



*The Judiciary, State of Hawai'i*

**Testimony to the House Committee on Judiciary**  
Representative Scott Y. Nishimoto, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, March 27, 2018, 2:00 PM  
State Capitol, Conference Room 325

by  
Rodney A. Maile  
Administrative Director of the Courts

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** H.C.R. 107, Proposed H.D. 1 / H.R. 93, Proposed H.D. 1: Requesting Prosecutors from the Various Counties and the Attorney General to the Legislature as to Their Victim Protocols.

**Judiciary's Position:**

The Judiciary appreciates the opportunity to comment on this measure.

The Judiciary respectfully suggests the following revision to H.C.R. 107, Proposed H.D. 1 / H.R. 93, Proposed H.D. 1, page 1, lines 24–25, to read in pertinent part:

WHEREAS, congestion in the State's courts can lead [~~is one of the most cited reasons for delays that have led~~] to the setting of trial dates that are further into the future...

Thank you for the opportunity to comment on this measure.

**HCR-107**

Submitted on: 3/23/2018 4:45:49 PM

Testimony for JUD on 3/27/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard K. Minatoya	Maui Department of the Prosecuting Attorney	Oppose	No

Comments:

The Department of the Prosecuting Attorney, County of Maui, STRONGLY OPPOSES HCR 107, PROPOSED HD 1. The purpose of the concurrent resolution would not be met without inclusion of ALL agencies involved with HRS Chapter 801D. Police and the Judiciary should also be involved, as they play a role in Chapter 801D, particularly the Judiciary with regards to issues involving court delays. Reports from prosecutors and the AG will be meaningless without input from these other agencies.

The Department requests that the Proposed HD 1 be HELD.

Thank you very much for the opportunity to provide this testimony.

**HCR-107**

Submitted on: 3/25/2018 10:01:46 PM

Testimony for JUD on 3/27/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We STRONGLY SUPPORT this resolution. Mahalo.

**HCR-107**

Submitted on: 3/26/2018 11:19:08 AM

Testimony for JUD on 3/27/2018 2:00:00 PM

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

Comments:

To the Honorable Scott Y. Nishimoto, Chair; the Honorable Joy A. San Buenaventura, Vice-Chair and the Members of the Committee on Judiciary:

Good afternoon, 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 **HCR107 / HR 93 Proposed HD1** relating to the Judiciary; Vulnerable Victims and Witnesses; and a Working Group

The OCC on Legislative Priorities is in favor of **HCR107 / HR 93 Proposed HD1** and supports its passage.

**HCR107 / HR 93 Proposed HD1** is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requests the county prosecutors and the Attorney General to report to the Legislature of their respective victim protocols, including but not limited to: (1) how they implement the rights specified in chapter 801D, Hawaii Revised Statutes, within their offices; (2) how soon they inform witnesses and victims that a court proceeding will not proceed as scheduled under section 801D-4(2), Hawaii Revised Statutes; (3) whether they inform victims and witnesses as to reasons for delay; (4) whether they inform victims and witnesses as to any reason not to prosecute, should a case be dismissed due to delay; and (5) any recommendations in further implementing victims' and witnesses' rights under chapter 801D, Hawaii Revised Statutes.

Specifically, the Platform of the DPH provides that "We support restorative justice that repairs the harm caused by criminal behaviors and reintegrates the offenders as contributing members of society. " (Platform of the DPH, P. 5, Lines 273-274 (2016)).

We believe in women's equality and right to privacy, including but not limited to equal access to reproductive services and care, shelter and counseling for victims of

domestic violence, and the right of rape victims to emergency contraception in the emergency room. (Platform of the DPH, P. 4, Lines 170-172 (2016)).

We believe that all families should have an equal opportunity to build their assets and become self-sufficient, and we support a strong safety net of programs that will afford them the opportunity to do so. We must protect our children, our future, from violence and neglect and provide them with a safe and healthy environment in which to grow and thrive. (Platform of the DPH, P. 4, Lines 184-187 (2016)).

We support legislation and best practice policies that prioritize the safety, security and well-being of our foster children, who are our most vulnerable keiki in our community. This is the paramount consideration when making decisions regarding the time frame, criteria and justification for reunification and family placement. We will always respect family and familial bonds, but reunification with every biological family is not always the safest, most secure or in the best interests of every child. This is especially true in aggravated circumstances cases involving drug use history, physical abuse, sexual abuse and unstable housing. We strongly support the efforts of parents and all people to recover and reorganize their lives for the better, but our ultimate concern must also be for the short and long term safety and wellbeing of our foster children. (Platform of the DPH, P. 4, Lines 193-201 (2016)).

We support the efforts of our Congressional Delegation to extend benefits for our Reservists and National Guard who have suffered brain injury and/or PTSD. We support efforts to protect our troops from sexual predators who commit sexual assault and command rape within their service branches and support specialized treatment for victims of such crimes. (Platform of the DPH, P. 10, Lines 536-539 (2016)).

Given that **HCR107 / HR 93 Proposed HD1** requests the county prosecutors and the Attorney General to report to the Legislature of their respective victim protocols, including but not limited to: (1) how they implement the rights specified in chapter 801D, Hawaii Revised Statutes, within their offices; (2) how soon they inform witnesses and victims that a court proceeding will not proceed as scheduled under section 801D-4(2), Hawaii Revised Statutes; (3) whether they inform victims and witnesses as to reasons for delay; (4) whether they inform victims and witnesses as to any reason not to prosecute, should a case be dismissed due to delay; and (5) any recommendations in further implementing victims' and witnesses' rights under chapter 801D, Hawaii Revised Statutes, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,  
/s/ Melodie Aduja

Melodie Aduja, Chair, OCC on Legislative Priorities of the DPH

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**Testimony to the House Committee on Judiciary**  
**Tuesday, March 27, 2018, 2:00p.m.**  
**State Capitol Conference Room 325**

Re: Supporting House Concurrent Resolution No. 107

Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

My name is Ron Shimabuku and I am the brother and godparent to the late Kaulana Matthew Auwae Werner who as you are aware was the victim of a drunk driving, hit-and-run crash which occurred on the evening of April 24, 2016 in Nanakuli, Hawaii. **I am in full support of House Concurrent Resolution No. 107**, requesting the judiciary to convene a working group to develop AND IMPLEMENT protocols for HANDLING CRIMINAL CASES INVOLVING vulnerable victims and witnesses. **I would also like to request that I be appointed as a member** to provide a victim's perspective in such cases.

Yesterday, March 25, 2018, marked the 700<sup>th</sup> day since my brother's passing. The criminal case for the alleged defendant in our case has experienced three (3) requests for continuances by the Public Defender's Office and granted by the courts. The case is now scheduled to be heard on May 14, 2018, which will be day 750 since the crash. That's 750 days without some sort of closure for my family, justice to be served, and a felon is roaming in our communities to commit another heinous offense.

With this, I would like to say that is with the utmost respect and honor, that I am able to present my position to this Committee. **I ask that you approve House Concurrent Resolution No. 107 and allow me to be appointed as a member of this workgroup.** In 700 days, my family has experienced the ups and down of the criminal court system and would be honored to share this to better the process for the God forbid individuals who are in our shoes in the future.

Mahalo for your consideration of my testimony!

**LATE**

**HCR-107**

Submitted on: 3/27/2018 10:26:14 AM  
Testimony for JUD on 3/27/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments: