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**THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR**  
**SENATE COMMITTEE ON WAYS AND MEANS**  
**Twenty-Ninth State Legislature**  
**Regular Session of 2018**  
**State of Hawai`i**

April 6, 2018

**RE: H.B. 1774, H.D. 1, S.D. 1; RELATING TO COLLECTION OF RESTITUTION FOR CRIME VICTIMS.**

Chair Dela Cruz, Vice-Chair Keith-Agaran and members of the Senate Committee on Ways and Means, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in strong support of H.B. 1774, H.D. 1, S.D. 1. This bill is part of the Department’s 2018 legislative package.

The purpose of this bill is to facilitate payment of restitution to victims of crime. While restitution is ordered by courts in many criminal cases today, it is not strictly enforced, and victims are often left to "fend for themselves" via private lawsuit against a defendant. In this sense, the current system greatly decreases the chances that victims will ever receive the restitution payments promised to them, and further demoralizes or "re-victimizes" these victims of crime, discounting the very benefits that restitution is intended to provide.

To more effectively facilitate and enforce payment of restitution by offenders, H.B. 1774, H.D. 1, S.D.1 would create standards and procedures for income withholding, similar to those used for collecting outstanding child support payments. Inmates and work furlough participants would be exempt, as their accounts are already subject to automatic deductions under HRS §353-22.6. Child support withholdings would receive first priority over restitution withholdings, to comply with federal regulations.

Although the Department’s prior proposals for this mechanism had placed the responsibility with Adult Client Services (Judiciary), the Department now believes that the Department of the Attorney General would be the best agency to carry out this program. The Department of the Attorney General is a statewide agency authorized to handle both civil and criminal matters, and already has a “civil recoveries” division, in addition to housing the Child Support Enforcement Agency; while neither of those divisions currently handles the exact duties outlined in H.B. 1774, H.D. 1, S.D. 1 both do comparable work that could provide valuable guidance.

After working with a number of other agencies on these measures, the Department believes that H.B. 1774, H.D. 1, S.D. 1 would directly address criticisms that the current process provides only "hollow promises" to victims, and would be a crucial step forward in transforming Hawai'i's restitution process into an effective tool for victim restoration, offender rehabilitation, and public faith. Victim restitution is perhaps the *only* core victims' right that addresses such a wide range of the—often devastating—effects of crime, including physical, emotional, psychological, financial *and* social impacts. As stated by the House Judiciary Committee, upon passing the language that later became Section 706-605, Hawaii Revised Statutes:

*Reparation and/or restitution by wrongdoers to their victims is basic to justice and fair play...[B]y imposing the requirement that a criminal repay not only "society" but the person injured by the criminal acts, society benefits not once, but twice. The victim of the crime not only receives reparation and restitution, but the criminal should develop or regain a degree of self respect and pride in knowing that he or she righted, to as great a degree as possible, the wrong that he or she has committed.*

House Stand. Comm. Rep. No. 425, in 1975 House Journal.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of H.B. 1774, H.D. 1, S.D. 1. Thank you for the opportunity to testify on this matter.