



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice Chair

Wednesday, February 26, 2025, 10:03 AM
State Capitol, Conference Room 211 & Videoconference

WRITTEN TESTIMONY ONLY

By

Melanie May

Deputy Chief Judge, District Court of the First Circuit

Christopher M. Dunn

Judge, District Court of the Second Circuit

Michelle K. Laubach

Deputy Chief Judge, District Court of the Third Circuit

Michael K. Soong

Deputy Chief Judge District Court of the Fifth Circuit

Bill No. and Title: Senate Bill No. 1316, SD1, Relating to Court-Ordered Payments.

Purpose: Requires the Judiciary to contract with a collection agency or licensed attorney to collect delinquent court-ordered fees, fines, sanctions, and court costs. Repeals the authority of the Judiciary to contract with a collection agency or licensed attorney to collect delinquent restitution. Expressly allows courts to specify a period of time or installments for payment of fees and restitution. Requires courts to hold payment compliance hearings once per year or as soon as practicable, until all fees, fines, and restitution are fully paid, and requires a defendant to



appear and show cause if the defendant fails to pay in full within a time specified by the court or fails to pay three consecutive installments. Makes corresponding amendments to related statutes.

Judiciary's Position:

The Judiciary thanks the Senate Committee on Judiciary for SD1, which removed the references to the circuit courts. The Judiciary provides the following comments regarding the impact SD1 will have on the district courts of the State of Hawai'i.

The amendments Haw. Rev. Stat. § 706-644(1) outlined in Section 3 would mandate proof of compliance hearings in all district court cases where a fee, fine, or restitution is ordered, even in cases where such fees and fines are sent to collection.

The Judiciary is cognizant of the priority in which payments are to be applied in criminal cases under Haw. Rev. Stat. § 706-651, and acknowledges the difficulties persons who are owed restitution may experience while waiting for restitution to be paid. The Judiciary therefore does not oppose the setting of proof of compliance hearings in district court cases where restitution is ordered.

However, in cases where restitution is not ordered, proof of compliance hearings may weigh down district court calendars and divert court resources away from other matters. The district courts already refer unpaid fines and fees in criminal traffic cases (*e.g.*, driving without license, driving without insurance, reckless driving, leaving the scene of a motor vehicle collision, etc.) to collection, and had been doing so long before *State v. Fay*, 154 Hawai'i 305 (2024). To limit the number of cases in which defendants are ordered to appear for proof of compliance hearings – which siphon court resources away from adjudicating new cases to monitoring old ones and may require defendants to take time off from work and other productive activities to attend court – the Judiciary suggests the proposed revisions for consideration:

1. On page 3, line 4, after “condition of probation or deferred plea,” add a colon and insert “(A) If the defendant was ordered to pay restitution”
2. On page 4, line 12, after “compliance” delete the period and insert “(B) If the defendant was ordered to pay fines, fees, or both, but no restitution, the district court shall refer the outstanding fines and/or fees to the collection agency contracted pursuant to section 601-17.5. A proof of compliance hearing shall not be required in cases where no restitution was ordered.”

Thank you for the opportunity to submit written testimony.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 1316, S.D. 1, RELATING TO COURT-ORDERED PAYMENTS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 26, 2025 **TIME:** 10:03 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Tricia M. Nakamatsu,
Deputy Attorney General, at 808-586-1500)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General strongly supports this bill and offers the following comments.

The purpose of the bill is to address a recent Supreme Court decision by:

(1) requiring the Judiciary to contract with a collection agency or licensed attorney, to collect delinquent court-ordered fines, fees, sanctions, or court costs; (2) allowing courts to grant a specified period of time or specified installments for payment of fees, fines, and restitution; (3) requiring the court, upon default in payments by a defendant, to have the defendant show cause why the default should not be treated as contumacious; (4) requiring the court to set proof of compliance hearings for any orders to pay fees, fines, or restitution, and set further proof of compliance hearings, if the payments have not been completed, until they have been paid in full.

In *State v. Fay*, 154 Hawai'i 305 (2024), the Hawaii Supreme Court interpreted section 706-644, Hawaii Revised Statutes (HRS), to mean that the court may only order a compliance hearing regarding restitution payments if a defendant is on probation or defaults on payments. If a defendant is not on probation, but the court has issued a freestanding restitution order, the court cannot hold compliance hearings but can only act if the person defaults on restitution payments. The ruling made it more difficult to ensure that convicted defendants complied with orders for restitution and victims were

properly compensated for their losses. As a result, victims of crime could potentially face the unjust recourse of having to file a civil lawsuit to personally pursue court-ordered restitution from uncooperative or unapologetic defendants. This bill is needed to assist victims by re-establishing a clear court procedure for court-ordered restitution.

We respectfully ask your committee to pass this bill. Thank you for the opportunity to provide support for this bill.

SB-1316-SD-1

Submitted on: 2/24/2025 1:09:18 PM

Testimony for WAM on 2/26/2025 10:03:00 AM

Submitted By	Organization	Testifier Position	Testify
Glenn Choy	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. Thank youj.