out of the loop. I was barred from testifying. Those who were supposed to fight for me would not even let me fight for myself. My attacker was released after spending just 6 years in the state hospital. He had the privilege of taking online classes during that time. He will probably graduate before me.

The deference shown to my assailant and other violent criminals is absolutely despicable. The days of personal accountability have vanished. It seems that the constitutional rights of violent felons are more important than public safety. Doing what is right has given way to the quest for political expediency. This country has the greatest legal system in the world; how can this happen in our state? What happened to "liberty and justice for all"? These criminals have liberty, but justice is just a myth for many of us.

Marsy's Law is the best chance to give victims justice and compassion in a seemingly hopeless situation. It will give us a voice in the courts. It will keep us in the loop. All we ask for is the same rights afforded to violent offenders who have done such deplorable things to us and our families.

I survived for a reason. I will be silent no more. I will fight with every drop of blood left in my body to give the people of Hawaii what has been taken from us: a voice. Please, pass Marsy's Law. Thank you for your service.

Mahalo,  
Nicholas Iwamoto

## **Testimony in Favor House Bill 1144 Proposed HD 1**

Proposing an Amendment to Article I of the Constitution of the State of Hawai'i Relating to the Rights of Victims of Crime

*This is my experience with a student(s) at UHM:*

Said student comes into my class having obviously either been in a terrible accident of some sort, or having fallen down a flight of stairs. Her face and body are bruised and she has bandages in various places on her body and face. She is an "A" student. I asked her to come to my office after class.

It turns out that her husband beat her...again. Previous restraining orders have never worked. I beg her to get a divorce and, get her to go see a psychologist at the Student Health Center several times. In the past, as it turns out, she has been afraid to try to divorce him since he has told her he would kill her. She is finally ready to leave the marriage and files for divorce.

The husband is sent to jail, eventually, and a few months later gets out.

The wife (and student) is not notified that the husband has been released and he, in fact, finds her, beats her and attempts to kill her. He is sent back to jail.

### **Bottom line:**

1. The wife (now former student) was never notified that the husband was being released from jail/prison, and was nearly killed.
2. The wife never had a chance to tell of her experiences regarding the history of abuse to a prosecutor.

*Criminals have many constitutional rights.*

**What about the rights of victims?**

**Victims MUST have Constitutional Rights in  
Hawai'i  
as victims do in other states**

Thank you for listening to a voter. Carol A Dickson, PhD

To: Rep. Karl Rhodes, Chair, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Judiciary Committee

From: Christina Simmons

Subject: **HB 1144 Proposed HD 1** Proposing an Amendment to Article 1 of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Hearing Date: February 9, 2016, 2:00 p.m.

Thank you for allowing me the opportunity to provide testimony IN FAVOR OF supporting  
Hawaii adopt the constitutional right that crime victims and their surviving family  
members have enforceable rights.

As the former Family Centers Director for Parents And Children Together I dealt with many  
victims of crime. When I discovered their rights were limited or nonexistent the  
idea of this bill seemed like an opportunity to balance the scales within the judicial  
system.

We wish for you to support the following actions within this passing of the Amendment:

- to be treated with respect and receive timely notification of proceeding and other major developments in their case.
- The right to receive timely notification of changes to the offenders' custodial status
- The right to be present at court proceedings
- The right to provide input to the prosecutors before a plea agreement is finalized
- The right to be heard at plea or sentencing proceedings or any process that may result in the offender's release
- The right to restitution

These rights only seem reasonable for those crime victims. They may also lay the foundation for the healing process to begin for the victims and their families by being included in the judicial process rather than an afterthought.

As an average citizen on Kaneohe I urge you to PASS this measure.

Sincerely,

Christina Simmons

To: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

From: Amy Yamada

Subject: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Hearing Date: February 9, 2016, 2:00 p.m.

Aloha,

My name is Amy Yamada and I would like to start my testimony by thanking you all for taking the time to read/hear my story. I sincerely wish I could be there in person to express to you how desperately HB 1144 - Marsy's Law - needs to be passed.

I am a cousin of Billy Oliveira. My cousin Billy has been missing since July 13, 2015. From the very limited information our family has received it seems that Billy vanished without a trace from his home in Nahiku, Maui. I know this is not the case, but thus far no one that has any authority has been willing help me prove that.

He is now a 40 year old man. That statement alone has resulted in the lack of support from our law enforcement. The story I have been trying to get across is Billy's story, but not one that can help us has taken the time to listen. At no point has anyone taken into consideration who he was other than an adult male.

Billy Oliveira is a son, grandson, brother, cousin, uncle, and friend. He was a gentle person. Billy was never a person who would harm anyone or anything. He was a jokester. Billy never drove. He never got the license. He never went anywhere alone. He loved sports, his hometown and above all he loves his family. Yes he was a man, but the bottom line is he is a person who deserves to be found!

Billy was adopted by our grandparents when he was a teenager. After our grandfather passed away he lived with our grandmother in Nahiku and they took care of each other. While this may be meaningless to many, I cannot reiterate how loyal he was to our Mama. Billy never, ever went anywhere without telling her where he was going to be. If she wasn't home and spent the night somewhere, like with me or with her sister, he would call several times to check on her. She takes a bus to town once a week to do her shopping and during the few hours she is away he would call her to check in and she would call him to let him know when she got to town and when she was on her way home.

On the night of July 13, 2015 my grandmother says she heard a vehicle come up her driveway and the lights from that vehicle shown in the house. Billy went outside and she assumed it was one of his brothers. When he didn't return home the morning of July 14, 2015 with no phone call



I immediately knew something was wrong. I told her that she should call the police, but she wanted to give it a little more time - just in case he was somewhere with no phone. When the next day came with no contact more family members became alarmed and urged her to call the police. One of Billy's brother's called the police and was told that he had to wait another day to file a report. We waited and hoped for a phone call or for him to walk through the door, but neither came. Billy's brother called on that day and was told he had to wait until the exact time (10:30pm) to file the report and being that no one would be at the station, they would have to wait until the next morning. Billy went missing on Monday night, the official report was not filed until Thursday. By that point we took things into our own hands and began searching and contacted Maui Search and Rescue to assist our family in the search.

The police came to Billy's home once after the report was made. They questioned my grandmother and cousin, walked through Billy's room and took a list of phone numbers he had in his room. We were never officially told, but the family was lead to believe that they were only looking for a suicide note. We informed the police that we sought the help of Maui Search and Rescue with the thought that they would come to help, but at no time did Maui Police assist with a search. At one point a phone call came to Billy's father's house and the person stated that they thought they saw Billy on a truck that went to Lower Nahiku. Billy's step mother immediately called the police. A group of cousins and friends went to see if they could find the truck, but when they asked the person who made the statement, he denied what he initially said and asked the men to leave his property. To our knowledge the police never followed up with this person.

Our family was assigned a detective after Billy was officially reported missing and he was a great comfort for me. Just knowing someone was working specifically on this case to find Billy made me feel like there was hope. Every time I heard something that I thought may help to find a lead I knew I could call him. For a while it seemed as though that possibly we'd get some kind of information, but all the information we have is what we knew in July. I found out later that the police do not have to share information with the family if they don't want to. That made my mind spin. What if they know something? What if there is some kind of hope and we are completely unaware?

A couple visiting a beach near Kaupo found what they thought looked like a human foot. They called the Hana police and waited until someone came. The woman shared that when the police arrived they explained that they called because they know Billy is missing and the bones alarmed them. The police did take the bones, but made jokes about them being chicken bones and told the couple that it was nothing. When I asked about this I received no answer. To this day I still have not received an answer from the Police as to whether or not it is human bones.

I understand that there is no law against an adult choosing to leave home with no contact. I also understand that the police have certain protocols to follow and that there is information that has to be protected to not compromise anything that has been done so far. I am also very aware

that ours is not the only case that the detective is responsible for. I do, however, believe that Billy should be treated as a person...a person with a family who loves him and want to find him!

What I would like you to take from this above all is that a human being has gone missing and his family has been left to figure out how. I know Marsy's Law would have helped me to get answers our family needs. I am not sure if Billy's case can be considered a criminal case, but if Marsy's Law was in effect I would at least have been able to get information from MPD as they received it. To know what direction they would be going in. I would be able to tell my grandmother there is real hope. Maybe if they had been held accountable to take this more seriously we would have found him!

I am not naive and realize that after all this time there is a very slim chance that he is alive, but shouldn't my family have a right to find out? Or to at least have been treated with respect and been shown a little more compassion? I think everyone deserves that!

Should this case become a "criminal case" I would hope I could have some kind of rights to help me through a process I have no idea how to navigate through. Marsy's Law can do that for us and for anyone who will unfortunately have to face a situation like this one.

No one ever thinks about tragedy happening to their family. No one plans for a family member to be kidnapped, or raped, or murdered. No one should ever have to go through that. The sad reality is that it happens every day and may even happen to your family. I know that I was not prepared for this.

Why is it that the people who inflict the pain and heartache by committing these awful crimes have more rights than the victims! PLEASE CHANGE THAT!!

I thank you for your time and hope that you will be able to make the decision to support this bill being passed - if not for Billy, then for the next person.

If you would like to contact me for more information, please feel free to contact me.

Mahalo,

Amy Yamada  
808-269-0566  
akahula07@gmail.com

This is my grandmother Amy Oliveira. Billy lived with her. That is his dog Roach. He loved that dog like a child. This picture was taken while we searched for Billy. He would never willingly leave these two without notice – ever!!

This is Billy Oliveira. This picture was taken on Sunday July 12, 2015 – the day before he went missing.



This is my grandmother Amy Oliveira. Billy lived with her. That is his dog Roach. He loved that dog like a child. This picture was taken while we searched for Billy. He would never willingly leave these two without notice – ever!!

To: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

From: Lynn Karinen

Subject: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Hearing Date: February 9, 2016, 2:00 p.m.

Thank you for the opportunity to provide testimony in support of HB 1144.

As the sister of a victim who was killed by a drunk driver who was released without me being given the opportunity to provide input, I believe this amendment is imperative. Victims and their families should be informed when court hearings, including hearings that could result in the release of offenders, will be held and given a chance to speak at the hearing about how the crime impacted them.

The gentleman who drove drunk and killed my sister was released and drove drunk again, which violated his parole, only to be re-incarcerated and released again. The impact is that I resent that he is able to drive after receiving over seven DUIs and killing two people and severely injuring another, and I think the laws should be changed.

Because the system forgets victims and there is no direct communication with victims, I was not informed that the man who killed my sister had requested a reduction, that a hearing on his request would take place, when the hearing would occur, or that his request for a reduction had been granted. I was not given the opportunity to provide input regarding his release and he was released, broke probation, was re-incarcerated, and now he walks the streets free again. I wish I had had the opportunity to provide input through speaking with those who decided he would be released. All victims deserve the right to be notified of any hearings or actions regarding the early release of drunk drivers who kill multiple people.

Thank you for considering my testimony in support of HB 1144.

To: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

From: Wayne Braden

Subject: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

Hearing Date: February 9, 2016, 2:00 p.m.

I, Wayne Braden, was the father of a 17 month old baby, Aliyah Emily, who was killed by a drunk driver. I was treated well by the court, county and state offices, mostly because I demanded it. Victims shouldn't have to demand it. I lost my baby Aliyah, I am mad as ever one could be and when I read a brochure telling me that my troubles had just begun with the state, I bit my tongue. My aim is to change the words of that brochure to read, "Hawaii is the most helpful, shows and is the most supportive of all the states, and Hawaii proves it is the state of aloha."

This is why I'm in support of a constitutional amendment guaranteeing victim's rights. Thank you for considering my testimony in support of HB 1144.

To: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

From: Andrea Maniago

Subject: HB 1144 Proposed HD 1 Proposing an Amendment to Article I  
of the Constitution of the State of Hawaii Relating to the Rights  
of Victims of Crime

Hearing Date: February 9, 2016, 2:00 p.m.

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Senate  
Committee on Judiciary and Labor,

I am a mother of 4. In 2009 I lost my 16 year old son Kai'o Fukushima in a car crash. In my son's case the process was long and difficult. Long sad story short my son decided to go to a party without my knowledge. I was told that there was underage drinking and when a fight broke out at this party the cops were called. My son's friend left the party without him. Kai'o got into the car with someone else. The person driving the car that Kai'o was in, was driving recklessly, speeding and racing with other drivers. Due to the recklessness the driver lost control of the car causing 4 passengers in the vehicle to be thrown out except the driver. The driver left the scene without rendering aid. I was told later by the other passengers in that car that the driver was drinking and that was the reason he fled the scene. The car crash was reported at around 1:30 a.m. My family and I was notified about my son's death around 4 a.m. We were so emotional and the process of finding out any information through the police report took one year and a half. We didn't know who was involved. We relied on a lot of information through word of mouth while the police report was being completed. Although I am not complaining about the police doing their job and being very thorough but my family and I started to feel like we had no control. That was the most difficult part of the situation was not feeling in control so I started to become active and started to speak at high schools about my son's story and later joined MADD. We just wanted to be active with what we had control of. About 2 years after the crash I got a phone call from Victim Assistance notifying me about charges that will be made to Stevens Ramos (driver of vehicle). Stevens Ramos appeared in

front of the grand jury and we were not notified. I was heartbroken. Then we heard that Stevens Ramos made a plea in front of the court and again we were not notified, again I was heartbroken. I wanted to be active from the start I wanted to be a part of everything that they would legally allow me to be a part of. It would have made the process and the pain a lot easier just to know what was happening involving Kai'o's case. I know and understand that for Prosecutors with is normal for them but it wasn't normal for us and all we wanted was to be notified, we asked to be notified. Some days I would get a phone call from the Victim Assistance and they would say "oh yeah the court date has past but the defense attorney asked for a contingency, so stuff like that happens all the time". This happened a lot throughout that year (2011). Honestly I still would have liked to know. My son was the victim but so were we and I wanted to show up anywhere to be a support for my son and to just have knowledge of the process.

We got to sit with the prosecutor and was told respectively (depending who you ask) that they would like input about the charges which was going to be changed from manslaughter to negligent homicide and even if we don't agree the Prosecution does have the last say on what happens to the case. We discussed it and they were able to explain why they wanted to lessen the charges. We came to an agreement and was somewhat satisfied. Again I asked to be notified of anything and everything which included set court dates, cancellations or anything. So my story may not be as bad as the other stories that you will hear throughout this process, however I ask that you respectively consider passing Marsy's Law to help all the victims go through a more organized process with knowledge and understanding because although this story was the short version I can't explain the heartbreak and tears that my family and I have gone through. We also felt some fear due to the people that was involved in my son's case. I have prayed for changes in the system regarding this subject. I was lucky, in the process of the worse time in my life, I had my entire family's support (mom, sisters, brother, nieces, nephews and friends). I can't imagine other victims that have to go through any of this alone. Please consider giving these victims a voice so they have some control and so they don't feel like victims any longer.

Mahalo,

Andrea Maniago

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

FROM: Sally Little, Community Volunteer  
94-160 Hokuala Place, Mililani, Hawaii 96789

SUBJECT: HB 1144 Proposed HD1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime

HEARING DATE: February 9, 2016, 2:00 p.m.

Good afternoon Chair Rhoads, Vice Chair San Buenaventura, and members of the House Committee on Judiciary. Thank you for the opportunity to provide testimony in support of HB 1144, which will amend the Hawaii State Constitution to guarantee enforceable rights for crime victims and their surviving family members.

I have a long history of performing community outreach and program development for non-profit organizations. I was previously the Executive Director of PATCH. For over 16 years, I was the president of Entrepreneurial Solutions, LLC, which provided non-profit organization management, social enterprise development and management, and small business development services. I am also retired adjunct professor with Chaminade University's Business School.

Having worked with many non-profit organizations and members of our community, I have seen first-hand that a constitutional amendment for victim's rights will benefit the citizens of Hawai'i. I urge you to support this important Amendment to the Hawai'i Constitution that will guarantee basic rights for crime victims. These basic rights include the right to be treated with courtesy, fairness, and respect, to be informed of their rights and the services available to them, to be informed when court hearings will be held, to be given the opportunity to provide input to the prosecutor about plea deals, to tell the judge how the crime impacted them, and to be provided restitution for losses arising from the crime. Providing constitutional rights to victims should not be implied as a "nuisance" as it appears the case in testimony opposing this bill by the Department of the Attorney General and the Department of Public Safety.

I urge your Committee to pass this measure. Thank you for considering my testimony in support of HB 1144.



February 9, 2016, 2:00 p.m.

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice-Chair  
House Committee on Judiciary

FROM: Mari McCaig

RE: Testimony in Strong Support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the State of  
Hawaii Relating to the Rights of Victims of Crime

Chair Rhoads, Vice-Chair San Buenaventura, and Members of the Judiciary Committee:

Thank you for the opportunity to testify in strong support of H.D. 1144 Proposed H.D. 1

The purpose of this Bill is to propose an amendment to the Constitution of the State of Hawaii. It is designed to provide recognition of and protection of the constitutional rights for victims of crime and their surviving immediate family members.

This Bill in no way takes away any rights of those accused of crimes as specified in Article I, Section 14 of the Constitution of the State of Hawaii. Rather, it is to create an equal playing field for the victims of crime and to establish within the State Constitution clearly defined rights that offer constitutional protection. Those specific rights are clearly listed in H.D. 1144 Proposed H.D. 1. All of these rights are fair, reasonable, and necessary.

My name is Mari McCaig. For 22 years, I worked as a Victim Witness Advocate for the Department of the Prosecuting Attorney in Honolulu. During those years, I guided crime victims, witnesses, and surviving family members through the criminal justice process. This included preliminary hearings/grand jury, court hearings, trial, sentencing, parole board hearings, and final disposition of the case.

I have seen first-hand the arduous and difficult journey that victims and their families must experience as they navigate through the criminal justice system. Most people know little about the criminal justice system except for what they might see on a television program or in a movie. The reality is that many victims and their families are traumatized by crime and often fearful of the offender. They may have suffered physical, emotional and psychological harm. Sometimes these effects are permanent and their lives are changed forever. They often can't talk about the crime and isolate themselves from family and close friends. In cases where the victim dies, there is an overwhelming sense of loss and grief that surviving family members' experience.

Then, to compound matters, they are thrown into a system that places difficult expectations on them when they are in a most fragile condition. Here is what they have

to look forward to: They are required to cooperate with law enforcement and the prosecutors and to testify in court when subpoenaed. The prospect of testifying in court and confronting the offender is anxiety provoking. The innocent victims have to retell and relive the crime and endure having their credibility challenged by the offender's attorney. They suffer financially, often taking time off from work, losing pay and/or vacation time every time they meet with the prosecutor or go to court. The financial and emotional toll worsens with every delay or continuance.

Innocent victims make these sacrifices and participate in the hope that they will see some measure of justice for the ordeal they are forced to undergo. They endure all this on their own, without any of the legal recourses available to offenders.

This is simply wrong.

The Constitutional Amendment in H.D. 1144 Proposed H.D. 1 addresses the fundamental needs of the victim that are often overlooked by the criminal justice system. Victims should be assured that they will be treated with "courtesy, fairness and respect for the dignity and privacy throughout the criminal justice process." They should have the right to be protected from further harm and notified immediately if the offender's custody status changes so that they can take appropriate precautions.

Exclusion from the process and lack of information only heightens a victim's anxiety, distress and lack of control. Victims should be informed about every major development in their cases. They should have the right to be present at all court proceedings and receive reasonable notice of proceedings. Victims should also be entitled to have input into what happens to the offender – whether it is a pre-trial release, a plea bargain, sentencing or post-conviction release.

It is essential that you keep in mind the fact that from the victim's perspective, a criminal act has turned their lives upside down, never to be the same, and hurled them down a path that they did not choose and have no control over. The consequences to the person who caused this harm is in the hands of the prosecutor, defense attorney, and a judge in a system of complex rules and procedures that at best, are indifferent to victims, and at worst, treat them as a piece of evidence.

It is also critical to keep in mind that when the criminal case ends, crime victims should not feel that they were betrayed or re-victimized by the criminal justice system. The criminal justice system must recognize a victim's interest in the outcome of the case. By endowing victims with codified indispensable rights, this proposed Constitutional Amendment will give victims the respect, consideration and dignity they deserve.

I, therefore, strongly urge this Committee's support of H.D. 1144 Proposed H.D. 1.

**It's simply the right thing to do.**

rozzalee@aol.com

And Members of the House Committee on Judiciary

From: Rose Lee DeLaTorre

Subject: HB 1144

Position: Strong Support

**State VS Teia Louise Pahia @90266 1DTC-07-08835**

My name is Rose Lee DeLaTorre, on May 17, 2007 @ 10:20 pm I was on my way home from work as a Resident Monitor for TJ Mahoney and Associates a prison to work furlough program for women. I was going north on Dillingham and was stopped for a car turning into the driveway to the McDonalds restaurant. I happened to glance into my rear view mirror and saw a car with no lights on coming fast through the light. The impact of the small car pushed my truck about twenty to thirty feet with the car stuck underneath my bumper.

Even though I was hurt I got out of my vehicle and ran to the car that hit me to access the damage and see if anyone was hurt. All the air bags had deployed and I managed to get the woman that hit me later identified as Teia Pahia out of the car. I helped walk her over to the area in front of McDonalds and had her sit down. I called 911 and two officers arrived as well as the ambulance.

The officers tried for over ten minutes to get Ms. Pahia to blow into the alcohol meter, but she was refusing to. Police finally told her that it was her final time trying to blow into the meter. Ms. Pahia did blow into the meter and the Police got a reading, it was three times over the legal level. Ms. Pahia was driving without a license, driving another person's car that was not registered, no insurance and safety was expired.

I was transported by ambulance to the hospital and had to stay there for over six hours to be checked out.

I contacted the State Attorneys office and I was advised not to file a civil suit because the State is bringing Ms. Pahia to trial. My first court date was continued due to Ms. Pahia not having a lawyer. Our next court date was continued due to a death in the family and I had to go to California. The final court date was "dismissed due to the State not being ready".

I was shocked! I had met with the State Attorneys numerous times; they were at court each time with me. They assured me that with her record that there should not be any problem what so ever.

Since I was fully insured my insurance paid for repair of my vehicle, hospital emergency bill, and the cost of the Doctor visits and physical therapy. I had to endure six months of a six inch needed being inserted into my shoulder by my neck to release the muscle

spasms. Physical therapy, Chiropractor and Acupuncture were tried to help with the pain. Eight years later I still suffer from the pain and continue to utilize acupuncture for temporary relief. .

Never once did Ms. Pahia say sorry to me or admit that she made a mistake. She has over twenty pages of just traffic infractions on her.

JO KAMAE BYRNE  
P. O. BOX 2390  
HONOLULU, HI 96804

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

FROM: Jo Kamae Byrne

SUBJECT: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime  
Hearing March 9, 2016 at 2:00 p.m. Conference Room 325

POSITION: SUPPORT

Good morning Chair Keith-Agaran, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor. Thank you for the opportunity to provide testimony in support of HB 1144 to amend the Hawaii State Constitution to guarantee that crime victims and their immediate surviving family members have enforceable rights.

Balancing individual rights in a democracy is one of the primary purposes of a constitution. Our country's founders made sure anyone accused of a crime was protected from possible misuse of governmental authority in our national Constitution. This same protection has been included in our State constitution. What needs balance now are the rights of crime victims and their immediate surviving family members.

As an involved advocate for women's issues in the 1980s and 1990s we worked hard to raise awareness of Domestic Violence and its impact on women and families. Through those efforts laws were changed and better protection was gained. What was most gratifying was the shift in the legal system to provide better protections for victims of domestic abuse. The legal changes gave better consideration for the safety of the victim in a domestic violence situation, but did not diminish the constitutional protection of the perpetrator. We need a similar balance for victims of all types of crimes.

The proposed constitutional amendment does not diminish the rights of offenders – their rights remain intact. The proposed changes justly offers a better balance between the rights of crime victims and the rights of offenders.

I urge your Committee to pass this measure. Thank you for considering my testimony in support of HB 1144.

DATE: February 9, 2016, 2:00 p.m.

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice-Chair  
And Members of the House Judiciary Committee

FROM: Abelina Shaw

RE: **HB 1144 Proposed HD 1** Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to Rights of Crime Victims

Chair Rhodes, Vice-Chair San Buenaventura, and Members of the House Judiciary Committee:

Thank you for providing this opportunity to testify in strong support of HB 1144. I am currently a Commissioner for the Crime Victim Compensation Commission.

Hawai'i absolutely needs a constitutional amendment for victim's rights. A constitutional amendment is necessary to ensure that crime victims are guaranteed fair treatment, are informed of major developments, are allowed to provide input into plea negotiations and sentencing, and are afforded the right to restitution. Only a constitutional amendment will give victims the enforceable rights that they deserve and will provide them with standing to enforce their rights.

As a Commissioner for the Crime Victim Compensation Commission, I have seen how important it is for crime victims to receive restitution. Currently, because crime victims do not have standing to move the court for restitution, they have no remedy if restitution is not requested on their behalf or if a plea deal that does not include restitution is entered into. The constitutional amendment will allow the crime victim to move the court to allow the issue of restitution to be addressed.

Crime victims deserve to have permanent, constitutional, and enforceable rights.

Thank you for allowing me the opportunity to testify in strong support of this important constitutional amendment. I urge your committee to pass HB 1144.

TO: Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
and Members of the House Committee on Judiciary

FROM: Kenneth Gordon

EMAIL: etccfitness@hotmail.com

SUBJECT: HB 1144 HD 1 Proposed -- Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime

DATE: Tuesday, February 9, 2016 @ 2:00pm, Conference Room 325

POSITION: Support; Individual Testimony; Not testifying in person

Please count me as an overwhelming supporter of HB 1144, which is long overdue. Any society which deems itself humane, moral, and ethical must ensure that the rights of crime victims and witnesses of crimes are, at the very least equal to those of criminal defendants.

I strongly urge you to create an environment where victims of crime are no longer minimized. Anything less would be a travesty. It's the right thing to do.

February 9, 2016, 2:00 p.m.

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice-Chair  
House Committee on Judiciary

FROM: Michelle Tagovailoa

RE: Testimony in Support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the State of Hawaii  
Relating to the Rights of Victims of Crime

Chair Rhoads, Vice-Chair San Buenaventura, and Members of the Judiciary Committee:

I have been a crime victim advocate for 6 years from the state of Michigan. I have also been awarded the:

2005 Outstanding Advocate Award, from The Crime Victim Foundation and State of Michigan  
Representative William Van Regenmorter

William Van Regenmorter is the individual himself who wrote the Crime Victim Rights' Act for the state of Michigan. I just want to let you know it is a shame that Hawaii is an offender state and that the poor victims' will be re-victimized through the court system here. If there is anything I can do to help please let me know.

Good Luck and I hope the victims in Hawaii will have a voice and be able to hold those that victimized them accountable. Victims need to feel in control not the offender.

Regards,  
Michelle



Lalena D. Thompson  
Maui, Hawaii

Hearing Date: February 9, 2016 at 2:00 p.m.

I am writing in strong support of House Bill 1144 and Senate Bills 679 and 3034.

I believe that there is a real need for Crime Victim's Rights to be included in the Constitution of the State of Hawaii. Victims of violent crimes – like negligent homicide or manslaughter – should be provided with basic assurances pertaining to the person who was allegedly responsible for the crime. In addition, victims need to be informed of any change in the status of the offender once he or she is convicted and incarcerated.

