



**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:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 24, 2016 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN TESTIMONY ONLY.

(For more information, contact Lance Goto, Deputy Attorney General, at 586-1160)

Chair Tokuda 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
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Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 3034, SENATE DRAFT 1 (SSCR 2448)
PROPOSING AN AMENDMENT TO ARTICLE I OF THE
CONSTITUTION OF THE STATE OF HAWAII TO ESTABLISH
RIGHTS FOR VICTIMS OF CRIME

By

Nolan P. Espinda, Director

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan Dela Cruz, Vice Chair

Wednesday, February 24, 2016; 1:00 p.m.
State Capitol, Conference Room 211

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill (SB) 3034, Senate Draft (SD) 1 (SSCR2448), which proposes an amendment to the Constitution of the State of Hawaii to provide recognized and protected constitutional rights for crime victims or a deceased crime victim's surviving immediate family members.

Thank you for the opportunity to provide this testimony.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA
CYD HOFFELD
JUDY KERN
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AMY MONK
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February 23, 2016

To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Members of the Senate Committee on Ways and Means

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

Re: Testimony in Support, SB 3034, 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, 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.

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 case.

The Commission defers to the many stakeholders and this Committee to craft language that will truly best serve victims' needs. Thank you for this opportunity.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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MARI MCCAIG
Chair

ABELINA SHAW
Commissioner

MARTHA ROSS
Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY IN SUPPORT OF
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

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Wednesday, February 24, 2016; 1:00 PM
State Capitol, Conference Room 211

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Senate Committee on Ways and Means,

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify in strong support of the intent of Senate Bill 3034 SD 1, referred to as Marsy's Law, proposing an amendment to Article I of the Constitution of the State of Hawai'i to Establish Rights for Victims of Crimes. The Commission is committed to continuing to work with the victim service organizations, the prosecutors, the attorney general and other stakeholders to create a constitutional amendment that gives crime victims meaningful 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.

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.

Thank you for allowing the Commission the opportunity to testify in strong support of the intent of Senate Bill 3034 SD 1. The Commission is committed to continuing to work with the victim service organizations, the prosecutors, the attorney general and other stakeholders to create a constitutional amendment that gives crime victims meaningful and enforceable rights.



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

SENATE COMMITTEE ON WAYS AND MEANS
The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice Chair

S.B. No. 3024, S.D. 1 Relating to the State Ethics Commission

Decision Making: Wednesday, February 24, 2016, 1:00 p.m.

The Hawaii State Ethics Commission **supports** S.B. No. 3024, S.D. 1, which “re-directs” funds appropriated to the Commission for the current fiscal year.

Last year, the legislature appropriated \$130,000 to the Commission for the design and development of an electronic filing system.¹ The Commission had received a rough estimate of \$100,000 from Hawaii Information Consortium, the state’s portal manager, to design and develop a system that will allow financial disclosure statements, gifts disclosure statements, candidate disclosure statements, travel authorization forms, lobbyist registration forms, and lobbyist expenditure reports to be filed through the Commission’s website. The additional \$30,000 was appropriated to fund system hardware requirement, software licensing fees, and annual hosting costs.

The Commission, however, was unable to contract with Hawaii Information Consortium. The Office of Enterprise Technology Services (“ETS”) currently is assisting the Commission in designing and developing the system.

With ETS’s involvement, the Commission anticipates the costs to develop the system to be significantly less than \$130,000. Specifically, the Commission anticipates costs relating to the design and development of the electronic filing system not to exceed \$50,000, which includes costs relating to: (1) purchasing software to assist ETS in customizing the system, including integrating the information into the Commission’s current Sharepoint document management system; (2) required hardware and software upgrades; and (3) maintenance/support costs. Accordingly, the Commission supports the “re-direction” of \$80,000 appropriated in Act 151, Session Laws of Hawaii 2015, for other purposes as detailed below.

Lobbyist Law Task Force

The Commission **strongly supports** Part II of the bill, which will “re-direct” some of the appropriation to fund a task force to provide assistance and advice to the

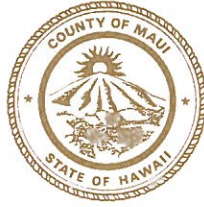
¹ Act 151, Session Laws of Hawaii 2015.

Commission. More specifically, in the Commission's view, the State Lobbyists Law, chapter 97, is outdated and the legislature should consider a comprehensive overhaul of the statute. The Commission agrees that, to develop and implement a clearer, more robust law, the legislature should direct the Commission to convene a task force, comprised of: (i) registered lobbyists; (ii) representatives of organizations involved in lobbying; (iii) community "watchdog" groups; and (iv) other members of the community, to examine the statute and to recommend amendments to the law, including a complete overhaul of the current law, if deemed appropriate.

The funds will allow the Commission to hire an organization to facilitate the task force, to pay experts to educate the task force on, for example, other jurisdiction's lobbying laws, and for other necessary expenses.

The Commission respectfully suggests that at least \$80,000 be "re-directed" for purposes of supporting the task force.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. No. 3024, S.D. 1.



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 SENATE COMMITTEE ON WAYS AND MEANS

Wednesday, February 24, 2016
1:00 p.m.
Conference Room 211

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 Jill N. Tokuda, Chair
Honorable Donovan M. Dela Cruz, Vice Chair
Honorable Members of the Senate Committee on Ways and Means

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

As I mentioned in my presentation to the Joint Committee of the Senate Committee on Ways & Means and the House Committee on Finance on January 25th, I am in strong support of "Marsy's Law".

I support this bill 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.

For these reasons I **support SB 3034, SD1.**

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE JILL N. TOKUDA, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai`i**

February 24, 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 Tokuda, Vice-Chair Dela Cruz and members of the Senate Committee on Ways and Means, 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.

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

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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

Senate Committee on Ways and Means
February 24, 2016, 1:00 p.m., Conference Room 211

Chair Tokuda, Vice Chair Dela Cruz, 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

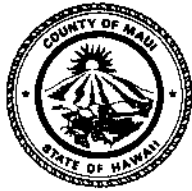
accused, and they should not curtail the power of the prosecution to seek justice free from extrinsic concerns, but they should be, indeed must be, more than an afterthought.

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.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney

ROBERT D. RIVERA
Acting First Deputy Prosecuting Attorney

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

TESTIMONY
ON

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

February 24, 2016

The Honorable Jill N. Tokuda
Chair
The Honorable Donovan M. Dela Cruz
Vice Chair
and Members
Senate Committee on Ways and Means

Chair Tokuda, Vice Chair Dela Cruz and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES SB 3034 - 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 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.

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 SUPPORT OF
SENATE BILL NO. 3034 SD1
PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION OF THE
STATE OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS OF CRIME**

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

**Senate Committee on Ways and Means
February 24, 2016, 1:00 p.m., Conference Room 211**

Honorable Chair Tokuda, Vice Chair Dela Cruz, and Members of the
Committee:

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

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

I respectfully ask that you support SB 3034 SD1.



