



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

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**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)

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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.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [rkailianu57@gmail.com](mailto:rkailianu57@gmail.com)  
**Subject:** \*Submitted testimony for SB3024 on Feb 24, 2016 13:00PM\*  
**Date:** Tuesday, February 23, 2016 9:20:29 PM

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**SB3024**

Submitted on: 2/23/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Ho`omana Pono, LLC	Support	Yes

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: Adam Gaines

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 to amend the Hawaii State Constitution to guarantee that crime victims and their surviving family members have enforceable rights.

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

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

Thank You  
Adam Gaines  
President Maui Search and Rescue

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 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.

Aloha,

My name is Amy Yamada and I would like to start my testimony by thanking you all for taking the time to read/hear my story. I sincerely wish I could be there in person to express to you how desperately SB 3034 SD1 - 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 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: Anonymous

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.

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

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

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

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

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

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

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

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

COULDN'T PUT HUMPTY TOGETHER AGAIN."

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

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

Place: Hawaii State Capitol , Conference Room 211

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

**Position: Support**

Dear Senators Tokuda, Dela Cruz, and Committee Members,

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

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

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

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

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

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

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

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

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

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

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

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

I am I STRONG SUPPORT of SB3034 SD1

Sincerely,

Anonymous

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Subject:** Submitted testimony for SB3034 on Feb 24, 2016 13:00PM  
**Date:** Tuesday, February 23, 2016 8:27:37 PM

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**SB3034**

Submitted on: 2/23/2016

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

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

Comments: As I victim of a drunken driver I never got even an apology from the driver. It still bothers me 39 years later. Please help future victims by passing this bill. Mahalo

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**SB3034**

Submitted on: 2/23/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bonnie M. Wooten	Individual	Support	No

Comments: Our family suffered a horrible tragedy. My step dad was murdered in his jewelry store. Three men came in, took what they wanted, My dad's wallet was even emptied and put back in his pocket. They had him face the inside of a small closet, We assume they told him, this would give them time to get away and they shot him in the head. He was 45 years old and was a blessing to all he knew. This scarred our family horribly as these men never even took a penalty for my stepdads murder, they did get prison for other murders they committed. We suffered for years, still is painful to talk about 40 years later. I have come to realize after being a victim of crime to my business, that the offender is treated more as a victim than the actual victim. I have come to realize that the judicial system is a Criminal Justice System. We as individuals and families are left with the pain and hard work of ever trying to get back to a normal life. My brother was only 6 and his Dad was taken away forever. If only he could hear his dad's voice again or in a dream reach his dad for the hug he has been waiting for. He is a father now and still suffers. The pain carries on. It is time to start thinking of the real victims. The ones left behind with the scars. Only you can change the laws. Please push forward. Thank you. Bonnie Wooten

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**SB3034**

Submitted on: 2/24/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charmaine Williams	Individual	Support	Yes

Comments: I was a victim of a violent crime and now I want to help others. My testimony accounts personal experience and reasoning for the law to pass.

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**Subject:** \*Submitted testimony for SB3034 on Feb 24, 2016 13:00PM\*  
**Date:** Wednesday, February 24, 2016 7:28:17 AM

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**SB3034**

Submitted on: 2/24/2016

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

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

Comments:

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**Subject:** Submitted testimony for SB3034 on Feb 24, 2016 13:00PM  
**Date:** Tuesday, February 23, 2016 8:04:56 PM

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**SB3034**

Submitted on: 2/23/2016

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

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

Comments: As a recent family member of victims, it was disheartening to find there were no support for my family members. As I researched the web and found Marsy's Law, the first thing that came to mind is to join in and support the cause.

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DATE: February 24, 2016

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

FROM: Jennifer Snowden, Victim and Survivor

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

I am a victim and survivor of sexual abuse. I, along with the 5 other women and the 10 year old girl who testified against our abuser, was deeply impacted by the court and justice system process, in addition to the abuse I endured.

One way that impacted me greatly with the process was that HPD did not identify the victims before handing the case over to a military court, as our abuser was in the military. I was never given the consideration to say where I wanted my abuser to be tried, and only later, after the military court system failed me and the other victims, did I find out that it was an option for him to be tried in a state court. By that time, even with the support of some of the other victims, when we pushed to have him tried by the state, the prosecutor declined the case, leaving us feeling that we were not treated with proper respect or consideration.

Another aspect that I struggled with was the restraining order process. I was granted a temporary RO with little issue, but was then told that I would have to show for a hearing where he would also be summoned. The thought of having to sit in the same room with someone who had done so much damage to my life made me cringe. I was fortunate that he did not show up and the order was granted, but if I choose to extend the restraining order past the simple 3 years that it grants, I will have to face the possibility of having to sit in the same room as him once again. I believe that there need to be better ways to allow due process appearances while still protecting victims from their abusers.

