

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

Testimony of the Office of the Public Defender,
State of Hawai‘i to the Senate Judiciary Committee

February 4, 2022

S. B. 2130: RELATING TO THE CRIME VICTIM COMPENSATION FEE

Chair Sen. Karl Rhodes
Vice Chair Sen. Jarrett Keohokalole
Honorable Committee Members:

The Office of the Public Defender strongly **opposes** S.B. 2130 because it will cost taxpayers more money, keep the poorest members in our community locked in court debt, and the crime victim compensation commission will remain underfunded.

Every day from Hilo to Hanalei courts sentence people who violate criminal laws from the most serious crimes to petty misdemeanors. At sentencing, the court must impose the crime victim compensation fee on everyone unless there is some evidence that the convicted person cannot afford to pay it or will be unable to pay it in the foreseeable future.

This bill strips judges of their ability to assess the people standing before them and forces them to impose a fee no matter what. If a person cannot afford it, they must come back to court months after their sentence has been served and explain why he or she did not pay. If the court is satisfied with the explanation, another court date is set until it is paid. While some will pay off their debt, the bill will inevitably create a permanent class of the poor and destitute who cannot pay. It will ensure that proof of compliance hearings, which already take a considerable amount of time, resources, and taxpayer money will swell to new and unmanageable proportions.

Consider a person convicted of criminal littering, a petty misdemeanor, and sentenced to jail for two days. The court would have to ignore the person’s homelessness, poverty, and mental illness, impose a \$30 crime victim compensation fee, and set a proof of compliance hearing in six months. If the person does not pay and misses the court date, the court will order a warrant for the person’s arrest. The police find the person on the street, arrest the person, process that person with report writing, court filings, and photographs, and the jail will house and feed that person until the next available hearing. The old court debt has not gone away and another

proof of compliance is set. In places like Maui, prosecutors file new criminal charges for missing the court date and the person is convicted of a new offense thereby creating another court fee and another proof of compliance hearing. The person sinks further into court debt.

The cycle repeats itself for years while taxpayers pay for the judge, court staff, prosecutor, public defender, police officers, the jail, and sheriffs to enforce a \$30 fee. In the meantime, not a dime is deposited into the crime victim compensation fund. It is a ridiculous, wasteful, and sadly common story.

Hawai'i for the most part has been spared some of the more egregious problems associated with court debt in other parts of the country. The Department of Justice investigated the cycle of court debt, poverty, and court fees in Ferguson, Missouri, after citizens rioted in 2014. The DOJ found that when court fees are used to fund government agencies, the justice system is compromised.

The . . . court does not act as a neutral arbiter of the law or a check on unlawful police conduct. Instead, the court primarily uses its judicial authority as the means to compel the payment of fines and fees that advance the City's financial interests. This has led to court practices that violate the Fourteenth Amendment's due process and equal protection requirements. The court's practices also impose unnecessary harm, overwhelmingly on African-American individuals, and run counter to public safety.

The report can be found at www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

Mandatory imposition of the fee on all people regardless of their ability to pay will have the same corrosive effect in Hawai'i. It turns judges into debt collectors who will make it harder for our most vulnerable friends and neighbors to break the cycle of poverty. Court discretion allows the indigent, homeless, and those living well below the poverty line to serve their sentence without having to come back time and time again to explain why they cannot pay. It helps sever the chain of court debt and provide a chance for them to straighten out their affairs and someday walk away from the courthouse for good.

Finally, the bill does not address the problem of funding the crime victim compensation commission. Ever since the commission became dependent on courts to impose the crime compensation fee, the commission has repeatedly urged the Legislature to hound sentencing courts into imposing more and more fees. It is a losing battle.

Many of the convicted are poor and cannot pay. Requiring courts to impose fees on a homeless man living in a park with all of his worldly belongings in shopping carts and cardboard boxes or a struggling single mother with three jobs and one paycheck away from entering a shelter will not bring in more funding for the commission. It will only harm those who are already vulnerable. No amount of legislation can draw blood from a stone.