February 23, 2016

To: Hawaii State Senate Committee on Ways and Means
Hearing Date/Time: Wednesday, February 24, 2016 (1:00 p.m.)
Place: Hawaii State Capitol, Rm. 211
Re: Testimony of American Association of University Women –
Hawaii in **support of S.B. 3034**, relating to a constitutional
amendment to establish rights for victims of crimes

Dear Senator Jill N. Tokuda (Chair), and Senator Donovan M. Dela Cruz (Vice Chair),
and Members of the Committee,

I am grateful for this opportunity to testify in **strong support of S.B. 3034**,
relating to a constitutional amendment to establish rights for victims of crimes.

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

Based on these experiences, I argue that passage of S.B. 3034 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. Constitutional amendment would ensure rights
provision.

In conclusion, passage of S.B. 3034 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

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 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.



Mothers Against Drunk Driving
National Office
madd.org

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

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

February 24, 2016

Dear Hawaii Lawmakers:

As the National President of Mothers Against Drunk Driving, I write to you today on behalf of thousands of drunk driving crime victims in support of a proposal to guarantee rights for all crime victims. Specifically, I urge you to support SB 3034,SD1 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, SD1 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



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

February 24, 2016

To: Senator Jill N. Tokuda, Chair –Senate Committee on Ways and Means; Senator Donovan M. Dela Cruz, 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. A MADD memorial in Kaka’ako Waterfront Park stands as testimony to the indescribable emotional pain resulting from the losses that hundreds and hundreds of victims of violent crime in our state have experienced after the tragedies which either killed or injured their loved one – or loved ones.

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

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

Usually, people who have been in crashes caused by a drunk or drugged driver became victims in a split second with no previous idea that life would be ended or tremendously changed because of serious injury. I realize that this could happen to any of us. 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.

The National MADD President, who lost her 14 year old son in an impaired driving crash, has also sent her remarks in support.

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

hscadv



HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE

February 23, 2016

To: Committee on Ways and Means
Senator Jill Tokuda, Chair
Senator Donovan Dela Cruz, Vice-Chair

Hearing Date/ Time: Wednesday February 24, 2016/ 1:00pm

Place: Hawaii State Capitol, Conference Room 211

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 Senator Tokuda, San Buenaventura, Donovan Dela Cruz 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 Committees members feel strongly 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.

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 right 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.

Please also accept the attached testimony from a Survivor Action Committee member who is unable to share her name out of fear.

Respectfully,
Marci Lopes, Executive Director

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

Date: February 24, 2016

Time: 1:00 p.m.

To: Chair Tokuda and Members of the Senate Committee on Ways & Means

My name is Stacy Evensen and I am the State Director of Marsy's Law Hawaii. **We strongly 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 SB 3034 SD1 takes the issue of equal rights for crime victims far down the road, there are a few issues that we believe are important to raise now as we continue to fine tune this measure. We recognize that this bill is still a work in progress and are committed to working with all interested parties to address these issues:

Page 3, line 12: It is unclear what is specifically intended by the words "fair opportunity" in this sentence. We recommend deleting the phrase "fair opportunity" so the sentence reads, "To be afforded the right to be heard..."

Page 5, lines 17-19: The phrase "conviction or sentence" creates an issue because it could also mean to include "pleas and sentencing". If a victim is not notified that there is to be a discussion on a plea agreement and has the right to participate, the court should have the right to allow for the victim's participation and possibly have a new plea agreement determined. The same reasoning applies to sentencing. However, if a defendant is "convicted" by a jury, this provision should prevent the possibility of a new trial if the victim was not notified. Therefore, it may be more accurate if the provision provided that "...this section shall not be grounds for dismissing a criminal proceeding or case or to order a new trial but that a plea agreement or sentence may be set aside or redone."

Page 6, lines 4-8: We believe this section is too open-ended and recommend that consideration be given to deleting this provision.

Page 6, line 10: We recommend inserting the word "federal" before "constitutional" to make it clearer that the rights of a defendant (accused person) are not superseded.

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 these proposed changes.

To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
And members of the Senate Committee on Ways and Means

From: Karen Rose

Date: February 24, 2016, 1:00 p.m.

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 Crime

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

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

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

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

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

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

Karen Rose
Executive Director
Visitor Aloha Society of Hawaii Island

Date: February 24, 2016, 1:00 p.m.

To: The Hon. Jill N. Tokuda, Chair, and the Hon. Donovan M. dela Cruz, Vice Chair – Senate Ways and Means

Re: SB 3034 SD1 on 2/24/16 at 1:00 p.m., Conference Room 211, Amendment to Art. 1 of Constitution

From: Sharon L. Young (formerly Sharon Y. Martinez), Co-Founder of the Missing Child Center Hawaii

I support SB 3034 SD1 which will help to ensure the rights of victims by giving them a constitutional right to be informed of notifications about proceedings and major developments in their criminal cases.

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

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

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

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

In the 1990's John Walsh of America's Most Wanted told me that criminals had more rights than victims and I didn't want to believe him. His observation was right then and is still correct. When will Hawaii do something to change this? If someone in your family was victimized wouldn't you want them to have

the same rights as the criminals perpetrating the crime? I believe passing SB 3034 SD1 will ensure a victim's right to be kept informed and may help to save lives.

DATE: February 24, 2016, 1:00 p.m.

TO: The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice-Chair
And Members of the Senate Committee on Ways and Means

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 Tokuda, Vice-Chair Dela Cruz, and Members of the Committee on Ways and Means:

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.



TO: Chair Tokuda, Vice Chair Dela Cruz, and Members of the Senate Committee on Ways and Means
FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)
DATE/LOCATION: February 24, 2016; 1:00 p.m., Conference Room 211

RE: TESTIMONY IN SUPPORT OF SB 3034 – 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. 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**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: malielegaoi@gmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 8:05:22 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Lulu Taufetee	HSCADV	Support	No

Comments: I support this bill because victims should have the same constitutional rights that will help them through their personal transitional out of domestic violence. Not only will it build their confidence and self esteem during a time they may be at their lowest point in life, but passing this constitutional amendment will help a victim including those affected by Domestic Violence process back into their life in a positive light after trauma. As a Survivor myself, i know how the Criminal Justice System can be unfair especially when our Constitutional Rights cant be accessed during an emergency state of a our life. I know cause i was there. I have been denied in the court of law when i should have been protected in a "system" made to bring Justice to all. This would of helped me so much along with my seven beautiful children who had to endure hard times at such a young age. Now i am standing with many others for a million more others that need our voice and our strength to overcome Domestic Violence including countless of numbers of suport from Fathers, Mothers, Brothers, Sisters, Granparents, nieces, nephews, loved ones, friends, coworkers, colleagues, teachers, doctors, and more. Thank you.

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

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

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on
Ways and Means:

FROM: Adam B Gaines President 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

HEARING DATE: February 24, 2016, 1:00 p.m.

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

Thank you,

Adam Gaines

President Maui Search and Rescue



O'ahu

YWCA Fernhurst
1566 Wilder Avenue
Honolulu, Hawai'i 96822
(808) 941-2231

YWCA Kokokahi
45-035 Kāne'ohe Bay Drive
Kāne'ohe, Hawai'i 96744
(808) 247-2124

YWCA Laniākea
1040 Richards Street
Honolulu, Hawai'i 96813
(808) 538-7061

www.ywcaoahu.org

To: Honorable Senator Jill N. Tokuda, Chair
Honorable Senator Donovan M. Dela Cruz, Vice Chair
Senate Committee on Ways and Means

From: Noriko Namiki, Executive Director
YWCA O'ahu

Re: *Testimony Supporting the Intent 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 Crimes*
Wednesday, February 24, 2016, 1:00 p.m. - Hawaii State Capitol, Rm. 211

Good afternoon Chair Tokuda, Vice Chair Dela Cruz and members of the committee:

On behalf of YWCA O'ahu we thank you for the opportunity to share our testimony **supporting the intent of SB 3034, SD1**, also known as Marsy's Law and the Victims Bill of Rights.

While we strongly believe that victims of crime deserve rights enforced by law, we have concerns that a constitutional amendment may not be the right course of action. We support recommendations for statutory legislation and ask the committee to consider this alternative to protect the rights of victims.

Thank you for your consideration and for the opportunity to provide testimony on this matter.



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

Date: 2-24-2016, 1:00 p.m.

To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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

DATE: February 24, 2016, 1:00 p.m.

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice-Chair
And Members of the Senate Committee on Ways and Means

FROM: Abelina Shaw

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

Chair Tokuda, Vice-Chair Dela Cruz, and Members of the Senate Committee on Ways and Means:

Thank you for providing this opportunity to testify in strong support of SB 3034 SD1. 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 SD1.

TESTIMONY IN SUPPORT: SB 679/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 24, 2016

From: Alexis Felicilda

Aloha, and thank you for the opportunity to provide testimony in support of SB 679/ SB 3034. At some point in our lives we or someone we know will be a victim to crime. It can be something as simple as a hit and run car accident or something as horrendous as murder. Both making you a victim but both being dramatic ends of emotional impact. If that day has come for you already then you know the hardships and battles you have to endure but if that day hasn't come, wouldn't you want those basic human rights?

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

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

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

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

For the past 2 years since she went missing, I have been fighting for answers and for justice. If these victims right laws had been in place when she went missing I feel we would have had a better chance at finding her and bringing the person who did this to her to justice. We would have received information about our rights and our mother's in the beginning instead of us wasting valuable time

researching the information ourselves. We'd have been treated with respect, dignity and fairness instead of the detective leaving on vacation the first week of her disappearance and none of case information being handled or taken care of. I could make a list of a million ways all of things could be different.

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

These rights seem to reflect common sense and common decency as humans. It is what separates us from animals we know what is right and what is wrong. The women and men of Hawaii deserve these rights. Please don't let the past repeat itself. Give victims the chance to be protected just as much as offenders and the media. **I urge you to pass SB 679/SB 3034 also known as Marsy's Law.**

Mahalo! For giving me the opportunity to testify

Alexis Felicilda

Legislators,

My name is Amy Peets, and I am currently stationed here in Hawaii with my husband and children. Hawaii has become my second home, my first being in Texas. My son was born here, I have been attending school here to obtain my Master's degree in Marriage and Family Therapy, and all together I have lived here for about 4 years. I absolutely love the Aloha State, and feel very spiritually connected to the land and the people here. Hawaii has been very good to us, and I would like to do what I can to return that to such a gracious and beautiful state.

It is my belief that victims of crime should have constitutional rights that guarantee they will be treated with dignity, and informed of the criminal justice process. Many of you have heard about the "Affluenza Teen" from Tarrant County, Texas. Less than three hours after I left my nephew's graduation party, Ethan Couch killed my brother, Brian Jennings, by driving under the influence of alcohol and other substances. My husband was deployed, and I was absolutely traumatized when I arrived at the scene and saw the carnage. I still violently shake when I see the story pop up on television and social media. My family has been completely devastated by his careless behaviors ever since. In Texas we have been notified by the District Attorneys through next-of-kin, which is my sister-in-law, of any court hearings and some of the details regarding Ethan's case. There were times that I have had to find out information through the media, and it has been so heartbreaking that someone could not have made the time to let me know before I was victimized yet again. The Judge allowed some of the victims to give an impact statement at the end of the trial process, which gave them a way to express their grief and plea for him to change his behaviors. Unfortunately I was not one of them, but I am grateful that my brother's wife was able to tell him how she and her family were affected by his destructive behaviors. Although it may not have made an impact on Ethan, it was so important for the victims to be notified and involved for their own healing and grieving process. I know there are cases that the victim may also be used as a witness, however I believe it is their right to be there unless the court rules that their testimony could prevent them receiving justice. If the criminals have rights to have someone notified and present during their hearing, it is astonishing me that victims would not be allowed the same right. Ethan Couch was not a minor, however his case was still in the juvenile system and his case was recessed because there was not evidence that the parents were notified of the hearing. If it were the victims that had not been notified, you can guarantee the court would have continued.

Someone has already damaged the victim's sense of security, and I feel that those that have taken the responsibility of protecting the community have an ethical duty to put someone in charge of informing the victims or next-of-kin when the criminal has a hearing, has been released from a rehabilitation center, or has been released from jail. Simply informing the victims that there is a victim's assistance program while they are already overwhelmed with information and grief is not enough. Victims assistance programs should be more proactive in reaching out to those who need it, including all family members. Victims should also be protected from further

harassment from the criminals, or others in regards to their case. I also believe that excluding victims from the criminal justice process also allows the criminal to avoid seeing the faces of those he or she has so deeply affected, which may increase odds of them repeating their behaviors once released. The offender for losses of property, wages, and for the therapy needed as a result from the trauma they inflicted, should also compensate victims. Not all victims can afford a civil attorney to help restore the losses.

The victims need a voice. I strongly support this bill. Please consider amending the Constitution to help the victims to heal from their traumatic experience. They need to know that there is still hope for a good life, and that Hawaii cares for their people.

Very respectfully,
Amy Peets

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on
Ways and Means:

FROM: Amy Yamada

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

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.

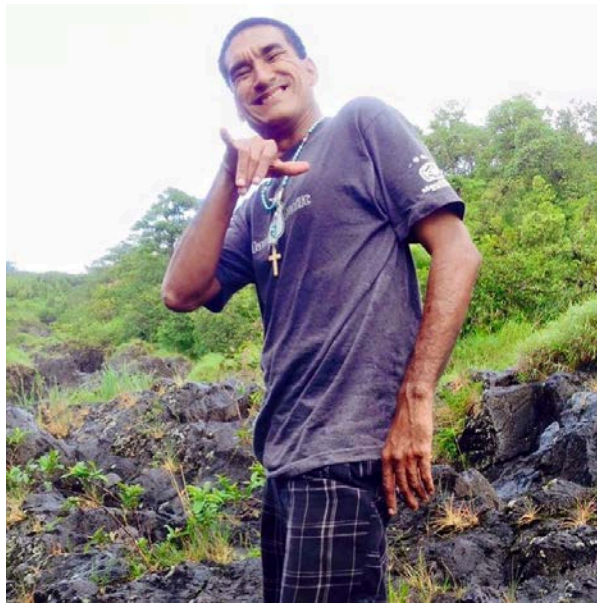
If you would like to contact me for more information, please feel free to contact me.

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!!

To: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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: February 24, 2016, 1:00 p.m.

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Senate Committee on
Ways and Means,

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

From: [Anita](#)
To: [WAM Testimony](#)
Subject: SB3034
Date: Monday, February 22, 2016 10:20:36 PM

To: Sen Sylvia Luke, Chair
WAM Members
From: Anita DiMauro
Re: SB 3034, SD1

I encourage you to pass this bill which establishes a Hawaii Constitutional amendment for Victims rights also known as Marsy's law.

If you became a victim, wouldn't you want the same Constitutional rights that the defendant has?

Aloha
Anita DiMauro
Makiki
808-782-8728

Sent from my iPhone

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: maumagic5711@hotmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Monday, February 22, 2016 6:41:08 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: Aloha. I am, again, writing in HEAVY support of Bill SB3034. Hawaii is one of 18 states that does not have constitutional rights for victims of crime. Hawaii is at an important crossroads to do what is right. This is extremely important. It is time to make certain that victims, and their families, have the rights that they deserve. I cannot express strongly enough that this needs to happen. Please do the right thing.....protect and support those who deserve these rights. It is our kuleana to stand together and take care of each other. Especially those who have already endured such nightmares. Thank you for your time. I look forward to thanking you for more, once you see this through. Ann Evans Makawao, Maui

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: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

FROM: Anonymous sexual abuse survivor

HEARING: February 24, 2016, 1:00 p.m.

Testimony in 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

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: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

FROM: Anonymous domestic violence survivor

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 DATE: February 24, 2016, 1:00 p.m.

Testimony in Support of SB 3034, Relating to the Rights of Victims.

Thank you for the opportunity to provide testimony in **strong support** of SB 3034, which would guarantee victims of crime and their immediate family specific rights related to and pertaining to the criminal justice process. As a domestic violence survivor and a mother, I know that a bill like this could have made a life-saving difference for me and my children. I was physically abused by my abuser for years. SB 3034 would guarantee that victims wouldn't have to navigate their way through the pain staking process of the judiciary system alone. My abuser was treated with upmost respect, I on the other hand was treated as those my story and life didn't matter. It took me, like many other domestic violence victims, several attempts before I successfully left that abusive relationship. Because it took several attempts, I've had several encounters with the judiciary system over the course of 2-3 years. Navigating my way through the judiciary system was frightening and intimidating. The one thing the judiciary system did successfully was make me feel that my abuser had more rights than I did. SB 3034 provides victims with the same rights as the perpetrators. Considering the fact that the severity of violence and stalking usually increases after a person leaves an abusive relationship bill SB 3034 could save someone's life. Over the years, my abuser was charged and sentenced on a few occasions for abuse. However, I wasn't informed about his statuses. I've had to report numerous TRO violations and there were several all point bulletins issued for my abuser. I was never informed about anything pertaining to him and our cases. One on occasion, following his release, he tracked my whereabouts and while I was driving he purposely drove in the other direction and flew an object at my front windshield shattered it with me and my child in the car. In another incident, again, following his release, I ended my night shift walked over to my vehicle in the parking lot to find him hiding in the bed of my truck waiting for me. He physically abused me that night. Situations like these can be avoided and SB 3034 will insure victims' rights are protected and victims are informed about the perpetrator. I'm sharing just a few of my many frustrating experiences in hopes that you will listen and take my story to heart. I am a mother, daughter and a domestic violence survivor. The judiciary system did nothing for me. Time and time again I was told how much rights my abuser had. I fled to the mainland with my children after several years of frustration. After moving away from the islands, I was subpoenaed to return to Hawaii and testify against my abuser. I was told by the court staff to wait in the same waiting area with him - the man who held a loaded gun to my head, tried to cut my throat with a machete and physically abused for years. Is this fair? No! It isn't. SB 3034 will ensure victims have rights and their voices are heard. Thank you for allowing me to share my **strong support** for bill SB 3034.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: brittneyb@live.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 10:39:06 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
brittney baker	Individual	Support	No

Comments: TO: Sen. Jill N. Tokuda, Chair Sen. Donovan M. Dela Cruz, Vice Chair And Members of the Senate Committee on Ways and Means: FROM: Brittney Baker 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 I strong not believe that marcys laws should be passed. Victims and families of victims are not given the commen sense rights they should have. I myself have been a victim of crimes and have not been notified accordingly on my case. I have had the law tell me, after getting my house robbed and dog stolen that I have no rights and cannot do anything about it, when I have proof of the person who did it. People like Charlis family go in notified of facts or official findings and the public somehow gets notified first. How is this justice ? How are we to treated after being violated from a crime. As victims or family of victims we need to have certain safety laws and notifications laws in effect. The greif and problems we deal with everyday is enough. Marsys law needs to be passed in order to ensure victims and family of the victims safety and rights.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: catherinetarleton@gmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 12:23:06 PM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
CTarleton	Individual	Support	No

Comments: Please support this important legislation for victims' rights.

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
To: [WAM Testimony](#)
Cc: cdudoit@cfs-hawaii.org
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 10:02:20 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Charity Dudoit	Individual	Support	No

Comments: Aloha, I support this bill.

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

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: livinartpro@gmail.com
Subject: *Submitted testimony for SB3034 on Feb 24, 2016 13:00PM*
Date: Monday, February 22, 2016 6:41:25 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
chris laronga	Individual	Support	No

Comments:

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To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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: February 24, 2016, 1:00 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

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: dchurch@pacthawaii.org
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 10:57:49 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Church	Individual	Support	No

Comments: As someone who has worked with crime victims in states that have victim rights as part of their constitution, I have seen the difference it can make. Victims should have the right to be informed for their own safety. This measure helps to ensure victims wont be retraumatized or revictimized by the system that is supposed to be helping and protecting them.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: breaking-the-silence@hotmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 10:07:59 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: Please support this crucial legislation for all victim-survivors of abuse.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 11:22:42 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Individual	Support	Yes

Comments: I STRONGLY SUPPORT this bill, as I have personally witnessed as a convicted felon, victims & their families being treated as just mere "witnesses" and/or "evidence" in criminal cases. Recently, I did paralegal work for a victim who felt compelled to file a Petition for a Writ of Mandamus in a case where the prosecutor was being completely unresponsive to his concerns, opinions & desires as to how the case should be handled. Even the victims mother was told that they are "just witnesses" in the case. The Hawaii Supreme Court denied the Petition for a Writ of Mandamus, in part, based upon the fact that: "A victim had no standing in the criminal prosecution." Should this trend of disrespect & lack of ENFORCEABLE RIGHTS for victims continue, the entire fabric of the criminal justice system could be in jeopardy. Since, victims could simply choose to seek justice on their own. It must be remembered that the State NEEDS the victims in criminal cases, otherwise the State would have a hard time prosecuting crimes. By passing this Constitutional Amendment proposal, the VOTERS IN THIS ELECTION CYCLE will determine whether or not victims should have the same rights as persons accused of crimes. PLEASE GIVE VICTIMS A CHANCE TO HAVE A CONSTITUTIONAL AMENDMENT MADE TO THE HAWAII CONSTITUTION, so they will have ENFORCEABLE RIGHTS in criminal proceedings. Mahalo, De MONT R. D. Conner

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February 24, 2016, 1:00 p.m.