When he was released early after serving only 10 months of his very disappointing 2 year sentence, I only received a letter, maybe a week in advance at most, stating that he was being released early. No notice of a hearing on parole or option to be heard and intervene, just a statement that that was how it was. I still tried to make calls and submit letters, even to our state representative, but to no avail. I was also promised court record documents. It's been over 2 years now, and despite my follow up calls, I have received no respect or consideration.

By the end of it all, I was so let down by the system, how I was treated and the fact that my voice was not heard, that I tried to find a lawyer to take my case to sue the military court system and advocate for change. If Marcy's Law had been a part of the constitution, as an enforceable right, I would have had the ability to assert my rights as a victim through the court process and be heard. Now, through my victim support efforts and advocacy for these constitutional changes, I hope that I may finally be heard.

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

FROM: Joshua Blair

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.

My cousin was one of the nicest and most easy-going people anyone could ever want to meet. He always had a smile on his face, and instantly brightened any room he ever walked into. He loved his family and loved his life. He was 25 years old when he died. He had his whole life ahead of him, a bright promising future, and had big hopes and dreams for the years ahead of him.

All of those hopes and dreams came to a violent and terrible end the day that a drunk driver out on bail entered into and ended my cousin's life.

As my cousin was riding his motorcycle, the offender struck him at a high rate of speed, but didn't stop. He continued to drag my cousin, who was still alive, for over a half a mile, before he came lose and she fled the scene of the crime. She left my cousin dying on the side of the road without concern, without any form of remorse for her actions. She abandoned her vehicle and did everything she could to get away with her crime. She had 2 other people in the car who have never been brought to punishment to this day.sickening.

Before she ran from law enforcement, she joked on Facebook about how she was involved in the ACCIDENT that killed my cousin, but that she was innocent of any wrongdoing because the whole thing was just an "accident". The definition of accident is as follows: "An unfortunate incident that happens unexpectedly and unintentionally, typically resulting in damage or injury. To call her actions an accident is not only deplorable but is disgusting. She may have accidentally hit him but she didn't accidently drag him for 6 footballs fields, or leave his dying body in the road or dislodge his motorcycle from the truck accidently. No, she DELIBERATELY DID ALL OF THOSE THINGS! She deliberately fled the scene, attempted to cover up her crime, deliberately drove without a license, deliberately used drugs, deliberately broke multiple laws and through her choices and actions, deliberately killed my cousin.

Yet she has more rights than my cousin or I. This was not her first offense. She has a total lack of respect for the law as opposed to those of us who DO respect the law. Yet we have been made to wait for more than a year to hear what her punishment will be. The fact that she in only being charged with leaving the scene of the accident and not murder is mind-boggling to me. And the face that she may only have to serve 18 months in jail, with part of that time in a Salvation Army rehab program to get her off drugs and gets to see her child every day is sickening and hard to understand. Where are our rights? Where is our right to drive on the road alongside others who comply with the law?

I will never see of talk to my cousin again. My Aunt will never be able to see or speak to her son again. She will never see him get married, or have children or his own. All because the offender had more rights that previous victims.

I ask you – how would you feel if this woman had done this to your son or daughter? If you had to experience the grief she has caused and had to question the pointlessness of having to lose that loved one? What would you expect from the justice system of the United State of America?

Nothing will ever bring him back. But holding this criminal and others accountable for her actions, giving us rights and punishing offenders to the greatest extent of the law may give the remaing family at least some feeling of peace, knowing that the person responsible for their loss is not free, driving the streets illegally until she kills someone else. And perhaps that will save some other family from the grief and pain that has plagued our family for the past several months.

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

DATE: February 24, 2016

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

FROM: Jennifer Snowden, Victim and Survivor

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

I am a victim and survivor of sexual abuse. I, along with the 5 other women and the 10 year old girl who testified against our abuser, was deeply impacted by the court and justice system process, in addition to the abuse I endured.

One way that impacted me greatly with the process was that HPD did not identify the victims before handing the case over to a military court, as our abuser was in the military. I was never given the consideration to say where I wanted my abuser to be tried, and only later, after the military court system failed me and the other victims, did I find out that it was an option for him to be tried in a state court. By that time, even with the support of some of the other victims, when we pushed to have him tried by the state, the prosecutor declined the case, leaving us feeling that we were not treated with proper respect or consideration.

