

2004

Honolulu, Hawaii

JAN 31 2022

RE: S.B. No. 416  
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 S.B. No. 416 entitled:

"A BILL FOR AN ACT RELATING TO WITNESS FEES AND REIMBURSEMENTS IN CRIMINAL CASES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the applicable reimbursement to the State or defendant for expert witness fees, as it pertains to testimony, preparation, and in-court attendance in State court criminal proceedings; and
- (2) Increase per diem payments for all witnesses required to travel and stay overnight to testify in a criminal case.

Your Committee received testimony in support of this measure from the Office of the Public Defender, Department of the Prosecuting Attorney of the City and County of Honolulu, Office of the Prosecuting Attorney of the County of Kaua'i, and Department of the Prosecuting Attorney of the County of Maui.

Your Committee finds that the ability to utilize expert witnesses, especially in cases involving homicide or sexual assault where medical, scientific, or other expert testimony is often a requirement, is an important factor in whether justice can



2004

effectively be served. Despite this, the Department of Budget and Finance enacted a policy change on March 2, 2017, which would discontinue reimbursement of certain expert witness fees for county prosecutors, indigent defendants represented by the Office of the Public Defender, and private conflict counsel. In response, the Governor issued Governor's Administrative Directive No. 18-01, which re-established guidelines and procedures regarding expert witness reimbursements. However, Governor's Administrative Directive No. 18-01 officially expired as of June 30, 2018, and the Department of Budget and Finance has continued following these procedures simply as a courtesy. Your Committee believes that statutory changes are needed to make these guidelines and procedures permanent and that these changes are necessary to support both a defendant's constitutional right to a defense and the State's ability to prosecute violations of the law. This measure will codify the guidelines and procedures allowing for reimbursement of expert witness fees while also assisting crime victims and witnesses in covering the rising costs of travel.

Your Committee has amended this measure by 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 S.B. No. 416, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 416, S.D. 1, and be placed on the calendar for Third Reading.

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



---

KARL RHOADS, Chair



The Senate  
 Thirty-First Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:*	Committee Referral:	Date:		
<b>SB 416</b>	<b>JDC</b>	<b>01-25-22</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
LEE, Chris				✓
FEVELLA, Kurt	✓			
<b>TOTAL</b>	<b>6</b>	<b>—</b>	<b>—</b>	<b>1</b>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Karl Rhoads</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes