

STAND. COM. REP. NO. 3407

Honolulu, Hawaii

**MAR 24 2022**

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

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1459, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent 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, Department of the Prosecuting Attorney of the County of Maui, Mothers Against Drunk Driving Hawaii, and County of Kauai Victim/Witness Program. Your Committee received testimony in opposition to this measure from the Judiciary; Office of the Public Defender; Office of Hawaiian Affairs; one member of the Hawai'i County Council; one member of the Kaua'i County Council; Juvenile Law Center, Policy Advocacy Clinic at Berkeley Law; National Center for Youth Law; American Civil Liberties Union of Hawai'i; Native Hawaiian Legal Corporation; Opportunity Youth Action Hui; Hawaii Foodservice Alliance LLC; Hawai'i Health & Harm Reduction Center; Community Alliance on Prisons; Hawai'i Friends of Restorative Justice; Kupuna for the Mo'opuna; and thirty-six individuals.



Your Committee finds that victim restitution is perhaps the only core victims' right that addresses such a wide range of the devastating effects of crime, including physical, emotional, psychological, financial, and social impacts. Restitution is intended to not only repay the victim of a crime, but also to have a rehabilitative effect on the offender. However, some judges are using their discretion too liberally and not requiring restitution in cases where it is appropriate. Additionally, some judges are interpreting section 571-48, Hawaii Revised Statutes, to mean that the court is only authorized to order restitution as an alternative to community service, rather than having the authority to order either or both. Your Committee believes that there is a benefit to the law violator repaying the victim to right the wrong caused by the violator's criminal conduct. This measure creates a consistent and fair restitution process for all offenders, regardless of their age, by requiring all existing restitution orders in certain juvenile cases to be converted to independent orders at the time the court terminates jurisdiction.

Your Committee has amended this measure by:

- (1) Removing language that would have required victim restitution in certain juvenile cases;
- (2) Requiring all existing restitution orders to be converted to independent orders at the time the court terminates jurisdiction, mimicking the adult system whereby the victim can seek civil enforcement of that order;
- (3) Making it effective upon its approval; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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KARL RHOADS, Chair