Mahalo for allowing our office to provide testimony and our position on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-First State Legislature
Regular Session of 2022
State of Hawai'i

February 8, 2022

RE: S.B. 2130; RELATING TO THE CRIME VICTIM COMPENSATION FEE.

Chair Rhoads, Vice-Chair Keohokalole and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of S.B. 2130.

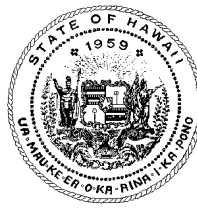
The Department greatly appreciates the support of the Crime Victim Compensation Commission ("the Commission"). For many victims of violent crime, the Commission provides much-needed assistance with the substantial—and occasionally staggering—costs of medical bills, counseling, lost wages, funeral and burial expenses that are not covered by other sources. This helps to address at least one aspect of the trauma and/or suffering inflicted upon them.

The Commission is funded by the Criminal Injuries Compensation Special Fund, which was created by the Legislature in 1998. Since 2003, the Fund has been funded by the crime victim compensation fee attached to the adjudication of criminal cases, which is matched by federal Victims of Crime Act ("VOCA") funds. During the COVID pandemic, the Department understands that the Commission has been struggling financially—nearly to the point of shutdown—due to numerous court closures and the prolonged adjudication of cases. Even during "non-COVID" times, some courts will routinely waive the crime victim compensation fee for defendants, based on defendants' simple statement that they are unable to pay or are not currently employed.

Loss of the Commission would be a critical loss for victims we work with on a daily basis, many of whom face large, unexpected expenses as a direct result of criminal activity, but have no extra income with which to pay for them. In light of this, the Department believes that S.B. 2130, requiring judges to impose the statutory compensation fee commensurate with a

defendant's level of offense, would greatly ease the financial burden and allow the Commission to fulfill its mission to help victims of crime in the State of Hawai'i.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **supports** the passage of S.B. 2130. Thank you for the opportunity to testify on this matter.



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2130
RELATING TO THE CRIME VICTIM COMPENSATION FEE.

by
Max N. Otani, Director

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 8, 2022; 9:30 a.m.
State Capitol, Via Video Conference

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

Senate Bill (SB) 2130, seeks to repeal the discretion of the Court to waive payment of the Crime Victim Compensation Fee, due to the defendant's inability to pay, but also provides for continued judicial discretion where the defendant is not acting contumaciously.

The Department of Public Safety (PSD) supports this measure and respectfully recommends the Committee consider adopting the amendments made to HB 1624. The House amendments provide that if judges fail to order the compensation fee, the Judiciary, out of its own budget, shall deposit one-half of the amount of the compensation fee into the Crime Victim Compensation Fund.

As you are aware, the Crime Victim Compensation Fee directly supports the continued operations of the Crime Victim Compensation Commission (CVCC), and any disruption and/or reduced collection of the fee would jeopardize the operations and critically needed work of the Commission.

Thank you for the opportunity to provide testimony in support of SB 2130.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

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MARTHA ROSS
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PAMELA FERGUSON-BREY
Executive Director

TESTIMONY ON SB 2130
RELATING TO THE CRIME VICTIM COMPENSATION FEE
by

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, February 8, 2022; 9:30 a.m.
Via Videoconference

Good morning, Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with this opportunity to testify in strong support of Senate Bill 2130 with the amendments made to the companion bill in the House, HB 1624. The House amendment provides that if judges fail to order the Compensation Fee, the Judiciary, out of its own budget, shall deposit ½ of the amount of the Compensation Fee into the Crime Victim Compensation Fund. This amendment will ensure that funds are available to cover crime-related expenses for victims of violent crime.

The Hawai'i State Legislature established the Crime Victim Compensation Commission in 1967 as a safety net for violent crime victims. The Commission's compensation program assists victims of violent crimes with medical costs, counseling costs, lost wages, and funeral and burial expenses not covered by other sources. Many victims would not be able to receive rehabilitation services, counseling services, or bury a loved one without compensation awarded by the Commission. Today, all 50 states have a Crime Victim Compensation Program.

