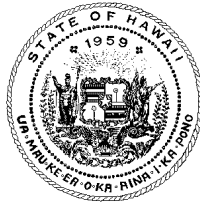


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

1136 Union Plaza, Suite 600
Honolulu, Hawai'i 96813
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MARI MCCAIG
Chair

MARTHA ROSS
Commissioner

SANDRA JOY EASTLACK
Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY ON HOUSE BILL 1774 HD1, SD1
A BILL FOR AN ACT RELATING TO
COLLECTION OF RESTITUTION FOR CRIME VICTIMS

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Friday, April 6, 2018; 11:00 AM
State Capitol, Conference Room 211

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means,

Thank you for providing the Crime Victim Compensation Commission (“Commission”) with the opportunity to testify in support of House Bill 1774 HD1, SD1, Relating to the Collection of Restitution for Crime Victims. House Bill 1774 HD1, SD1, creates a tool to enhance restitution collection by requiring orders of income withholding for the collection of restitution.

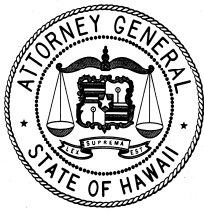
The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. In 2003, the Commission began a pilot project to distribute restitution payments collected from inmates to their crime victims. Since the inception of the project, the Commission has opened over 8,000 restitution cases. Through the project, the Commission identified a number of challenges in the collection of restitution.

While there has been significant progress in addressing some of the issues that prevent Hawai‘i crime victims from recovering their crime-related losses from court-ordered restitution, problems remain. Some of the institutional barriers are highlighted in a series of articles published in the *Honolulu Star-Advertiser* in June 2011. Through its own project and through discussion with Victim Witness Counselors throughout the State, the Commission found that most crime victims have no effective means to collect restitution even if the offender has the ability to make restitution payments.

Orders of Income Withholding are an effective tool for collecting restitution payments from working offenders. The Order of Income Withholding directs an employer to withhold a set amount from an offender's wages. The amount is set by the court who can adjust the amount based on the offender's ability to pay. This ensures that the offender pays his restitution. The Order of Income Withholding remains in place until the restitution is paid in full.

This bill mirrors Hawai'i Revised Statute (HRS) § 571-52 which provides for orders of income withholding for the collection of child support. Orders of income withholding are a well-established means for the collection of child support.

Thank you for providing the Commission with an opportunity to testify in support of House Bill 1774 HD1, SD1.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1774, H.D. 1, S.D. 1, RELATING TO COLLECTION OF RESTITUTION FOR CRIME VICTIMS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, April 6, 2018

TIME: 11:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Dean A. Soma,
Deputy Attorney General, at 586-0817)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of this bill and submits comments and recommendations.

The purpose of this bill is to create an income withholding process to enforce restitution orders in criminal cases if the judgment or order is not satisfied after 90 days. It would require that the Department implement the income withholding process by serving the court orders on employers, receiving payments from employers, and making disbursements to victims.

The bill does not impose any further burden upon employers than they would already have under chapter 576D (Child Support Enforcement), Hawaii Revised Statutes (HRS), or chapter 652 (Garnishment), HRS.

With respect to cost, the Department cannot accurately predict the funds and the number of positions that will be needed until the project is underway and we can evaluate how the project should be operating. Nevertheless, we anticipate that an attorney and legal assistant position will be needed with an estimated annual cost of \$180,000, including fringe benefits. In addition to obtaining the court orders, serving the court orders on employers, receiving payments from employers, making disbursements to victims, and reimbursing overpayments to defendants, the Department will also need

to have the ability to share restitution collection information with the Judiciary and the ability to track payments, disbursements, and addresses and contact information for employers, victims, and defendants.

The Department appreciates the opportunity to provide comments on this measure.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON WAYS AND MEANS

Sen. Donovan DelaCruz, Chair

Sen. Gil Keith-Agaran, Vice Chair

Friday, April 6, 2018

11:00 am

Room 211

OPPOSE HB 1774 HD1 SD1 - CHILLING REENTRY

Aloha Chair DelaCruz, Vice Chair Keith-Agaran and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justiceSD1 policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

HB 1774 HD1 SD1 establishes standards and procedures for withholding income to pay restitution orders and appropriates funds to the Department of the Attorney General for enhancing restitution collection.

The Acting Attorney General testified that *"The bill does not impose any further burden upon employers than they would already have under chapter 576D (Child Support Enforcement), Hawaii Revised Statutes (HRS), or chapter 652 (Garnishment), HRS."*

Community Alliance on Prisons is in opposition to this measure since it DOES impose an additional burden on an employer. *"The employer may deduct and retain as an administrative fee an additional amount of \$2 from the income owed to the defendant."*

It is confounding to us when legislation is passed to embrace reentry for those exiting incarceration and then more legislation is passed that ensures that employers will avoid hiring these folks because of the burdens placed upon them. **Why do we do this?**

Mahalo for this opportunity to testify.

"The wise build bridges while the foolish build walls."

Black Panther

HB-1774-SD-1

Submitted on: 4/5/2018 6:32:11 AM

Testimony for WAM on 4/6/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Donovan M. Dela Cruz, Chair; the Honorable Gilbert S. C. Keith-Agaran, Vice-Chair, and Members of the Committee on Ways and Means:

Good morning. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **HB1774 HD1 SD1** relating to the Honolulu Prosecuting Attorney Package; Crime Victims; Restitution; and an appropriation.

The OCC on Legislative Priorities is in favor of **HB1774 HD1 SD1** and supports its passage.

HB1774 HD1 SD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), as it establishes standards and procedures for withholding income to pay restitution orders; and appropriates funds to the Department of the Attorney General for enhancing restitution collection, effective 7/1/2035.

Specifically, the DPH Platform states, "We support restorative justice that repairs the harm caused by criminal behaviors and reintegrates the offenders as contributing members of society. Likewise we support opportunities for those who have been incarcerated to effect a smooth transition back into the community and make available health, educational, and other assistance programs needed to allow them to become productive and respected members of the community." (Platform of DPH, P. 5, Lines 273-277 (2016)).

Given that **HB1774 HD1 SD1** establishes standards and procedures for withholding income to pay restitution orders; and appropriates funds to the Department of the Attorney General for enhancing restitution collection, effective 7/1/2035, it is the position of the OCC on Legislative Priorities to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC on Legislative Priorities

Email: legislativepriorities@gmail.com, Text/Tel: (808) 258-8889

HB-1774-SD-1

Submitted on: 4/4/2018 3:40:58 PM

Testimony for WAM on 4/6/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

HB-1774-SD-1

Submitted on: 4/4/2018 4:17:36 PM

Testimony for WAM on 4/6/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Oppose	No

Comments:

OPPOSE HB1774 HD1 SD1

This bill is unfair to inmates whose funds in account also include money from family/friends, not only money they earned by themselves. The cumulative effect will leave them with possibly nothing upon their discharge from the prison. This is a setback before they can even get started on their road to recovery.

Restitution should fall on the shoulder of the inmate himself/herself not on money provided for them by their loved one to pay for their medical cost, clothing, food.