On the night of November 18, 2014 at approximately 10:15 p.m. I was on my way driving to work. I have worked night-shift as a registered nurse for the past eight (8) years and have driven the same route all those years. Per the police report as I was entering Maliko Gulch I was hit head on by a drunk driver at 10:33 p.m. I say per the police report as I have no memory of the car "crash" as I suffered a severe concussion from the "crash". I was driving a small SUV and was hit head on by a Ford 250 Pick-up truck. My car was totaled and I was transported to the hospital via ambulance. The driver of the truck was given an alcohol test with the result of .213, he was arrested and taken to jail. I have no memory of being taken to the ER, my next memory is being wheeled up to a floor because I was admitted for two (2) days due to the severe concussion. I later learned the drunk driver was bailed out the following morning at approximately 8:30 a.m. While I was admitted to the hospital he was already out back to his life. Mind you he suffered no injuries in the crash, walked away free of injury. I am a mother of two (2) boys who are my life. I can not even begin to imagine in the blink of any eye being taken away from them all because a man decided to drink and celebrate a birthday (the drunk driver's birthday was the next day, November 19<sup>th</sup>) and get behind the wheel of his massive truck to drive himself home, being almost THREE TIMES the legal limit DRUNK! It breaks my heart to think I could have died that night, it is a miracle and by the grace of God I am still here. I later learned that I called one of my son's from the ER to tell him what happened, he is 6,000 miles away in college. Again, I do not remember doing this. He told me that I called him to let him know what happened but I was ok. I did not go into detail of my concussion and the rest of my injuries. He was brave and thankful for the phone call, but later called his dad and broke down crying. My younger son was home asleep with my mother at the house. I learned that I also told the ER nurse to call my workplace and my mom, which she did. My mom and sister came immediately to the ER. My younger son was informed the next day of the crash and his basketball coach had called me a couple of weeks after the crash to check on me and told me that my son broke down in tears to him telling him what happened to me. I can not even begin to imagine the thoughts that were going through my boys heads and the thought of the possibility of losing their mother. And the thought of losing my life to someone who was drunk, something that was preventable! Someone who CHOSE to get

behind the wheel after an evening of drinking! I spent two days in the hospital, extremely sore and frustrated because I could not remember what happened to me. Thank goodness I have a strong support at home with family and friends who were there for me. I work full-time to support myself and my boys, I had to miss a month and a half of work due to my injuries. Like I stated earlier I suffered a severe concussion and had post-concussion syndrome where I was having difficulty with my memory recall. The thought of the possibility of not regaining my recall memory is very frightening. My job depends on me to be sharp and ready at a moment's notice. That is something I had to think and worry about everyday. And my body was bruised from head to toe on my right side. These injuries have healed, but I still live everyday with the frightening fact that my life could have been taken in an instant...all because a man decided to drive DRUNK instead of calling a taxi or a friend. I am still driving the same route to work, but now a little more cautious of cars/trucks that are coming at me. I still cry at the thought of not being here for my children. I still get very angry that the man who was drunk is blaming me for the car crash, taking no responsibility what so ever.

I was released from the hospital and approximately a week later I was on the phone trying to find out what is happening with the drunk driver who hit me. I called the prosecutor's office on Maui and the Victim Advocates office about a week after the crash, but was told to call back because they had no information on the accident from the police. When I called them back approximately a week later I was told there was an arraignment set for December 18, 2014 but was told it wasn't necessary for me to be there. It would be a quick 5 minute deal and no need for me to go. I called again and was told there was a pre-trial date set for January 14, 2015. Again I called the Victim Advocate's office after I got off work that morning to find out where and what time. I was told again that I did not need to attend, a rep from their office would go and give me a call to update me as to what is happening. But I wanted to go to see for myself exactly how this is being handled and to meet the prosecutor in person, I wanted them to know my face and know that I was serious and wanted justice for what he did to me. A representative from the Victim's Advocate office did meet me up on the floor and sat with me and explained what was going on. I would find out at that pre-trial that there would be another pre-trial set for February 11<sup>th</sup>. It is very frustrating that I have had to call and find out this information instead of being regularly updated on the status of the case. I feel the defendant is recognized and acknowledged but I am not.

Ultimately, in my case, due to issues with inadequate accident reconstruction by the police department, the defendant was offered a plea deal in which he would plead guilty to DUI with guaranteed jail time of 30 days. The bodily injury charges were dropped as part of the plea deal but I was given the opportunity to share a victim impact statement during sentencing. As part of the victim impact statement, I was able to share photographs of my vehicle with the court. The judge was obviously impacted by these photographs as he commented on the severity of the crash and the strength of my impact statement. The judge spoke at length to the defendant after I completed the statement and commented how fortunate the defendant was to not be facing more serious charges. The judge offered that the defendant would likely not be this fortunate if he were charged again with similar offenses. The judge's reaction to the victim impact statement and his

subsequent comments to the defendant helped to validate my feelings and made me feel as if I actually mattered in this case.

The opportunity to present my impact statement was very empowering as a victim of a violent crime and offered some sense of closure. That fact that my voice was actually heard meant a great deal to me.

The victims of crime need to have the rights, we should be recognized and acknowledge and informed every step of the way. Our rights should be guaranteed by the State Constitution. I urge the committee to support HB 1144 and SBs 679 and 3034.

Thank you for the opportunity to submit testimony.

February 9, 2016, 2:00 p.m.

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice-Chair  
House Committee on Judiciary

FROM: Diane Krieger

RE: Testimony in Support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating  
to the Rights of Victims of Crime

Good afternoon, Chair Rhoads, Vice Chair San Buenaventura, and Members of the House Judiciary Committee.

Thank you for the opportunity to submit testimony in strong support of HB 1144. My name is Diane Krieger and I wish to share with you my experiences as a victim, and going through the court system.

The following victim's testimony involves an incident which happened to my dog Pua and myself, on November 29, 2011. My court experience ensued and it took 3 years to resolve. My case involved requesting reimbursement for veterinarian and medical expenses from the owner of an aggressive dog who attacked my dog and to have him contain his dog in the future so this would not happen to anyone else.

The resulting injuries to my innocent dog and myself were due to a negligent owner of a free roaming dangerous dog. This extremely vicious dog charged and then repeatedly attacked my 20 lb, 12 year old dog, for no reason. It was totally unprovoked. Both my dog, who was in my arms, and myself were injured as I tried to protect her from his terrifying attack. This experience was extremely traumatizing, but far worse, my dog had to undergo 2 surgeries and subsequent medications for her injuries. Within a few months, she went from being absolutely healthy and youthful to developing all kinds of problems related to her injuries and medications stemming from this incident and my beautiful girl ended up dying.

I came to find out, this same dog had a history of attacking other dogs and had killed his neighbor's dog. This same dog actually attacked 2 other dogs while the court proceedings were under way. All of these events, including our own, would not have occurred had the owner been accountable for the actions of his dog and kept the dog contained and leashed in public.

I had prepared a victims statement for the court, which included photographs showing my dog and her injuries and a photo of the attacking dog. These photographs were an essential part of my statement. When the statement was presented to the judge, the photographs were not there. They had been removed.

Fortunately, the prosecutor was present and had copies of the photographs and was able to present them to the judge. The Judge's face clearly reflected the impact these photos had on her understanding of the magnitude of what had happened.

Unlike the defendant, I was present for nearly every court date for over 3 years and missed work to do so, because this case was very important to me. I did not want to see this happen to anyone else.

Also while court proceedings were underway, the defendant literally went out of his way to taunt and intimidate me and my neighbors, by walking his aggressive dog in front of my house and began using

the beach path nearest my house, which he had never done before. There were incidents on the path with the neighbors little dogs being charged and I had to always be on guard when walking anywhere.

I asked the police if I could stop him from doing this and was wrongly told I could not get a restraining order to keep him away. But was instead told I had no right to keep him off any public property.

I strongly urge your Committee to pass HB 1144 so victims like myself and my family can feel as though we are being heard through every phase of the judiciary system.

Thank you for your time.

