

**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 679, PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Tuesday, March 3, 2015 **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Russell A. Suzuki, Attorney General, or  
Lance M. Goto, Deputy Attorney General

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Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General opposes this bill.

The Department is sympathetic to crime victims and supportive of them. It is very concerned, however about this proposed constitutional amendment to establish constitutional rights for crime victims. Unlike the constitutional amendments adopted by other states, this amendment confers very broad rights upon crime victims that may adversely impact the criminal justice process.

The constitutional rights created for victims may allow victims in this bill to participate in a criminal case at times or in ways, and may allow victims, whether intentionally or not, to disrupt or interfere with the criminal justice process. The Department also has concerns about proposed rights (2) and (7), on page 3, and the provisions addressing remedies for the victims. The Victims' Bill of Rights, in chapter 801D, Hawaii Revised Statutes (HRS), addresses most of the rights being proposed and should be adequate to properly address victims' rights.

Victims are a very important part of the criminal justice process, but the Department is concerned that these broad constitutional rights for victims will adversely impact the criminal justice process. While the bill, on page 5, lines 3-4, specifies that "no right in this section shall be construed to supercede the constitutional rights of the offender," the creation of victim rights that could conflict with the constitutional rights of defendants means that the court and parties to a criminal case will have to determine whether or not there is a conflict, and if there is a perceived conflict, to determine how to address it without impacting the defendant's

constitutional rights. That evaluation process could create additional issues for the court proceeding that could turn into appellate issues that adversely impact the prosecution of the case.

### CONSTITUTIONAL RIGHTS MAY ADVERSELY IMPACT THE CRIMINAL JUSTICE PROCESS

Right (6) at page 3, lines 12-14, to be present "at all public court proceedings related to the offense unless the court determines that the victim's presence would materially affect the victim's testimony," could conflict with the witness exclusion rule, pursuant to chapter 626, HRS. Although it purports to make an exception for that, the exception may not be broad enough. It could be difficult to determine whether or not a victim's presence would materially affect the victim's testimony. If a victim is able to hear the testimony of other witnesses, that testimony could unintentionally influence the victim's testimony and how the victim testifies. When testifying, a victim could anticipate issues raised by other witnesses or unintentionally tailor the testimony to fit the other evidence. Changes in testimony, or changes in how a victim testifies, can hurt a victim's credibility.

This constitutional right to be present at all public court proceedings could also lead to other issues. The court may need to make accommodations for the victim. It 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.

Right (10) at page 4, lines 8-12, confers on victims the right to be notified and heard regarding "**any developments** relating to the release, discharge, commitment, or unauthorized absence of the offender who was committed or involuntarily hospitalized." This right is extremely broad. The administration at the State Hospital may engage in regular reviews and assessments of a defendant's medical condition, and work on developing or revising treatment plans. It may not be appropriate for a victim to participate in these processes.

It is important to remember that while a victim is an important person in a criminal case, the victim is not a third party to the criminal case. It is also important to note that some victims are adverse to the criminal justice process and law enforcement, or are uncooperative for other reasons. Some victims are supportive of the defendant, or continue to have a relationship with a defendant. Other victims may be manipulated by defendants. This could be a problem in many different types of cases, but especially in household abuse cases and intrafamily sex assault cases. This bill, by the creation of specific constitutional rights for victims, could allow some of these victims to take advantage of these broad victim rights to help the defendant in the criminal justice process or just disrupt the process.

#### RIGHT NO. 2

Right (2), on page 3, at line 4, confers on victims the broad constitutional right "to receive protection from threats of harm." It does not specify a time period for this right, nor limit it to threats by the defendant or agents acting on behalf of the defendant. And it does not specify the type of protection. A victim could expect very broad protections and file actions to enforce this right. Other states have adopted more specific and clear rights of protection. For example, one state established a right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court. Another state established a right to be reasonably protected from the accused throughout the criminal justice process. The present proposal is too vague.

#### RIGHT NO. 7

Right (7), on page 3, lines 15-18, confers on victims the right "to be given reasonable notice of any plea agreement and given a reasonable opportunity to provide input to the prosecuting attorney prior to finalization of the plea agreement." This appears to be an

appropriate and reasonable right, but may be difficult to comply with in district court cases, where there is a great volume of cases involving misdemeanors and petty misdemeanors (theft, property damage, trespass, etc.), and where cases that are regularly disposed of by plea agreements entered into with little or no advanced notice. If cases are continued to give prosecutors the time to discuss plea negotiations and agreements with victims in all of the cases, this will likely significantly impact on the processing of cases in district court.

### REMEDIES FOR VIOLATION OF RIGHTS

We believe that these proposed constitutional rights are **not** simply aspirational (conferring no enforceable rights until actually legislated into law). As currently drafted, the amendment granting these rights appears self-executing. The provision on page 5, lines 17-18, saying, "The legislature may enact laws to further define, implement, and preserve the rights established by this section," does not appear to change the self-executing nature of the amendment. The amendment is intended to create broad and enforceable rights for victims.

There appears to be some inconsistency in the provisions regarding relief to victims for violation of these constitutional rights. On page 5, at lines 19-20, the bill provides:

Nothing in this section shall be construed to create a cause of action against the State or counties, or any of their agencies, officials or employees.

But on the same page, at lines 6-13, the bill reads:

The crime victim, the crime victim's lawful representative and the attorney for the State may assert the rights established by this section. A person accused of the crime may not obtain any form of relief established by this section.

The rights established by this section may be asserted in any circuit or appellate court with jurisdiction over the case as a matter of right.  
The court shall act promptly upon the assertion of rights under this section.

Despite suggesting that the provisions do not create a cause of action for the victim, the bill is clearly providing for some form of judicial relief based on the victims' constitutional rights.

It should be noted, however, that the provision to allow the victim rights to be asserted "in any circuit or appellate court with jurisdiction over the case" does not appear to allow for the assertion of those rights in district courts or in any post-conviction situations. But that is not clear.

