



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

ON THE FOLLOWING MEASURE:

S.B. NO. 3034, S.D. 1 RELATING TO PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS OF CRIMES.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, March 15, 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

Chair Rhoads and Members of the Committee:

The Department of the Attorney General supports the bill, with these comments.

The purpose of this bill 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.

This concern about the processing of misdemeanor and petty misdemeanor cases in the district courts could be addressed by excluding these types of cases from this bill, or in the alternative, by having the constitutional rights become effective upon request of the victim.

The Department supports this bill, but has reservations about its impact on district court matters.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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Chair

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PAMELA FERGUSON-BREY
Executive Director

TESTIMONY IN SUPPORT OF
SENATE BILL 3034 SD 1
A BILL PROPOSING AN AMENDMENT TO
ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII
TO ESTABLISH RIGHTS FOR VICTIMS OF CRIMES

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 House Committee on Judiciary,

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify in strong support of Senate Bill 3034 SD 1 with an amendment to substitute the language from HB 1144 HD1 and to include the amendments proposed by Marsy's Law. 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.

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.

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.

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 approximately 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 the Constitutional amendment, 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.

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.

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 seeks to ensure speedy trial just as the constitution guarantees a speedy trial to the defendant. 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 speedy trial. A crime victim's right to a speedy trial 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, to receive restitution, and the return of their property. Consulting victims before making plea agreements does not provide victims with the right to refuse the plea agreement. It does, however, provide an opportunity for the prosecutor to learn information that may be pertinent to the plea negotiations. The bill does not require the prosecutor to consult with victims regarding the technical or tactical aspects of prosecuting the case.

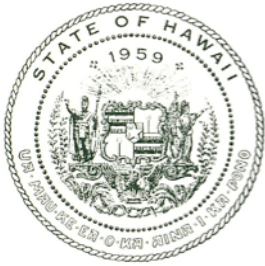
Thirty two states have constitutional amendments. While some states have clauses limiting civil liability, others do not. According to the national proponents of victim's rights, the states that do not limit civil liability have had very few suits filed. The Commission is unaware of any suit that resulted in substantial liability to the State. However, the Commission supports the inclusion in the bill of a provision stating that the amendment does not give rise to a cause of action for damages against the State or counties, or any of their agencies, officials or employees.

Victims may ask that their rights be enforced. 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.

Thank you for allowing the Commission the opportunity to testify in strong support of Senate Bill 3034 SD 1 with an amendment to substitute the language from HB 1144 HD1 and to include the amendments proposed by Marsy's Law.

LATE

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

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March 14, 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, SB 3034, SD1, Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

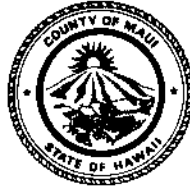
Thank you for this opportunity to testify in support of the intent of SB 3034, SD1, which would create a victims' bill of rights within our state constitution. 32 other states in the nation have passed comprehensive constitutional provisions to protect victims of crime. In those states, defendants' rights 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 and traumatizing. Many victims refuse to participate in any criminal justice forum due to their initial treatment by first responders.

A constitutional amendment can provide a culture shift, a drastic change in the way we view victims and the criminal justice process, and can also serve as a constant reminder that our system can do better for victims. Currently, it is clear that victims are treated as an afterthought in many facets of the criminal justice system, despite the fact that they have been victimized and seek only to regain their voice. Awarding basic rights to victims does not diminish the rights of the accused, nor does it change any burden of proof in any criminal cases.

Thank you for this opportunity to testify in support.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Prosecuting Attorney

ROBERT D. RIVERA
First Deputy Prosecuting Attorney

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TESTIMONY
ON

SB 3034, SD 1 - PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION
OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS OF CRIME

March 15, 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 SB 3034, SD 1 - Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime.

The rights of victims of crime are already protected by law pursuant to Hawaii Revised Statutes Chapter 801D. We believe that SB 3034, SD 1 is unnecessary, and may cause the additional problem of potential conflicts 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 SB 3034, SD 1.

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

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

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TESTIMONY IN STRONG SUPPORT OF
SB 3034 SD 1 – RELATING TO PROPOSING AN AMENDMENT TO ARTICLE I
OF THE CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS
FOR VICTIMS OF CRIME

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, STRONGLY SUPPORTS SB 3034 SD 1 – Relating to Proposing an Amendment to Article I of the Constitution of the State of Hawai'i to Establish Rights for Victims of Crime. The Bill proposes an Amendment to the Hawai'i 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 the Legislature 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 SB 3034 SD 1. We request that your Committee PASS the Bill.

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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**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; S.B. 3034, S.D.1; PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE
CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR
VICTIMS OF CRIME.**

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 submits the following testimony in strong support of S.B. 3034, S.D.1.

S.B.3034, S.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.

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 S.B. 3034, S.D.1. We remain open to further discussion on the details of this measure with other stakeholders to achieve the most effective language to place in the Amendment as it will appear on the ballot. Thank you for your time and consideration.

LATE

**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary
March 15, 2016**

S.B. No. 3034 SD1: PROPOSING AN AMENDMENT TO ARTICLE I OF
THE CONSTITUTION OF THE STATE OF HAWAII TO
ESTABLISH RIGHTS FOR VICTIMS OF CRIME

Chair Rhoads and Members of the Committee:

We oppose passage of S.B. No. 3034, SD1 which would amend the Hawaii Constitution to create provisions relating to the rights of victims of crime. Many of the provisions contained in this bill are already contained in the Hawaii Revised Statutes. H.R.S. Chapter 801D is entitled the Rights of Victims and Witnesses in Criminal Proceedings.

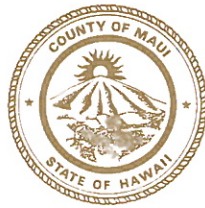
Elevating provisions to the constitutional level will cause irreconcilable conflicts with current constitutional provisions and could result in miscarriages of justice. Section 1 requires a victim to be treated with courtesy, fairness and respect. These terms are vague and all-inclusive. Meanwhile, the Sixth Amendment to the U.S. Constitution and Article I, Section 14 of the Hawaii Constitution afford all accused persons the right to confront witnesses against him/her. This right includes the ability to cross-examine witnesses including victims in trial proceedings. How will tough cross-examinations be reconciled with the right for victims to be treated with courtesy and respect? Often, victims who are subject to questioning in court before a judge or jury will feel that they are being "attacked" and not being treated with courtesy. Will this result in a constitutional violation? If it does, what would the possible legal remedy be?

Section 5 provides for the right to a speedy trial. The Sixth Amendment to the U.S. Constitution and Article I, Section 14 of the Hawaii Constitution provides for an accused's right to speedy trial. At first glance, the two provisions would appear to be parallel. However, it is inevitable that a victim and defendant will have vastly different interpretations of a speedy trial. Generally, a defendant's right to speedy trial is interpreted as a right to trial within 6 months. In the eyes of a victim, 6 months may be an excessive amount of time for resolution of the case. Moreover, there are many exceptions to the six month rule. In serious cases, it is not unusual for a case to go to trial more than six months after its inception. However, the extra time is often necessary for the court to make pretrial rulings and for discovery to be completed. Due process and the right to fair trial demands that a case not be forced to trial prematurely.

Section 7 of the bill affords a victim the right to be present at all court proceedings. Establishment of this constitutional right could result in scheduling difficulties and delays in the progress of cases. If, for some reason, a victim could not be present at a certain hearing, the hearing would have to be continued. This would delay the progress of the case and could result in excessive pretrial detention for the defendant.

Thank you for the opportunity to provide testimony in this matter.

ALAN M. ARAKAWA
MAYOR



KEITH A. REGAN
MANAGING DIRECTOR

OFFICE OF THE MAYOR

Ke'ena O Ka Meia
COUNTY OF MAUI – Kalana O Maui

TESTIMONY OF ALAN ARAKAWA, MAYOR COUNTY OF MAUI

BEFORE THE HOUSE COMMITTEE ON JUDICIARY

Tuesday, March 15, 2016
2:00 p.m.
Conference Room 325

SB 3034, SD1 RELATING TO PROPOSING AN AMENDMENT TO ARTICLE I OF
CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS
OF CRIMES

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

Thank you for this opportunity to testify in **SUPPORT of SB 3034, SD1,**

At a Joint Committee of the Senate Committee on Ways & Means and the House Committee on Finance on January 25th, the committee asked each county mayor what their priorities were for this session. One of my priorities was Marsy's Law.

I am in strong support of SB 3034, SD1, for the following reasons:

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 rights for victims of crime and, certain surviving family members.
2. Victims do not choose to be victims. Instead, their lives and those of their families, are severely changed **by the actions of others.**
3. Accordingly, I believe it is imperative that victims and their families be treated fairly and with dignity. They should be allowed a meaningful part in the process, and should be able to decide for themselves whether, and to what extent, they want to participate in the process.

Again, I **support SB 3034, SD1.**

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Joy San Buenaventura, Vice Chair

Tuesday, March 15, 2016

2:00 p.m.