Diane Krieger  
PO Box 208  
Hanalei, HI 96714  
2/1/16



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 9:10 AM  
**To:** JUDtestimony  
**Cc:** lisa4derose@aol.com  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa DeRose	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 8:57 AM  
**To:** JUDtestimony  
**Cc:** breaking-the-silence@hotmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments: Standing in STRONG SUPPORT - mahalo!

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**LATE**

Support for Constitutional Amendment for Victim Rights: HB 1144 and HB 2120

Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
and Members of the House Judiciary Committee

Hearing Date: February 9, 2016 2:00 p.m.

I would like to strongly support HB 1144/HB 2120 to amend the Hawaii State Constitution to guarantee that crime victims and their surviving family members have enforceable rights.

I urge your Committee to pass this measure.

Thank you.

Molly Strode  
2093 Laukahi Street  
Honolulu, HI 96821  
373-4015



**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 10:36 AM  
**To:** JUDtestimony  
**Cc:** karibenes@gmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kari Benes	Individual	Support	No

Comments: Aloha Members of the House Judiciary Committee, Thank you for hearing this measure. I recently accompanied a friend through a domestic violence court proceeding. Through my friend's process, court proceedings were vague at best. My friend was not only a victim, but put through a very stressful process. I hope a change like this will give a bit of hope that is needed for individuals that have already gone through so much. Mahalo, Please keep my email address confidential, because of the nature of this type of measure.

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.

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**LATE**

**TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Judiciary Committee**

FROM: Alexis Felicilda

**TESTIMONY OF SUPPORT: HB 1144/HB 2120** Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

HEARING DATE: February 9, 2016, 2:00 p.m.

Aloha, and thank you for the opportunity to provide testimony in support of HB 1144/HB 2120. At some point in our lives we or someone we know will be a victim to crime. It can be something as simple as a hit and run car accident or something as horrendous as murder. Both making you a victim but both being dramatic ends of emotional impact. If that day has come for you already then you know the hardships and battles you have to endure but if that day hasn't come, wouldn't you want those basic human rights?

"The right to be treated with courtesy, fairness and respect" I don't need to finish the rest of the sentence for people to see that those words are how we are taught to treat people every day. The rights for victims to be treated this way should be common sense, but it is not.

On Sunday January 12, 2014 my mother Moreira Monsalve dropped me off at the airport. On Tuesday January 14, 2014 my brother Tyson Felicilda (who was in high school at the time) texted me in the morning letting me know he hadn't seen or heard from our mother since Sunday. I called her, facebook messaged her and then called her job and found out she hadn't shown up to work for the past 2 days. She was a responsible Mother with a great job. Her company told me that if I didn't file a missing person report that they would. I filed a missing person's report immediately and that was it.

I filed the police report and got no information on whom to call for help in searching for her. No information on what the process is when you file a missing person's report. Through our own investigation we had known that the last person she was with that day was her ex-boyfriend. When the police searched both my mother's cars I asked the Detective **"Why haven't you brought her ex-boyfriend in for questioning"** the Detective replied **"He Has Rights!"** and I asked him **"What about the rights of my mother? She is the one who is missing He was the last one to see her alive!"** I got no response from the detective he just handed me the key to her car they had finished searching. The ex-boyfriend would later be named a "person of interest" in the case, but still never questioned. He left to the Mainland 3 weeks later.

Everything that happened for the first several weeks was accomplished by her family, friends and the community. None of us has a background in criminal justice or law for that matter. None of us has a background in search and rescue. We were running into a room with no light and trying to find our way; trying to find answers. One of the things that could have possibly helped us I found out a little too late; that the coast guard will look for a person in the water but only 48 hours after a person has been reported missing. I was not notified that by the police only when a family contacted the coast guard to see if they would help us look for her.

For the past 2 years since she went missing, I have been fighting for answers and for justice. If these victims right laws had been in place when she went missing I feel we would have had a better

chance at finding her and bringing the person who did this to her to justice. We would have received information about our rights and our mother's in the beginning instead of us wasting valuable time researching the information ourselves. We'd have been treated with respect, dignity and fairness instead of the detective leaving on vacation the first week of her disappearance and none of case information being handled or taken care of. I could make a list of a million ways all of things could be different.

What would you want the victims' rights law to be when you or a loved one becomes a victim?

These rights seem to reflect common sense and common decency as humans. It is what separates us from animals we know what is right and what is wrong. The women and men of Hawaii deserve these rights. Please don't let the past repeat itself. Give victims the chance to be protected just as much as offenders and the media. **I urge you to pass HB 1144/HB 2120 also known as Marsy's Law.**

Mahalo! For giving me the opportunity to testify

Alexis Felicilda

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 12:44 PM  
**To:** JUDtestimony  
**Cc:** tulsi@mauiishome.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tulsi	Individual	Support	No

Comments: Aloha, Please support this bill and protect women's rights... Thank you Tulsi Greenlee

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.

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February 9, 2016, 2:00 p.m.

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice-Chair  
House Committee on Judiciary

FROM: Theresa Paulette

RE: Testimony in Strong Support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the  
State of Hawaii Relating to the Rights of Victims of Crime

My name is Theresa Paulette, a MADD Board member and a victim, and I am writing in strong support of HB 1144. I believe there is a real need for Crime Victims Rights to be included in the Constitution of the State of Hawaii. Victims of violent crimes – like negligent homicide or manslaughter – should be provided with basic assurances pertaining to the person who was allegedly responsible for the crime.

My life was changed forever twenty-three years ago, when my only son, Brian, was killed in a crash involving a 6x DUI arrestee. My daughter and I were devastated and overwhelmed with shock, grief, and anger.

In my grief, I was immediately thrown into the unfamiliar world of the “criminal justice system” and left to navigate it on my own. I trusted there would be justice, however I found it lacking in any regard for me, the victim, and my son, who lost his life.

From the start, if I sought information or tried to give information, I felt as though I was imposing and annoying. I initiated calls to the Police because I didn't receive any information after the crash. I felt resistance every step of the way as I inquired or met to discuss the status of the investigation and whether charges would be filed. It was agonizing waiting for the traffic accident investigation report, which took nearly a year, and the final decision was not to press charges. No accountability. No justice. Even though the driver wasn't criminally charged, I have lived and felt the gamut of emotions that all victims of violent crime feel.

As a volunteer Victim Advocate I support victims of impaired driving crashes and I hear about the range of emotions and injustices that still prevail.

Victims' voices count. The victims of crime are entitled to equal rights guaranteed by the State Constitution. We should be acknowledged and informed every step of the way. I urge the committee to support HB 1144.

Thank you for the opportunity to submit testimony.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 1:48 PM  
**To:** JUDtestimony  
**Cc:** anna.m.viggiano@gmail.com  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anna Viggiano	Individual	Support	No

Comments:

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mailinglist@capitol.hawaii.gov  
 Monday, February 08, 2016 1:45 PM  
 JUDtestimony  
 creepinthecellar@hotmail.com  
 Submitted testimony for HB1144 on Feb 9, 2016 14:00PM  
 marsys3.pages

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Brooke Scott	Individual	Support	No

Comments: My mom flew from Maui to testify tomorrow. I really hope this bill gets passed this year because my mom could use some good news. Aloha.