TO: The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice-Chair
Senate Committee on Ways and Means

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 Tokuda, Vice Chair Dela Cruz, and Members of the Senate Committee on Ways and Means.

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.

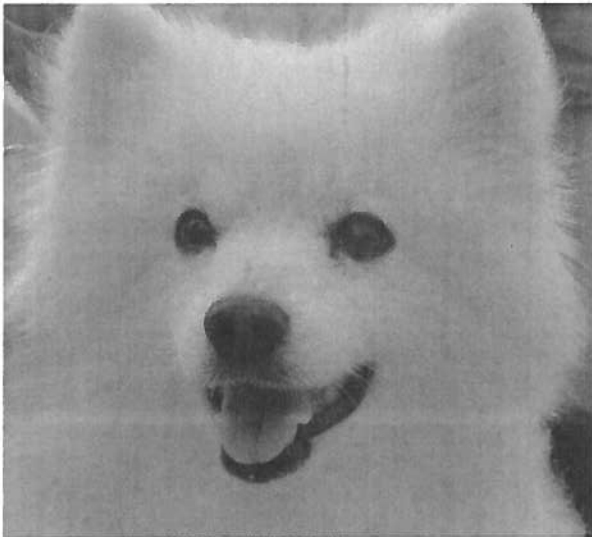
Also while court proceedings were underway, the defendant literally went out of his way to taunt and intimidate me and my neighbors, by walking his aggressive dog in front of my house and began using the beach path nearest my house, which he had never done before. There were incidents on the path with 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



From: [E. Funakoshi](#)
To: [WAM Testimony](#)
Subject: SB 3034 SD1
Date: Tuesday, February 23, 2016 6:04:31 AM

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Donovan M. Dela Cruz, Vice Chair

Wednesday, 1 p.m., February 24, 2016

Room 211

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

STRONG OPPOSITION

Dear Chair Tokuda, Vice Chair Dela Cruz, and Committee Members:

I am writing to strongly oppose SB 3034, SD 1. Several people (Senator Buenaventura, ACLU attorney Dan Gluck, the editorials) have doubts about the necessity or fairness of this bill.

The problem seems to be in the enforcement of the existing law so could the legislature worked towards improving the law to benefit the victims instead of amending our state constitution.

As you know revising the constitution is not a simple matter should there be challenges to this measure.

Thank you for the opportunity to submit my testimony.

Mahalo and Aloha,
e. ileina funakoshi

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

FROM: Eiichi Jumawan

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 DATE: February 24, 2016, 1:00 p.m.

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. I urge your Committee to please pass this measure.

It's really hard to communicate my feelings on this subject because I am so angry. I continually see criminals getting off while victims are just left to pick up the pieces with no justice at all.

My nephew was killed by a driver who according to witnesses ran my nephew down, fled from the scene of the accident, abandoned the vehicle, fled from police and was later held in contempt of court. We found out this person had multiple previous offenses and has complete lack of respect for the law. Yet the judge in our case continues to show compassion to this offender and has shown total lack of concern for justice in regards to my nephew and sister. Why does someone who thumbs their nose at our laws get more rights than those of us who obey them?

Members for our fine State have continually contacted me as to the outrage at the treatment of our case and many others in the media. Yet the people I trust to legislate and govern this State have seemed to turn their back on me. My nephew was run over – dragged for 6 football fields – left to die in the road like an animal and the offender later laughed and mocked him on facebook. Yet she is being shown more mercy, compassion and “rights” than my sister, who has now had to pick up the pieces of her life after this traumatic event stole her son’s life.

Various people in my family have been affected – suffer from PTSD – can not work – cry continually. They can not understand why the State is not helping to punish the person who did this. My family and I feel victimized by the court which has given more rights to the person who broke the law, than to us. In our case, the Offender drove without a license, insurance or registration multiple times. At the time of her arrest she had multiple traffic warrants and she was actually out on bail at the time of the accident. She also fled from the law several times, showing no respect for the law and authority. However, the Judge deems her fit to stay at a halfway house funded by our taxpayer dollars, living with her child and being able to come and go as she pleases while she “gets her life together”. My nephew was not afforded the chance to live his life – even though he had his “life together”. He had gone to school, had a job, had a motorcycle which was legal and licensed with the state, had a job, was not on welfare or any handouts from the State and was mentoring his younger brother who just got back from National Guard training. This person stole my nephews life, whether intentionally or not, does it seem right to give her chance after chance to “get her life together”?

And when she is sentenced – almost 16 months after this accident has occurred the most she can get is 10 years and the least is 18 months with time served. This makes me angry and confused. Some people get more of a penalty for talking on their cell phones or for traffic violations than this offender may be sentenced to. What a travesty! **18 months for taking a life – yet a lifetime of grief and heartache for our family.** She killed the faith of many in our judicial system. I beg YOU to restore it!

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

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

Yes, our family has been disrupted and family functions are no longer the same. One niece can no longer drive and has missed months of work because of her fear to be on the roads. My sister cries all the time. My mom does the same. These are just some examples of the victims of this crime – who don't understand the leniency, mercy and compassion the offenders are shown.

My family are already suffering a "life sentence" having to live without our nephew. Please do not give the offender more rights by taking our away.

I urge your Committee to pass this measure. Thank you for considering my testimony in support of SB 3034 SD1

February 23, 2016

To: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Members of the Senate Committee on Ways and Means

From: Fawn Jade Koopman, Esq.

Re: Testimony in Support of SB3034, SD1, Relating to Crime Victim Rights; Marsy's Law; Constitutional Amendment

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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: jpardau@gmail.com
Subject: *Submitted testimony for SB3034 on Feb 24, 2016 13:00PM*
Date: Tuesday, February 23, 2016 11:44:47 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Jamie Pardau	Individual	Support	No

Comments:

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To: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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: Feb. 24, 2016, 1:00 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.

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

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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 February 24, 2016 at 1:00 p.m. Conference Room 211

POSITION: SUPPORT

Good morning Chair Tokuda, Vice Chair Dela Cruz, and members of the Senate Committee on Ways and Means. 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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: ladysoftail9@yahoo.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 12:53:46 PM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Laronga	Individual	Support	No

Comments: TO: Sen. Jill N. Tokuda, Chair Sen. Donovan M. Dela Cruz, Vice Chair And Members of the Senate Committee on Ways and Means: FROM: [Kathleen Laronga] 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 DATE: February 24, 2016, 1:00 p.m. Thank you for the opportunity to provide testimony in support of SB 679/SB 3034 to amend the Ha\waii 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 679/SB 3034. Sincerely, Kathleen Laronga

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: kw1152@yahoo.com
Subject: *Submitted testimony for SB3034 on Feb 24, 2016 13:00PM*
Date: Monday, February 22, 2016 4:18:26 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kathryn Weldon	Individual	Support	No

Comments:

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TO: Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
and Members of the Senate Committee on Ways and Means

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: Wednesday, February 24, 2016 @ 1:00 pm, Conference Room 211

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.

TO: Jill N. Tokuda Chair

Donovan M. Dela Cruz, Vice Chair

And Members of the Senate Committee on Ways and Means

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: Wednesday, February 24 at 1 p.m. in Conference Room 221.

Chair Jill N. Tokuda and Members of the Committee:

Aloha,

My name is Kimberlyn Scott. I am here to speak in support of SB 3034.

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

She never returned.

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

She was almost six months pregnant.

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

That I am willing to use my unenviable position to address this subject should stand as testimony to the need for Marsy's Law, but my daughter has underscored the need in blood for you to see.

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

my last testimony 3 weeks ago, we were again not notified of a hearing date till the hearing was in progress.

I've no guarantee under the current unenforceable statute for victims that this will not be so again.

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

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

When I asked our own Prosecutors office what could be done about the issue of hearing notifications, I was told they would "try harder". This is the 8th time I have been told the same thing. Is this the type of reassurance any of you would want to hear regarding the trial of your loved ones murder?

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

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

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

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

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

We victims FEEL that imbalance.

(A study of the effects of the last two decades of state legislatures expanding rights of crime victims is here;

http://www.vera.org/sites/default/files/resources/downloads/362_88_DR_B.pdf

I would ask that you please read this informative credibly sourced study to better see how the change we are talking about has impacted other states)

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

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

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

Thank you for your consideration today.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: ahaaina@hawaiiintel.net
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 5:35:51 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: To: Sen. Jill N> Takuda, Chair and Sen. Donovan M Dela Cruz, Vice Chair And members of The Senate Committee on Ways and Means. From: Kristine Kane I hope you will consider adding Hawaii to the list of states that have established laws, that protect constitutional rights for victim's of crimes. Thank you for your time to consider this important and much needed change for our islands. Aloha, Kristine Kane

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Lalena D. Thompson
Maui, Hawaii

Hearing Date: February 24, 2016 at 1:00 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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: lesliemonsalvejones@gmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 8:39:22 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
leslie monsalve-jones	Individual	Support	No

Comments: To whom this may concern, Thank you for the opportunity to provide testimony in support of SB 679/SB 3034 to amend the Ha\waii State Constitution to guarantee that crime victims and their immediate surviving family members have enforceable sights. 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 679/SB 3034. Sincerely Leslie Monsalve-Jones

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SB3034 SD1

TO: COMMITTEE ON WAYS & MEANS

ALOHA,

My name is Linda Puppolo and I am testifying today for SB3034 SD1 (Marsy's Law). The State of Hawaii is unique in that we are very diverse but for the most part believe strongly in the terms, "Aloha" & "Ohana". If we truly believe that we have Aloha as a people and that we are Ohana, this law is something that everyone should support. In my thirty plus years as part of the Hawaii Ohana, I have been blessed to raise my children in a supportive, non-violent atmosphere for the most part. Times are changing and I am afraid that more and more drugs and violence have reached our shores.

This law has important tenants such as:

1. The right to be treated with respect & fairness with dignity and privacy throughout the criminal process.
2. For family to be informed of all rights and services available to them
3. To be informed immediately when a defendant is charged and advised of the nature of those charges.
4. To be informed of all court hearings and be given a chance to speak at the hearings if appropriate.
5. To be informed and asked for input to any plea deals and sentencing
6. To be given a chance to provide input on how the crime impacted the Ohana and input into sentencing in providing peace and well-being to the victim and their families
7. The right to a speedy trial
8. To have any property taken as evidence returned as expeditiously as possible.
9. To be provided restitution for any losses arises as a result of the crime.
10. To be immediately notified when an offender is release from custody
11. The ability for the victim and family to enforce their rights as Pono and necessary.

I dedicate this testimony to Charli & Joshua Scott and their Ohana. Please take great consideration in passing this proposal into law. Crime can happen to anyone. We need to support each other in the process from beginning to end. Please make this senseless and tragic crime the impetus to help our families in Hawaii.

Mahalo Nui Loa,

Linda Ruth Puppolo

PO Box 218

Puunene, HI 96784

808-283-8390

lpmindeze@gmail.com

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: alohalife_us@yahoo.com
Subject: *Submitted testimony for SB3034 on Feb 24, 2016 13:00PM*
Date: Monday, February 22, 2016 8:36:03 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
lois campbell	Individual	Support	No

Comments:

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February 24, 2016

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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: February 24, 2016, 1:00 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.

TESTIMONY ON BILL NUMBER SB3034 SD1

Chair

Jill N. Tokuda
Senate District 24
Hawaii State Capitol, Room 207
phone: 808-587-7215
fax: 808-587-7220
sentokuda@capitol.hawaii.gov

Vice-Chair

Donovan M. Dela Cruz
Senate District 22
Hawaii State Capitol, Room 202
phone: 808-586-6090
fax: 808-586-6091
sendelacruz@capitol.hawaii.gov

From: Luz Marina Monsalve-Zender
352 South Railroad Street
Parish, New York 13131

Thank you for the opportunity to provide testimony in support of SB 679/SB 3034 to amend the Hawaii State Constitution to guarantee that crime victims and their immediate surviving family members have enforceable rights.

My name is Luz Marina Zender-Monsalve, alongside with my sister, Leslie Monsalve-Jones. We support The Bill that proposes an amendment to the Hawaii State Constitution guaranteeing that victims of crime and their surviving immediate family members have specific rights related to information pertaining to and participation in the criminal justice process.

In honor of my sister, Moreira Monsalve (Mo) an alleged victim of domestic violence, we started a business. Our mission is to support victims and survivors of domestic violence, mental, physical abuse and sex trafficking. We engage with communities and organizations to end domestic violence through education and advocacy. It's Not Fiction: Domestic Violence Mental Physical Abuse and Sex Trafficking-A Survivors Story, supports *BILL NUMBER SB3034 SD1*

The rights offered in the proposed bill are simple. Basic human rights to be treated with courtesy, fairness, and dignity. For victims and survivors to be protected; to be informed and consulted.

Your guidance in ensuring SB3034 SD1 is critical and long overdue. This Bill of Rights, Human Rights would create a balance of justice between those rights already afforded to the convicted and the accused, with the rights for crime victims. Victims deserve to have the opportunity to be heard and kept informed. Thank you for considering my testimony in support of SB 3034.

Sincerely

Luz Marina Monsalve-Zender

To: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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: February 24, 2016, 1:00 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.

February 24, 2016, 1:00 p.m.