In 1998, the Legislature created a Crime Victim Compensation Fee¹ (“Compensation Fee”) to act as the primary funding source for the Commission’s Compensation Program so that the Commission would be fiscally self-sufficient.

Compensation Fee collection shortfalls over these many years effectively deprived the Commission of the funding reserve it needed to survive the pandemic and pandemic-related court closures. These funding shortfalls so limited the Commission’s funding reserve that the Commission was in danger of closing had the Legislature not provided an emergency infusion of funding last year.

While the Judiciary pledged to address judges failing to order the fee in all eligible cases, Compensation Fee collections have again declined during the first half of FY 2022 and are 8% lower than collections for the same period in FY 2021.

History of Compensation Fee Collection Issues:

Since the implementation of the Compensation Fee in 1998, the Commission encountered significant barriers to collecting the Compensation Fee. For fiscal years 1999, 2001, and 2002 combined, the Judiciary fell nearly one million dollars short of its own estimates for Compensation Fee collections. After 2002, the Judiciary simply ceased providing estimates for Compensation Fee collections. At that time, courtroom surveys revealed that judges were not ordering the Compensation Fee in all eligible cases. For example, judges were (1) waiving the Compensation Fee but assessing fines with lower priority; (2) not assessing the Compensation Fee for each eligible offense committed by the same defendant; or (3) unaware of the Compensation Fee altogether.

When attempts to collaborate with the Judiciary failed in 2005, the Legislature acted by increasing the Crime Victim Compensation Fee by five dollars (\$5.00) in all crime categories. The Judiciary’s collection of the Compensation Fee again fell short of anticipated collection increases. Concerned that insufficient funds were being collected, the Legislature passed a resolution in 2007 requiring the Judiciary to report its progress in ordering and collecting the Compensation Fee. According to the Judiciary’s response, the Compensation Fee was ordered in 79%, and waived in 21%, of eligible cases.

As a result of the Legislature holding the Judiciary accountable, collections from the Compensation Fee increased in FY 2008 and FY 2009. However, collections dropped off in FY 2010, FY 2011 and FY 2012. In FY 2013, collections dropped to a ten-year low of \$788,139.00. In FY 2014, collections increased slightly to \$811,806.41; since then, collections have continued to drop.

1. ¹ Section 351-62.6, Hawai‘i Revised Statutes, provides that the court shall assess a Compensation Fee against every convicted offender, or offender who enters a deferred plea, and who is or will be able to pay the Fee. (emphasis added.) Fees are assessed as follows:

2. a \$30 fee for a petty misdemeanor;
3. a \$55 fee for a misdemeanor; and
4. a \$105 to \$505 fee for a felony.

In FY 2020, the Judiciary collected \$509,822.67 in Compensation Fees - the lowest collection since FY 2001. In FY 2021, Compensation Fee collections rose slightly to \$533,611.91.

Because Compensation Fee collection shortfalls had so imperiled the Commission's very existence, the Commission reached out to the Administrative Director of the Courts in a December 22, 2020, letter urgently requesting his assistance in addressing this issue. The Administrative Director of the Courts responded via email on January 12, 2021, assuring the Commission that the Judiciary would be taking appropriate measures to update all judges regarding the applicable statutory provisions pertaining to the Compensation Fee.

While we expected to see an increase in Compensation Fee collections after the Judiciary's assurances, the Commission instead saw an 8% reduction in Compensation Fee collections for the first half of the current fiscal year. The Commission conducted a brief survey of misdemeanor cases from the District Family Court of the First and Fifth Circuits due to concerns about the unanticipated decline in Compensation Fee collections.

District Family Court of the First Circuit (Honolulu):

The Commission surveyed misdemeanor abuse cases sentenced between October 1, 2021, and December 29, 2021 (including revocation re-sentencings where the original sentencing was after the Judiciary's assurances of January 12, 2021).

Of the 75 cases surveyed, the Compensation Fee was ordered in only 24% of the cases.

In the 76% of the cases where the Compensation Fee was not ordered, the record was silent in 19% of the cases. The statute requires that the Compensation Fee be ordered, or specifically waived, only if the defendant is not able to pay now or in the future.

District Family Court of the Fifth Circuit (Kauai):

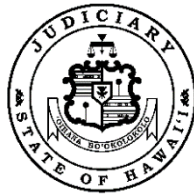
The Commission surveyed misdemeanor abuse cases with sentencing in September and October 2021 for the District Family Court of the Fifth Circuit (Kauai).

The survey included 12 cases sentenced in September and October 2021. The Compensation Fee was ordered in 100% of the cases.

The disparity in Compensation Fee orders between the First and Fifth District Family Court cases - 100% vs. 24% - suggests that the Judiciary has no uniform standards to determine whether the defendant is able to pay the Compensation Fee as required by statute. How can the Judiciary make progress on this issue without uniform standards?

The collection of the Compensation Fee by the Judiciary directly impacts the Commission's ability to remain self-sufficient and continue to assist violent crime victims. Without these funds, the Commission will be unable to provide financial assistance for Hawai'i's violent crime victims including medical expenses, rehabilitation services, counseling services, lost earnings, and funeral expenses.

Thank you for providing the Commission with this opportunity to testify in strong support of Senate Bill 2130 to include the House amendment.



The Judiciary, State of Hawai'i

**Testimony to the Thirty-First State Legislature
2022 Regular Session**

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice-Chair

Tuesday, February 8, 2022 at 9:30 a.m.
Via Videoconference

WRITTEN TESTIMONY ONLY

By
Shirley M. Kawamura
Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit

Bill No. and Title: Senate Bill No. 2130, Relating to the Crime Victim Compensation Fee.

Purpose: Repeals the discretion of a Court to waive payment of the Crime Victim Compensation Fee due to the defendant's inability to pay.

Judiciary's Position:

The Judiciary respectfully opposes the proposed legislation. The Legislature established the crime victim compensation fee ("CVC fee") in 1998 to act as the primary source of funding for the crime victim compensation commission, removing the burden of the program's operation from the taxpayers and placing it on all convicted defendants, not just those defendants who committed crimes against victims necessitating compensation. Hawai'i Revised Statutes (HRS) § 351-62.6(a) and HRS § 706-605(6) were enacted to require the imposition of a CVC fee on every person convicted of a criminal offense pursuant to HRS § 351-62.6, but required the court to waive the fee in instances where the court finds that the defendant is unable to pay. The proposed legislation would remove the court's ability to assess the defendant's individual circumstances and inability to pay and waive the imposition of the CVC fees for indigent defendants, and those defendants suffering from mental illness.

Specifically, HRS § 706-605(6) currently requires the imposition of the CVC fee on every person convicted of a criminal offense, but both that section and HRS § 351-62.6 provide that the court **shall** waive the fee if the court finds that the defendant is unable to pay. HRS § 351-62.6(b) notes that in making that determination, the criteria of HRS § 706-641 (criteria for imposing fines) may apply and in determining the *amount* of the CVC fee, it directs that the court shall consider all relevant factors, including but not limited to 1) the seriousness of the offense; 2) the circumstances of the commission of the offense; 3) the economic gain, if any, realized by the defendant; 4) the number of victims; and 5) the defendant's earning capacity, including future earning capacity.

In light of those provisions, the Intermediate Court of Appeals recently found the CVC fee to in fact be a fine with the Court noting that the CVC fee is punitive in nature and is imposed on a person convicted of a criminal offense as a punishment for criminal behavior. State v. Adcock, 148 Hawai'i 308, 473 P.3d 769 (2020). The decision to impose the fee is not determined by the impact of the crime on the victim or even if there was any victim at all.

Thus, the provisions of the proposed legislation would essentially require all persons convicted of a criminal offense to pay this fine regardless of their ability to pay and without consideration of the defendant's particular circumstances.