Room 325

OPPOSITION TO SB 3024 SD1 - CONSTITUTIONAL AMENDMENT FOR CRIME VICTIMS

Aloha Chair Rhoads, Vice Chair San Buenaventura and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for almost two decades. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety. We are always mindful that approximately 1,400 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 3034 SD1 proposes a constitutional amendment to guarantee rights to victims of crimes and a deceased crime victim's surviving immediate family members.

Community Alliance on Prisons supports people victimized by crime but opposes this bill as we do not see how amending the constitution will actually translate into addressing the needs of victims. The majority of people who end up incarcerated were victims themselves, therefore, we support the pressing need for evidence-based victim services.

As the website Safety and Justice¹ states:

"The concerns of survivors and communities are best served by a trial in which the rights of people accused of crimes are protected. Among other rights, the constitution guarantees that people accused of crimes are considered innocent until proven guilty, informed of their rights, will have access to an attorney and a fair appeals process. If a defendant receives these rights, it will lessen the likelihood of an appeal, or mistrial, both of which could potentially lengthen the involvement of the survivor, and increase the chance that they will feel 're-victimized' by the process. ..."

¹ WHY THE VICTIMS RIGHTS AMENDMENT GOES AGAINST COMMON SENSE, October 31, 2004 , Article by Arwen Bird.

<http://www.safetyandjustice.org/node/147>

An article² by a former Attorney General from Colorado and a San Diego Defense attorney stated:

"...More fundamentally, the sole purpose of a criminal trial is to determine whether the accused is guilty of the charges. After the jury renders its verdict, we legally know who was the victim. In many cases – such as fights among acquaintances, or in situations where all parties behaved badly – it is not at all clear who is the real "victim," until the jury sorts things out after a full presentation of the facts.

But the Victims' Rights Amendment allows individuals to claim "victim" status long before the criminal case has been resolved. *Having someone classified as a "victim" before a trial begins undermines the presumption of innocence – the very foundation of our criminal justice system. Moreover, allowing appearances at trial by attorneys for officially designated "victims" will inevitably prejudice the jury, which will "know" that the judge has already decided who is the victim and who is the offender. ...*

(...)

We can all agree that speedy trials are good things – in the abstract. But what about cases when the prosecution and defense agree that more time is needed to track down witnesses, study scientific evidence, and meet with experts? ..."

A 2014 article³ in the Chicago Tribune stated:

"Sometimes witnesses aren't invited to attend plea hearings because the government doesn't want to reveal that the defendant has agreed to implicate other bad guys. Including the victim, said a 2008 report by the U.S. Government Accountability Office, "could compromise the investigation, as well as bring harm to the defendant and others."

Victims are often barred from trials because they plan to testify. That's not something to lament: Witnesses are normally kept out of the courtroom until they take the stand, to prevent them from tailoring their testimony (deliberately or unconsciously) in response to what other witnesses say.

The point is not to shaft the victim. It's to achieve a fair trial for the defendant by fostering accurate evidence. If victims were guaranteed the right to be present throughout, one consequence would be more erroneous convictions. It's hard to see how the victim of a crime benefits from sending the wrong person to prison.

(...)

² **Victims' Rights Amendment is All Wrong**, By David B. Kopel and Elisabeth Semel, September 20, 1996

<http://www.cato.org/publications/commentary/victims-rights-amendment-is-all-wrong>

³ **What's wrong with victims' rights? An appealing concept offers less than meets the eye**, April 20, 2014 | Steve Chapman

http://articles.chicagotribune.com/2014-04-20/news/ct-victims-rights-amendment-oped-0420-20140420_1_victims-justice-system-trials

...The federal victims' rights law is instructive. The government provides a complaint process for those who feel their rights were ignored, but the GAO unearthed only 11 complaints over three years – none of which were validated. ...”

The ACLU⁴ has clearly outlined the problems with a constitutional amendment:

Innocent until proven guilty is a hallmark of the American justice system.

This principle, perhaps more than any other, ensures that people are given fair trials and that there is no presumption of guilt. That is why the burden of proof - to prove guilt beyond a reasonable doubt - lies with the state and not with the accused. Identifying victims and allowing their interests to be heard before a jury returns a verdict contaminates the deliberation process and runs counter to the idea that all Americans are "innocent until proven guilty."

The amendment would dramatically curtail due process.

Basic due process protections do not exist to protect guilty criminals from punishment; they exist to protect the innocent from arrest and imprisonment. Key to due process is the ability to receive an impartial trial. One can easily imagine the miscarriage of justice in a trial where the defendant is innocent but the victim begs the jury to return a guilty verdict. The recent spate of innocent people wrongfully convicted being released from prison is proof positive that mistakes are made and the wrong people are sent to prison for crimes they did not commit.

It would actually obstruct justice.

Surprisingly, during the debate over VRA in the 106th Congress, a federal prosecutor from the Oklahoma City bombing case, Beth Wilkinson, testified against the amendment. Echoing the concerns of a number of prosecutors, Wilkinson argued that had victims of the bombing been able to block the plea agreement of Michael Fortier, who was granted leniency in return for damning testimony against other defendants Timothy McVeigh and Terry Nichols might never have been convicted.

IN CONCLUSION:

“...Just as the movement for survivors' rights has evolved over time, so does our notion of common sense responses to violence. Statutory laws give us the flexibility to change our policies to reflect these changing norms. At one point the movement to end domestic and sexual violence advocated for mandatory arrest laws: if an officer arriving at a home discovered injuries or heard from victims that they feared for their safety, they were required to make an arrest. This was seen as a victory, but the reality is that too often batterers make false claims and because officers are required to make an arrest, officers have chosen to arrest both parties. The result of the law over the long term is not an upsurge in safety for victims, but rather more people being arrested. If the VRA were to pass and be enshrined in our

⁴ ACLU FACT SHEET ON THE PROPOSED VICTIMS' RIGHTS AMENDMENT – <https://www.aclu.org/aclu-fact-sheet-proposed-victims-rights-amendment>

constitution, and we discovered such unintended consequences, changing it would be virtually impossible.

The sad truth is that the federal and state VRA's do nothing to address the vast unmet needs and unequal treatment for survivors. The fact that none of the amendments (state or federal) are enforceable guarantees their place as an illusion of victims' rights. Considering the long-term, life-changing nature that any crime can have, the reality is that many survivors need help with housing, employment, stable food and health care -- none of which is guaranteed by the VRA. But, until there is real prioritizing of victims' services, there will be a forceful group of people calling for the VRA, unaware that it will not guarantee them access to restitution or to the services that they really need."⁵

Most of the rights outlined in this bill are already in statute and still yet victims feel exploited, ignored, and shut out by the system. And who in the system is supposed to protect those rights? Law Enforcement! Police and prosecutor's offices in each county have victim services divisions.

Community Alliance on Prisons respectfully suggests that energy and resources would be better spent on evaluating the existing services and then providing training to improve these entities to better serve the victims they rely upon for the prosecution.

How will a constitutional amendment change the behavior of those entities charged with serving the needs of victims?

Community Alliance on Prisons urges the committee to think about all the unintended consequences that this constitutional amendment can bring. Will this make our justice system more efficient and improve the quality of justice from victims or will it only serve to jam up law enforcement, prosecutors, and the courts, thereby diminishing the quality of justice for all?

Mahalo for this opportunity to testify.

⁵ See Footnote 1



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

FR: Nanci Kreidman, M.A

RE: S B 3 0 3 4 S D 1

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.

DATE: March 15, 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: SB 3034 SD1 Proposing an Amendment to Article I of the Constitution of
the State of Hawaii to Establish Rights for Victims of Crime

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 SB 3034 SD1.

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 SB 3034 SD1 out of your Committee.



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

March 15, 2016

To: Representative Karl Rhoads, Chair –House 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: Senate Bill 3034, SD1 – Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crimes

I am Carol McNamee, representing MADD Hawaii and speaking in strong support of SB3034,SD1 which calls for an amendment to Article 1 of the Constitution of Hawaii to establish rights for victims of crimes.

MADD is one of the largest victim service organizations in the country, serving a victim of impaired driving every 15 minutes. In Hawaii, MADD provides free 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. Hundreds and hundreds of victims of these violent crimes in our state have experienced indescribable emotional pain resulting from the losses stemming from the tragedies which either killed or injured their loved one – or ones.

Too often, these victims are destined to suffer more pain resulting from their experiences in 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.

Senate Bill 3034,SD1 which proposes a constitutional amendment that we – and other states -are calling Marsy’s Law in memory of a young college 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 interference with the work of prosecutors who have been assigned to a case.

As MADD’s Victim Memorial 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?”

People who are 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 any of us at any moment we are on the road. We never know who is next. This knowledge makes me want to be assured **now**, that my loved ones will be supported by a criminal justice system that will treat them with fairness and dignity and give them the right to be informed and to be heard.

MADD strongly encourages this committee to pass SB 3034,SD1. Thank you for the opportunity to testify in support of this important measure.

