

Honolulu, Hawaii

MAR 03 , 2022

RE: H.B. No. 1459
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 1459 entitled:

"A BILL FOR AN ACT RELATING TO JUVENILE RESTITUTION,"

begs leave to report as follows:

The purpose of this measure is to require victim restitution in certain juvenile cases.

Your Committee received testimony in support of this measure from the Crime Victim Compensation Commission, Department of the Prosecuting Attorney of the City and County of Honolulu, and County of Kauai Victim/Witness Program. Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

Your Committee finds that under existing state law, courts are required to order victim restitution in adult offender cases but not in juvenile offender cases. Furthermore, some judges interpret state law as only allowing victim restitution as an alternative to community service. This system greatly decreases the chances that juvenile offenders will be held accountable to their victims, which can demoralize or revictimize these victims by discounting the very benefits that restitution is intended to provide.



Your Committee further finds that a recent Intermediate Court of Appeals case ruled that the plain language definition of "victim" for purposes of victim restitution in certain juvenile cases does not include the Crime Victim Compensation Commission, even though the Commission is included in the definition "victim" for purposes of victim restitution in adult cases.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the definition of "victim" for purposes of victim restitution in certain juvenile cases is the same as the definition for adult cases. Specifically, this measure defines "victim" for purposes of victim restitution in certain juvenile cases as including:
 - (A) The direct victim of a crime including a business entity, trust, or governmental entity;
 - (B) If the victim dies as a result of the crime, a surviving relative of the victim;
 - (C) A governmental entity that has reimbursed the victim for losses arising as a result of the crime or paid for medical care provided to the victim as a result of the crime; or
 - (D) Any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals, contracted with the county or State to enforce animal-related statutes or ordinances, that impounds, holds, or receives custody of a pet animal; and
- (2) Changing the effective date to January 1, 2222, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1459, H.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



MARK M. NAKASHIMA, Chair