The simple fact is, in the vast majority of adjudicated criminal cases, the defendant is already living far below the poverty line. In 2015 a detailed study found that 48% of Hawai'i's households fell either below the federal poverty line or didn't make enough to meet the bare minimum amount to cover the fundamentals of housing, transportation, child care, and food.¹ The current pandemic has only exacerbated this condition.² Numerous studies have found that the imposition of fees and fines on already indigent defendants works against the goal of rehabilitation, creates a barrier to people reentering society after conviction, unjustly burdens the poor with debt they cannot pay, interferes with other commitments such as child support obligations, and creates additional costs to taxpayers in form of hidden costs to collect such fees from those who cannot afford to pay.³ The imposition of these fees and fines disproportionately impact communities of color, the poor, and persons with disabilities.⁴ The proposed legislation

¹ United Way, *ALICE: A Study of Financial Hardship in Hawai'i*, 2017 Report.

https://www.auw.org/sites/default/files/pictures/AlohaUnitedWayALICE%20Report_HIFINAL.pdf (Aloha United Way commissioned ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAII to help identify those across our state who are struggling to make ends meet, and to understand the enormity of this issue and the obstacles these families and individuals in our communities face.)

² United Way, *The Pandemic Divide: An ALICE Analysis of National COVID Surveys*. Alice National Covid Survey Report, October 2021, <https://www.auw.org/sites/default/files/pictures/21ALICENationalCOVIDReport.pdf>

³ See e.g. Matthew Menendez, Micheal F. Crowley, Lauren-Brooke Eisen, and Noah Atchison, *The Steep Costs of Criminal Justice Fees and Fines*, Brennan Center for Justice, 2019, <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>; Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt: A Barrier to Reentry*, Brennan Center for Justice, 2010, 30, [http://www.brennancenter.org/sites/default/files/legacy/Fees and Fines FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf).

⁴ U.S. Commission on Civil Rights, *Targeted Fines and Fees Against Low-Income Communities of Color: Civil Rights and Constitutional Implications*, September 2017,

seeks to squeeze blood from a turnip, instead, alternative measures for increasing the commission's revenue should be explored and considered.

Under the current law, the court weighs a number of factors in determining both whether to assess the fee against an indigent defendant and, in the case of felony offenses, how much of a fee to assess. The judges are bound by the criteria outlined in HRS §§ 706-641⁵ and 351-62.6 (noted above). This determination of inability to pay is not made without careful consideration of the criteria required by the statutory provisions and is necessarily made on a case by case basis taking into account the individual circumstances of the defendant.

Moreover, for all felony matters, and some misdemeanor cases, a presentence investigation report is prepared by the Adult Client Services Branch ("ACSB") for the court that thoroughly vets and verifies the financial circumstances of each defendant, their employment history, and any outside opportunities for other sources of funds for payment obligations. The ACSB interviews each defendant and reviews with them a detailed questionnaire that reviews ten years of job history, obtains detailed financial monthly income and expense statements, and obtains bank and other financial records. The ACSB contacts employers, speaks to relatives, and after these meticulous interviews and evaluations of documentation, provides this information to the court for their consideration in determining the defendant's ability to pay. The court is obligated to review all of this information and make an informed decision regarding the ability of the defendant to pay. The courts make this decision on the record in each case and although it may not be reflected in the court's minutes, it is a part of the oral record of the case. Removing the court's discretion to waive the CVC fee after determining the defendant is indigent and unable to pay will negatively affect the defendant's possibilities for rehabilitation and unjustly burdens the poor and those suffering from addiction and mental illness.

Furthermore, once ordered, a defendant's inability to pay the CVC fee is not only a violation of the defendant's terms and conditions of probation, thus potentially resulting in the

https://www.usccr.gov/files/pubs/2017/Statutory_Enforcement_Report2017.pdf; Kiren Jahangeer, *Fees and Fines: The Criminalization of Poverty*, American Bar Association, December 16, 2019, https://www.americanbar.org/groups/government_public/publications/public_lawyer_articles/fees-fines/

⁵ Subsections (2), (3), and (4) state:

- (2) The court shall not sentence a defendant to pay a fine in addition to a sentence of imprisonment or probation unless:
 - (a) The defendant has derived a pecuniary gain from the crime; or
 - (b) The court is of the opinion that a fine is specially adapted to the deterrence of the crime involved or to the correction of the defendant.
- (3) The court shall not sentence a defendant to pay a fine unless:
 - (a) The defendant is or will be able to pay the fine; and
 - (b) The fine will not prevent the defendant from making restitution to the victim of the offense.
- (4) In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.

