STAND. COM. REP. NO.

1294

Honolulu, Hawaii

APR 0 5 2013

RE: H.B. No. 235

H.D. 1 S.D. 1

Honorable Donna Mercado Kim President of the Senate Twenty-Seventh State Legislature Regular Session of 2013 State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 235, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COLLECTION OF RESTITUTION FOR CRIME VICTIMS,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the definition of "victim" in section 706-646, Hawaii Revised Statutes, to include any duly incorporated humane society or society for the prevention of cruelty to animals, contracted by a county or the State, that impounds, holds, or receives custody of a pet animal pursuant to sections 711-1109.1, 711-1109.2, and 711-1110.5, Hawaii Revised Statutes, for the purposes of the collection of restitution, except for costs that have already been contracted and provided for by the counties or the State.

Your Committee received testimony in support of this measure from the Department of the Prosecuting Attorney, City and County of Honolulu; Hawaiian Humane Society; The Humane Society of the United States; and ninety-two individuals. Testimony in opposition to this measure was submitted by the Office of the Public Defender.

Your Committee finds that in a recent decision, the Circuit Court of the First Circuit denied restitution to the Hawaiian Humane Society for their expenses incurred in caring for one hundred fifty-three dogs previously subjected to animal cruelty in

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the second degree. The court held that the Hawaiian Humane Society was not a government agency or a "direct victim" of the crime committed. Although the Hawaiian Humane Society assumed care of these animals and became the legal owner of all one hundred fifty-three dogs upon forfeiture proceedings, the court held that it was not the "actual owner" and was not entitled to restitution under section 706-646, Hawaii Revised Statutes. This measure provides clear language to allow any duly incorporated humane society contracted with a county or State to receive restitution for expenses incurred when caring for an animal as a result of animal forfeiture or impoundment.

Your Committee has amended this measure by:

- (1) Deleting the language that excludes costs of a duly incorporated humane society or society for the prevention of cruelty to animals that have already been contracted and provided for by the counties or the State from the recovery of victim restitution; and
- (2) Changing the effective date from September 24, 2021, to upon approval.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 235, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 235, 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 and Labor,

CLATTON HEE, Chair

The Senate Twenty-Seventh Legislature State of Hawai'i

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral: Date:				
HB 235, HDI	JDL			t/2/1.	3
The committee is recor	nsidering its	previous de	cision on this	s measure.	
If so, then the previous de	ecision was to	:			
The Recommendation is:		· · · · · · · · · · · · · · · · · · ·			
Pass, unamended 2312		h amendme 311		old	lecommit 2313
Members		Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)					
SHIMABUKURO, Maile S.L. (VC)					
GABBARD, Mike		V			
IHARA, Jr., Les		/,			
SLOM, Sam					
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TOTAL	!	5			
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signatu	re:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

^{*}Only one measure per Record of Votes