

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

1136 Union Plaza, Suite 600
Honolulu, Hawai'i 96813
Telephone: 808 587-1143
FAX 808 587-1146

MARI MCCAIG
Chair

ABELINA SHAW
Commissioner

MARTHA ROSS
Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY ON SENATE BILL 2106
RELATING TO WITNESSES

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, March 15, 2016; 2:00 PM
State Capitol, Conference Room 325

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

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify in strong support of Senate Bill 2106 which increases the per diem amount for out-of-state witnesses and witnesses from another island who have been subpoenaed to testify at a state criminal trial.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available.

Witnesses in criminal cases are vital and can be the deciding factor between an offender being brought to justice and an offender being released. In order to do their civic duty, witnesses must bear the financial burden of lost wages or having to use vacation leave. In addition to lost wages or leave, witnesses from out of state or off island must pay for additional expenses such as lodging and food. This creates an economic barrier that discourages or prevents witnesses from returning to testify.

The per diem for out-of-state or off-island witnesses was intended to offset the cost of lodging, food expenses, and other expenses. A search of internet sites such as hotels.com shows that discounted hotel rooms start at approximately \$100 per night excluding taxes and fees. However, these prices are not always available to witnesses because witnesses rarely get more

than a week's notice of when they need to be in Hawai'i to testify. Based on TheCabHawaii.com's posted rates, the cab fare from Waikiki to the Circuit Court would be approximately \$40.00 one-way but the witness would only be compensated \$3.50 by the court as "mileage". Thus, an increase to \$200.00 per day for out-of-state witnesses and \$145.00 for interisland witnesses would assist witnesses in finding accommodations and transportation that would not require them to pay out of their own pocket. The increase would help secure the cooperation of witnesses who are concerned that in addition to having to use their vacation leave or lose wages to testify, they would also have to use their own money to find suitable accommodations and to pay for meals. The Commission urges you to support increasing the per diem rate for off-island witnesses in criminal cases.

Thank you for providing the Commission with the opportunity to testify in strong support of Senate Bill 2106.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

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

March 15, 2016

RE: SB 2106; RELATING TO WITNESSES.

Chair Rhoads, Vice-Chair San Buenaventura and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of S.B. 2106. This bill is part of the Department's 2016 legislative package.

The purpose of S.B. 2106 is to increase the amount of per diem stipends from \$145 to \$200 per 24-hour day for out-of-state witnesses, and to increase the overnight supplement from \$90 to \$145 per 24-hour day (in addition to the standard \$55 per diem) for inter-island witnesses who are required to stay overnight.

Increasing per diem stipends would greatly support and encourage victims and other witnesses to report and pursue charges against criminal offenses that occur in Hawai'i. These amounts were raised slightly in 2014, but had not changed for 25 years prior to that (last increased in 1989). Given recent increases in costs for lodging and food, the current per diem amount is insufficient to cover personal expenses, and many who return to testify as witnesses in state court proceedings are forced to pay money out of their own pocket in order to do so.

Because the witness per diem stipend has not kept pace with the cost of living in Hawai'i, it has emerged as an economic "barrier" that either discourages or prevents an out-of-state witness from pursuing charges against offenders, due to economic considerations. Similarly, the per diem stipend amount provided to witnesses who must travel inter-island is insufficient to cover personal expenses, when witnesses are required to stay overnight.

Considering the Department's figures from 2015, the total number of per diem days for witnesses travelling from the mainland and foreign countries, to the City and County of Honolulu, was 218.75 days for 39 witnesses, for a total of \$11,082.50. The cost for 13 witnesses

who travelled from the neighbor islands to the City and County of Honolulu was \$1,526.25, with 5 requiring an overnight stay.

Based on these figures, the anticipated increase in per diem expenditures, if the amount were raised from \$145.00 to \$200.00 per day, would only be **\$12,485 per year**. Considering the importance of bringing back necessary witnesses, to successfully convict defendants who have caused harm to people and property here in Hawai'i, the Department strongly believes that this is a relatively modest fiscal impact, which would be entirely manageable for the State.

While the cost of increasing witness per diems as proposed in S.B. 2106 would be very minimal, the benefit to the public and to returning witnesses is exponentially greater, not only for their overall sense of public safety and welfare, but also for Hawai'i's reputation of maintaining a safe and hospitable environment. The proposed increase of \$55 per day in overnight witness per diems is a small investment with a significant return.

For these reasons, the Department of the Prosecuting Attorney strongly supports the passage of S.B. 2106. Thank you for this opportunity to testify.

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

3990 Ka'ana Street, Suite 210, Lihu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

TESTIMONY IN SUPPORT OF
SB 2106 – RELATING TO WITNESSES

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

House Committee on Judiciary
March 15, 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, SUPPORTS SB 2106 – Relating to Witnesses.

Current per diem stipends for out-of-state and off-island witnesses have not increased in line with the costs of travel and subsistence in Hawai'i. This has the effect of discouraging participation in the criminal justice process and affects our ability to achieve justice for the victims of crime. Economic barriers should not factor into a person's ability to participate in the judicial process. This Bill represents a reasonable opportunity to ensure full and fair participation for crime victims and witnesses without imposing undue hardship.

Accordingly, we are in SUPPORT of SB 2106. We request that your Committee PASS the Bill.

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

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KĪLAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908
(808) 934-3403
(808) 934-3503

WEST HAWAII UNIT
81-980 HALEKĪ'I ST, SUITE 150
KEALAKEKUA, HAWAII 96750
PH: (808) 322-2552
FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 2106

A BILL FOR AN ACT RELATING TO WITNESSES

COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Tuesday, March 15, 2016, 2:00 PM
State Capitol, Conference Room 325

Honorable Chair Rhoads, Honorable Vice Chair San Buenaventura, and Members of the Committee Judiciary, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of Senate Bill No. 2106.

This measure increases the per diem payments for out-of-state witnesses in criminal cases from \$145 to \$200, and increases the per diem payment supplement from \$90 to \$145, for witnesses from any island other than the island on which the court is located, when that witness is required to stay overnight.

The current per diem stipend amounts for out-of-state witnesses in criminal cases is generally inadequate to cover personal expenses, such as lodging and food. Many witnesses who return to testify as witnesses in court proceedings are forced to take money out of their own pocket to cover necessary personal expenses. These economic barriers can prevent out-of-state witnesses from pursuing charges against offenders. Likewise, when a witness must travel inter-island and stay overnight, the per diem stipend amount is insufficient to cover personal expenses.

The proposed increase in witness per diem is a small investment with a significant return. Considering the importance of bringing back necessary witnesses, to successfully convict defendants who have caused harm to people and property, Hawai'i County Office of the Prosecuting Attorney strongly believes that the fiscal impact is entirely manageable by the State.

The Hawai'i County Office of the Prosecuting Attorney supports the passage of Senate Bill No. 2106. Thank you for the opportunity to testify on this matter.