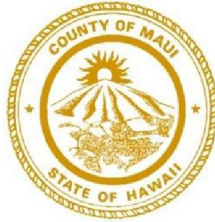
revocation of any probation or deferral term, but HRS § 706-644 requires the defendant to be arrested or summoned to court to prove that their failure to pay “was not attributable to an intentional refusal to obey the order of the court, or to a failure on the defendant's part to make a good faith effort to obtain the funds required for the payment.” If they fail to do so, they may be imprisoned for the nonpayment of the fee. HRS § 706-644(1) and (3). If the defendant can prove that his nonpayment of the fee was not contumacious, only then may the court adjust the payments. Additionally, under HRS § 706-644(5), the commission is allowed to collect attorney’s fees, costs, and interest on the unpaid CVC fee. Finally, in light of HRS § 706-644, having outstanding CVC fees may dissuade the court from granting a defendant’s Motion for Early Termination of Probation, even where the defendant has not otherwise incurred a violation.

Thank you for the opportunity to testify on this important measure.

MICHAEL P. VICTORINO
Mayor

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TESTIMONY
ON
S.B. 2130 RELATING TO
THE CRIME VICTIM COMPENSATION FEE

February 7, 2022

The Honorable Karl Rhoads
Chair
The Honorable Jarrett Keohokalole
Vice Chair
and Members of the Committee on Judiciary

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following unified commentary in strong support of Senate Bill 2130 regarding the Crime Victim Compensation Fee, and Senate Bill 2131 regarding the Crime Victim Compensation Special Fund.

The Hawaii State Legislature established the Crime Victim Compensation Commission in 1967 as a safety net for violent crime victims. The Commission was only the third organization of its kind in the country when it was established; today, all 50 states have compensation programs.

State victim compensation programs play a critical role in all 50 states and provide benefits to victims of various violent crimes including homicide, domestic violence and sexual assault.

These programs are also essential for the response to mass violence incidents and provide immediate compensation for funeral and burial expenses, medical and mental health treatment, lost wages and other needs not covered by other sources. Without these compensation programs, many victims and survivors would have an extremely limited path to healing and recovery. Victims would not be able to receive rehabilitation services, counseling services, or bury a loved one without compensation awarded by the Commission.

CVCC is the lead agency for mobilizing victim service agencies in the State of Hawaii when mass violence strikes and has played an exemplary role in planning and preparedness for the State to respond to such incidents. The leadership and resources they provide are essential services for your constituencies.

The Hawaii Crime Victim Compensation Commission believes these bills will help to address the Commission's current funding shortfalls by increasing Compensation Fee revenue and reducing Commission expenses. The first bill mandates the Compensation Fee and the second bill exempts the Commission from the payment of central service expense fees and administrative expense fees.

The Compensation Fee was created by the legislature in 1998 to act as the primary funding source for the Commission. Compensation Fee collection shortfalls over these many years effectively deprived the Commission of the funding reserve it needed to survive the pandemic and pandemic-related court closures. These funding shortfalls so limited the Commission's funding reserve that the Commission was in danger of closing had the legislature not provided an emergency infusion of funding last year.

While the Judiciary pledged to address issues relating to judges failing to order the fee in all eligible cases, Compensation Fee revenue has again declined during the first half of FY22 and is 8% lower than revenue for the same period in FY21.

We hope you will work to support the Commission's critical funding needs so it can continue to provide essential services to victims of crime.



Mothers Against Drunk Driving
MADD Hawaii
madd.org

MADD
745 Fort Street, Suite 303
Honolulu, HI 96813

808-532-6232
877.ASK.MADD
877.MADD.HELP Victim Support

To: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Members of the Senate Committee on Judiciary

From: Theresa Paulette
Mothers Against Drunk Driving
Victim Services Specialist and Program Manager

Date: February 8, 2022

Re: SB 2130, Relating to the Crime Victim Compensation Fee

Thank you for providing MADD the opportunity to testify in strong support of Senate Bill 2130 with the amendments made to the companion bill in the House, HB 1624. The House amendment provides that if judges fail to order the Compensation Fee, the Judiciary, out of its own budget, shall deposit ½ of the amount of the Compensation Fee due into the Crime Victim Compensation Fund. This amendment will ensure the funds are available to cover crime-related expenses for victims of violent crime.

