

JAN 20 2017

A BILL FOR AN ACT

RELATING TO RESTITUTION FOR VICTIMS OF CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the holding in *State*
2 *v. DeMello*, 310 P.3d 1033 (Haw. Ct. App. 2013), denied
3 restitution for their wage loss on the basis that "[t]here is no
4 explicit provision in HRS § 706-646 for the award of lost wages
5 as part of restitution".

6 While the Hawaii supreme court ultimately vacated the
7 appellate court's decision as to restitution of lost wages, the
8 legislature further finds that the additional language in this
9 Act is necessary to clarify that the intent of section 706-646,
10 Hawaii Revised Statutes, is to reimburse crime victims fully for
11 all reasonable and verified losses resulting from a defendant's
12 offense, including reimbursing crime victims who miss work due
13 to injuries or impairment suffered as a result of a defendant's
14 offense, as well as reimbursing victims for the cost of mental
15 health treatment, counseling, and therapy. Nevertheless, as
16 signaled by the use of the phrase, "including but not limited
17 to", the losses enumerated in subsection (3) of section 706-646,



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1 Hawaii Revised Statutes, are intended to be illustrative, not
2 exhaustive, for purposes of restitution.

3 SECTION 2. Section 706-646, Hawaii Revised Statutes, is
4 amended by amending subsection (3) to read as follows:

5 "(3) In ordering restitution, the court shall not consider
6 the defendant's financial ability to make restitution in
7 determining the amount of restitution to order. The court,
8 however, shall consider the defendant's financial ability to
9 make restitution for the purpose of establishing the time and
10 manner of payment. The court shall specify the time and manner
11 in which restitution is to be paid~~[—while]~~; provided that while
12 the defendant is in the custody of the department of public
13 safety, restitution shall be collected pursuant to [chapter 353]
14 section 353-22.6 and any court-ordered payment schedule shall be
15 suspended. Restitution shall be a dollar amount that is
16 sufficient to reimburse any victim fully for losses, including
17 but not limited to:

18 (a) Full value of stolen or damaged property, as
19 determined by replacement costs of like property, or
20 the actual or estimated cost of repair, if repair is
21 possible;



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1 (b) Medical expenses [~~and~~], which include mental health
2 treatment, counseling, and therapy;

3 (c) Funeral and burial expenses [~~incurred as a result of~~
4 ~~the crime.~~]; and

5 (d) Lost earnings, which include paid leave."

6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 1, 2018.

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INTRODUCED BY:

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Report Title:

Crime Victim Restitution; Lost Wages; Mental Health Treatment; Therapy

Description:

Clarifies that reimbursement to crime victims includes lost wages, mental health treatment, counseling, and therapy. Effective 1/1/2018.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