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TO: Rep. Karl Rhoads, Chair Rep. Joy A. San Buenaventura, Vice Chair And Members of the House Judiciary Committee

FROM: Robyn Jumawan

SUBJECT: HB 1144/HB 2120 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

HEARING DATE: February 9, 2016, 2:00 p.m.

Thank you for the opportunity to provide testimony in support of HB 1144/HB 2120 to amend the Hawaii State Constitution to guarantee that crime victims and their surviving family members have enforceable rights. I urge your Committee to pass this measure.

How do you put into words the impact of an unimaginable loss that can never be replaced? How can you put into words the hurt, anger and frustration at a system that does not protect the innocent lives that are forever changed by a reckless action from **an individual who has repeatedly proved their lack of respect for life and law? And your frustration at a judicial system who gives no rights to the victims or their families and MORE rights to the people (offenders) who break the law.**

I have been asked to explain how I feel victimized by the death of my nephew at the hands of a repeat offender as well as by a judicial system that seems to be concerned only for the offender's rights. There are really not enough words to say all the ways my family has been affected. But I can tell you one thing, not just one life was stolen, but many when my nephew died at the hands of a reckless driver who has yet to be sentenced after 10 months of trial and sentencing delays. Happy, productive, loving law abiding citizens have become bitter, ill people who have trouble living their daily lives. People who once drove daily to jobs, are now people afraid to drive on the road because something similar may happen to them. People with dreams of a future and hope are now people who have nightmares and no hope.

My family and I feel victimized by the court which has given more rights to the person who broke the law, than to us. In our case, the

1. Offender drove without a license multiple times – **demonstrating TOTAL lack of respect for the law**
2. Offender drove without insurance multiple times – **demonstrating TOTAL lack of respect for the law**
3. Offender drove under the influence multiple times – **demonstrating TOTAL lack of respect for the law And endangering all those driving around her.**
4. Offender fled the scene of an accident – that she or her fellow passengers caused – KNOWING that a human being had been struck. She showed **TOTAL lack of respect for LIFE and the laws** that are supposed to keep all of us safe.
5. Offender not only fled from the law and didn't show up for court dates, **showing a total lack of respect for the law** – but fled to another island and boasted about it on Facebook. As a suspect in a deadly hit and run – the offender failed to show up for court. **Again demonstrating her total lack of respect for the law and authority.** But there seems to be no consequence for someone who repeatedly shows contempt for the laws the rest of us willingly abide by? In fact, she has been awarded free room and board at a rehab for her and her child! How fair is that?
6. Offender, at the time of her arrest, had MULTIPLE traffic warrants even before this fatal crash and was actually out on bail at the time of the accident. Had she been held accountable, perhaps my nephew would still be alive.

How do the above 6 points affect me? They make me angry and confused. Some people get more of a penalty for talking on their cell phones or for traffic violations than this offender may be sentenced to. What a travesty! **18**

**months for taking a life – yet a lifetime of grief and heartache for our family.** She killed the faith of many in our judicial system. I beg YOU to restore it!

How can she ever change if she is being taught over and over again that there are no consequences for driving when she is not supposed to, in a state of mind that she is not supposed to be in – much less for taking a precious life of a loved, law abiding citizen who was a positive contributor to society.

The maximum sentence the offender can receive is 10 years, plus 1. But my nephew received a life sentence, as did his family. His promising young life was cut down by a random act of road rage, possibly induced by drugs, because we know now the offender has or had a drug problem, which the State is now paying for Rehab for. My nephews Mom will never see him succeed in the career he trained for, will not see him in the apartment he had just rented, will never meet his wife or see her grandchildren, or feel his arms around her, or hear his laugh, or have his aid when she is old and gray. She has suffered severe financial hardship from this. His brother will never be the same – he is sad a lot and quiet. He misses being mentored in his career by his older brother and what would have been his roommate. We will never see all that my nephew would have accomplished in and contributed to this world. Yet the offender will be allowed to be with her children and grandchildren and friends. She will be and may I add, **has been** able to, enjoy the warmth of the sun on her face and spending time with her kids while on mere probation. She will be able to get out and drive again. And endanger all the residents of Hawaii once more with her irresponsible driving habits and lack of respect **for the law**. She will be able to laugh and enjoy ALL her family members at family functions, unlike ours.

Yes, our family has been disrupted and family functions are no longer the same. Several members have been affected by post-traumatic stress syndrome. One niece can no longer drive and has missed months of work because of her fear to be on the roads. I have tried to counsel and be there for her, but I myself have been diagnosed with possible post traumatic stress. I have panic attacks and depression. I find myself angry because I simply cannot make sense of a society who allows offenders, who disregard the law and life, so many chances while allowing law abiding citizens NO CHANCE at justice and no apparent rights in cases such as this.

I urge your Committee to pass this measure. Thank you for considering my testimony in support of SB 679/SB 3034 [or HB 1144/HB 2120].

**LATE**

TO: Rep. Karl Rhoads, Chair  
Rep. Joy A. San Buenaventura, Vice Chair  
And Members of the House Committee on Judiciary

FROM: Adam Gaines

SUBJECT: HB 1144 Proposed HD 1 Proposing an Amendment to Article I of the  
Constitution of the State of Hawaii Relating to the Rights of Victims of  
Crime

HEARING DATE: February 9, 2016, 2:00 p.m.

Thank you for the opportunity to provide testimony in support of HB1144 to amend the Hawaii State Constitution to guarantee that crime victims and their surviving family members have enforceable rights.

As the President of Maui Search and Rescue and the hanai brother of Charli Scott; I have experienced personally and professionally the dire need to enact common sense constitutional rights for crime victims in our state. Although we have statutory rights for victims these rights are not guaranteed and their use is provided at the discretion of the prosecutor of the given case. This can and does result in victims being underrepresented and further victimized by the legal process. My sister and her unborn sons murder has forever altered my life. I lost much more than just someone I dearly loved; I lost my home, my wife, my business, my animals, and my vehicles. Everything I worked for in the ten years leading up to Charli and Joshua's murder was stripped away from me by the actions of her murderer. Although I am fully aware that if passed these new constitutional rights will not apply to my sisters case; I feel it is paramount for me to fight for change to benefit future victims of all crimes in Hawaii. Please do not continue to stand by as people like myself, my family, and the families I now dedicate my life to serve through my volunteer organization; are treated with less dignity than the people who victimized them.

I urge your Committee to pass this measure. Thank you for considering my testimony in support HB 1144.

Thank You  
Adam Gaines  
President Maui Search and Rescue

**LATE**

Numbers and statistics tell a powerful story.

I have been a victim more times than I can count on one hand. At 9 years old, I didn't have a voice in family court, I did not get the professional help my sisters and I so desperately needed. We were 3 of the 2,300 children in Hawaii who were abused in 1993. In 2014, these numbers climbed to 3,500 children in Hawaii according to The Department of Human Services. Statistically, we should have repeated or stayed in the cycle of violence...and we did.

When my sister was beaten in a parking lot by a boyfriend, he went to jail; for 1 night. Unfortunately she never got to testify because he found a way to threaten her. My own violent relationship never saw a day in court because he threatened to go to my daughter's kindergarten classroom to get rid of her. 38% of us feel this way and never report these events for fear of retaliation or getting him into trouble according to the Department of Justice.

Dozens of medical appointments, hundreds of therapy sessions, thousands of dollars wasted to mend my body and mind. And when I could not work, the thousands of tax dollars spent while I was on Quest, SNAP, WIC, and other state funded programs to get my life back together again.

8 years in college, 2 Education degrees, a lifetime full of experience, and I still cannot comprehend why current statutory laws for victims are trumped by the constitutional rights of the accused.

32, the number of states who have constitutional provisions protecting victims' rights, Hawaii is not one of those states.

By voting to pass this amendment you would be supporting a victims' right, my right, to

- to be treated with courtesy, fairness, and respect throughout the criminal justice proceedings
- to receive information about the rights and services available to victims of crimes
- to be heard at plea or sentencing proceedings
- the right to restitution

I leave you with two more numbers: 12 and 3; the ages of my children who deserve to have a mother who is happy, healthy, and able to end the cycle of violence and abuse. But I need your help to not allow my children to become statistics. Thank You.

Mai Hall

1634 Nuuanu Ave #107

Honolulu Hawaii 96817

**LATE**

Date: February 9, 2016

To: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

RE: Testimony in Support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the State of Hawaii  
Relating to the Rights of Victims of Crime

Dear Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee,

Being a survivor of IPV (intimate partner violence), I was thrust into a world I was not ready for. My first court experience was unexpected – I didn't know who was my prosecutor, what to do, where to stand, what I could or couldn't say. I was overwhelmed with anxiety. I didn't know about the victim/state witness orientation until the second or third time that I went to court. If I attended that on the first time, it would have helped me understand a little of what to expect in the legal process and the court room.

While it was extremely difficult, I attended each court hearing. During the first couple of months I appeared in court, I didn't feel included in the court process. Sometimes my support system would encourage me to ask that I be on call for the hearings, but I didn't want to. I heard stories of cases that were dropped or dismissed because the victim didn't attend. I thought that if I didn't show up at each court hearing, it would lead to assumptions about my commitment to the legal process or seriousness of the crime or how much it impacted my life. To keep the strength and courage to attend each time, I had to be reminded that it wasn't me against my ex, the defendant – it was the State against him.

A message that victims receive is to help the prosecutor help them. In addition to group therapy, individual therapy, working with various agencies, trying to work, and take care of my family, my main concern was to help myself FIRST. I'm not an expert in the legal process and I don't know what to say or do to better help.

People told me in the beginning that it would be a long process, but I didn't know what that meant until I went through it. It's been difficult, emotional, and challenging. There are times I wanted to quit and give up. There were times I was so angry. There were times I was sad and powerless.

Based on my experience, I believe crime victims deserve better rights. I strongly ask you to support HB 1144 (Marsy's Law) so other victims and their family will not have to endure the same traumatic experience.

Sincerely,

Anonymous Survivor

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 11:53 PM  
**To:** JUDtestimony  
**Cc:** admhawaii@yahoo.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/8/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
anita di mauro	Individual	Support	No

Comments: I have been with MADD Hawaii since we started in 1984. I have met with victims and/or their families and sat in court with some of them. They need and deserve to have the same constitutional rights and services afforded others in our judicial system. Please vote to give them what you would want to have if you became a victim.

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**LATE**

I support HB1144 PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME mostly because in the 42 years I've lived here and followed the news of victims of crime, I am overwhelmed and sickened by what appears to the many rights and protections of criminals. Victims of crime are simply not afforded the same protections as criminals, something that seems to be accepted in legal proceedings, but appalling to victims, their families, and even to 'outsiders' just reading or learning about local crimes.

Mahalo

Cinde (Lucinda) Fisher (808) 381-5545, cell

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 12:10 PM  
**To:** JUDtestimony  
**Cc:** tampaltin@gmail.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/9/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tamara Paltin	Individual	Support	No

Comments: Hawaii is one of 18 states that does not have victim's rights laws and yet we call ourselves the aloha state. Unfortunately we have many violent criminals in our state and everyday their victims suffer. Current statutory laws provide basic rights to victims, but they aren't enforceable and often trumped by the constitutional rights of the accused this is an outrage and must change. Please support this bill. Tamara Paltin

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 4:32 PM  
**To:** JUDtestimony  
**Cc:** Alana.Ross@hotmail.com  
**Subject:** \*Submitted testimony for HB1144 on Feb 9, 2016 14:00PM\*

**HB1144**

Submitted on: 2/9/2016

Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
AlanaRoss	Individual	Support	No

Comments:

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**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 09, 2016 3:53 PM  
**To:** JUDtestimony  
**Cc:** prentissc001@hawaii.rr.com  
**Subject:** Submitted testimony for HB1144 on Feb 9, 2016 14:00PM

**HB1144**

Submitted on: 2/9/2016  
Testimony for JUD on Feb 9, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Kailua Neighborhood Board	Support	No

Comments: Our neighborhood board supports the efforts to guarantee victims rights in the State Constitution. Access to these rights and justice for victims of crimes should be part of what makes up community well-being, an over-arching goal that we have been advancing with many of our community initiatives in Kailua and the greater Ko'olaupoko area.

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# LATE TESTIMONY

DATE: February 9, 2016

TO: The Honorable Karl Rhoads, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

FROM: Jennifer Snowden, Victim and Survivor

RE: Testimony in support of H.B. 1144 Proposed H.D. 1  
Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

I am a victim and survivor of sexual abuse. I, along with the 5 other women and the 10 year old girl who testified against our abuser, was deeply impacted by the court and justice system process, in addition to the abuse I endured.

One way that impacted me greatly with the process was that HPD did not identify the victims before handing the case over to a military court, as our abuser was in the military. I was never given the consideration to say where I wanted my abuser to be tried, and only later, after the military court system failed me and the other victims, did I find out that it was an option for him to be tried in a state court. By that time, even with the support of some of the other victims, when we pushed to have him tried by the state, the prosecutor declined the case, leaving us feeling that we were not treated with proper respect or consideration.

Another aspect that I struggled with was the restraining order process. I was granted a temporary RO with little issue, but was then told that I would have to show for a hearing where he would also be summoned. The thought of having to sit in the same room with someone who had done so much damage to my life made me cringe. I was fortunate that he did not show up and the order was granted, but if I choose to extend the restraining order past the simple 3 years that it grants, I will have to face the possibility of having to sit in the same room as him once again. I believe that there need to be better ways to allow due process appearances while still protecting victims from their abusers.

When he was released early after serving only 10 months of his very disappointing 2 year sentence, I only received a letter, maybe a week in advance at most, stating that he was being released early. No notice of a hearing on parole or option to be heard and intervene, just a statement that that was how it was. I still tried to make calls and submit letters, even to our state representative, but to no avail. I was also promised court record documents. It's been over 2 years now, and despite my follow up calls, I have received no respect or consideration.

By the end of it all, I was so let down by the system, how I was treated and the fact that my voice was not heard, that I tried to find a lawyer to take my case to sue the military court system and advocate for change. If Marcy's Law had been a part of the constitution, as an enforceable right, I would have had the ability to assert my rights as a victim through the court process and be heard. Now, through my victim support efforts and advocacy for these constitutional changes, I hope that I may finally be heard.