When someone suffers a violent crime they're suddenly thrust into shock, pain, trauma, and grief. Within a short time they're also faced with the stress of how they will pay for the unexpected expenses...medical, lost wages, funeral, burial, counseling, and more. Victims are from various socio-economic backgrounds, some even homeless. In the case of impaired driving victims, when they reach out to MADD they are relieved to learn that if they don't have insurance or if the expenses aren't covered by insurance, we will assist them in applying to the Crime Victim Compensation Commission for financial help. A welcome safety net in their time of great need.

The Compensation Fee is critical to the funding that is offered to the victims of violent crime to help cover crime-related expenses.

Thank you for the opportunity to testify in strong support of SB 2130.



HAWAI'I STATE
COALITION AGAINST
DOMESTIC VIOLENCE

February 8, 2022

Members of the Senate Committee on Judiciary:

Chair Karl Rhoads
Vice Chair Jarrett Keohokalole
Sen. Laura Acasio
Sen. Chris Lee
Sen. Mike Gabbard
Sen. Kurt Fevella
Sen. Donna Mercado Kim

Re: SB2130 Relating to Crime Victim Compensation Fee

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

The Hawai'i State Coalition Against Domestic Violence (HSCADV) advances the safety and healing of victims, survivors and their families. We are the collective voice of a diverse network of organizations and individuals, working to eliminate all forms of domestic violence in Hawai'i by fostering partnership, increasing awareness of domestic violence, developing the capacity our member programs and community partners to address the needs of survivors and their families, and advocating for social justice and change.

On behalf of HSCADV and our 25 member programs statewide, I submit testimony in support of Senate Bill 2130 with the amendments made to the companion bill in the House, HB 1624. The House amendment provides that if judges fail to order the Compensation Fee, the Judiciary, out of its own budget, shall deposit ½ of the amount of the Compensation Fee due into the Crime Victim Compensation Fund. This amendment will ensure that funds are available to cover crime-related expenses for victims of violent crime.

Fees collected by the Crime Victims Compensation Commission (Commission) help to provide a critical safety net for crime victims, including domestic violence, through reimbursement for medical care, trauma counseling, funeral and burial costs, plus. Collection shortfalls over the years and the COVID-19 related court closures continues to exacerbate funding problems faced by the Commission and their ability to serve victims of domestic violence. In 2021, the funding shortfalls so limited the Commission's funding reserve that the Commission was in danger of closing had the legislature not provided an emergency infusion of funding.

The Commission is an important part of the system that serves victims of domestic violence. As a community, we should ensure that all facets of that system are well funded to meet their needs.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Angelina Mercado
Executive Director, HSCADV

LATE

SB-2130

Submitted on: 2/7/2022 10:13:52 AM

Testimony for JDC on 2/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Diana Gausepohl-White	Testifying for County of Kauai Victim/Witness Program	Support	No

Comments:

I strongly support SB2130 which will require judges to order defendants to pay crime victim compensation (CVC) fees in all eligible cases. I also support the amendments made to the companion bill in the House, HB1624, which will provide a remedy when judges fail to order the fee by requiring the Judiciary to pay one-half of the amount that should have been ordered.

The Commission fulfills a critically important role in helping victims and survivors of crime. They are the only agency that provides direct financial reimbursement to crime victims for out of pocket expenses such as medical and therapy copays, lost wages, and burial costs.

The failure to order CVC fees harms crime victims as it creates shortfalls in revenue for the Commission which is a nationally recognized pioneer, establishing innovative programs such as Restitution and Victim Services as well as facilitating collaborative projects like the Mass Violence Planning Workgroup.

I respectfully ask that your Committee PASS the Bill. Thank you for your time in this matter.