TO: The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice-Chair
Senate Committee on Ways and Means

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 Tokuda, Vice-Chair Dela Cruz, and Members of the Ways and Means 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.

February 24, 2016, 1:00 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: Senator Jill N. Tokuda, Chair Committee on Ways and Means

From: Marilyn B. Lee

Re: SB 3034 SD1

Dear Chair Tokuda 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 SB 3034 SD1 Proposing an amendment to the Constitution of the State of Hawaii relating to the Victims of Crime.

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

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

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

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

Please pass SB 3034 SD1 today and work with the House to bring about equal treatment of crime victims in Hawaii.

Thank you for the opportunity to testify.

Aloha,
Marilyn B. Lee

DATE: February 24, 2016

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice-Chair
And Members of the Senate Committee on Ways and Means

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

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 Tokuda, Vice-Chair Dela Cruz, and Members of the Committee on Ways and Means:

Thank you for providing this opportunity to testify in strong support of SB 3034 SD1. As a licensed social worker with over 20 years of experience working with victims of crime, I have seen first-hand that a victims' bill of rights in the Hawaii State Constitution is necessary for survivors and their families who have suffered from devastating loss, grief and pain.

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

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

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

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

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

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

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

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

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

SB 3034 SD1 recognizes the critical role victims perform in the criminal justice system and ensures that their rights are institutionalized and internalized. The justice system must be able to assure victims and families of murdered victims that their rights are safely embedded in the state's constitution and will be honored and protected.

I urge your committee to pass SB 3034 SD1.

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

FROM: Mary Spears & Phil Slott

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 DATE: February 24, 2016, 1:00 p.m.

Dear Chair Tokuda, Vice Chair Dela Cruz and members of the Senate Committee on Ways and Means:

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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: strode@hawaii.edu
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Monday, February 22, 2016 3:07:52 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Molly Strode	Individual	Support	No

Comments: Strongly support the rights of victims.

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TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on
Ways and Means:

FROM: Nicole Dewhurst

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 DATE: February 24, 2016, 1:00 p.m.

Aloha Chair and Committee-

My name is Nicole Dewhurst and I strongly support SB3034.

I will be the first to say I never gave a thought about victims' rights until a beautiful, wonderful human being I love was murdered. She can never speak, she can never again see this world. After this happened I came to realize a horrible truth. Hawaii has NO rights for victims! This must change. How is the accused the only one with rights? As it is currently in Hawaii the victim and the victim's family have no rights. We must pass Marsy's Law so that everyone involved in a case has equal rights! Please before you vote on this just imagine for a moment if you were the victim and had no rights. What if your mother or son or best friend was murdered and you had no rights on their behalf. This must end, please pass this and give every victim a voice and rights.

Thank you for reading my testimony.-

Nicole Dewhurst

DATE: February 24, 2016, 1:00 p.m.

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice-Chair
And Members of the Senate Committee on Ways and Means

FROM: Abelina Shaw

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

Chair Tokuda, Vice-Chair Dela Cruz, and Members of the Senate Committee on Ways and Means:

Thank you for providing this opportunity to testify in strong support of SB 3034 SD1. 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 SD1.

February 22, 2016

To: Senator Jill N. Tokuda, Chair of the Senate Committee on Ways and Means; Senator Donovan M. Dela Cruz, Vice Chair; and Members of the Senate Committee on Ways and Means.

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: February 24, 2016, 1:00 p.m.

I am Peter Robb, an individual who is speaking in strong support of SB 3034, HD1 calling for a Constitutional Amendment for Victims Rights. I became a victim as a result of a head-on car crash on May 25, 1975. My wife, Mairi, our unborn daughter Fiona, who was still born at 8 pounds 3 ounces, and a 19 year old soldier on a motorcycle all died from injuries as a result of that crash.

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

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

Approximately ten months later, I was invited to participate in the Criminal Justice System where I became one of a number of witnesses who gave testimony on the events of the evening. The Prosecuting Attorney, interviewed me just once for approximately two hours the Friday before the trial. During the trial I was sequestered in a small room on the first day until I was called to give my testimony. I was not allowed to hear any of the legal proceeding. In summary, I stated that I had observed the defendant pass another car and from my perspective continued straight through a curve in the Highway and ran into the motorcyclist as he was attempting to get out of

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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: rcscott@hotmail.com
Subject: *Submitted testimony for SB3034 on Feb 24, 2016 13:00PM*
Date: Monday, February 22, 2016 8:36:30 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments:

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TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

FROM: Robyn Jumawan

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 DATE: February 24, 2016, 1:00 p.m.

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. I urge your Committee to please pass this measure.

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

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

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

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

How do the above 6 points affect me? They make me angry and confused. Some people get more of a penalty for talking on their cell phones or for traffic violations than this offender may be sentenced to. What a travesty! **18 months for taking a life – yet a lifetime of grief and heartache for our family.** She killed the faith of many in our judicial system. I beg YOU to restore it!

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

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

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

I urge your Committee to pass this measure. Thank you for considering my testimony in support of SB 3034 SD1

TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

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

SUBJECT: SB 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: February 24, 2016, 1:00 p.m.

Good morning Chair Keith-Agaran, Vice Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor. Thank you for the opportunity to provide testimony in support of SB 3034 SD1, which will amend the Hawai'i 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 a 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 services 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.

Wednesday, January 20, 2016

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

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: spectekula@gmail.com
Subject: *Submitted testimony for SB3034 on Feb 24, 2016 13:00PM*
Date: Monday, February 22, 2016 10:31:00 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments:

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TO: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on
Ways and Means:

FROM: Sydney Pipkin

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 DATE: February 24, 2016, 1:00 p.m.

Aloha Committee,

I am Sydney Pipkin, sister of Charli Scott. She went missing two years ago and later found murdered.

Thank you for the opportunity to provide testimony in support of SB 679/SB 3034 to amend the Hawai'i 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 Hawai'i 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 679/SB 3034.

Sincerely,

Sydney Pipkin

February 24, 2016, 1:00 p.m.

TO: The Honorable Jill N. Tokuda, Chair
The Honorable Donovan M. Dela Cruz, Vice-Chair
Senate Committee on Ways and Means

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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: valeriecovert971@hotmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 8:21:22 AM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: Thank you for the opportunity to provide testimony in support of SB 679/SB 3034 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 679/SB 3034.
Sincerely, Valerie Covert

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To: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on Ways and Means

From: Wayne Braden

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 Date: February 24, 2016, 1:00 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 something that should have been included in the original constitution in August 1959.

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.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: wchungster@hotmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 4:11:11 PM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: This measure does not improve the problem that exists.

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: leeannemontes@gmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Monday, February 22, 2016 8:19:29 PM

SB3034

Submitted on: 2/22/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: Thank you for the opportunity to provide testimony in support of SB 679/SB 3034, to amend the Hawaiian 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 679/SB 3034. Sincerely, LeeAnne Fontana Montes

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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: Sen. Jill N. Tokuda, Chair
Sen. Donovan M. Dela Cruz, Vice Chair
And Members of the Senate Committee on
Ways and Means
FROM: Brooke Scott
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

Mahalo for the opportunity to testify in support of SB 3034.

My name is Brooke Scott and I am testifying in support of HB 3034 regarding Victim's Rights. I would like to explain why I believe an amendment to Hawaii's constitution would benefit the judicial system as a whole. It's necessary to look at the whole system, including sentencing, prison infrastructure, Public Safety, and Hawaii's unique position and practices.

A majority of states have adopted constitutional victim's rights over the last twenty years, and in 2002, the Vera Institute published a study called "Effects of State Victim Rights Legislation on Local Criminal Justice Systems". The study stated that, after surveying 396 offices across the nation, "four out of five prosecutors...felt that their state's legislation affected at least one criminal justice outcome. The largest perceived effects were in the number and length of prison sentences."

Such result equates to more funds being needed for incarceration and/or rehabilitation. This is an interesting topic for Hawaii because we surpassed our maximum prison capacity many years ago. Worth mentioning here is that Hawaii is one of a minority of states that have not enacted any "Truth-In-Sentencing" measures. Truth-In-Sentencing refers to mandates that guarantee a criminal offender serves a certain percentage of his or her sentence before being released on parole. This way, victims and the public are able to see that an offender had actually been punished and removed for the protection of their community. One couldn't say it has the effect of increasing a prisoner's sentence since the sentence is set according to statute, however, the net effect is longer terms, particularly for violent offenders.

It's easy to see that in Hawaii, Truth-In-Sentencing would not work without the addition of another prison. We currently have less than sixty people serving life-without-parole. When you compare that with an average of twenty-five murders per year in our state, it begs the question: how are so many of the murders taking place in Hawaii automatically parole-eligible? Oftentimes, a murder is accompanied by other felonious crimes, which would seem to qualify a large percentage of murders for extended sentencing under HRS 706-661, 706-662, 706-664 or 706-657, which would mean a sentence of life without parole.

I'm going to go ahead and stake a claim that Hawaii's sentencing structure and its sentencing practices are poised more toward saving the state money than reflecting Justice. Building a prison versus building a school seems like the classic argument, and to that, I'd say that Public Safety is just as important as Public Education (or any other system on which the public depends). The role of a prison in society goes both to retribution and prevention. While other public institutions improve the quality of life, prisons are meant to *protect* that quality, and to protect life itself.

If Victim's Rights have the effect of increasing prison populations and/or prison terms, this would seem to be an issue that must be addressed soon. The state of Hawaii ought to invest more in Public Safety; other states have done more with less. The practice of sending convicted persons to the mainland is costly to the taxpayer and stressful for the families involved. Really, it's unsustainable.

It would be unfair to deny implication of Marsy's Law in the state constitution because we don't have the accommodations (like another prison, or expanded support to the parole board) already in place. Those are things we can do, and should do anyway.

HRS 801D is the current state statute providing for victim's rights, and if those were working, a constitutional victim's rights amendment wouldn't sound so shocking. The fact is, victim's rights are largely ignored, and there is no one responsible to correct violations. The state depends on victims and witnesses to support the judicial system; in fact, we are required under threat of law to comply with the State during criminal prosecutions.

I'm not trying to be combative, but I have to ask: what does the Public- your victims and witnesses- get in return? Justice? That can be pretty subjective here since the Hawaii Paroling Authority can cut court-ordered sentences in half. What about restitution? I heard recently of a woman whose attacker had managed to send her a total of around \$12- in two separate checks- over the course of two years. And what about the treatment of the victims/witnesses by law enforcement themselves? HRS 801D suggests that we should be treated with dignity and respect. I could go on and on about the lack of such, but instead I will say this, and hope that you trust my assessment: that in Hawaii, you would not want your own mother, or your children, or anyone else that you love to go through what my mother and sisters have gone through as a direct result of HRS 801D being utterly unenforceable.

I'd like to conclude my testimony with an excerpt on a subject dear to my heart- the victim-witness' right to be present. I'll spare you the details of my own experience except to say that as a victim-witness in Hawaii, I am arbitrarily denied the ability to view the proceedings of my sister's murder trial. Her name is Charli Scott, and the reason I want to be present in the trial (even if it's a severely limited presence) is because she is still missing. My family continues to search for Charli and her unborn son, Joshua...we search for the truth. To be denied access to proceedings to which even the public is entitled is detrimental to our cause, to say the least. It's another obstacle in our search, the trial itself takes time away from our lives while offering no guarantee of giving anything back, not even her bones- because now they are the State's evidence.

California has exemplary laws and procedures surrounding the implication of their constitutional victim's rights amendment, which has been in effect since 2008. I found it particularly encouraging to read the National Crime Victim Law Institute's memorandum regarding the "Right of Crime Victims to Be Present at All Public Proceedings in California" which was released July 2, 2012.

(here <http://law.lclark.edu/live/files/11762-memo-re-ca-right-to-be-present-and-sample>)

"Do crime victims have the right to be present at all public proceedings in California?"

Yes. California's constitution guarantees crime victims a right to be present at all public proceedings at which the defendant and prosecutor are entitled to be present, as well as all parole and other post-conviction release proceedings. Cal. Const. Art. I § 28. While California's statutes and rules contain provisions that purport to limit a victim's right to be present, precedent makes clear that statutory and rule-based grounds for exclusion must yield to this constitutionally guaranteed right. Further, the constitutional protection against exclusion of crime victims from the courtroom is consistent with the strong policy rationales in favor of allowing victims to be present at public proceedings, and is consistent with the consensus among courts nationwide that a crime victim's presence at public proceedings does not violate a defendant's constitutional rights."

To acknowledge victims in the judicial process is complimentary to a just system. It does not take authority from any actor, nor does it impede the process, nor does it violate the constitutional rights of the defendant. This is a meaningful step toward healing for the entire community- one that protects and serves those when they need it most.

I thank you all sincerely for the chance to speak my mind, and I hope it has spurred interest in the notion of criminal justice reform, beginning with the passing of SB 3034.

Respectfully,
Brooke Scott

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: wchungster@hotmail.com
Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 4:11:11 PM

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

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

Comments: This measure does not improve the problem that exists.

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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Subject: Submitted testimony for SB3034 on Feb 24, 2016 13:00PM
Date: Tuesday, February 23, 2016 1:02:14 PM
Attachments: [johnny marsys law pages](#)

SB3034

Submitted on: 2/23/2016

Testimony for WAM on Feb 24, 2016 13:00PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
john pipkin	Individual	Support	No

Comments: thank you for your attention to this very important 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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TO: Sen. Jill N. Tokuda, Chair
Sen, Donovan M. Delta Crux, Vice Chair
And Members of the Sentence Committee on Way and Means

FROM: Iris Kauhane

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

HEARING DATE: February 24,2016. 1:00 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-eRetired) 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 is out on the court calendar pertaining to domestic violence but I felt that being a victim,/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 sham that the Aloha State is not showing monte aloha for victims, forcing ordinary citizens to be revictimized when they are thrown into the criminal justice system without any equal or enforceable rights.

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