### THE VICTIMS' BILL OF RIGHTS

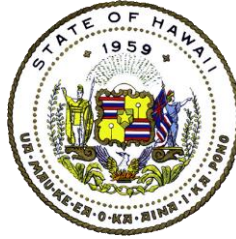
The Victims' Bill of Rights, in chapter 801D, HRS, should be adequate to properly address victims' rights. Chapter 801D provides for enforcement of its provisions. Section 801D-5(a) provides:

Each county is responsible for the enforcement of rights under section 801D-4. The courts shall fashion all decisions and orders to enhance the recognition of these rights and the provision of these services, to the extent that they will not conflict with the constitutional rights of the defendant.

The entities that participate in the criminal justice process, including law enforcement, prosecutors, the courts, and corrections, are supportive of victims and very cognizant of their rights under chapter 801D.

For the foregoing reasons, the Department opposes this bill and respectfully asks that it be held.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Blvd. 4<sup>th</sup> Floor  
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NOLAN P. ESPINDA  
DIRECTOR

**Cathy Ross**  
Deputy Director of  
Administration

Deputy Director  
Corrections

**Shawn H. Tsuha**  
Deputy Director  
Law Enforcement

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

TESTIMONY ON SENATE BILL 679  
A BILL PROPOSING AN AMENDMENT TO ARTICLE I OF THE  
CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS  
OF VICTIMS OF CRIME

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 3, 2015, 9:00 AM  
State Capitol, Conference Room 016

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

The Department of Public Safety (PSD) **opposes** Senate Bill (SB) 679, which proposes an amendment to the Constitution of the State of Hawaii guaranteeing that crime victims and their immediate surviving family members have specific rights. Some of the proposed provisions would severely hamper the PSD's ability to process inmates through our system, based on their level of dangerousness and their readiness to re-assume a place in our community as law-abiding citizens. As such, our ability to fulfill the promise of the Justice Reinvestment Initiative (JRI), enacted in 2012, would be greatly compromised. Our population concerns would only get worse if we are unable to release inmates, or even transfer them to lesser security facilities.

Moreover, four of the provisions that would directly impact us are very ambiguous. We fear that such provisions would entangle us in litigation which would distract us from carrying out our operations in an orderly manner.

The PSD is particularly concerned with four provisions of Section Two of this bill, which specify the rights crime victims would have under this proposed constitutional amendment. These are the following:

Number 8 would give victims the right “to be notified in a timely manner, be heard and participate in any process or deliberation which may result in a post-arrest release decision, a negotiated plea or sentencing of the offender”. This provision would have a profound impact on our ability to process recommendations to the courts for the release of pre-trial detainees. The Council on State Governments found in 2011 that Hawaii takes an inordinate length of time to release those detainees who are considered to be low-risk. This contributes to population growth in our Community Correctional Centers. As a result, Act 139, SLH 2012 requires that we conduct an objective assessment “within the first three working days of a person’s commitment to the community correctional center to allow the courts to more quickly exercise discretion in determining whether to release a pre-trial defendant”. If we have to gather input from victims and allow them to be heard and participate in the process, it would be very difficult to provide the courts with the required risk assessments within the three-day period, and one of the primary components of the JRI would be undermined. We don’t know how we would be able to identify the victims and allow for them to be heard and participate within three days.

Moreover, for decades, we have conducted other reviews and assessments at police cellblocks in Hilo and Honolulu which lead to post-arrest release at the defendants’ first court appearance. This process allows the courts to grant release to low-risk offenders, who are presumed innocent under our system of justice, at the earliest possible time – even before commitment to a correctional facility. At this point in the process, it would be impossible for our Intake Service Center staff to identify the alleged victims, and to allow them to be heard and participate in the process. Under this provision, we may have to terminate the program, as we would not be able to identify victims, contact them and arrange for their input and participation prior to the first court appearance. As a result, we would see more defendants admitted to Oahu Community Correctional Center (OCCC), further exacerbating population concerns.

We are also concerned because we are not sure what kinds of input we would be required to obtain from victims. We also do not know what the “process” entails or what “deliberations” means. For example, if a worker conducts an assessment and confers with a supervisor as to the recommendation prior to submitting the assessment to the court, is he or she “deliberating”?

Number 9 would give victims the right “to be notified in a timely manner, provide input, be heard and participate in any process or deliberation which may result in the offender’s post-conviction release from confinement, including any kind of release by the department of public safety”. This provision likewise would create a myriad of problems for us. Under the JRI, we are required to provide evidence-based risk assessments for consideration by the Hawaii Paroling Authority. The process of conducting risk and needs assessments, identifying suitable programs and monitoring successful participation eventually leads to a decision to release offenders on work furlough or parole. Under the JRI, this is a decision made by professionals, guided by evidence-based risk assessments, who monitor participation in evidence-based programs. Based on these observations and deliberations, inmates who are considered low-risk and who have completed their recommended programs are gradually reintegrated into their communities. This process is designed to protect the safety of the community while providing offenders the opportunity to become productive, law-abiding citizens. If victims have a constitutional right to participate in these processes and deliberations, the rate of release will decline, as more likely than not, victims would oppose release on furlough or parole. The census at our facilities would be even higher than they are today.

Number 11 would require the PSD to notify victims of inmate custody changes, facility transfers, escapes, furlough, work release, placement on supervised release, release on parole, bail bond, or appeal bond and any type of release by the PSD and full discharge at the end of the prison term. The addition of another official notification process, beyond what is already legally required would slow to a halt all of these processes and runs directly counter to the professionalized and efficiency enactments that were previously authorized and specified by the JRI. Having this provision inserted into the Hawaii Constitution would have the unintended consequence of essentially creating



jail and prison overcrowding and making the jail and prison programming and security operations unreasonably restricted by subjective instead of objective criteria.

Number 13 would give victims the right “to receive prompt restitution from the person or persons convicted”. The JRI Act required PSD to deduct 25% of an inmate’s deposits for restitution payments. The HRS allows courts to set restitution payment schedules. We wonder if this proposed provision could be interpreted to require that offenders fulfill the entire restitution promptly. This needs to be clarified.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**HAWAII PAROLING AUTHORITY**  
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MEMBERS

TOMMY JOHNSON  
ADMINISTRATOR

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

TESTIMONY ON SENATE BILL 679  
PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION OF THE  
STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME

By  
Bert Y. Matsuoka, Chairman  
Hawaii Paroling Authority

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Tuesday, March 3, 2015; 9:00 a.m.  
State Capitol, Conference Room 016

Chair Agaran, Vice Chair Shimabukuro, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports the intent of Senate Bill 679, which proposes an amendment to Article 1 of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime and requests amendments to Section 2 on page 4 (Item #9 – Lines 3 through 7) and submits comments to Section 2 on page 4 (Item #11 – Lines 13 through 18).

As written, this measure addresses several concerns of the community and the victim(s) of crime and the victim's surviving family members. At present, pursuant to Hawaii Revised Statutes (HRS) §706-669(7)(Procedure for determining minimum term of imprisonment), and Hawaii Administrative Rules (HAR) §23-700-21(j) the victim(s) of crime or their designee or surviving family members already have the right to participate and be heard during minimum sentencing hearings. Also, the victim(s) of crime or their designee or surviving family members can provide written comments to the parole board to consider when reviewing an offender's application for reduction of minimum (ROM) and for parole consideration hearings.

The HPA works closely with the County Prosecutor Offices, and Departments of the Attorney General and Public Safety to ensure the victim(s) of crime or their designee or surviving family members are notified and provided the opportunity to participate in the HPA hearings process. It should also be noted, the HPA will also

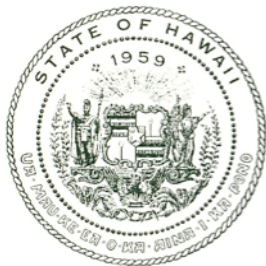
directly notify the victim(s) of crime or their designee or surviving family members of an offender's minimum sentencing hearing and any other event under the jurisdiction of the HPA, if this agency receives such a request directly from the victim(s) of crime or their designee or surviving family members. Therefore, the HPA requests the term "opportunity to participate and be heard" in Section 2 on page 4 (Item #9 – Lines 3 through 7) be clarified to mirror existing language found in HRS §706-669(7) and HAR §23-700-21(j) and that no additional notification requirements be included.

Further, it should be noted the requirements for notification of release on bail bond and release on appeal bond listed in Section 2 on page 4 (Item #11 – Lines 13 through 18) should be directed to the Judiciary which has sole jurisdiction regarding bail release matters. The remaining release requirements listed are very broad and require clarification. Review of the twenty-one (21) electronic notification "trigger" events of the Statewide Automated Victim Information and Notification System (SAVIN) should be considered, as this measure appears to duplicate the notification process already in place.

The HPA defers concerns regarding potential conflicts of the rights afforded offenders and those proposed for the victims of crime and their surviving immediate family members outlined in this measure to the Department of the Attorney General.

Thank you for the opportunity to provide testimony on SB 679.

HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU  
CARMILLE LIM  
AMY MONK  
LISA ELLEN SMITH  
MARILYN LEE  
JUDY KERN

Executive Director  
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March 3, 2015

To: Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Members of the Senate Committee on Judiciary and Labor

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

Re: Testimony in Support, SB 679, 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 SB 679, 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. 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 and fairness, 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. Although many believe that the prosecutor's office already upholds these basic dignities for a victim, this is hardly the truth and depends on the individual prosecutor. Just earlier this year, Honolulu Prosecutor Keith Kaneshiro admitted that 15-20 felony sexual assault cases had run past the statute of limitations because an individual prosecutor had left the cases in a desk file. Surely, victims can be treated with more dignity than this. Surely, these basic rights can be upheld on more than a "case by case" basis. If anything, a constitutional amendment will change the way we view victims and the criminal justice process, and will serve as a constant reminder that our system can do better for victims.

Awarding basic rights to victims does not diminish the rights of the accused, nor does it change any burden of proof in any criminal case. In light of the recent media exposure of multiple cracks in our criminal justice system (from HPD reporting on domestic violence cases, to lack of prosecution for felony sexual assaults, to the difficulty in obtaining restitution), now is the right time to pass a constitutional amendment and the fair thing to do.

The Commission respectfully urges this Committee to pass SB 679. Thank you for this opportunity.

**Justin F. Kollar**  
Prosecuting Attorney

**Kevin K. Takata**  
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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808-241-1888 ~ FAX 808-241-1758  
Victim/Witness Program 808-241-1898 or 800-668-5734

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TESTIMONY IN SUPPORT OF  
SB679 – PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION  
OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF  
CRIME

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

Senate Committee on Judiciary and Labor  
March 3, 2015, 9:00 a.m., Conference Room 016

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

The County of Kaua'i, Office of the Prosecuting Attorney, **STRONGLY SUPPORTS SB679 - PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME.** The Bill proposes an amendment to the Hawaii State Constitution guaranteeing that victims of crime and their surviving immediate family members have specific rights related to information pertaining to and participation in the criminal justice process.

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

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

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

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

Accordingly, we are in **STRONG SUPPORT** of SB679. We request that your Committee **PASS** the proposed amendment.



**Justin F. Kollar**  
Prosecuting Attorney

**Kevin K. Takata**  
First Deputy



**Rebecca A. Vogt**  
Second Deputy

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

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TESTIMONY IN SUPPORT OF  
SENATE BILL NO. 679  
PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION OF THE  
STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME

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

Senate Committee on Judiciary and Labor  
March 3, 2015, 9:00 a.m., Conference Room 016

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

I've worked with victims of crime for the past 22 years, and it's been my  
experience the majority of people, be it police officers, attorneys, judges, or  
legislators, want the same thing - justice for all. We may have different  
missions, but no one wants a defendant to be wrongly convicted or a victim to  
be further harmed.

Even though we don't always get it right, the American criminal justice system  
is the best in the world. Part of what makes it so great is having Constitutional  
rights that protect the accused which demand immediate, corrective action  
when mistakes are made.

I've seen great improvements with respect to restorative justice. For example,  
victims now have the opportunity to be heard at sentencing. However, they  
must currently rely on the prosecutor to file a motion when there's an  
oversight. A hearing takes place and a judge renders a decision. Having this  
right be protected under our State Constitution would mean a swift and certain  
remedy; a new sentencing would take place to guarantee the victim's right to  
participate.

I am aware there's been a lot of concern and fear about possible ramifications if this bill is passed. Please recognize there are daily consequences to victims of crime without it.

I respectfully ask that you support SB679.





TO: Chair Gil Keith-Agaran  
Vice Chair Maile Shimabukuro  
Members of the Committee

FR: Nanci Kreidman, M.A

RE: SB 679 Support

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

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

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

Thank you.



March 3, 2015

TO: Sen. Gilbert S.C. Keith-Agaran, Chair  
Sen. Maile S.L. Shimabukuro, Vice Chair  
And Members of the Senate Committee on Judiciary and Labor

FROM: Amy Agbayani, Friends of Civil Rights

TESTIMONY IN SUPPORT: SB 679 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime

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

Hawai'i Friends of Civil Rights seeks to promote the values of Dr. Martin Luther King Jr. HF CR supports the rights of individuals to receive equal treatment and equality. We believe that the rights of crime victims are similar to civil rights. Crime victims should have ensured basic rights. This measure would enforce the right to be treated with courtesy, fairness and respect throughout criminal proceedings; the right to receive information about their rights and available services to them; the right to receive notification of proceedings and major developments in their case; the right to receive timely notification of changes in the offender's custody status; the right to be present at court proceedings; the right to provide input to the prosecutor before a plea bargain is finalized; the right to be heard at plea or sentencing proceedings or any process that may result in the offender's release; and the right to restitution.

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. Hawaii Friends of Civil Rights urges your Committee to pass this measure. Thank you for allowing our testimony in support to be heard.



**HAWAII STATE COALITION AGAINST DOMESTIC VIOLENCE**

Date: February 27, 2015

To: Senator Gilbert S.C. Kieth-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

From: Marci Lopes, Executive Director  
Hawaii State Coalition Against Domestic Violence  
RE: SB 679 – STRONG SUPPORT  
PLACE: Conference Room 016  
DATE and TIME: Tuesday, March 3, 2015 9:00 a.m.

The Hawaii State Coalition Against Domestic Violence is a statewide partnership of 21 domestic violence programs and 9 emergency domestic violence shelters. We have member representation from domestic violence service providers on 6 of our Hawaiian Islands. Our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

Your leadership in ensuring SB 679 affectingly known as Marsy's Law is passed is critical. The Crime Victims Bill of Rights would create a balance 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, 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.

Many victims do not know they currently have statutory rights. For victims to be able to have these rights the current process is that they have to put in a written request. No one knows where this written request goes. Sadly many of the rights in the statute are not enforceable. Without the enforcement these right have no meaning. When someone is arrested they are immediately read their rights. This same consideration is not offered to a victim of crime.

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 also learned in that meeting that victims' advocates in Hawaii have been trying for over 10 years to make the voices of victims be heard and valued.

HSCADV, our membership, advocates, and survivors in our communities strongly support SB 679. This is an opportunity to make meaningful change that all victims and survivors deserve.

Respectfully,

Marci Lopes, Executive Director



## Hawaii Women's Coalition

COMMITTEE ON JUDICIARY AND LABOR  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Tuesday, March 03, 2015  
TIME: 9:00 am  
PLACE: Conference Room 016

The Hawaii Women's Coalition is in **STRONG SUPPORT** of **SB 679** PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME.

Aloha Chair Keith-Agaran and members,

We support this bill which would establish a long-overdue bill of rights for crime victims. It is a sad fact that convicted felons have more rights than victims of crime. Moreover there is an epidemic of violence against women in this state, in the country and in the world. This bill would afford the women who experience this outrage against common humanity, a measure of protection they do not now have.

Every day, women and men who are victims of violent crimes are drawn into the criminal justice system and forced to maneuver through the complex judicial system in the midst of their trauma.

Many crime victims feel re-victimized by the system because while they have some statutory rights, these rights are too often ignored and are not enforceable. Crime victims deserve to have permanent, constitutional, and enforceable rights.

We urgently request your support for an Amendment to the Hawai'i Constitution that guarantees basic rights to crime victims. The Constitutional Amendment for Victims' Rights guarantees the following basic rights to crime victims:

- **The right to be treated with courtesy, fairness and respect for their dignity and privacy throughout the criminal justice proceedings;**
- **The right to receive information about their rights and the services available to crime victims;**
- **The right to receive notification of proceedings and major developments in their criminal case;**
- **The right to receive timely notification of changes to the offender's custodial status;**
- **The right to be present at court proceedings;**
- **The right to provide input to the prosecutor 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.**

**Hawai'i is one of just 18 states that does not have a constitutional provision protecting victims' rights.**

The proposed amendment does not diminish the rights of offenders. It offers a better balance between the rights of crime victims and the rights of offenders.

These rights seem to us to reflect common sense and common decency. But without this constitutional amendment to codify these rights, victims will continue to be at the mercy of a capricious legal system. Please pass this victims' bill of rights. The women and men of Hawaii deserve this protection.

Mahalo for allowing me to testify

Ann S. Freed  
Co-Chair, Hawaii Women's Coalition



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

March 3, 2015

To: Senator Gilbert S.C. Keith-Agaran Karl Rhoads, Chair –Senate Committee on Judiciary and Labor; Senator Maile S.L. Shimabukuro, Vice Chair; and members of the committee

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

Re: Senate Bill 679 – Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Crime Victims

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I am Carol McNamee, representing MADD Hawaii and speaking in strong support of SB 679 which calls for a Constitutional Amendment for Victims Rights. MADD is one of the largest victim service organizations in the Country. In Hawaii, MADD provides services for victims of homicide as well as for negligent homicide, negligent injury, manslaughter, failure to render aid and for any victim of an impaired driving crash, whether or not the offender is charged or convicted. MADD has always been known for being the *Voice of the Victim*. A MADD memorial in Kaka’ako Waterfront Park stands as testimony to the indescribable pain resulting from the losses that thousands of victims of violent crime in Hawaii experienced after the tragedy which either killed or injured their loved one – or loved ones.

Too often, these victims are destined to suffer more pain when they are revictimized by the criminal justice system which is supposedly designed to support victims through the court process and deliver justice in the end. There is no doubt that gains have been made over the 31 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 that 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 high percentage of the electorate voted to adopt the constitutional amendment.

Senate Bill 679, which proposes a constitutional amendment that we – and other states -are calling Marsy’s Law in memory of a young girl murdered in California, will offer Hawaii victims important protections and will also include a section on “enforcement” in order for a victim to assert the rights that are established in this bill.

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 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 as they go through the difficult criminal justice process and beyond. As a MADD past president who attended the dedication of our Victim Memorial 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?”

Additional members of the MADD organization, who have experienced the loss of a family member, are testifying this afternoon and there are others who send their support but are unable to be present because of work or other conflicts or because their cases may not have been concluded.

MADD encourages this committee to pass SB679. Thank you for the opportunity to testify in support of this important measure. *Constitutional Rights for Victims* are right for Hawaii.



National Office  
511 E. John Carpenter Freeway, Ste. 700  
Irving, TX 75062

Concerning: Senate Bill 679 – Proposing an Amendment to Article 1 of the Constitution of the State of Hawaii Relating to The Rights of Victims of Crime

To: Chairman Gilbert S.C. Agaran, Senate Committee on Judiciary and Labor,  
Vice Chair Joy, San Buenaventura, and members of the committee

From: Colleen Sheehey-Church, National President – Mothers Against Drunk Driving

March 3, 2015

Dear Hawaii Lawmakers:

On behalf of thousands of drunk driving crime victims, I write you today in support of a proposal to guarantee rights for all crime victims. Specifically, I urge you to support SB 679 and create a State Victims' Rights Amendment to the Hawaii Constitution.

My son, Dustin Church, was killed in June 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.

This is important legislation and will protect the rights of all crime victims in Hawaii. Passing this legislation would make Hawaii the 33rd 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 679 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

Fax to 586-~~7340~~ 2/27/15  
Attn. Sen Gilbert Keith-Agaran

Date: For hearing on March 3, 2015

To: Senate Committee on Judiciary & Labor, Sen. Gilbert Keith-Agaran, Chair; Sen. Maile Shimabukuro, Vice Chair

Re: SB679 on 3/3/2015 at 9:00am, Conference Room 019, 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 679, which will help to ensure the rights of victims by giving them a constitutional right to be informed of notifications about proceedings and major developments in their criminal cases.

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

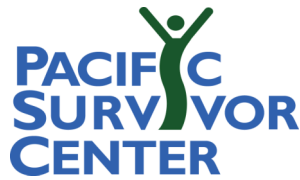
Years later, in 2009, I discovered that my ex-husband was back in the United States. I contacted Charlene Takeno of the Missing Child Center Hawaii, to have the court system follow up on the apprehension of my ex-husband. We both discovered that the State of Hawaii had removed the felony warrants for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

On December 18<sup>th</sup>, 2009 my son Ariel Martinez (who successfully escaped from his abusive father in Mexico and returned to Hawaii on May 8<sup>th</sup>, 1994), Charlene Takeno and I went to the Prosecuting Attorney's office to find out when and why the warrants had been dismissed. A representative of the Prosecuting Attorney's office met with us and stated that he had no idea how the warrants had been expunged, when they had been expunged or who had initiated the dismissal of the warrants. I asked why I was never notified of their dismissal. He pleaded ignorance, and told me it was highly unusual for me not to be notified, and he was sorry about the dismissal. He was sure however that his office could not re-instate the warrants. He offered apologies and nothing more. I remember my son being very angry and stating that his father could then get off from all the harm he had done and would never be held liable. The representative said that unfortunately was the case.

After Peter Carlisle was removed from the Prosecutor's office Keith Kaneshiro was installed as Prosecutor. I contacted Mr. Kaneshiro and asked him to look into my case. He took the time to look into the State records, which I had been told did not exist. Mr. Kaneshiro told me that in January 2004 Deputy Prosecuting Attorney, Iwalani White, had proposed that the warrants be dismissed. On 3/14/2005 the State of Hawaii dismissed the warrants against my ex-husband.

If victims had constitutional rights the State would have been obligated to notify me about the warrant dismissals. The State has a protocol to notify victims, but they did not have to follow the protocol. If victims had constitutional rights the State would be obliged to inform me. I believe passing HB 1144 will ensure a victim's right to be kept informed.

Sincerely,  
Sharon L. Young



DATE: March 2, 2015

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

FROM: Nicole Littenberg, MD, MPH  
Pacific Survivor Center

RE: Testimony in Support of S.B. 679  
Proposing an Amendment to Article I of the Constitution of the State of  
Hawaii Relating to Rights of Victims of Crime

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

Thank you for the opportunity to submit testimony on behalf of the Pacific Survivor Center in strong support of Senate Bill 679 (S.B. 679).

The Pacific Survivor Center (PSC) is a 501(c)(3) organization that serves domestic and immigrant survivors of human trafficking and domestic violence. Survivors of human trafficking and domestic violence have often suffered for months or years in isolation, subjected to both physical and psychological abuse. They have very complicated and prolonged medical, psychological, and social needs, and their recovery is difficult and tenuous.

PSC clients frequently testify in criminal trials as witnesses. Survivors often lack familiarity with the criminal justice system, and for immigrant survivors, this is compounded by language and cultural barriers, as well as possible distrust of governmental institutions. For all of our clients, interacting with the criminal justice system is stressful and re-traumatizing.

Crime victims deserve to be treated with dignity and respect; to receive notification of major events, court proceedings, and the offender's custody status; to be heard if the proceeding involves the offender's sentencing or release; and to receive restitution. Establishing trust is the critical first step when helping crime victims. Human trafficking and domestic violence survivors face a difficult and long recovery. The proposed constitutional amendment facilitates the criminal justice system in earning survivors' trust and reducing the secondary trauma that survivors endure.

For these reasons, we strongly urge the Senate Committee on Judiciary and Labor to support SB 679.

Thank you for the opportunity to submit testimony in support of this measure.



DATE: March 2, 2015

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Maile S.L. Shimabukuro, Vice-Chair  
and Members of the Senate Committee on  
Judiciary and Labor

FROM: C. Kent Coarsey, President and Executive Director  
The Children's Alliance of Hawaii

RE: SB 679 Proposing an Amendment to Article I of  
the Constitution of the State of Hawaii Relating to  
Rights of Crime Victims

POSITION: Strong Support

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

Thank you for providing this opportunity to testify in strong support of  
SB 679.

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 679 out of your Committee.

A. JAMES WRISTON, JR., Esq.  
*Chair*

MARY WORRALL  
Vice Chair & Secretary

CRAIG WARREN  
Treasurer

DIRECTORS:

JACKIE COLLINS BUCK

TIMOTHY CHANG

JENIFER EVANS

PAMELA FERGUSON-BREY, Esq.

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ROBERT HALE

ALLEN KUBOTA

MEREDITH LOW

BRIDGET PALMER HOLTHUS, Esq.

LORI PHILLIPS, PhD

PENELOPE ROGERS

PATTI PETRI ROSE

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C. KENT COARSEY  
PRESIDENT/EXECUTIVE DIRECTOR





# THE SEX ABUSE TREATMENT CENTER

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

*Executive Director*  
Adriana Ramelli

DATE: March 3, 2015

*Advisory Board*

*President*  
Mimi Beams

*Vice President*  
Peter Van Zile

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

Marilyn Carlsmith  
Senator  
Suzanne Chun Oakland

TO: The Honorable Gilbert Keith-Agaran, Chair  
The Honorable Maile Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

FROM: Adriana Ramelli, Executive Director  
The Sex Abuse Treatment Center

RE: Testimony in Support of Senate Bill 679  
Proposing an Amendment to Article I of the Constitution of the State of  
Hawai'i Relating to the Rights of Victims of Crime

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember  
Carol Fukunaga

David I. Haverly

Linda Jameson

Michael P. Matsumoto

Robert H. Pantell, MD

Gidget Ruschetta

Joshua A. Wisch

I would like to thank the Committee for this opportunity to provide testimony on behalf of The Sex Abuse Treatment Center (the SATC), a program of Kapi'olani Medical Center for Women & Children, in strong support of Senate Bill 679 (S.B. 679).

S.B. 679 proposes an amendment to the Hawai'i State Constitution guaranteeing that victims of crime and their surviving immediate family members have specific rights with respect to being informed about, and participating in, the criminal justice process.

As a sexual assault center that provides crisis services in the immediate aftermath of a crime; legal advocacy to support survivors through judicial proceedings; and ongoing mental health services, the SATC assists clients on a daily basis to deal with challenges that survivors of violent crime encounter when navigating the criminal justice system.

We strongly believe that survivors should be informed about, and be afforded the opportunity to participate in, the investigation, prosecution, and ongoing management of their cases. Survivors' voices in these matters are an important reminder to other key participants in Hawai'i's criminal justice system of the high stakes involved in handling perpetrators of violent crime: these crimes cause extreme, sometimes permanent physical and emotional harm to real people. Moreover, assisting survivors to participate in the process can help to empower and heal them, and sends a strong message that the State of Hawai'i cares about and will protect its people.

It is also crucial that survivors' rights be guaranteed by our State Constitution. Although Hawai'i has, in the past, enumerated these rights in Chapter 801D of the Hawai'i Revised Statutes, the existing law lacks the force of a Constitutional mandate. This is particularly troubling because our State Constitution, while remaining silent with respect to the rights of survivors, explicitly protects criminal defendants. As a result, the fundamental legal framework of Hawai'i's criminal justice system prioritizes the needs of survivors well below those of accused criminals.

S.B. 679 remedies this by allowing 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 Constitutional amendment would not take away any of the protections 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.

Therefore, we urge you to pass S.B. 679, and grant the People the authority to appropriately prioritize the needs of survivors of crime in our State Constitution, our most powerful legal document.





## VISITOR ALOHA SOCIETY OF HAWAII

**TO:** Sen. Gilbert S.C. Keith-Agaran, Chair  
Sen. Maile S.L. Shimabukuro, Vice Chair  
And Members of the Senate Committee on Judiciary and Labor

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

**SUBJECT:** SB 679 Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime  
Hearing March 3, 2015 at 9:00am Conference Room 016

**POSITION:** SUPPORT

Good morning Chair Keith-Agaran, Vice-Chair Shimabukuro, and members of the Senate Committee on Judiciary and Labor. Thank you for the opportunity to provide testimony in support of SB 679 to amend the Hawaii State Constitution to guarantee that crime victims and their immediate surviving family members have enforceable rights.

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

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

I urge your Committee to pass this measure. Thank you for considering my testimony in support of SB 679.

TO: Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

FROM: Anonymous Domestic Violence Survivor

HEARING: Tuesday, March 3, 2015 9:00am

Testimony in Support of SB 679, Victims Rights Constitutional Amendment

Thank you for the opportunity to provide testimony in **strong support** of SB 679. All the reasons I am requesting to remain anonymous are also all the reasons I'm in **strong support** of this bill. As a domestic violence victim my safety and the safety of my children are constantly in jeopardy because the current system does not protect victims like me. I have experienced numerous incidents where my rights have been violated. To be honest, in my experience the only thing the system has done consistently is - it's made me feel like I have NO rights.

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

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

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

I was subpoenaed to testify against my abuser in court. I had to sit in the hallway of the court house waiting for our trial to begin. My abuser sat in the same hallway a few feet away from me taunting and harassing me. I was subpoenaed and I had a restraining order in effect. But, I had to explain and beg out of fear to a security guard to help me. Because, I didn't feel safe with my abuser a few feet away saying he'd "Kill me" visually upset that he was facing charges for abuse.



The prosecutor's office knew I had a restraining order. Arrangements should have been made ahead of time. Instead, I had to face my abuser in the hall before testifying. I should not have been placed in that predicament. I should have been protected and ensured safety prior to testifying. These are just some of the ways the system failed to protect my rights.

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

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

Anonymous Ann

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

Thank you for the opportunity to submit testimony in strong support of SB 679. 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. I strongly urge your Committee to pass SB 679 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

**Senate Bill 679: Proposing an Amendment to Article 1 of the Constitution of the State of Hawaii Relating to the Rights of Victims of Crime**

Hearing: March 3, 2015  
State Capitol  
415 South Beretania Street  
Conference Room 016  
Honolulu, HI 96813

Senate Committee on Judiciary and Labor

To: Chairperson Keith-Agaran, Vice Chairperson Shimabukuro, and Committee on Judiciary and Labor Members

RE: STRONG SUPPORT for SB 679

I am writing to urge passage of Senate Bill 679, proposing an amendment to the Hawaii State Constitution which would guarantee basic, enforceable rights to victims of crime.

At the most fundamental level, crime victims should have the right to receive information about their rights and available services, to be present at court proceedings, to receive notification of major developments in their cases, and the right to restitution, among others. Even more basically, as the proposed bill for an act states, victims of crime “should be treated with dignity, respect, and courtesy and *their rights should be protected in a manner no less vigorous than those of the accused.*”

In a survey conducted by the Attorney General’s Office (*2010 Crime and Justice in Hawaii*), nearly 80% of crime victims reported being psychologically or emotionally affected. The proposed amendment would help to ensure that the criminal justice system does not add to the suffering of parties who have already been victimized.

Currently, Hawaii is one of only 18 states that do not offer such constitutional protection for victims of crime. Shouldn’t the people of Hawaii have the opportunity to decide whether our state should join the other 32 who do?

Please support the proposed Constitutional Amendment for Victims Rights.

Respectfully,  
Judy Kern

From: [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
To: [JDLTestimony](#)  
Cc:  
Subject: Submitted testimony for SB679 on Mar 3, 2015 09:00AM  
Date: Sunday, March 01, 2015 11:27:04 PM

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## **SB679**

Submitted on: 3/1/2015

Testimony for JDL on Mar 3, 2015 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karlotta Carvalho	Individual	Support	Yes

Comments: Aloha my name is Karlotta Carvalho and I thank you for the opportunity to be heard in support of House Bill 1144 "Something insidious has happened in America: Crime has made victims of us all. Awareness of its danger affects the way we think, where we live, where we go, what we buy, how we raise our children, and the quality of our lives as we age. The specter of violent crime and the knowledge that, without warning, any person can be attacked or crippled, robbed or killed, lurks at the fringes of consciousness... Hon. Lois Haight Herrington, Chair President's Task Force on Victims of Crime 33 years ago... In the early hours as I lay fast asleep excited to attend my first day as a student transferring from Brigham Young University to attend the University of Hawaii, I was awakened by a large shadow hovering over my bed in the dark of the early morning. At first I thought I was dreaming, only to realize a few seconds later that there was an unidentified man trying covered my mouth while reaching to choke my neck. I quickly realized that it in fact was not a dream but a horrific attempt to assault me. Though I managed to break free from his grip before he could harm me, the trauma of the incident left me scarred emotionally. I testified against the offender in court and he was sentenced and incarcerated. Consequently, there were little to no victim rights in place and I lived in fear wondering when and if he would be released, and if he would seek revenge or harm to me. I lived my life in fear, systematically, locking all windows, closing all blinds, checking under the beds, in closets and even the attic in fear of another intrusion. One day when I least expected I went to the local market and without warning found myself face to face with the offender who was standing in the check out line, starring at me within arms reach. Horrified, I stood frozen, unable to move or speak. My worst nightmare had been realized. Since the 1970s, the victims right movement has worked to give victims a more meaningful role in criminal proceedings, aiming at the inclusion of "the individual victim as a legally recognized participant with rights, interests, and voice." Today, we have the right to be notified any time there is a status change re: an offender, that right could have saved me 33 years ago, the unnecessary trauma that I experienced, Fast forward to five short years ago. My son Waika Wila Carvalho was killed at the hands of a drunk driver five short minutes away from our family home. It perhaps was the single most devastating experience any parent and family could be subjected to. The tragedy of burying my beautiful son at the young age of 23, was indescribably horrific,

devastating, life altering and incomprehensible. Our lives will never ever be the same. Though we were fortunate to have justice served throughout the court proceedings, it is what happened after the sentencing was handed down when the next wave of trauma was inflicted upon us as the defendants family harassed and threatened our safety as we were leaving the courthouse on the day of sentencing. Additionally we were subjected to online bullying, degradations and harassment. We were now dealing with safety issues beyond our control. Our right to be protected from intimidation and harassment were compromised and continue to be even still today. Last but not least, the issue of restitution... \$34,000.00 was the judgement of restitution in our favor. How will this judgement be enforced? Will it ever be enforceable? Giving victims' rights constitutional protections generally makes those rights enforceable. Hon. Lois Haight Herrington : The lessons of the victims run like a thread throughout and are the foundation of all the proposals that follow. Please take the time to learn, as we have, the depth and the human aspect of this grave social problem, then join in seeking and implementing the solutions." As you consider the HB 1144 I know that there must be many considerations that weigh heavy in your decision making processes. However, as difficult a decision it may be, as a victim of crime not once, but twice, I make a sincere plea to you, that any movement in the direction and support of HB1144 is a brave, honorable and correct course of action. Respectfully, Karlotta Carvalho

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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DATE: March 2, 2015

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

FROM: Lorna Kanehira

RE: Testimony in **Strong** Support of S.B. 679  
Proposing an Amendment to Article I of the Constitution of the  
State of Hawaii Relating to Rights of Victims of Crime

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

Thank you for the opportunity to testify in strong support of S.B. 679.

My husband was killed in the Xerox shooting in 1999. I was in a fog after his death. There were so many things to take care of. I was suddenly a single parent and had to be strong for my 5-year-old son. I worried about our financial situation. My strongest memory of those first months is going to so many 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 process was complicated and intimidating, and I found it hard to concentrate. My mind was elsewhere, on my son.

We depended on the victim advocates to explain what happened in court. They broke down the process and made it understandable. They told us what to expect and explained possible outcomes. They let us know if the testimony would be emotionally difficult, and we could choose to leave the courtroom.

At the end of the trial, I was given an opportunity to submit a victim impact statement to include with the pre-sentencing report. I was also allowed to address the court before the defendant was sentenced. Throughout the trial, I was able to stay strong and not display many of the emotions that I was feeling. Giving my victim impact statement to the court was one of the hardest things that I have had to do. I broke down many times as I spoke. It is impossible to express to anyone who hasn't lived through such a horrendous event how much it affected not only my life, but the lives of so many. My son lost his father. I lost my best friend and husband. He never lived to see the young man that his son became. Although it was difficult, I needed to be able to express in open court how the defendant's act destroyed our family.

I was relieved when the trial ended, but it didn't lessen the loss or bring "closure." We still had to face the overwhelming task of getting through each day without my husband. One truly does take it a day at a time until the days become routine and suddenly turn into years.

Given my experience, it's hard to imagine surviving family members going through the criminal justice process on their own while their shock and grief is still fresh. Without the advocates, I would have felt lost and anxious throughout the entire process. Instead, the advocates calmed our distress by making sure that we understood the proceedings and preparing us for whatever would happen. I will always remember the kindness and support given to all of our families.

I strongly believe that all victims and surviving relatives should have a constitutional right to be informed, be heard, and be treated with respect. I therefore ask this Committee to approve S.B. 679.

DATE: March 2, 2015

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

FROM: Mari McCaig

RE: Testimony in **Strong** Support of S.B. 679, Proposing an Amendment to Article I of the Constitution of the State of Hawaii Relating to Rights of Victims of Crime

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

Thank you for the opportunity to submit testimony in strong support of S.B. 679.

S.B. 679 proposes an amendment to the Constitution of the State of Hawaii. It is designed to provide the recognition and protection of constitutional rights for victims of crime and their surviving immediate family members.

This bill in no way takes away rights of those accused of crimes as specified in Article I §14 of the Constitution of the State of Hawaii. Rather, it creates an equal playing field by establishing within the State Constitution clearly defined rights to protect victims of crime. All of those rights specified in S.B. 679 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've seen firsthand the arduous and difficult journey that victims and their families experience as they navigate through the criminal justice process. 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, surviving family members experience an overwhelming sense of loss and grief.

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's 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, and victim witnesses go through this each time a proceeding is scheduled and re-scheduled. Innocent victims have to retell and re-live 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.

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

This is simply wrong.

The Constitutional Amendment proposed in S.B. 679 addresses the fundamental needs of victims that are often overlooked by the criminal justice system. Victims should be assured that they will be treated with "courtesy, fairness and respect for their 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 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 case. 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's pre-trial release, a plea bargain, sentencing or post-conviction release.

In considering this bill, it is essential that Committee members recognize the victims' perspective. A criminal act has turned their lives upside down and hurled them down a path they did not choose and have no control over. The consequences to the person who caused the harm is in the hands of the prosecutor, defense attorney and a judge in a system of complex rules and procedures that at best, is 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 victims' legitimate interest in the outcome of the case. By endowing victims with codified indispensable rights, this proposed Constitutional Amendment will give them the respect, consideration and dignity they deserve.

I therefore strongly urge this Committee's support of S.B. 679.

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

February 28, 2015

TESTIMONY ON SB 679 CONSTITUTIONAL AMENDMENT FOR VICTIMS RIGHTS

To: Senator Gil Keith Agaran, Chair Judiciary/Labor  
From: Marilyn B. Lee  
Re: Hearing @ 9am 3/3/15  
Room 016

Dear Senator Keith Agaran and Members of the Committees,

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 679 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 the 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 out SB 679 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 27, 2015  
TO: Hawaii Senate Judiciary Committee  
FROM: Mary Spears,  
SUBJECT: SB679, Marsy's Law

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 in our newly released book, *Damage Control: A Brain Injury Survivor Helps You Beat the Odds*, "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.... 4 weekends in the county jail.

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 exhausting and emotional court proceedings to find justice.

Sharing our story with you is one way to personalize the victims' experience. We've included a copy of our book for each of you in hopes that it will broaden your understanding of what it means to be a victim.

As we've learned, there is no end, there is just learning to live and cope with grace and humor.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:**  
**Subject:** \*Submitted testimony for SB679 on Mar 3, 2015 09:00AM\*  
**Date:** Saturday, February 28, 2015 4:29:03 PM

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**SB679**

Submitted on: 2/28/2015

Testimony for JDL on Mar 3, 2015 09:00AM in Conference Room 016

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

Comments:

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

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From: Theresa Paulette

TO: Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran  
Senator Maile S. L. Shimabukuro, Vice Chair

RE: Senate Bill 679 – Proposing an Amendment to Article I of the Constitution of the State of Hawaii  
Relating to the Rights of Victims of Crime

Date: March 3, 2015

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

My name is Theresa Paulette, a MADD Board member and a victim, and I am writing in strong support of SB 679.

I believe that 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-two 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 and I hear about the range of emotions and injustices that prevail, such as the following current case:

Theresa Paulette Testimony, March 3, 2015

Page 2, SB 679

*"My name will remain anonymous due to the fact my case is still active, but I am writing in strong support of SB 679.*

*On the night of XXXX 2014. I was on my way driving to work. I have worked night-shift the past eight (8) years and have driven the same route all those years. Per the police report I was hit head on by a drunk driver. I have no memory of the "crash" as I suffered a severe concussion from the "crash." My car was totaled and I was transported to the hospital via ambulance. The driver of the truck was given an alcohol test, arrested and taken to jail. I later learned the drunk driver was bailed out the following morning. While I was admitted to the hospital he was already out back to his life. Mind you he suffered no injuries in the crash, he walked away free of injury.*

*I was released from the hospital and approximately a week later I was on the phone trying to find out what was 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 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. 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 was happening. But I wanted to go to see for myself exactly how this was 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.*

*The fact is that I have had to call and find out this information. I had yet to receive a phone call or an email from the prosecutor to update me or just to talk about the "crash". It is very frustrating, I feel the defendant is recognized and acknowledged but I am not. But I will be there for every pre-trial, trial, hearing, etc. whatever it takes. My face and story will be known."*

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 679.

Thank you for the opportunity to submit testimony.