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Subject:** Submitted testimony for SB3034 on Feb 24, 2016 13:00PM  
**Date:** Tuesday, February 23, 2016 9:15:08 PM

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**SB3034**

Submitted on: 2/23/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Kailua Neighborhood Board	Support	No

Comments: Senate Committee on Ways & Means February 24, 1216 Room 211, 1:00 pm To: Senator Jill Tokuda From: Charles Prentiss, Chair, Kailua Neighborhood Board Date: February 23, 2016 RE: SB3034 On February 4, 2016, the Kailua Neighborhood Board voted to support the proposal to provide victims of crime with specific rights related to the criminal justice process. Our neighborhood board supports the efforts to gurantee victims rights in the State Constitution. Access to these rights and justice for victims of crimes should be part of what makes up community well-being, an over-arching goal that we have been advancing with many of our community initiatives in Kailua and the greater Ko'olaupoko area. Thank you for the oppportunity to testify in support of SB3034.

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

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**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Cc:** [marygoldylocks@gmail.com](mailto:marygoldylocks@gmail.com)  
**Subject:** \*Submitted testimony for SB3034 on Feb 24, 2016 13:00PM\*  
**Date:** Wednesday, February 24, 2016 1:00:47 PM

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**SB3034**

Submitted on: 2/24/2016

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

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

Comments:

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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:       Michelle Tagovailoa

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

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

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

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

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

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

Regards,  
Michelle



**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [moniquey@hawaii.edu](mailto:moniquey@hawaii.edu)  
**Subject:** Submitted testimony for SB3034 on Feb 24, 2016 13:00PM  
**Date:** Wednesday, February 24, 2016 7:31:18 AM

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**SB3034**

Submitted on: 2/24/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Monique Yamashita	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, Monique R. Yamashita

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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: Nicholas Iwamoto

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

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

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

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

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

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

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

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

Mahalo,  
Nicholas Iwamoto

To: Senator Jill Tokuda, Chair, Ways and Means (WAM)  
 Senator Donovan Dela Cruz, Vice Chair and members of the Committee

From: **Nonohe Botelho**, Parents of Murdered Children

Date: Tuesday, February 23, 2016

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

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

I am writing in strong support of SB3034, SD1, Proposing An Amendment To Article I Of The Constitution Of The State Of Hawaii To Establish Rights For Victims Of Crime.

Twenty-five years ago I earned a Master's Degree in Counseling Psychology and have worked professionally with both offenders and victims of violent crimes. I've worked the spectrum of care from juvenile status offenders through adult felons. I have also worked with the Department of the Prosecuting Attorney as a Victim-Witness Advocate-Felony Division. In addition, in 2008 I was trained as a Child Forensic Interviewer and conducted hundreds of interviews through the Children's Justice Center.

Over the course of my career I have worked with some of the most heinous child sexual abuse cases in our State. As a Victim-Witness Advocate I have sat through many trials with victims and surviving immediate family members. As a Forensic Interviewer I have listened to many victims and witnesses to violent crimes. As a professional I thought I had "first hand" knowledge of the criminal justice system. Today, I would say that I have knowledge AND first hand personal experience.

Time does not permit me to tell you of the litany of prejudice, discrimination and indignities that we have experienced as a family, beginning with the very definition of "Victim". From the onset, we were told that we weren't privy to certain information because we, the immediate surviving family, were NOT the victims. My son, Joel, became "the case" and we, his parents became NOBODY. After twenty-seven years of being Joel's parents we were suddenly cast into the abyss of endless excuses and silence from the very people who were charged with protecting victims and upholding justice.

Passing SB 3034, SD 1, Proposed Amendment To Article I Of The Constitution Of The State Of Hawaii To Establish Rights For Victims Of Crime, will help bring *crime victims or a deceased crime victim's surviving immediate family members*, out of the dark and into the light. I am confident that the citizens of Hawaii, the State of Aloha, will vote "Yes" to the proposed question on the ballot:

"Shall crime victims and deceased crime victims' surviving immediate family members be afforded rights, including fair and respectful treatment throughout the criminal justice process; notification of public court proceedings, possible plea agreements and case dispositions; proceedings free from unreasonable delay; the opportunity to be present at public court hearings; the opportunity to speak at the sentencing hearing; financial reimbursement from the offender; and notification of the offender's release from custody, as provided by law?"

Thank you for your time and consideration.

Nonohe Botelho, POMC

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**Subject:** \*Submitted testimony for SB3024 on Feb 24, 2016 13:00PM\*  
**Date:** Tuesday, February 23, 2016 9:19:45 PM

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**SB3024**

Submitted on: 2/23/2016

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Support	Yes

Comments:

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**Subject:** Submitted testimony for SB3034 on Feb 24, 2016 13:00PM  
**Date:** Wednesday, February 24, 2016 7:47:20 AM

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**SB3034**

Submitted on: 2/24/2016

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

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

Comments: I fully support Marsy's Law. Every victim should have rights and every victims ' family should have rights too!

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