TESTIMONY OF STACY EVENSEN ON BEHALF OF MARSY'S LAW HAWAII IN SUPPORT OF THE INTENT OF SB 3034 SD1

Date: March 15, 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 the intent of SB 3034 SD1.** A victims' rights law was promulgated in 1988 [HRS 801-D] the intent of which is 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." As well intended as this law is, reports from the field indicate that the rights it promises are often not afforded. And, unfortunately, there is no remedy, no recourse. If, however, these rights were elevated to the constitutional level--"honored and protected....in a manner no less vigorous than the protections afforded criminal defendants"--there would be recourse. These equal rights are what we seek through SB 3034 SD1—nothing more, nothing less.

While this bill takes the issue of equal rights for crime victims far down the road, we believe the bill passed out of your committee earlier this session, HB 1144 HD1, is preferable.

Every day there are hundreds of victims in Hawaii whose statutory rights are not being enforced. It is only through a constitutional amendment that true equality can occur for these individuals. Amending our State Constitution is not to be taken lightly. We want to get this right. That is the reason Marsy's Law Hawaii is committed to working with others concerned about equal rights for victims to achieve this goal.

We appreciate the opportunity to testify on this important measure and ask the committee to pass the bill out of committee with the proposed change.



Committee: Committee on Judiciary
Hearing Date/Time: Tuesday, March 15, 2016, 2:00 p.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawaii in Opposition to SB. 3034, SD. 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 S.B. 3034, S.D. 1, which seeks to amend article I of the Hawaii Constitution to guarantee specific rights to victims of crimes.

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. 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 S.B. 3034, S.D. 1, could be provided by statute, a constitutional amendment is unnecessary.

Further, the rights granted by the proposed constitutional amendment are unenforceable. Section 2 of S.D.1 provides “[t]his 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.” 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 S.B. 3034, S.D. 1.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Mandy Finlay". The signature is written in a cursive, flowing style.

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.

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii 96801
T: 808-522-5900
F: 808-522-5909
E: office@acluhawaii.org
www.acluhawaii.org

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 1:42 PM
To: JUDtestimony
Cc: prentissc001@hawaii.rr.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------------|---------------------------|---------------------------|
| Charles Prentiss | Kailua Neighborhood Board | Support | No |

Comments: On February 4, 2016, the Kailua Neighborhood Board voted to support the proposal to provide victims of crime with specific rights related to the criminal justice process. 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. Thank you for the opportunity to testify in support of SB3034.

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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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, President and CEO
Visitor Aloha Society of Hawaii

SUBJECT: SB 3034, SD 1 Proposing an Amendment to Article I of the Constitution of
the State of Hawaii to Establish Rights for Victims of Crime

Hearing March 15, 2016, 2:00 p.m.

POSITION: Support

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 SB 3034, SD 1 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 SB 3034, SD 1.



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

March 15, 2016

Dear Representative Rhoads, Representative San Buenaventura, and members of the House Judiciary Committee:

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 SB 3034, SDI 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 SB 3034, SDI is 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, 32 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.

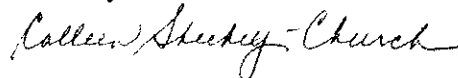
Passage of SB 3034,SD1 would protect crime victims by ensuring that they are guaranteed:

- 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



LATE

March 14, 2016

To: Hawaii State House Committee on Judiciary
Hearing Date/Time: Tuesday, March 15, 2016 (2:00 p.m.)
Place: Hawaii State Capitol, Rm. 325
Re: Testimony of American Association of University Women –
Hawaii in **support of S.B. 3034 S.D. 1**, 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 S.B. 3034 S.D. 1**, relating to a constitutional amendment to establish rights for victims of crimes.

My testimony is on behalf of the 442 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 S.B. 3034 S.D. 1 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 proceedings, major case developments, or final case disposition. 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 S.B. 3034 S.D. 1 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



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

March 14, 2016

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

LATE

Hearing Date/ Time: March 15, 2016, 2:00 p.m.

Place: Hawaii State Capitol, Conference Room 325

Re: SB 3034, SD1: PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME

Position: Strong Support

Dear Representative Rhodes, San Buenaventura, and Committee Members,

The Hawaii State Coalition Against Domestic Violence is a statewide Coalition made of 25 member programs that provide domestic violence services in Hawaii. We would like to thank you for your ongoing efforts to work towards ensuring victims of crime in Hawaii are safe.

The passage of this bill is a giant step in the right direction for all victims of violent crimes. You have the opportunity to ensure that the rights of victims are elevated to the constitutional level of that of the convicted and accused that have caused victims, and their family members tremendous pain and anguish.

This bill is the top priority bill that has been brought forth for the 2016 legislative session by our Hawaii State Coalition Against Domestic Violence Survivor Action Committees that have been established on Oahu, Maui, and Molokai. Many of the Survivor Action Committee members feel strong that they could have benefited from Marsy's Law if this was in place. They are working hard to ensure that the citizens of Hawaii will have these constitutional protections if a crime ever happened to them. They do not want victims and families to endure what they have had to endure.

The passage of Marsy's Law is critical. This past year working on Marsy's Law I have heard many stories from victims, and surviving family members about how the criminal justice system has failed them. I have attended several court hearing over this past year and have seen first-hand how victims are revictimized by the criminal justice system that was created to help them receive the justice they so deserve. I have witnessed Judges waiving fees, restitution, and victim compensation. I have witnesses Judges asking the accused up to 5 times in one hearing "if they understand their rights" while the victims watch in silence knowing they have no rights.

Victims deserve to have the opportunity to be heard, be kept informed, and to receive timely notification about their case, to receive restitution, to be able to provide input to the prosecutor before a plea agreement is finalized. Sadly many of the rights in the current statute are not enforceable. Without the enforcement, these rights have no meaning or value.

Thirty-two states already have constitutional rights provisions, and Hawaii is one of 18 states that do not have a victim's' rights constitutional amendment. I have heard from victims, surviving family members, advocates, and the general public that this MUST change. Hawaii must do better to ensure victims have a voice, and they are heard.

HSCADV, our membership, advocates, community allies, and survivors in our communities strongly support SB 3034, SD1. This is an opportunity to make meaningful change that all victims and survivors in Hawaii deserve.

Respectfully,
Marci Lopes, Executive Director

LATE



TO: Chair Rhoads, Vice Chair Buenaventura, and Members of the House Committee on Judiciary
FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)
DATE/LOCATION: March 15, 2016; 2:00 p.m., Conference Room 325

RE: TESTIMONY IN SUPPORT OF SB 3034, SD1 – PROPOSING AN AMMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS OF CRIMES.

I strongly urge you to support SB 3034, SD1. 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 SB 3034, SD1**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

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.

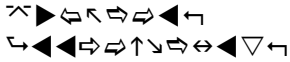
Survivors should be consistently informed about, and afforded the opportunity to participate in, the investigation, prosecution, and ongoing management of their cases. Survivors' voices in these matters are important, and engaging survivors fully in the process is empowering and healing.

S.B. 3034 S.D. 1, revised using the language recommended by Marsy's Law for Hawaii and the CVCC, 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 S.B. 3034 S.D. 1.

LATE



FW: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM
SB3034 testimony.html

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|---|--------------------|--------------------|
| Sam Aiona | Friends of the Missing Child Center Hawaii | Support | No |

Comments:

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

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

LATE

From: Nonohe Botelho, Parents of Murdered Children

Date: Tuesday, March 15, 2016

Re: **SB3034, SD1** : Proposing An Amendment To Article I Of Constitution Of The State Of Hawaii
 To Establish Rights For Victims Of Crimes.

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.

As a mother of a murdered child I will be connected to my son's murderer for the rest of my life. This is not something I chose for myself, the defendant took my choice away the minute he shot and killed my son. I share this because I want you to know that as victims and surviving family members of a violent crime we are instantly thrust into a precarious position with the defendants that commit such crimes. In a weird way we are serving our own "life-sentence," that continues to be dragged on-and-on by the myriads of remedies provided to the defendant. What happens to the defendant happens to us. It seems that once we get through one hurdle we are faced with another. We go through the investigation, the pre-trial, the trial, sentencing, post-conviction and appeals. And if the defendant is granted an appeal we start all over again. This is a conferred madness handed to us by a system that is clearly pro-defendant.

Throughout the judicial process the defendant is afforded constitutional rights that are protected and enforced, starting with their Maranda Rights at the time of arrest. Protecting the defendant's constitutional rights is what drives the criminal justice system; it's what defines the legal and judicial culture in our State. Currently, we have HRS 0801D, "Basic Bill of Rights for Victims," but these rights are not enforceable. If victims are seeking a legal remedy it has to be in a written request. And even upon written request there is nothing in the current Bill of Rights that compels or imposes action in favor of victims and their families. The same constitutional rights that protect defendants also serve to keep victims silenced. We have no say, no remedies, and no protection.

I am here in strong support of SB 3034, SD1; Proposing An Amendment To Article I Of Constitution Of The State Of Hawaii To Establish Rights For Victims Of Crimes. I am confident that the citizens of Hawaii, the State of Aloha, will vote "Yes" to the proposed question on the ballot:

"Shall crime victims and deceased crime victims' surviving immediate family members be afforded rights, 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, as provided by law?"

Thank you for your time and consideration.



Date: March 15, 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 Senate Bill 3034 Senate 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 Senate Bill 3034 Senate
Draft 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

**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 Senate Bill 3034 Senate Draft 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.

**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

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 7:37 AM
To: JUDtestimony
Cc: trinidadwilliams@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|----------------------|---------------------|---------------------------|---------------------------|
| Trinidad A. Williams | Individual | Comments Only | No |

Comments: Thank you for accepting my testimony in STRONG SUPPORT of SB 3034 regarding a constitutional amendment for victim's rights. This law is important because victims of crime deserve to be treated with fairness and respect by the Judicial System. Hawaii should become one of the many states that elevate victim's rights to the same level of importance as those belonging to the offenders that harmed them. A violent crime perpetrator from the onset of arrest has rights read to them too! Its only right for a victim to have recourse that is helpful to cope with pain-humiliation...and in the case of survivor(s) of a victim, a sense of justice and closure.

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: Monday, March 14, 2016 6:27 AM
To: JUDtestimony
Cc: ahaaina@hawaiiantel.net
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| kristine kane | Individual | Support | No |

Comments: I am writing to ask that you seriously consider supporting SB 3034, which proposes an amendment to guarantee rights to victim's of crime, as well as the rights of a deceased crime victim's immediate family. I hope Hawai'i will join with the other states that have already passed this into law. Thank you for accepting my testimony. Aloha, Kristine Kane

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 13, 2016 8:46 PM
To: JUDtestimony
Cc: tlaron02@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/13/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Tracey Laronga | Individual | Support | No |

Comments: I am in full support of equal rights given to the victims as much as is given to the accused. Not one should be more or less than the other when it comes to being considerate and ethical to others. We all think it should be common sense on the part of entities involved but unfortunately thats not always the case. SB 3034 will help to ensure victims are treated equally with compassion as should be. Thank you

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 13, 2016 8:36 PM
To: JUDtestimony
Cc: pstratford@gmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/13/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| pamela stratford | Individual | Support | No |

Comments: I strongly support the passage of SB 3034 to provide basic rights to families of crime victims. Though I do not reside in HI I have family that does and is facing this very situation as we await justice for our murdered family member. I have many friends who regularly vacation in HI and are concerned with this in case something should happen to a friend or family member while they are there. Please support the passage of this bill.

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March 15, 2016

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

From: Fawn Jade Koopman, Esq.

Re: Testimony in Support of SB3034 SD1, Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Thank you for this opportunity to provide testimony in strong support of SB3034 SD1 establishing an amendment to the Hawaii State Constitution guaranteeing that victims of crime have certain enforceable rights throughout the entirety of a criminal case. Specifically, the rights afforded to a victim relate to the right to provide input, receive timely information and notifications, access to hearings, and a right to privacy.

Between 1982 and 2015, thirty-two states have amended their constitutions to enforce victims' rights. Under Hawaii's current statutory law victims of crime have certain rights enumerated in Chapter 801D, yet these rights are not enforceable. SB3034 SD1 would amend our Constitution to afford all crime victims permanent and enforceable rights.

As a general rule, constitutional amendments should be carefully considered and appropriately crafted. It is important to note this legislation proposes an amendment to *enhance rights*, not to restrict them. The victims' rights included in this legislation do not infringe upon the constitutional rights of defendants, nor do they compromise the integrity judicial process or tip the scales in anyone's favor. Rather, it is more accurate to characterize victims' rights as a necessary component to a fair criminal procedure. This proposed amendment is both limited and very narrowly tailored to provide reasonable rights that allow victims to participate meaningfully in the criminal case. Our criminal courts are fully capable of negotiating the rights of victims and the rights of defendants, and to some degree already do so.

As a family law attorney, I often represent survivors of domestic violence who are also complaining witnesses in domestic abuse criminal cases. In my experience, the criminal justice system as a whole suffers when survivors are not supported and protected under our Constitution. Most commonly, victims choose not to cooperate with the State because they feel as though their participation is not relevant to the Court, their voices are not heard, or they are not treated with the respect and dignity they deserve. At the most extreme level, victims fail to report crimes when they are concerned navigating the criminal justice system will be more burdensome, more painful, and involve more victimization than they are willing to endure.

For the reasons stated herein, I urge this Committee to pass SB3034 SD1. Thank you for this opportunity to testify.

TO: House Committee on Judiciary
FROM: Brooke Scott
RE: SB 3034 / Marsy's Law

Aloha and thank you for accepting my testimony in strong support of SB 3034 (Marsy's Law) regarding an amendment to the Hawaii State Constitution to give victims of crime basic (enforceable) rights.

This bill is important for so many reasons, but I would like to comment on on the following:

- 1) The victim's right to confer with the prosecutor during plea discussions: If it's true that most guilty pleas are secured through bargains between the State and defendant, then it would follow that much of a victim's ultimate experience can pivot on that un-reviewable decision. Every case- and every victim- is unique. If SB 3034 became law, the right to speak with the prosecutor would no longer be intimidating and awkward for a victim. That right would be on par with the defendant's right to confer with his own attorney. Everyone wants the case to be resolved. That's the only true thing to be said about the actors in a criminal trial. The victim, just as much as the defendant, has a legitimate interest in the outcome of the case. Opening this narrow line of dialogue between prosecutor and victim does nothing to take away from a prosecutor's discretion or authority. If anything, it brings a bit of light to the otherwise shadowy realm of plea bargaining, and should better enable the prosecutor to make an informed decision as to resolution.
- 2) The victim's right to restitution: There's an unfavorable loophole somewhere in this scheme. When a victim seeks to recover from losses associated with a crime, they can
A) wait for court-ordered restitution, which could likely trickle in via checks as small as \$5 each over the course of many years; B) file a civil suit, but only if the defendant actually has money to go after, and only if sufficient evidence is available and not tied up in a criminal proceeding; or C) apply to the Victim Compensation Commission, in which case they award a capped amount based on what you can prove you lost, and/or award you monies that you can only spend on things *they* specify. For instance, my family was told we could have about \$4,000 for a funeral for my sister Charli. But we can only have the funeral at one place, and it's not what Charli would have wanted. Why does the Commission stipulate to where and how we can spend funds awarded to compensate suffering and loss? I believe it says we would have to pay that award back, but it gets deducted from the restitution the court orders the defendant to pay. The person who killed my sister has no money, so the attorneys I've talked to about a wrongful death claim are disinterested and sometimes even rude, like I am stupid for thinking there's a reason to sue the killer. Ironically, we would stand to gain potential criminal evidence and other information that might help us find Charli. Her body is still missing. And her son's. We would rather use that \$4,000 to support search efforts, or a funeral representative of what Charli would have actually wanted.
- 3) The victim's right to be present: I focused my testimony for Marsy's Law on this subject in a previous hearing because this is the one that hurts the most. Being disrespected, being ignored, and being experimented with definitely hurts, but to be arbitrarily banned from observing any part of the trial cuts deeper than the violation of any other right. For me. And for my mom, too. The rest of my family isn't sure they would even want to be there, because it will be so ugly, so frightening and horrible to hear what happened to our sister. It's only been two years since Charli was killed and when I look to the future, what I see most is the sorrow. I miss her more and more every, *every* day. You cannot know what it is like to miss

someone like Charli because you will never get the chance to meet her. And even if her killer is convicted, we will never get the chance to share the public's vantage of Justice.

Remember that there is no constitutional right to ban witnesses or victims from trial. There is a right to a *fair* trial, and in jurisdictions that acknowledge victim's rights (thirty-nine of them), the courts have consistently found that a defendant's right to such is not inherently infringed upon by the mere presence of a victim-witness. There are a number of established methods to maintain the integrity of testimony: having the victim testify first, and/or restricting the victim's presence at trial so that potentially sensitive or harmful testimony is not heard, or simply allowing the defense to thoroughly cross-examine the witness.

In Hawaii, it is automatically *presumed* that victim-witnesses are incapable of telling the truth if they are permitted to be present during the trial. That is so unfair. The defendant himself is presumed innocent until proven guilty, but me and my family are all presumed to be liars and we are given *no* opportunity to rebut that presumption. It is arbitrary and callous in light of the fact that experts (such as presidential task forces) have concluded that victim presence is conducive to healing.

All the focus is on rehabilitating the defendant, and the victims are left not on the sidelines, but outside of the arena itself. If SB 3034 became law in Hawaii, judges would retain the authority to stipulate to a victim/witness' attendance. Marsy's Law would just add to the strength of a judge's authority and ultimately, the true fairness of a trial.

There is so much more I could say on the benefits of adding victim's rights to the Hawaii State Constitution. One factor that should be openly desired by everyone is that giving victims the respect they deserve will have the net effect of encouraging cooperation and trust from the public, both of which are crucial to a well-functioning justice system.

There is no reason to delay in pushing this measure to the top of 2016's priorities. Dozens of other states are building upon foundations which respect and honor the constitutional rights of *all* of its citizens. You do this, and it will bring joy to the hearts of even those victims whose day in court has long passed. It will be a victory felt by the hopeless and forgotten. And people you will never have occasion to meet will be grateful. History will not repeat itself if you change it now. That is the impact of giving us enforceable rights.

I thank you again for hearing my testimony in strong support of SB 3034, Marsy's Law and wish all of you clarity of mind during your deliberations.

Respectfully,
Brooke Scott

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 13, 2016 7:54 PM
To: JUDtestimony
Cc: joeritter3@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/13/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Joe Ritter | Individual | Support | No |

Comments: I urge you to SUPPORT SB 3034 regarding a constitutional amendment for victim's rights. Victims of crime deserve to be treated with fairness and respect by the Judicial System. Sincerely Dr. Joe Ritter Senate District 6 House 11

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 13, 2016 6:59 PM
To: JUDtestimony
Cc: mauimagic5711@hotmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/13/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ann Evans | Individual | Support | No |

Comments: I am in STRONG SUPPORT of SB 3034... regarding a constitutional amendment for victim's rights. This law is important because victims of crime deserve to be treated with fairness and respect by the Judicial System. It is time for Hawaii to become one of the MANY states that provide and protect the rights of victims and their families. This is, without a doubt, the right choice to make. I urge you to do so. Thank you for your time.

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TO: House Committee on Judiciary

FROM: John Pipkin, founding member Maui Search And Rescue

SUBJECT: SB 3034, SD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Aloha and thank you for the opportunity to submit testimony in support of SB 3034 which would amend the Hawaii state constitution to guarantee certain rights to victims of crime. I want to say Mahalo to all the people that have helped take this bill as far as it's gotten. It has taken a lot of work from everyone. The committees that have passed it, the sponsors, the Marsy's Law organization, and the ones who paid the greatest price to have a voice here... the victims. Not to mention I believe thirty-nine other states have already amended their state constitutions, so that's got to count, too.

I submitted testimony before on SB 3034's right to be present during criminal proceedings, because that right is especially important to me and my family. We are waiting for the trial in the murder of Carly Scott, and even though every court in the country has basically said it's ok for the victim-witnesses to be present during trial, Carly Scott's family is banned from observing the justice we need to heal. And it is arbitrary, and cruel.

This time I want to talk about the victim's right to restitution. When Charli went missing, I took so much time off work to search that I ended up getting laid off. I was the only one supporting Charli's mother and her sisters while we all searched for more than a month, almost everyday. If not for donations from the community, we could have lost our home. Two of Charli's sisters quit their jobs to search full-time and later moved to the mainland because the stress was overwhelming and unsustainable.

It did not occur to any of us to keep receipts. We had so many people staying at our house, spending money, taking time off work, flying in from the mainland. We were told much later, after it was announced that Charli had been murdered, that we could apply to Victim Compensation. But we had no way to quantify our losses.

When we looked in the Victim Witness Handbook, it said that "According to Hawaii Revised Statutes 801D, you are entitled to receive: **Notification** upon written request of: case information, property return, referral information for financial assistance..." The way it is written sounds like the State begrudges even these minimal rights and tells us to ask specifically for them in writing, but then, like it's some sort of joke, the Victim Witness Handbook doesn't tell you where to mail your written request. It's a really good example of how effective the current Victim's Rights statute really is.

Most people have to work jobs. And most of those people have certain standards for how they treat the customer. Why should the people who work specifically with victims of crime have no standards? I am an electrician and I am a search and rescue volunteer. I had to get my Journeymans license to practice my trade safely and to code in my state. I also had to pay out of pocket to become a certified Search And Rescue Technician in order to work with Maui Search And Rescue. If I fail to act within the rules attached to either of those positions, I am not only subject to possibly being fired, but a

mistake on my part could cost someone their life, whether I'm searching or wiring someone's home. I take that seriously and I take pride in all my work, not because I'm afraid of losing my positions, but because I care about the people my work affects. I take pride in treating people fairly, in keeping clear communications, and in a job well done.

It should be no different for the people working for the State that deal directly with victims of crime. If there is a benefit to a client, I make it known. I don't require that they formally ask in writing to be alerted of all my services. Time is precious for most and so I try to do it right, from the beginning.

Passing SB 3034 would ensure that justice begins with recognition and fair treatment of the victim. It's not a crazy thing to ask for. In other states with Marsy's Law, police give cards with information on victim's rights early on in a case or complaint. If that had been done for us, we might have kept records of our financial losses and expenditures relating to the Charli's murder. The trial is supposed to start soon. I know SB 3034 will not pass in time to help me or my family. I hope we are among the last to go through this with unenforceable rights.

Mahalo for your consideration to my strong support of SB 3034.

Respectfully,
John Pipkin

TO: Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair

And Members of the Senate Committee on Judiciary and Labor:

FROM: Amy Yamada

SUBJECT: SB 679/3034, SD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Chair Karl Rhoads and Members of the Committee:

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 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!!

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 9:48 AM
To: JUDtestimony
Cc: spectekula@gmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Sara Tekula | Individual | Support | No |

Comments: STRONG SUPPORT for Victim's Rights! Please pass this bill.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 9:34 AM
To: JUDtestimony
Cc: kw1152@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kathryn Weldon | Individual | Comments Only | No |

Comments: I am in support of this vital amendment that will ensure equal rights to victims.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 9:12 AM
To: JUDtestimony
Cc: ladysoftail9@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kathleen Laronga | Individual | Comments Only | No |

Comments: "Thank you for accepting my testimony in STRONG SUPPORT of SB 3034 regarding a constitutional amendment for victim's rights. This law is important because victims of crime deserve to be treated with fairness and respect by the Judicial System. Hawaii should become one of the many states that elevate victim's rights to the same level of importance as those belonging to the offenders that harmed them."

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 10:39 AM
To: JUDtestimony
Cc: Artistictouchpaintingmaui@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Adam Gaines | Individual | Support | No |

Comments: Aloha, I am the President of Maui Search and Rescue and the hanai brother of Charli Scott. This is the fourth time I have submitted testimony strongly supporting this common sense legislation and I wanted to thank all those involved for continuing to move this bill forward. The strength and courage it takes for victims to speak about the crimes committed against them is truly commendable. Thank you for hearing us and voting in what I believe with all my heart is the right direction for our state. Your continued support is critical as we move forward in our fight to have constitutional rights that will enable us to be equally viewed in the eyes of the law. Multiple times over the last year and a half since my sisters murder was arrested this legislation would have benefited my family. Please continue to fight along side us for the justice that victims in our state deserve. Mahalo Adam Gaines President MSAR

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 10:51 AM
To: JUDtestimony
Cc: tulsi@mauiishome.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Tulsi | Individual | Support | No |

Comments: I strongly support this bill. Thank you Tulsi Greenlee

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 10:50 AM
To: JUDtestimony
Cc: breaking-the-silence@hotmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Dara Carlin, M.A. | Individual | Support | No |

Comments: PLEASE support and pass!!! Thank you! :)

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 11:17 AM
To: JUDtestimony
Cc: mpcop67@gmail.com
Subject: *Submitted testimony for SB3034 on Mar 15, 2016 14:00PM*

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Donald Murry | Individual | Support | No |

Comments:

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March 14, 2016

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

From: Peter E. Robb

Re: SB 3034, SD1 - Proposing an Amendment to Article 1 of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime.

HEARING DATE: March 15, 2016, 2:00 p.m.

I am Peter Robb, an individual who is speaking in strong support of SB 3034, SD1 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

harm's 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 SB 3034, SD1 and truly give victims equal rights in this system of justice.

TO: Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair:

And Members of the Senate Committee on Judiciary and Labor

FROM: Kimberlyn Scott

SUBJECT: SB 3034 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, 8:30 a.m.

Chair Karl Rhoads and Members of the Committee:

Thank you for your time today.

My name is Kimberlyn Scott and I am writing in support of SB 3034.

You will have heard and read many arguments regarding SB 3034 by now. Legal points in favor of and against. And emotional testimonials describing both why this constitutional right is necessary and how it could have impacted previous cases positively.

The eloquent pain in the testimonies of so many victims exemplifies not only the need for the elevation of Victims' Rights to those of Constitutional Rights- but it speaks volumes to the desperation of the situation. These people revisit their victimization when they write and/or physically testify. I will address what this means and why it is worthy of mention.

My own experience speaking before you on this subject not long ago I will never forget. I sat next to a young man who described being stabbed repeatedly- the agony he endured and described was devastating to all who heard it. But for me, I was hearing what my pregnant daughter endured when she was murdered.

And then I got up and hurried to voice the need for Marsy's Law to you. I was still recoiling in shock and horror from what I had just heard and shaking horribly. I can only imagine what other victims go through to speak or write on this subject.

Since my grandson and daughters murder, I search almost every day for Them. If I tell you that this is almost all I live for now, to find Them, will it mean anything to you that I take time from that all important endeavor to urge you to pass SB3034? Does the blood of my child and hers buy us credibly here? What about the combined loss reflected in all the testimonies?

I do this willingly. I will do it again when I am called on to do so. And so will others.. Why do I and others put ourselves through this frightening and painful experience to see change that will not affect us?

Because it could make a huge difference to others. Maybe someone you love.

Give victims enforceable rights and see protection and healing come of it- Please pass SB 3034.

Thank you for listening.

Kimberlyn Scott

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 12:49 PM
To: JUDtestimony
Cc: zayah813@yahoo.com
Subject: *Submitted testimony for SB3034 on Mar 15, 2016 14:00PM*

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Esther Dudoit | Individual | Support | No |

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 12:38 PM
To: JUDtestimony
Cc: deren.hawaii.gov@mailnull.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Deren Ash | Individual | Support | No |

Comments: I am writing in strong support of SB 3034, known as “Marsy’s Law.” I would like to address both the merits of the law, and address the testimony that I know you are receiving from others. I will not waste your time by reiterating the individual points made by others, except to say that I agree with it, with the following amendments. First, I know a common talking point is that criminal suspects have more rights than victims. Since we all know that suspect’s rights a critical part of legal system that prevents violations of due process, please do not be turned off by these statements. I hope that you can see past how that argument is framed. It is making the point that while suspects have many rights to ensure due process is followed, victims have virtually no rights to ensure suspects are properly prosecuted for the victim’s own protection. Victims should absolutely have the rights outlined in Marsy’s law, but not because suspects have “more” rights. Secondly, I would guess that most of the testifiers are citing high profile cases, such as the Charli Scott. While these cases are absolutely, unequivocally epitomize the need for Marsy’s law, I want you to know that these few high profile cases are not the only examples of the need for Marsy’s law. Crimes happen every single day in Hawaii, where the victim’s safety would benefit significantly from Marsy’s law. I will cite one such example to illustrate this point. This is the sort of thing that occurs constantly, and not the sort of thing the news bothers to report on. In November, a man broke into his ex-girlfriend’s house in the middle of the night, beat her up in front of her children, then left and slashed her tires with a knife on the way out. He was arrested, but then released after only a few days, on his own recognizance. This is not the first time he had physically abused her, and on the multiple occasions in the past the prosecutor did not pursue felony charges. In this case, felony charges were pursued only because her children were present. When the assailant was released, the victim was not consulted on bail, and even though a restraining order was issued, a piece of paper is no match for fists or a knife. Out of justifiable fear, she had to abandon her house and stay with a friend. Then in January, she was on the dance floor at a small concert. He spotted her, approached her, “body checked” her, and verbally threatened the man she was dancing next to. She made a statement to police and he was arrested for violating the restraining order, however, he was released the next day because he convinced “them” (presumably the judge and prosecutor) that him being on the dance

floor next to her was purely coincidence, and he didn't even see her until he accidentally bumped in to her, and ignored the verbal threat made to the man next to her. She was not consulted beyond her initial statement to police, but if she had been she could have informed "them" that it was clearly no accident, and clearly had the intent and malice of a physical threat to her safety. Now, because she was not consulted, because there is no Marsy's law yet, she lives in fear every moment of every day. The abuser is still awaiting trial, but even after he is found guilty, what will be his consequence? This man has narcissistic personality disorder and is very charismatic, so he is somehow able to convince the prosecutor and the judge that the situation is "no big deal." The way the prosecutor has been (or rather not been) pursuing the matter, it is likely that he will be given a mere slap on the wrist. I am not suggesting that he should be imprisoned indefinitely, but if he faces no real consequence, he will believe he can get away with abusing her, and continue to do so. If Marsy's law were in effect, then the victim would have a voice in the matter, and would be able to inform decision makers of the severity of the situation. I will say again that this is but one example of situations that occur every day. If victims had a voice, then prosecutors, and thus judges, could make decisions with a full scope of information, rather than a limited scope provided only by a single initial statement by the victim with unlimited rebuttals by the suspect.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 12:53 PM
To: JUDtestimony
Cc: valeriecovert971@hotmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Valerie Covert | Individual | Support | No |

Comments: Thank you for accepting my testimony in STRONG SUPPORT of SB3034 regarding a constitutional amendment for victim's rights. This law is important because victims of crime deserve to be treated with fairness and respect by the Judicial System. Hawaii should become one of the many states that elevate victim's rights to the same level of importance as those belonging to the offenders that harmed them.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 1:36 PM
To: JUDtestimony
Cc: karibenes@gmail.com
Subject: *Submitted testimony for SB3034 on Mar 15, 2016 14:00PM*

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kari Benes | Individual | Support | No |

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 1:20 PM
To: JUDtestimony
Cc: dmtaylor43@aol.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| david taylor | Individual | Support | No |

Comments: I was surprised to learn Victims rights are not equal to Defendents rights; and believe this amendment will correct that inequality.,

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

FROM: Elke Gillooly

SUBJECT: SB 3034, SD1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

My name is Elke Gillooly and I am a social work student currently enrolled at the Myron B. Thompson School of Social Work. I am here to have my voice heard on Senate Bill 3034 SD1, also known as Marsy's Law.

In this country, when a person commits a crime against another, they are afforded many rights. They have the right to remain silent, they have the right to an attorney, they have the right to due process, they have the right to a fair and speedy trial, they have the right to be judged by a jury of their peers, and they have the right to face their accuser.

When a person is victimized by another, that person often loses some of their basic human rights, and in that moment, some of those rights are the ones granted to us by our founding fathers.

At the age of 5, I was a victim of a heinous crime. My attacker assaulted me multiple times over the course of 5 years. My attacker, a homicide detective, robbed me of my right to life because he basically murdered the 5-year-old girl I once was, as well as the woman that I was suppose to become. My attacker robbed me of my right to liberty because I lived in fear, trapped in my own prison. My attacker also robbed me of MY right to pursue happiness. In addition to the rights granted to a criminal, my attacker also received the right to a quiet and early retirement from the Snohomish County Police Department. Along with that, he received the right to keep his pension a well. I on the other hand, was awarded an order of protection, which he never followed nor was it even enforced. In the end, with the help of my incredibly strong and brave mother, I was able to exercise one right, the only one I really had left. We packed up and moved from Washington State to North Carolina, literally cross the country. It was the only way that my mother could try and salvage what was left of my childhood, and the only way that I could feel safe. While the crime did not take place in the state of Hawaii, it very well could have. No state is immune, and victims should take priority and be protected.

As a victim, and now a survivor, of a violent and horrendous act, I encourage and hope that each of you would support and vote in favor of SB3034

Thank you for your attention, and thank you for your consideration of this survivor's opinion.

Sincerely,
Elke Moon Gillooly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 1:07 PM
To: JUDtestimony
Cc: ryanvonbrandt@gmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ryan von Brandt | Individual | Support | No |

Comments: Please support SB 3034 for the peace of mind for my family there, other residents of Hawaii, and for all the tourists!

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

FROM: Mai Hall

SUBJECT: SB 3034, SD1 Proposing an Amendment to Article I of the Constitution of the State
of Hawaii to Establish Rights for Victims of Crime

HEARING DATE: March 15, 2016, 2:00 p.m.

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

March 15, 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 S.B. 3034 SD1
Proposing an Amendment to Article I of the Constitution of the State of Hawaii to
Establish Rights for 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

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

From: Christina Simmons

Subject: **SB 3034 SD1** Proposing an Amendment to Article 1 of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Hearing Date: March 15, 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

March 15, 2016

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

FROM: Lorna Kanehira

SUBJECT: Testimony in Strong Support of S.B. 3034 SD1
Proposing an Amendment to Article I of the Constitution of the State of
Hawai'i to Establish Rights for Victims of Crime

HEARING DATE: March 15, 2016, 2:00 p.m.

Thank you for the opportunity to testify in support of S.B. 3034 SD1 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 S.B. 3034 SD1.

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

From: Jill Eitel

Subject: SB 3034, SD 1 Proposing an Amendment to Article I of the
Constitutional of the State of Hawaii to establish Rights for
Victims of Crime

Hearing Date: March 15, 2016, 2:00 p.m.

Thank you for the opportunity to provide testimony in support of SB 3034, SD 1.

Miriam Webster defines "victim" as the following:

- A person who has been attacked, **injured**, **robbed**, or killed by someone else;
- A person who is **cheated** or fooled by someone else;
- Someone or something that is **harmed** by an unpleasant event (such as illness or accident).

On February 18, 2005, a Big Island drunk driver created many victims when he drove head-on into our car, gravely **injuring** my husband, Wade Justice, M.D. Wade sustained a life-threatening traumatic brain injury that he miraculously survived, but not without dramatic and lifelong consequences. Wade was a young radiologist (visiting the Big Island for a medical conference) who spent 13 years in school and training. Due to the negligence of the drunk driver, his career as a doctor ended after only 8 years serving his community.

In the blink of an eye, this drunk driver created many victims in addition to Wade. Our children were **robbed** of the father they once knew. When they found their father the next day in the Queen's Neurointensive Care Unit, they could not recognize the comatose, critically injured man clinging to life as the strong, brilliant hero who was once their father. Although Wade survived, our children still struggle to know and understand a completely different man...a brain injury survivor who no longer can practice as a doctor.

The drunk driver **robbed** me of the brilliant, motivated and vibrant man I had known since our teens, and left me with disabled, dependent, frightened man who didn't recognize his family and couldn't speak.

Since Wade can no longer practice medicine, his community was **cheated** out of a valuable and trusted health care provider. Additionally, 250 doctors lost their Chief of Staff that day.

Needless to say, this life-altering event, initiated by ONE perpetrator, created many victims, ALL of whom are still waiting to hear if that criminal every paid any penalty for the **harm** he inflicted.

We have heard various accounts of possible punishment this drunk driver (with a very long history of criminal offenses) may have received. However, no one in our family has ever been contacted by the courts or prosecutors seeking input or giving information regarding the disposition of this case.

Interestingly, one of the accounts regarding punishment for the drunk driver was that he may have had to spend some weekends in jail, allowing him to work during the week. How nice for him. My husband lost his career and everything he worked for, and was never allowed the same consideration as the criminal. Calling that inequality is an understatement.

Meanwhile, life goes on...very differently for this driver's victims...and for all we know, NO differently for him.

It is long past time to change this type of outcome. Victims and their families should be provided a place in the justice system; a place that allows for equal rights for the accused and the rights of the victim.

Marsy's Law is an important step in changing the current system of inequities. The Legislature should pass this amendment to insure that victims of all crimes are provided the protections and comforts necessary in the pursuit of justice for all.

Thank you for your consideration of my testimony in support of SB 3034, SD 1.

March 15, 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 S.B. 3034 SD1
Proposing an Amendment to Article I of the Constitution of the State of
Hawaii to Establish Rights for 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 S.B. 3034 SD1.

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 S.B. 3034 SD1. 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 S.B. 3034 SD1 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 S.B. 3034 SD1.

It's simply the right thing to do.



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

Date: 3-15-2016, 2:00 p.m.

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

From: Sandra Pohl, Louis Pohl Gallery

RE: Support SB 3034 SD1 State Constitutional Amendment for Victim Rights

Thank you for the opportunity to provide testimony in support of SB 3034 SD1 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 SB 3034 SD1.

Sincerely

SANDRA POHL

March 15, 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 SB 3034 SD1
Proposing an Amendment to Article I of the Constitution of the
State of Hawaii to Establish Rights for Victims of Crime

My name is Theresa Paulette, a MADD Board member and a victim, and I am writing in strong support of SB 3034 SD1. 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 SB 3034 SD1.

Thank you for the opportunity to submit testimony.

March 15, 2016, 2:00 p.m.

TESTIMONY ON SB 3034 SD1 PROPOSING AN AMENDMENT TO ARTICLE I OF THE
CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS
OF CRIME

To: Representative Karl Rhoads, Chair Committee on Judiciary
From: Marilyn B. Lee
Re: SB 3034 SD1

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 the constitutional amendment for victims of crime. I support SB 3034 SD1 with an amendment to substitute the provisions of HB 1144 HD1.

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 SB 3034 SD1 with an amendment to substitute the provisions of HB1144 HD1 and bring about equal treatment for crime victims in Hawaii.

Thank you for the opportunity to testify.

Aloha,
Marilyn B. Lee

Hearing Date: Tuesday, March 15, 2016 at 2:00 p.m.

House Committee on Judiciary, **SB 3034 SD1** Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for 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 1 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 Ilimelakuuleimomilani 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

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: SB 3034 SD1 Proposing an Amendment to Article I of the Constitution of
the State of Hawaii to Establish Rights for Victims of Crime

DATE: Tuesday, March 15, 2016 @ 2:00 pm, Conference Room 325

POSITION: Support; Individual Testimony; Not testifying in person

Please count me as an overwhelming supporter of SB 3034 SD1, 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.

Testimony in Favor Senate Bill 3034 SD1

Proposing an Amendment to Article I of the Constitution of the State of Hawai'i to
Establish Rights for 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 Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair
And Members of the House Committee on Judiciary

FROM: Anonymous sexual abuse survivor

HEARING: March 16, 2016, 2:00 p.m.

Testimony in support of SB 3034, SD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for 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 SB 3034, SD1.

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

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

Re: S.B. 3034 SD1 Proposing an Amendment to Article I of the
Constitution of the State of Hawaii to Establish Rights for Victims of
Crime

Date: March 15, 2016, 2:00 p.m.

I support S.B. 3034 SD1, 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 S.B. 3034 SD1 would ensure victims of constitutional rights.

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

Hearing Date/ Time: Tuesday March 15, 2016 / 2:00pm

Place: Hawaii State Capitol , Conference Room 325

Re: **SB3034 SD1: PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS OF CRIME**

Position: Support

Dear Senators Tokuda, Dela Cruz, and Committee Members,

I sustained a life changing assault by my husband three years ago which put me into the shameful category of a "victim of domestic violence." After years of putting up with verbal, emotional, and ultimately physical abuse that put me in a hospital, I finally filed a police report.

The report had momentum due to the severity of my complaints and injuries. Unfortunately, the prosecutor's office did not have the same sentiment. I called multiple times over the course of a year and a half to find out the status of my case. The last time I called, the person on the other end threatened me saying "if you call here one more time I'll just hang up on you and I'll tell the others to do the same." I decided to go to the top, (it was at that time when Keith Kaneshiro was getting a lot of bad press about the rape victims so I figured, was his chance to do something right). It took two letters to Mr. Kaneshiro, but I finally got a prosecutor assigned to my case.

Things moved along quickly for which I was very thankful, he was indicted, but on a much lesser charge than I expected. What kind of bargaining occurred that I was not aware of? How is this possible? Why is the victim NOT ALLOWED to be part of the preliminary hearings? Why were my medical records or doctors not questioned before a lesser charge was given? It is now my understanding that it is HIGHLY UNLIKELY that the charge will INCREASE despite evidence to prove otherwise.

He was allowed to post bail for a ridiculously low amount.

In the interim, while awaiting trial, he has threatened to kill me. I filed a Terroristic Threat suit. I also filed another TRO which has been granted, I am uncertain how truly worthwhile these are when the perpetrator is a sociopath. His attorney has waived my husband's rights to speedy trials for both cases. Both have been continued three times. I am not allowed to be present at court hearings to defend myself against his perjures statements because my presence "may upset the

defendant." Nor will I be allowed to be present during his part of the trial when we finally get there. Remember this is the man who put me in the hospital for several days and then threatened to kill me. Where is the justice here?

This brings me to what the Attorney General 's office has to say in DEFENSE OF THE DEFENDANT

{The court may need to make accommodations for the victim. If could affect the scheduling of court proceedings. If a victim cannot be present at a court hearing, but wants to be present, the court may have to reschedule the hearing. If a victim does not appear for a court proceeding, the court may have to determine if the victim received timely notification of the proceeding, and if so, whether or not the victim waived the victim's constitutional right to be present. If it cannot be established that the victim received timely notification of the proceeding, then the proceeding may have to be rescheduled. Right (8), starting on page 3, line 19, confers on victims the right "to be given reasonable notice of and be offered the opportunity to participate and be heard in . . . any court proceeding in which a right of the victim is at issue" This right could also adversely impact the criminal justice process. Due to the great breadth of the proposed rights of victims, it would appear that their rights would be at issue in all court proceedings. Therefore, in accordance with this right, victims must be offered an opportunity to participate and be heard in all court proceedings. But in many court proceedings, victim participation is not necessary or appropriate. Court proceedings will likely be delayed or adversely impacted to address this right. }

I'm Sorry but it is the DEFENDANT who is on trial, not the victim.

I have lost my job due to the severity of injuries sustained by the assault from my husband. I was found to be ineligible for compensation through the Victims Compensation Program due to "late filing" despite the fact I explained to the very sympathetic yet powerless clerk that I was never given these papers until two years after the assault because the initial paperwork sat on someone's desk for eighteen months.

I am certain there are hundreds, possibly thousands of victims who have also been discouraged by or felt "victimized" by the bureaucratic legal system in Hawaii. There is NO SOUND REASON why we should not join the other 32 states in the nation that have adopted an Amendment to the Constitution to provide rights to victims of crime that is more balanced to the rights of offenders.

I appreciate the opportunity to express my thoughts, although anonymous because I continue to live in fear. Until justice is served and he is behind bars, I will never feel safe.

I am I STRONG SUPPORT of SB3034 SD1

Sincerely,

Anonymous

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

FROM: Anonymous

HEARING: March 15, 2016, 2:00 p.m.

Testimony in support of SB 3034 SD 1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for 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: Andrea Maniago

Subject: SB 3034 SD1 Proposing an Amendment to Article I of the
Constitution of the State of Hawaii to Establish Rights for
Victims of Crime

Hearing Date: March 15, 2016, 2:00 p.m.

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

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 contingence, 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: Lynn Karinen

Subject: SB 3034 SD1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Hearing Date: March 15, 2016, 2:00 p.m.

Thank you for the opportunity to provide testimony in support of SB 3034 SD1.

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 SB 3034 SD1.

E: March 15, 2016, 2:00 p.m.

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

COM: Abelina Shaw

E: **SB 3034 SD 1** Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

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 SB 3034, SD 1. 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 SB 3034, SD 1.

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

FROM: Mary Spears & Phil Slott

SUBJECT: SB 3034, SD1 Proposing an Amendment to Article I of the
Constitution of the State of Hawaii to Establish Rights for Victims of Crime

HEARING DATE: March 15, 2016, 2:00 p.m.

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

My name is Mary Spears and I am writing in strong support of SB 3034, SD 1 advocating for equal rights under the law for victims as well as criminals.

Victim is an ugly word.

Twenty-two years ago on October 1, 1993 at 8:30 am, my husband became the victim of a drunk driver. That moment on Highway 250 on the island of Hawaii forever changed our lives.

As Phil says the new me stinks. I said goodbye to the guy who wrote Never let 'em see you sweat for Gillette and hello to the guy who had to sweat everything. I said goodbye to the guy who was chairman of BBDO/London and hello to the guy who got lost in airports. I said goodbye to the guy who competed in triathlons and hello to the guy who could barely walk."

Our experience in Hawaii's criminal justice system, illustrates how the rights of victims and families are denied.

While we were never treated with contempt, we were treated as an afterthought.

We weren't provided with timely information to attend hearings. Due to his extensive physical injuries and traumatic brain injury, Phil needed several days to recover from a trip across the island. When proceedings were announced at the last minute, he was incapable of handling the trip and, at that time, I was unable to leave him alone. When we were notified early enough, we would spend two days at a hotel to prepare Phil for the court appearance only to have the proceeding cancelled at the last minute.

The inefficiencies of the system were evident.

In a case where none of the facts were disputed, the process took almost two years from the day of the crash to sentencing.

Immediately after the crash, the drunk driver who ran Phil over was profoundly disturbed by what he had done. As almost two years passed before he was prosecuted, he returned to drinking and, in his mind, became the victim of the system. By the time he was sentenced to four (4) weekends in the

county jail, he opted to leave the country and return to Germany, the country of his birth. Despite requests to the prosecuting attorneys office to have his passports confiscated, he left to avoid both criminal and civil penalties. The process lasted so long that the driver forgot the horrible act he perpetrated.

We were disappointed by the sentence.

It was impossible to understand the minimization of the drunk driver's crime. If he had stolen the million dollars Phil's accident cost, he would have spent many years in jail. If he had used a baseball bat instead of a Ford F-250 truck to beat Phil's body within an inch of life, he would have spent many years in jail. If he had crushed Phil's skull with a rock instead of the front end of his vehicle, he would have spent many years in jail.

Instead we were told that the driver was not a high risk to society.

I beg to differ.

Victims and their families need to know that they are accorded a place in the justice system; a place that provides equally for the rights of the accused and the rights of the victim.

We are grateful that the Legislature is considering passage of Marsy's Law. This amendment would be a great step in ensuring that victims of all crimes are provided the protections and comforts necessary to endure court already exhausting and emotional court proceedings to find justice.

Sharing our story with you is one way to personalize the victims' experience. As we've learned, there is no end, there is just learning to live and cope with grace and humor. Thank you for your consideration.

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: SB 3034 SD1 Proposing an Amendment to Article I of the Constitution of
the State of Hawaii to Establish Rights for Victims of Crime
Hearing March 15, 2016 at 2:00 p.m. Conference Room 325

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 SB 3034 SD1 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 SB 3034 SD1.

Lalena D. Thompson
Maui, Hawaii

Hearing Date: March 15, 2016 at 2:00 p.m.

I am writing in strong support of Senate Bill 3034 SD1.

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 19th) 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 11th. 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 SB 3034 SD1.

Thank you for the opportunity to submit testimony.

Rep. Joy A. San Buenaventura , Vice Chair

And Members of the House Committee on Judiciary

FROM: Iris Kauhane

**SUBJECT: SB 3034, SD 1 Proposing an Amendment
To Article I of the Constitution of the State of Hawaii to
Establish Rights fir Victims of Crime**

HEARING DATE: March 15, 2016 2:00 p.m.

A measure pushing for equal rights for victims will bone of the bills heard this legislative session. This is something our lawmakers need to pass without further delay.

I was thrown into the complexity of the criminal justice system when I was a victim of domestic abuse. After 27 years of an abusive marriage, he beat me. This time I had bruises and marks, prior it was verbal and psychological and no one could see. He was arrested (53 years old and a Field Grade Officer in the Hawaii army National Guard-Retired) and made bail. The Kaneohe Police Officers were very ha a ha a (empathetic) to my situation and this made the incident unshameful and not unpleasant. It was navigating through the Court system and the treatment from the Judge towards me as the victim that was very upsetting. The Judge felt that as a first time offender, it was okay. The Courts priority is not to see every crime on the court calendar pertaining to domestic violence unless the defendant is incarcerated or killed the victim. I my case, he made bai. I was made to wait and wait until Rule 48 was in effect and then the case was dismissed due to an overcrowded court calendar. The Judge comes in at 9:30 and goes to lunch at 11:30, how can any case be heard? During the grief, I was left to navigate this unfamiliar system/on my own to attempt to secure justice for myself.

Hawaii is one of the 18 states without a constitutional amendment to provide enforceable rights for the victims of crimes. It's a shame that the Aloha State is not showing more aloha for victims, forcing ordinary citizens to be revictimized when they are thrown into the criminal justice system without any equal or enforceable rights.

Iris Kauhane

46-116 Heeia Street, Kaneohe, HI. 96744;

(808)341-6506

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

From: Nicholas Iwamoto

Subject: SB 3034 SD1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Hearing Date: March 15, 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

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: SB 3034, SD1 Proposing an Amendment to Article I of the Constitution of
the State of Hawaii to Establish Rights for Victims of Crime

HEARING DATE: March 15, 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 SB 3034, SD1, 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 SB 3034, SD1.

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

From: Wayne Braden

Subject: SB 3034, SD1 Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish Rights for Victims of Crime

Hearing Date: March 15, 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 SB 3034, SD1.

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

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

Re: S.B. 3034, SD1

Date : March 15, 2016, 2 p.m.

I support S.B. 3034, SD1, 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 S.B. 3034, SD1, would ensure victims of constitutional rights.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 3:07 PM
To: JUDtestimony
Cc: anonymousinhawaii5@gmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Anonymous | Individual | Support | No |

Comments: I'm in strong support of 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: Monday, March 14, 2016 3:57 PM
To: JUDtestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ann S Freed | Individual | Support | No |

Comments: Rep. Karl Rhoads, Chair Rep. Joy A. San Buenaventura, Vice Chair Members Aloha. I am in strong support of this "Victims Bill of Rights" and have testified previously on this bill. Marsy's Law has a strong track record in other states and has helped victims to have a voice within a judicial system that so often makes them invisible. Mahalo, Ann S. Freed, Lifelong Advocate on behalf of women's rights.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 4:12 PM
To: JUDtestimony
Cc: WCHUNGSTER@hotmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| wini chung | Individual | Oppose | No |

Comments: STRONGLY OPPOSE SB3034. Overriding judicial process. Please do not pass. Thank you for your consideration.

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 4:07 PM
To: JUDtestimony
Cc: maukalani78@hotmail.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016
Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| E. Ileana Funakoshi | Individual | Oppose | No |

Comments: STRONGLY OPPOSE THIS BILL. PASSING THIS MEASURE WILL CREATE MORE PROBLEMS THAN SOLVE THEM. PLEASE CONSIDER THE IMPLICATIONS. MAHALO.

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LATE

DATE: March 15, 2016

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

FROM: Jennifer Snowden, Victim and Survivor

RE: Testimony in support of S.B. 3034 S.D. 1
Proposing an Amendment to Article I of the Constitution of the State of Hawaii to Establish
Rights for Victims of Crimes

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.

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 14, 2016 11:14 PM
To: JUDtestimony
Cc: admhawaii@yahoo.com
Subject: Submitted testimony for SB3034 on Mar 15, 2016 14:00PM

SB3034

Submitted on: 3/14/2016

Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| anita di mauro | Individual | Support | No |

Comments: This amendment to our State Constitution will insure that victims in Hawaii have the same rights as defendents have in our federal constitution. If you became a victim wouldn't you want these protected rights?

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LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2016 9:26 AM
To: JUDtestimony
Cc: slwsurfing@yahoo.com
Subject: *Submitted testimony for SB3034 on Mar 15, 2016 14:00PM*

SB3034

Submitted on: 3/15/2016
Testimony for JUD on Mar 15, 2016 14:00PM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| sharon Willeford | Individual | Support | No |

Comments:

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March 15, 2016, 2:00 p.m.

LATE TESTIMONY

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

FROM: Diane Krieger

RE: Testimony in Strong Support of S.B. 3034 SD1
Proposing an Amendment to Article I of the Constitution of the State of Hawaii to
Establish Rights for Victims of Crime

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

Thank you for the opportunity to submit testimony in strong support of S.B. 3034 SD1. 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 S.B. 3034 SD1 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
2/23/16

